

Senate Daily Reader

Thursday, February 07, 2002

Bills Included				
HB 1005	HB 1034	HB 1081	HB 1091	HB 1102
HB 1170	HB 1176	HB 1180	HB 1189	HB 1222
HB 1224	SB 7	SB 70	SB 81	SB 103
SB 156	SB 157	SB 158	SB 168	SB 178
SB 179	SB 180			

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

883H0303

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1005** - 01/14/2002

Introduced by: Representative McCaulley and Senator Bogue

1 FOR AN ACT ENTITLED, An Act to codify legislation enacted in 2001.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 2-16-13 be amended to read as follows:

4 2-16-13. The official code of laws of the State of South Dakota, which may be referred to
5 as the code, consists of all the statutes of a general and permanent nature contained in:

6 (1) The 1978 revision of volume 1;

7 (2A) The 1992 revision of volume 2A;

8 (2B) The 1994 revision of volume 2B;

9 (3A) The 1993 revision of volume 3A;

10 (3B) The 1995 revision of volume 3B;

11 (4A) The 1996 revision of volume 4A;

12 (4B) The 1995 revision of volume 4B;

13 (5) The 1991 revision of volume 5;

14 (6) The ~~1984~~ 2001 revision of volume 6;

15 (7A) The 1995 revision of volume 7A;



- 1 (7B) The 1987 revision of volume 7B;
- 2 (8A) The 1998 revision of volume 8A;
- 3 (8B) The 1998 revision of volume 8B;
- 4 (9A) The 1999 revision of volume 9A;
- 5 (9B) The 1997 revision of volume 9B;
- 6 (10A) The 1984 revision of volume 10A;
- 7 (10B) The 1998 revision of volume 10B;
- 8 (11A) The 1994 revision of volume 11A;
- 9 (11B) The 1999 revision of volume 11B;
- 10 (11C) The 2000 revision of volume 11C;
- 11 (12A) The 1996 revision of volume 12A;
- 12 (12B) The 1991 revision of volume 12B;
- 13 (13A) The 1997 revision of volume 13A;
- 14 (13B) The 1999 revision of volume 13B;
- 15 (14A) The 2000 revision of volume 14A;
- 16 (14B) The 1993 revision of volume 14B;
- 17 (15A) The 1990 revision of volume 15A;
- 18 (15B) The ~~1997~~ 2001 revision of volume 15B;
- 19 (16A) The 2000 revision of volume 16A;
- 20 (16B) The 1993 revision of volume 16B;
- 21 (17) The ~~1989~~ 2001 revision of the Parallel Tables volume;
- 22 (18) The ~~2000~~ 2001 pocket supplements; and
- 23 (19) The November ~~2000~~ 2001 Advance Code Service of the South Dakota Codified Laws
- 24 beginning with Title 1, chapter 1-1 and ending with Title 62, chapter 62-9.

1 Section 2. That § 2-16-15 be amended to read as follows:

2 2-16-15. No provision of the code enacted by § 2-16-13, as to which any action or
3 proceeding, civil or criminal, has been commenced prior to July 1, ~~2001~~ 2002, to determine
4 whether or not such provision was constitutionally enacted, is validated by the enactment of this
5 code.

6 The enactment of the code:

- 7 (1) Does not affect the validity of any transaction;
8 (2) Does not impair the curative or legalizing effect of any statute; and
9 (3) Does not release or extinguish any penalty, confiscation, forfeiture, or liability; which
10 accrued, occurred, or took effect prior to the time the code took effect.

11 Section 3. That § 2-16-16 be amended to read as follows:

12 2-16-16. All statutes, other than this code, enacted at the ~~2001~~ 2002 session of the
13 Legislature shall be deemed to have been enacted subsequently to the enactment of this code. If
14 any such statute repeals, amends, contravenes, or is inconsistent with the provisions of this code,
15 the provisions of the statute shall prevail. Any enactment in the ~~2001~~ 2002 session of the
16 Legislature which cites South Dakota Codified Laws for the purpose of amendment or repeal,
17 shall be construed as having reference to the code enacted by § 2-16-13.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0213

HOUSE ENGROSSED NO. **HB 1034** - 01/25/2002

Introduced by: The Committee on Transportation at the request of the Department of
Transportation

1 FOR AN ACT ENTITLED, An Act to reduce the legal blood alcohol limits for motor vehicle
2 drivers and boat operators.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-23-1 be amended to read as follows:

5 32-23-1. ~~A~~ No person may ~~not~~ drive or be in actual physical control of any vehicle while:

- 6 (1) There is ~~0.10~~ 0.08 percent or more by weight of alcohol in ~~his~~ that person's blood as
7 shown by chemical analysis of ~~his~~ that person's breath, blood, or other bodily
8 substance;
- 9 (2) Under the influence of an alcoholic beverage;
- 10 (3) Under the influence of marijuana or any controlled drug or substance to a degree
11 which renders ~~him~~ the person incapable of safely driving; or
- 12 (4) Under the combined influence of an alcoholic beverage and marijuana or any
13 controlled drug or substance to a degree which renders ~~him~~ the person incapable of
14 safely driving.

15 Section 2. That § 32-23-7 be amended to read as follows:



1 32-23-7. In any criminal prosecution for a violation of § 32-23-1 relating to driving a vehicle
2 while under the influence of intoxicating liquor, a violation of § 22-16-41, or a violation of
3 § 22-16-42, the amount of alcohol in the defendant's blood at the time alleged as shown by
4 chemical analysis of the defendant's blood, breath, or other bodily substance ~~shall give~~ gives
5 to the following presumptions:

6 (1) If there was at that time five hundredths percent or less by weight of alcohol in the
7 defendant's blood, it ~~shall be~~ is presumed that the defendant was not under the
8 influence of intoxicating liquor;

9 (2) If there was at that time in excess of five hundredths percent but less than ~~ten~~ eight
10 hundredths percent by weight of alcohol in the defendant's blood, such fact ~~shall~~ does
11 not give rise to any presumption that the defendant was or was not under the
12 influence of intoxicating liquor, but such fact may be considered with other competent
13 evidence in determining the guilt or innocence of the defendant;

14 (3) If there was at that time ~~ten~~ eight hundredths percent or more by weight of alcohol
15 in the defendant's blood, it ~~shall be~~ is presumed that the defendant was under the
16 influence of intoxicating liquor.

17 Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0
18 cubic centimeters of whole blood or 2100 cubic centimeters of deep lung breath.

19 Section 3. That § 32-23-1.3 be amended to read as follows:

20 32-23-1.3. Any person arrested for driving or being in actual physical control of a vehicle
21 while the weight of alcohol in the blood of the arrested person is ~~0.10~~ 0.08 percent or greater,
22 shall be charged with a violation of § 32-23-1. The charge may be reduced or dismissed only if
23 the prosecuting attorney states the reasons for reduction or dismissal in writing and on the record
24 and files the reasons with the clerk of courts.

1 Section 4. That § 32-12A-44 be amended to read as follows:

2 32-12A-44. No person may drive or be in actual physical control of a commercial motor
3 vehicle while there is between 0.04 and ~~0.10~~ 0.08 percent or more, by weight of alcohol in that
4 person's blood as shown by chemical analysis of that person's breath, blood, or other body
5 substance. Any violation of this section is a Class 2 misdemeanor.

6 Section 5. That § 42-8-45 be amended to read as follows:

7 42-8-45. No person may operate a boat while underway on the public waters of the state
8 while:

- 9 (1) There is ~~0.10~~ 0.08 percent or more by weight of alcohol in his blood as shown by
10 chemical analysis of ~~his~~ that person's breath, blood, or other bodily substance;
- 11 (2) Under the influence of an alcoholic beverage;
- 12 (3) Under the influence of marijuana or any controlled drug or substance to a degree
13 which renders ~~him~~ the person incapable of safely driving or operating such boat; or
- 14 (4) Under the combined influence of an alcoholic beverage and marijuana or any
15 controlled drug or substance to a degree which renders ~~him~~ the person incapable of
16 safely driving or operating such boat.

17 Any violation of this section is a Class 1 misdemeanor.

18 Section 6. That § 42-8-45.4 be amended to read as follows:

19 42-8-45.4. In any criminal prosecution for a violation of § 42-8-45, the amount of alcohol
20 in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's
21 blood, breath, or other bodily substance ~~shall give~~ gives rise to the following presumptions:

- 22 (1) If there was at that time five hundredths percent or less by weight of alcohol in the
23 defendant's blood, it ~~shall be~~ is presumed that the defendant was not under the
24 influence of intoxicating liquor;

1 (2) If there was at that time in excess of five hundredths percent but less than ~~ten~~ eight
2 hundredths percent by weight of alcohol in the defendant's blood, such fact does not
3 give rise to any presumption that the defendant was or was not under the influence of
4 intoxicating liquor, but such fact may be considered with other competent evidence
5 in determining the guilt or innocence of the defendant;

6 (3) If there was at that time ~~ten~~ eight hundredths percent or more by weight of alcohol
7 in the defendant's blood, it ~~shall be~~ is presumed that the defendant was under the
8 influence of intoxicating liquor.

9 Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0
10 cubic centimeters of whole blood or 2100 cubic centimeters of deep lung breath.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

337H0143

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1081 - 01/18/2002

Introduced by: Representatives Madsen, Abdallah, Bartling, Brown (Jarvis), Davis, Duenwald, Fryslie, Garnos, Gillespie, Hargens, Hennies (Thomas), Holbeck, Hunhoff, Juhnke, Klaudt, Lintz, McCaulley, McCoy, Michels, Monroe, Murschel, Nachtigal, Napoli, Peterson (Bill), Peterson (Jim), Pitts, Rhoden, Sebert, Sutton (Duane), Teupel, and Van Gerpen and Senators Greenfield, Apa, Bogue, Hutmacher, McCracken, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the revocation or
2 suspension of driving privileges upon conviction for unlawful sales, purchases, possession,
3 or consumption of alcoholic beverages involving persons under twenty-one years of age.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 35-9-7 be amended to read as follows:

6 35-9-7. If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a first
7 offense, the court shall, in addition to any other penalty allowed by law, order the suspension of
8 the ~~defendant's~~ person's driving privileges for a period not less than thirty days and not to exceed
9 one year. However, the court may issue an order permitting the person to operate a motor
10 vehicle for purposes of the person's employment or attendance at school or to court-ordered
11 counseling programs during the hours of the day and the days of the week set forth in the order.
12 The court may also restrict the privilege in ~~such~~ some other manner as ~~it sees~~ the court may see



1 fit for a period not to exceed one year.

2 If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a second or
3 subsequent offense, the court shall, in addition to any other penalty allowed by law, order the
4 suspension of the ~~defendant's~~ person's driving privileges for a period not less than sixty days and
5 not to exceed one year. However, the court may issue an order permitting the person to operate
6 a motor vehicle for purposes of the person's employment or attendance at school or to court-
7 ordered counseling programs during the hours of the day and the days of the week set forth in
8 the order. The court may also restrict the privilege in some other manner as the court may see
9 fit for a period not to exceed one year.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

921H0064

SENATE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1091** - 02/05/2002

Introduced by: Representatives Adelstein, Klaudt, and Van Etten and Senators Putnam and
Apa

1 FOR AN ACT ENTITLED, An Act to make compliance with federal selective service
2 requirements a condition of obtaining certain driver licenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No male United States citizen or immigrant who is at least eighteen years of age but less than
7 twenty-six years of age and who is required to register with the United States Selective Service
8 System may apply for or be issued a driver license, renewal, or duplicate or a nondriver
9 identification card, renewal, or duplicate pursuant to this chapter unless the applicant is
10 registered, or consents to be registered as provided in this section, in compliance with the
11 Military Selective Service Act, 50 U.S.C. App. 453, as amended to January 1, 2002.

12 The Department of Commerce and Regulation shall forward in an electronic format the
13 necessary personal information required for registration of any applicant identified in this section
14 to the United States Selective Service System. The applicant's submission of the application



1 indicates that the applicant has already registered with the Selective Service System or that he
2 is authorizing the department to forward to the Selective Service System the necessary
3 information for such registration. The department shall notify the applicant on the application
4 that his submission of the application serves as his consent to be registered with the Selective
5 Service System if so required by federal law.

6 Section 2. That chapter 32-12A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 No male United States citizen or immigrant who is at least eighteen years of age but less than
9 twenty-six years of age and who is required to register with the United States Selective Service
10 System may apply for or be issued a commercial driver license, renewal, or duplicate pursuant
11 to this chapter unless the applicant is registered, or consents to be registered as provided in this
12 section, in compliance with the Military Selective Service Act, 50 U.S.C. App. 453, as amended
13 to January 1, 2002.

14 The Department of Commerce and Regulation shall forward in an electronic format the
15 necessary personal information required for registration of any applicant identified in this section
16 to the United States Selective Service System. The applicant's submission of the application
17 indicates that the applicant has already registered with the Selective Service System or that he
18 is authorizing the department to forward to the Selective Service System the necessary
19 information for such registration. The department shall notify the applicant on the application
20 that his submission of the application serves as his consent to be registered with the Selective
21 Service System if so required by federal law.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

456H0380

HOUSE ENGROSSED NO. **HB 1102** - 02/05/2002

Introduced by: Representatives Pederson (Gordon), Nachtigal, and Van Gerpen and Senators Vitter and Hutmacher

1 FOR AN ACT ENTITLED, An Act to revise the gross receipts tax that applies to certain
2 telephone companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-33-21 be amended to read as follows:

5 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing
6 and providing telephone and exchange service comprising rental and toll service by means of
7 wired circuits and otherwise and whose annual gross receipts are less than ~~twenty-five~~ fifty
8 million dollars shall be taxed on the basis of gross receipts, according to one of the two following
9 schedules. Whichever schedule provides the lesser percentage of tax shall be applied by the
10 Department of Revenue:

11 SCHEDULE A

12 Average Number of Customers	Percentage of Tax on
13 Per Mile of Line (Density)	Gross Revenue
14 Not more than 1	2
15 More than 1, but not more than 2	3



1	More than 2, but not more than 3	4
2	More than 3	5

SCHEDULE B

	Gross Annual Revenue		Percentage of Tax on Gross Revenue
6	Not more than	\$ 15,000	2
7	More than \$15,000 but not more than	20,000	3
8	More than 20,000 but not more than	50,000	4
		<u>50,000,000</u>	
9	More than 50,000 but not more than	25,000,000	5

10 However, no telephone company operating in this state shall be taxed less than an amount
 11 equal to fifty cents per year per telephone serviced. Further, each telephone company that was
 12 taxed in the five percent tax category for the calendar year 2001 shall pay an amount of tax to
 13 each school district of not less than the tax received by such school district in 2002 for the years
 14 2003 and 2004; and each year thereafter, the tax paid shall be as provided in SCHEDULE A or
 15 SCHEDULE B of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

876H0401

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1170 - 02/04/2002

Introduced by: Representatives McCoy, Abdallah, Hennies (Don), Hennies (Thomas), Kooistra, McCaulley, Olson (Mel), and Van Gerpen and Senators Staggers, Volesky, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding assaults against law
2 enforcement personnel and to provide a criminal penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any person who, with the intent to assault, throws, smears, or causes human
5 blood, emesis, mucus, semen, excrement, or human waste to come in contact with a law
6 enforcement officer as defined in subdivision 22-1-2(22), while performing official duties or
7 actions, is guilty of a Class 1 misdemeanor.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

447H0381

HOUSE LOCAL GOVERNMENT COMMITTEE ENGROSSED NO. **HB 1176** - 01/29/2002

Introduced by: Representatives Hunhoff and Gillespie and Senators Vitter and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the time permitted to qualify for a municipally
2 elected office.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 9-13-28 be amended to read as follows:

5 9-13-28. The auditor or clerk, within two days after the result of the election is declared,
6 shall notify ~~all persons~~ each person elected to office of ~~their~~ the person's election. ~~Unless such~~
7 ~~persons shall~~ If a person does not qualify in within ten days after ~~such notice~~ the first meeting
8 next succeeding the election, the office shall become vacant.

9 Section 2. That § 9-14-5 be amended to read as follows:

10 9-14-5. Each appointive municipal officer shall begin discharging the duties of the office as
11 soon as the officer has qualified and shall hold office until the appointment and qualification of
12 a successor.

13 Each elective municipal officer, if elected to fill a vacancy, shall begin discharging the duties
14 of the office as soon as the officer has qualified. Except as otherwise provided, ~~every~~ each
15 officer, if elected for a full term, shall begin discharging the duties of the office on the first



1 ~~Monday of May meeting of the month next succeeding the election or as soon thereafter as the~~
2 ~~officer has qualified. If the election is held on the first or third Tuesday in June the officer shall~~
3 ~~enter upon the discharge of duties on the first Monday in July next succeeding the election or as~~
4 ~~soon as the officer is qualified.~~

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

528H0299

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1180 - 02/04/2002

Introduced by: Representatives Monroe, Bartling, Madsen, and Napoli and Senator Apa

1 FOR AN ACT ENTITLED, An Act to increase the amount of the lien that is permitted on the
2 parents of a minor child for whom legal counsel has been provided.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-40-11 be amended to read as follows:

5 23A-40-11. A lien, enforceable as provided by this chapter, upon all the property, both real
6 and personal, of any person, including the parents of a minor child, for whom legal counsel or
7 a public defender has been appointed under the provisions of § 23A-40-6, subdivisions
8 23A-40-7(2) and (3), or § 26-7A-31 may be filed. The services rendered and expenses incurred
9 are a claim against the person and that person's estate, enforceable according to law in an amount
10 to be determined by a judge of the circuit court or a magistrate judge and paid by the county or
11 municipality chargeable for them. A lien on the parents of a minor child pursuant to this section
12 may not exceed one thousand five hundred dollars plus an amount equal to any taxable court
13 costs.

14 Section 2. That § 26-7A-32 be amended to read as follows:

15 26-7A-32. There is hereby created a lien, enforceable as provided in chapter 23A-40, upon



1 all the property, both real and personal, of the parents, jointly or severally, of any child involved
2 in proceedings under this chapter or chapter 26-8A, 26-8B, or 26-8C to repay funds paid by the
3 county for a court-appointed attorney for the child's parents or by the county or the state for the
4 child. The county, on behalf of the county or the state, shall have a claim against the parents and
5 their estates, jointly or severally, as provided in chapter 23A-40.

6 However, except in the case of informal adjustment or suspended imposition of adjudication,
7 no lien or claim against the parents of a child may be created or may arise if the child is not
8 adjudicated to be an abused or neglected child, a child in need of supervision or a delinquent
9 child at the completion of the adjudicatory hearing and the proceedings are terminated.

10 The lien and claim on the property of the parents of a child pursuant to this section may not
11 exceed one thousand five hundred dollars plus an amount equal to any taxable court costs. This
12 limit does not apply to any claim or lien against the parents of a child adjudicated to be an abused
13 or neglected child.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

673H0456

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1189 - 02/04/2002

Introduced by: Representatives Wick, Abdallah, Adelstein, Brown (Richard), Duniphan, Hennies (Thomas), Holbeck, Hundstad, Jensen, McCaulley, Peterson (Bill), and Smidt and Senators Munson, Greenfield, Koetzle, Koskan, Olson (Ed), and Staggers

1 FOR AN ACT ENTITLED, An Act to establish the crime of air piracy.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 22-30 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any person who obtains physical control of any aircraft registered pursuant to the provisions
6 of chapter 50-11 by means of inflicting or threatening to inflict serious bodily harm or death on
7 any person is guilty of air piracy.

8 A violation of this section that results in the death of any person is a Class B felony. Any
9 other violation of this section is a Class 1 felony.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

453H0098

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1222** - 02/04/2002

Introduced by: Representative Holbeck and Senators Diedtrich (Elmer), Daugaard, Dennert,
Olson (Ed), and Reedy

1 FOR AN ACT ENTITLED, An Act to provide for the compensation of librarians and library
2 employees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 14-2-40 be amended to read as follows:

5 14-2-40. Each board of public library trustees shall:

- 6 (1) Appoint a librarian to serve at the pleasure of the board. Any paid librarian shall
7 receive any employee benefits provided all other employees of the local governmental
8 unit and shall be compensated at rates determined by the governing body's
9 compensation schedule, if such schedule exists. If no such schedule exists, the salary
10 shall be set by the local governing body;
- 11 (2) Adopt bylaws for the conduct of their business and adopt policies for the selection of
12 public library materials, the governance of the library, and the use of public library
13 services and materials;
- 14 (3) Prepare and submit an annual budget request to its governing body;



- 1 (4) Adopt a final annual budget within those funds certified to it as being appropriated in
- 2 the annual budget of its governing body;
- 3 (5) Meet at least once during each quarter of the year;
- 4 (6) Prepare and submit an annual report to its governing body and to the South Dakota
- 5 State Library on such forms as may be provided by the State Library.

6 Section 2. That § 14-2-42 be amended to read as follows:

7 14-2-42. Each librarian shall:

- 8 (1) Serve as secretary to the board of public library trustees and keep all its records;
- 9 (2) Prepare such reports, budgets, and other documents as are required by the board of
- 10 public library trustees or are required of ~~said~~ the board by its governing body;
- 11 (3) Appoint such staff as are necessary to operate the public library within its budgetary
- 12 limitations. Library employees shall receive any employee benefits provided all other
- 13 employees of the local-governing governmental unit and shall be compensated at rates
- 14 determined by the governing body's compensation schedule. If no such schedule
- 15 exists, the salary shall be set by the library board;
- 16 (4) Select and purchase all public library materials for use by the library in its provision
- 17 of public library services within policies established by the board of public library
- 18 trustees;
- 19 (5) Publish and enforce the policies of the board of public library trustees;
- 20 (6) Execute all contracts and agreements approved by the board of public library trustees;
- 21 (7) Keep an accurate account of the financial transactions of the public library; and
- 22 (8) Carry out any other activities authorized by law that the board of public library
- 23 trustees consider appropriate in the development, improvement, and provision of
- 24 public library services.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

184H0609

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1224 - 01/26/2002

Introduced by: Representatives Hunhoff, Abdallah, Murschel, and Pitts and Senators Daugaard, Craddock, Hutmacher, Madden, and Moore

1 FOR AN ACT ENTITLED, An Act to prohibit interference with the use of communication
2 devices to summon aid to an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Communication device," any device, including a telephone, cellular telephone,
6 computer, or radio which may be used in an attempt to summon law enforcement, fire
7 department, medical, or other emergency personnel;

8 (2) "Emergency," any situation in which human health or safety is in imminent danger.

9 Section 2. If a person is attempting to summon aid to an emergency or has communicated
10 a desire to summon aid to an emergency, no person may prohibit or interrupt, or attempt to
11 prohibit or interrupt, another person's use of a communication device by either of the following:

12 (1) Using or threatening to use physical force, intimidation, interference, or any other
13 form of violence; or

14 (2) Destroying, disabling, or damaging a communication device.



1 A violation of this section is a Class 1 misdemeanor.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0069

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 7** - 02/06/2002

Introduced by: The Committee on Legislative Procedure at the request of the Commissioner
of School and Public Lands

1 FOR AN ACT ENTITLED, An Act to provide for the leasing of certain public lands acquired
2 by exchange.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 5-3-7 be amended to read as follows:

5 5-3-7. The commissioner of school and public lands may exchange, with the approval of the
6 Governor and following a public hearing, any school section or portion of a school section for
7 any land located within the State of South Dakota of like appraised value. The commissioner
8 may also exchange, with the approval of the Governor and following a public hearing, any school
9 section or portion of a school section for any land located within the State of South Dakota of
10 appraised value of at least seventy-five percent of the school land if the difference is paid in cash
11 at the time of the exchange. Such exchanges may be conditional as long as the transfer is
12 completed within two years and as long as the trust corpus is never diminished. Any cash
13 received from such an exchange shall be treated as a cash sale pursuant to the provisions of
14 chapter 5-9. Any unit of land acquired through such an exchange may be leased as a unit or



1 leased in separate parcels, by the method that would generate the most income for the state,
2 upon such terms and conditions as the commissioner, with the approval of the Governor, deems
3 to be in the best interests of the State of South Dakota unless the commissioner, with the
4 approval of the Governor, for good cause deems it to be in the best interests of the state that the
5 unit or parcels be leased to a unit of government for less than the highest bid. The commissioner
6 shall promulgate rules pursuant to chapter 1-26 to establish the procedures and criteria for such
7 exchanges.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

519H0278

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 70** - 02/05/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Koskan and Symens and Representatives Peterson (Jim), Bartling, Burg, Flowers, Hargens, Jensen, and Klautt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding disclosure statements
2 for motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The department shall indicate on the certificate of title whenever a title presented to the state
7 indicates that the motor vehicle which was previously issued a title that bore any word or symbol
8 signifying that the vehicle was salvage, un-rebuildable, parts only, scrap, junk, nonrepairable,
9 reconstructed, rebuilt, or any other symbol or word of like kind or meaning, or that it has been
10 damaged by flood, and the name of the state that last issued title.

11 Section 2. That § 32-3-1 be amended by adding thereto a NEW SUBDIVISION to read as
12 follows:

13 "Salvage vehicle," any motor vehicle that is damaged to the extent of seventy-five percent
14 or more of its retail value as determined by the National Automobile Dealers' Association Official



1 Used Car Guide in effect at the time of the damage.

2 Section 3. That § 32-3-51.7 be amended to read as follows:

3 32-3-51.7. Each certificate of title issued by the department shall ~~contain the following~~
4 ~~phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This~~
5 ~~information is available upon written request from the Department of Revenue, Division of~~
6 ~~Motor Vehicles. Each certificate of title shall also contain on its front a statement as to whether~~
7 ~~previous damage disclosure statements indicate the motor vehicle had been damaged at one time~~
8 ~~in excess of three thousand dollars as provided by~~ carry the word, salvage, on the front if the
9 disclosure statement indicates that the motor vehicle meets the disclosure requirements of § 32-
10 3-51.8.

11 Section 4. That § 32-3-51.8 be amended to read as follows:

12 32-3-51.8. Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor
13 vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,
14 trader, or person wishing to license in South Dakota the motor vehicle which is titled in another
15 state or jurisdiction shall ~~submit an accurately completed damage disclosure statement when~~
16 ~~applying for a certificate of title pursuant to § 32-3-18~~ disclose whether the motor vehicle has
17 incurred damage requiring disclosure under section 2 of this Act. The ~~completed damage~~
18 disclosure statement may be on the back of the certificate of title or on a separate document that
19 has been approved for use by the department. Except as otherwise provided by this section, no
20 certificate of title may be issued by the department unless the ~~damage~~ disclosure statement
21 accompanies the application. It is a Class 1 misdemeanor to intentionally falsify any information
22 on the ~~damage~~ disclosure statement. No person or dealer is liable to a subsequent owner of a
23 vehicle because a prior owner of the vehicle failed to disclose that the vehicle had previously
24 been damaged and repaired. This section does not apply to motor vehicles more than nine model

1 years old or with a gross vehicle weight rating of more than sixteen thousand pounds and does
2 not apply if a rebuilt title or junking certificate is sought.

3 ~~This section does apply to all other motor vehicles, but only damage in excess of three~~
4 ~~thousand dollars shall be disclosed in the statement.~~ If the motor vehicle has incurred damages
5 more than once, only those damages which occurred at one time would be considered in
6 determining ~~whether the damages exceeded three thousand dollars~~ the percentage of damage to
7 the vehicle.

8 Section 5. That § 32-3-51.9 be amended to read as follows:

9 32-3-51.9. For the purposes of the ~~damage~~ disclosure statement provided by § 32-3-51.8,
10 "~~damage~~" is disclosure is required for damage to the motor vehicle caused by fire, vandalism,
11 collision, weather, submersion in water, or flood, and does not include normal wear and tear,
12 glass damage, mechanical repairs, or electrical repairs that have not been caused by fire,
13 vandalism, collision, weather, submersion in water, or flood.

14 Section 6. That § 32-3-51.11 be amended to read as follows:

15 32-3-51.11. The department shall retain each ~~damaged~~ disclosure statement received. The
16 statement shall become part of the title history available to the public pursuant to § 32-3-30.2.

17 Section 7. That § 32-3-51.14 be amended to read as follows:

18 32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the
19 ~~damage~~ disclosure statement provided by § 32-3-51.8. An area for a ~~damage~~ disclosure
20 statement shall appear on the back of each certificate of title issued by the department. The
21 department may also approve separate documents on which a ~~damage~~ disclosure statement may
22 be submitted. The ~~damage~~ disclosure statement form shall indicate whether the motor vehicle has
23 been damaged ~~such that it cost more than three thousand dollars to repair to its predamaged~~
24 condition to the extent of seventy-five percent or more of its retail value as determined by the

1 National Automobile Dealers' Association Official Used Car Guide in effect at the time the
2 damage occurred and shall indicate any other damage information the department deems
3 appropriate. If a separate document from the certificate of title contains the ~~damage~~ disclosure
4 statement, the document shall also require the following information: year, make, model, and
5 vehicle identification number of the motor vehicle.

6 Section 8. That § 32-3-51.15 be amended to read as follows:

7 32-3-51.15. The ~~dollar amount of~~ damage to a motor vehicle required to be disclosed
8 pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle
9 to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the
10 damaged motor vehicle. The amount of damage to a motor vehicle is determined by adding the
11 retail value of all labor, parts, and material used in repairing the damage. If the retail value of
12 labor has not been determined by a purchase in the ordinary course of business (for example, the
13 labor is performed by the owner of the vehicle), the retail value of the labor is presumed to be
14 the product of the repair time, as provided in a generally accepted autobody repair flat rate
15 manual, multiplied by ~~thirty-five~~ forty dollars.

16 Section 9. That § 32-3-51.16 be repealed.

17 ~~—32-3-51.16. The department shall place the damage information pursuant to § 32-3-51.7 on~~
18 ~~the first South Dakota title and all subsequent titles issued for any motor vehicle which came into~~
19 ~~the state unrepaired and for which a salvage certificate of title was issued by another state unless~~
20 ~~the person applying for the South Dakota title maintains at his place of business proof that the~~
21 ~~vehicle did not sustain damage equivalent to the amount set forth in this chapter. The proof shall~~
22 ~~include two photographs showing all four sides of the motor vehicle and either an insurance~~
23 ~~adjuster's written report or a written repair estimate which details the parts, labor, paint, and~~
24 ~~frame work required to repair the motor vehicle.~~

1 ~~—The photographs and other documents showing proof that the amount of damage is less than~~
2 ~~set forth in this chapter shall be maintained by the person applying for a title for at least two~~
3 ~~years.~~

4 Section 10. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon receipt of the title or prescribed form, the department shall issue a title based upon the
7 answers to the disclosure questions. Any dispute arising from disclosure is a civil matter between
8 the seller and purchaser.

9 Section 11. That § 32-3-51.5 be amended to read as follows:

10 32-3-51.5. Any motor vehicle, trailer, or semitrailer whose title has been marked or branded
11 by another state or jurisdiction as salvage, unbuildable, nonrepairable, or any similar term, shall
12 receive a salvage title, ~~which shall contain the damage disclosure information as set forth in~~
13 ~~§§ 32-3-51.7 and 32-3-51.8 or, at the option of the owner, .~~ If the title is branded as parts only,
14 scrap, or junk, the owner shall receive a junking certificate.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

507H0276

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 81 - 02/05/2002

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Munson, de Hueck, Koetzle, McIntyre, and Sutton (Dan) and Representatives Olson (Mel), Bradford, Brown (Richard), Elliott, Jensen, and Kooistra

1 FOR AN ACT ENTITLED, An Act to limit the Department of Labor's authority to recommend
2 settlements in labor disputes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If its efforts as conciliator prove unsuccessful, the Department of Labor shall, if requested
7 by either party, impartially investigate the matters in difference between the parties. The request
8 to the department shall be mailed within twenty days after the conclusion of the conciliation
9 procedure provided for in § 60-10-1. The department shall give each party ample opportunity
10 for presentation of its final offer on each unresolved issue and the rationale supporting its final
11 offer on each unresolved issue. Within twenty days following the presentations of the final offers
12 of both parties, the department shall issue a recommendation on each unresolved issue and the
13 rationale supporting each recommendation. The department shall recommend either the final



1 offer of the public employees or the final offer of the public employers on each unresolved issue
2 and may not make any alternative recommendation. The department shall furnish a copy of its
3 recommendation to each of the parties and to any local newspaper for publication for the
4 information of the public.

5 Section 2. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each party shall submit to the department a copy of the final offer made to the other party
8 on each unresolved issue and the rationale supporting the final offer on each unresolved issue
9 with proof of service of a copy upon the other party. Each party shall also submit a draft, in
10 writing, that includes all tentative agreements reached by the parties. The parties may continue
11 to negotiate all offers until an agreement is reached or until a recommendation and rationale are
12 issued by the department. The department shall consider the following factors in making its
13 recommendation:

- 14 (1) Any past collective bargaining contract between the parties, including the bargaining
15 that led up to the contract;
- 16 (2) The power of the public employer and political subdivision to finance the final
17 collective bargaining agreement;
- 18 (3) Comparisons with employees performing similar work in the public sector in South
19 Dakota and in states contiguous to South Dakota;
- 20 (4) The interests and welfare of the public and the employees; and
- 21 (5) Any other factor normally or traditionally taken into consideration in the
22 determination of wages, hours, and conditions of employment through collective
23 bargaining.

24 Section 3. That § 3-18-8.1 be amended to read as follows:

1 3-18-8.1. In case of impasse or failure to reach an agreement in negotiations conducted under
2 the provisions of this chapter, either party may request the Department of Labor to intervene
3 under the provisions of §§ 60-10-1 to ~~60-10-3~~, inclusive. Such request shall be mailed within ten
4 days after a written statement is delivered to the designated representative for the other party
5 declaring an impasse. Nothing in this section prohibits the parties to an impasse from adopting
6 any other procedure to facilitate a settlement that is mutually agreeable.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

267H0585

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 103 - 02/05/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Olson (Ed), Apa, Bogue, Brosz, and Koetzle and Representatives Derby, Flowers, Fryslie, Hansen (Tom), Hundstad, and Jaspers

1 FOR AN ACT ENTITLED, An Act to increase the required distance between certain persons
2 or equipment and high voltage lines.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-32-11 be amended to read as follows:

5 49-32-11. No person may, individually or through an agent or employee, and no person as
6 an agent or employee of another person, may perform or permit another to perform any function
7 or activity if it is probable that during the performance of such activity any person or any tool,
8 equipment, machinery, or material engaged in performing work connected with such activity, will
9 move to, or be placed in, a position within ~~six~~ ten feet of any high voltage overhead electrical line
10 or conductor. A violation of this section is a Class 2 misdemeanor.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

556H0689

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 156** - 02/06/2002

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Symens, Albers, Apa, Bogue, Brosz, Brown (Arnold), Cradduck, Daugaard, Dennert, Diedrich (Larry), Diedrich (Elmer), Duxbury, Everist, Greenfield, Hagen, Ham, Hutmacher, Koetzle, Koskan, McCracken, McIntyre, Moore, Munson, Olson (Ed), Vitter, Volesky, and Whiting and Representatives Duenwald, Bartling, Brown (Richard), Burg, Duniphan, Flowers, Frost, Fryslie, Gillespie, Glenski, Hansen (Tom), Hanson (Gary), Hargens, Heineman, Holbeck, Hundstad, Jaspers, Juhnke, Klaudt, Konold, Lintz, Nachtigal, Nesselhuf, Olson (Mel), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Rhoden, Sigdestad, Teupel, Van Gerpen, Van Norman, and Wick

1 FOR AN ACT ENTITLED, An Act to provide for the revision of the South Dakota Family
2 Farm Act of 1974 to conform with a proposed amendment to the South Dakota Constitution
3 regulating corporate farming in South Dakota.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 47-9A-1 be amended to read as follows:

6 47-9A-1. The Legislature of the State of South Dakota recognizes the importance of the
7 family farm to the economic and moral stability of the state, and the Legislature recognizes that
8 the existence of the independent family farm is ~~threatened by conglomerates~~ important to the
9 economic viability of rural South Dakota and is jeopardized by downward vertical integration
10 in farming. Therefore, it is hereby declared to be the public policy of this state, and shall be the



1 provision of this chapter, that, notwithstanding the provisions of § 47-2-3, no foreign or
2 domestic ~~corporation~~ legal entity which limits the individual liability of its owners or investors,
3 except as provided herein, shall be formed or licensed under the ~~South Dakota Business~~
4 ~~Corporation Act~~ laws of this state for the purpose of owning, leasing, holding, or otherwise
5 controlling agricultural land ~~to be used in the business of agriculture or owning livestock.~~

6 ~~—It is further declared that no foreign or domestic limited liability company, except as provided~~
7 ~~herein, shall be formed or licensed under the South Dakota Limited Liability Company Act for~~
8 ~~the purpose of owning, leasing, holding, or otherwise controlling agricultural land to be used in~~
9 ~~the business of agriculture.~~

10 Section 2. That § 47-9A-2 be amended to read as follows:

11 47-9A-2. Terms used in this chapter, ~~unless the context otherwise plainly requires,~~ mean:

- 12 (1) "Agricultural land," land used for farming, ranching, livestock feeding, or grazing and
13 which is not zoned for a nonagricultural use;
- 14 (2) ~~"Corporation" or any derivation of "corporation, both corporations under the South~~
15 ~~Dakota Business Corporation Act and limited liability companies under the South~~
16 ~~Dakota Limited Liability Company Act"~~ "Corporation," any legal entity which limits
17 the individual liability of its investors or owners;
- 18 (3) "Family farm," ~~an unincorporated~~ any farming unit owned by one or more natural
19 persons residing on the farm or who own the land or livestock and where at least one
20 owner is actively engaging in farming engaged in day-to-day implementation of the
21 management of the farming operation;
- 22 (4) "Farming," the cultivation of land for the production of agricultural or horticultural
23 crops; livestock, or livestock products; poultry or poultry products; milk or dairy
24 products; or fruit or other horticultural products. It shall not include the production

1 of timber or forest products; nor shall it include a contract whereby a processor or
 2 distributor of farm products or supplies provides spraying, harvesting or other farm
 3 services, or the ownership of livestock; and

4 (5) "Shareholders" or "stockholders," include the members of a limited liability company;
 5 and

6 ~~—(6)—~~ "Shares" or "stock," include membership interests in a limited liability company
 7 "Livestock," cattle, sheep, horses, pigs, poultry, and any other animal, if the animal
 8 is raised or fed for profit and intended for end-use as a food product.

9 Section 3. That § 47-9A-3 be amended to read as follows:

10 47-9A-3. Except as provided herein in this chapter, no foreign or domestic corporation may
 11 own livestock for more than two weeks prior to delivery for slaughter or engage in farming; nor
 12 may any foreign or domestic corporation, directly or indirectly, own, acquire, or otherwise obtain
 13 an interest, whether legal, beneficial, or otherwise, in any title to ~~real estate used for farming or~~
 14 capable of being used for farming agricultural land in this state.

15 Section 4. That § 47-9A-3.1 be repealed.

16 ~~—47-9A-3.1. The restrictions of § 47-9A-3 do not apply to the cultivation of edible fruits,~~
 17 ~~vegetables, or mushrooms if such cultivation occurs within a greenhouse or other enclosed or~~
 18 ~~semi-enclosed structure.~~

19 Section 5. That § 47-9A-4 be repealed.

20 ~~—47-9A-4. Any national or state chartered bank, or trust company, authorized to do business~~
 21 ~~in this state shall be exempt from the provisions of this chapter; provided, however, that no~~
 22 ~~national or state bank or trust company shall purchase agricultural lands in South Dakota through~~
 23 ~~a pooled investment fund formed from assets from retirement, pension, profit sharing, stock~~
 24 ~~bonds, or other trusts.~~

1 Section 6. That § 47-9A-5 be amended to read as follows:

2 47-9A-5. The restrictions of ~~§ 47-9A-3 shall~~ §§ 47-9A-1 and 47-9A-3 do not apply to
3 agricultural land and land capable of being used for farming or livestock which:

4 (1) ~~Was owned by a corporation as of July 1, 1974, including the normal expansion of~~
5 ~~such ownership at a rate not to exceed twenty percent, measured in acres, in any~~
6 ~~five-year period~~ Is owned by an entity in which all investors are natural persons, and
7 one of the investors is actively engaged in the day-to-day implementation of the
8 management of the farm land or farm operation; or

9 (2) ~~Is leased by a corporation in an amount, measured in acres, not to exceed the acreage~~
10 ~~under lease to such corporation as of July 1, 1974, and the additional acreage required~~
11 ~~for normal expansion at a rate not to exceed twenty percent in any five-year period;~~
12 ~~and the additional acreage necessary to meet the requirements of pollution control~~
13 ~~regulations~~ Is owned by an entity in which a majority of the voting rights are owned
14 by qualified persons who own agricultural land or an interest in a farming operation.
15 For purposes of this exception a qualified person may be either a natural person or an
16 entity which meets the requirements of exception number one of this section; or

17 (3) Is owned by an entity which engages in farming primarily for scientific, medical,
18 research, or experimental purposes; or

19 (4) Is owned by an entity which owns only mineral rights, a right-of-way, a utility
20 easement, a transportation easement, a water line easement, a drainage easement, a
21 telecommunication easement, or any less than fee simple interest in land which is held
22 primarily for a nonfarming purpose or use; or

23 (5) Is owned by an entity which purchases any interest in agricultural land primarily for
24 a nonfarming purpose, if the nonfarming purpose is applied to the land within five

1 years of the date of purchase. This exemption applies as long as the land is used for
 2 the nonfarming purpose, and if any farming operations on such land are merely
 3 incidental to the primary use, and are conducted by contract or lease to a person or
 4 entity who is not otherwise prohibited from farming or owning agricultural land in this
 5 state; or

6 (6) Is owned by an entity which is a lender, which acquires land or livestock as collateral
 7 on a debt, if the lender disposes of the land within five years and livestock within one
 8 year, of acquisition; or

9 (7) Is owned by a trustee holding lands or livestock for the benefit of persons or entities
 10 who are not prohibited from farming or owning agricultural land in South Dakota; or

11 (8) Was owned by an entity or person with a vested property interest in agricultural land
 12 or farming on June 1, 2002, or who lawfully engaged in farming or owned agricultural
 13 land in this state on November 1, 1998. However, no expansion is allowed under this
 14 exemption beyond the size and extent of the farming operation on June 1, 2002.

15 Section 7. That § 47-9A-6 be repealed.

16 ~~47-9A-6. The restrictions provided in § 47-9A-3 shall not apply to a bona fide encumbrance~~
 17 ~~taken for purposes of security.~~

18 Section 8. That § 47-9A-7 be repealed.

19 ~~47-9A-7. The restrictions of § 47-9A-3 shall not apply to agricultural lands acquired by a~~
 20 ~~corporation by process of law in the collection of debts; or by any procedure for the enforcement~~
 21 ~~of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that~~
 22 ~~all lands so acquired be disposed of within ten years after acquiring the title thereto, and further~~
 23 ~~provided that the land so acquired shall not be used for farming during the ten-year period except~~
 24 ~~under a lease to a family farm unit, a family farm corporation, or an authorized farm corporation.~~

1 ~~The aforementioned ten-year limitation period shall be deemed a covenant running with the title~~
2 ~~to the land against any corporate grantee or assignee or the successor of such corporation.~~

3 Section 9. That § 47-9A-8 be repealed.

4 ~~—47-9A-8. The restrictions of § 47-9A-3 shall not apply to gifts of agricultural lands, either~~
5 ~~by grant or devise, to any corporation organized under chapter 47-22.~~

6 Section 10. That § 47-9A-9 be repealed.

7 ~~—47-9A-9. The restrictions of § 47-9A-3 shall not apply to a farm operated for research or~~
8 ~~experimental purposes; provided, that any commercial sales from such farm shall be incidental~~
9 ~~to the research or experimental objectives of the corporation.~~

10 Section 11. That § 47-9A-10 be repealed.

11 ~~—47-9A-10. The restrictions of § 47-9A-3 shall not apply to agricultural land operated by a~~
12 ~~corporation for the purpose of raising breeding stock for resale to farmers or operated for the~~
13 ~~purpose of growing seed, nursery plants, or sod.~~

14 Section 12. That § 47-9A-11 be repealed.

15 ~~—47-9A-11. The restrictions of § 47-9A-3 shall not apply to agricultural lands acquired by a~~
16 ~~corporation solely for the purpose of feeding livestock.~~

17 Section 13. That § 47-9A-12 be amended to read as follows:

18 47-9A-12. The restrictions of § 47-9A-3 shall do not apply to agricultural land acquired by
19 a corporation other than a family farm corporation or authorized farm corporation for immediate
20 or potential use in nonfarming purposes. A corporation may hold such agricultural land in such
21 acreage as may be necessary to its nonfarm business operation; provided, however, that pending
22 the development of agricultural land for nonfarm purposes, such land may not be used for
23 farming except under lease to a family farm unit, a family farm corporation or an authorized farm
24 corporation, or except when controlled through ownership, options, leaseholds or other

1 ~~agreements~~ by a corporation which has entered into an agreement with the United States of
2 America pursuant to the New Community Act of 1968, (Title IV of the Housing and Urban
3 Development Act of 1968, 42 U.S.C. 3901-3914), as amended, or a subsidiary or assign of such
4 a corporation.

5 Section 14. That § 47-9A-13 be repealed.

6 ~~—47-9A-13. The restrictions of § 47-9A-3 shall not apply to a family farm corporation or an~~
7 ~~authorized farm corporation.~~

8 Section 15. That § 47-9A-13.1 be repealed.

9 ~~—47-9A-13.1. No corporation, except a family farm corporation, may own or operate any hog~~
10 ~~confinement facility. For the purposes of this chapter a hog confinement facility is any real estate~~
11 ~~used for the breeding, farrowing, and raising of swine. This restriction shall not apply to the~~
12 ~~acquisition of a hog confinement facility by a corporation by process of law in the collection of~~
13 ~~debts, or by any other procedure for the enforcement of a lien or claim thereon, as provided in~~
14 ~~§ 47-9A-7.~~

15 Section 16. That § 47-9A-14 be repealed.

16 ~~—47-9A-14. As used in this chapter, unless the context otherwise plainly requires, "family farm~~
17 ~~corporation" means a corporation founded for the purpose of farming and the ownership of~~
18 ~~agricultural land in which the majority of the voting stock is held by the majority of the~~
19 ~~stockholders who are members of a family related to each other within the third degree of~~
20 ~~kindred, and at least one of whose stockholders is a person who is residing on or actively~~
21 ~~operating the farm or who has resided on or has actively operated the farm, and none of whose~~
22 ~~stockholders are corporations, or a corporation founded for the purpose of farming and the~~
23 ~~ownership of agricultural land in which a majority of the voting stock is held by resident~~
24 ~~stockholders who are family farmers and are actively engaged in farming as their primary~~

1 ~~economic activity. However, a family farm corporation does not cease to qualify as such~~
2 ~~hereunder by reason of any devise or bequest of shares of voting stock or by reason of any gift~~
3 ~~of shares of voting stock to any person who is entitled to inherit from the donor if the donor~~
4 ~~were to die intestate.~~

5 Section 17. That § 47-9A-15 be repealed.

6 ~~—47-9A-15. As used in this chapter, unless the context otherwise plainly requires, "authorized~~
7 ~~farm corporation" means a corporation whose shareholders do not exceed ten in number, whose~~
8 ~~shareholders are all natural persons or estates, whose shares are all of one class, and whose~~
9 ~~revenues from rent, royalties, dividends, interest, and annuities do not exceed twenty percent of~~
10 ~~its gross receipts.~~

11 Section 18. That § 47-9A-16 be amended to read as follows:

12 47-9A-16. Every corporation or limited liability entity engaged in farming or proposing to
13 commence farming in this state shall file with the secretary of state a report containing:

- 14 (1) The name of the ~~corporation~~ entity and its place of ~~incorporation~~ formation;
- 15 (2) The address of the registered office of the ~~corporation~~ entity in this state, the name
16 and address of its registered agent in this state and, in the case of a foreign
17 ~~corporation~~ entity, the address of its principal office in its place of ~~incorporation~~
18 formation;
- 19 (3) The acreage and location listed by section, township, and county of each lot or parcel
20 of land in this state owned ~~or leased~~ by the ~~corporation~~ entity and used for the
21 growing of crops or the keeping or feeding of ~~poultry or livestock~~; and
- 22 (4) The names and addresses of ~~the~~ any officers and the members of the board of
23 directors of the ~~corporation~~ entity.

24 Section 19. That § 47-9A-17 be repealed.

1 ~~47-9A-17. The report of a corporation seeking to qualify hereunder as a family farm~~
2 ~~corporation or an authorized farm corporation shall contain, in addition:~~

3 ~~(1) The number of shares owned by persons residing on the farm or actively engaged in~~
4 ~~farming, or their relatives within the third degree of kindred;~~

5 ~~(2) The name, address, and number of shares owned by each shareholder; and~~

6 ~~(3) A statement as to percentage of gross receipts of the corporation derived from rent,~~
7 ~~royalties, dividends, interest, and annuities.~~

8 Section 20. That § 47-9A-18 be amended to read as follows:

9 47-9A-18. No corporation ~~shall~~ or limited liability entity may commence farming in this state
10 until the secretary of state has inspected the report required by § 47-9A-16 and certified that its
11 proposed operations comply with the provisions of §§ ~~47-9A-16 and 47-9A-17~~ § 47-9A-16.

12 Section 21. That § 47-9A-19 be repealed.

13 ~~47-9A-19. Every corporation engaged in farming in this state shall, prior to the first day of~~
14 ~~the second month following the anniversary month of the corporation of each year, file with the~~
15 ~~secretary of state a report containing the information required in this chapter, based on its~~
16 ~~operations in the preceding calendar year and its status at the end of such year.~~

17 Section 22. That § 47-9A-20 be amended to read as follows:

18 47-9A-20. Any corporation or limited liability entity which fails to file any report required
19 by this chapter or intentionally files false information on any report required by this chapter is
20 subject to a civil fine of not more than one thousand dollars.

21 Section 23. That § 47-9A-21 be amended to read as follows:

22 47-9A-21. If the attorney general has reason to believe that a corporation or limited liability
23 entity is in violation of this chapter, ~~he~~ the attorney general shall commence an action in the
24 circuit court for the county in which any agricultural lands relative to such violation are situated,

1 or if situated in two or more counties, in any county in which a substantial part of the lands are
2 situated. If the court finds that the lands in question are being held in violation of this chapter,
3 it shall enter an order so declaring.

4 Section 24. That § 47-9A-22 be amended to read as follows:

5 47-9A-22. The attorney general shall file any order under § 47-9A-21 for record with the
6 register of deeds of each county in which any portion of ~~said~~ the lands are located. Thereafter,
7 the corporation or limited liability entity owning such land shall have a period of five years from
8 the date of such order to divest itself of such lands. The ~~aforementioned~~ five-year limitation
9 period shall be deemed a covenant running with the title to the land against any corporate grantee
10 or assignee or the successor of such ~~corporation~~ entity. Any lands not so divested within the time
11 prescribed shall be sold at public sale in the manner prescribed by order of the court.

12 Section 25. That § 47-9A-23 be amended to read as follows:

13 47-9A-23. This chapter shall be known and may be cited as the Family Farm Act ~~of 1974~~.

14 Section 26. The provisions of this Act become effective on July 1, 2002, if the electors of the
15 State of South Dakota approve the repeal of sections 21, 22, 23, and 24 of Article XVII of the
16 South Dakota Constitution at the June 2002, primary election.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

924H0422

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 157 - 02/05/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Vitter and Representative Derby

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning who may hold a light
2 wine license.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-2.2 be amended to read as follows:

5 35-4-2.2. A license authorized under subdivision 35-4-2(12) may only be issued to the owner
6 or operator of a restaurant or a motel-hotel facility and shall permit the licensee to serve the
7 enumerated beverages between 12:00 noon and 12:00 p.m. of each day of the week including
8 Sunday. The term restaurant as used ~~herein shall mean~~ in this section means only a room
9 regularly and in a bona fide manner used and kept open for the serving of meals to guests for
10 compensation which has suitable table accommodations for at least fifty guests ~~therein~~ at one and
11 the same time, and a connected kitchen ~~connected therewith~~ containing conveniences for cooking
12 sufficient to provide meals in a bona fide manner for fifty guests at one and the same time. The
13 term motel-hotel facility as used in this section means a facility used and kept open for the
14 hosting of large groups of guests for compensation, which has at least seventy-five beds that are



1 suitable lodging accommodations.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

636H0699

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 158** - 02/06/2002

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Dennert

1 FOR AN ACT ENTITLED, An Act to clarify the calculation of state aid to education to certain
2 school districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The secretary of the Department of Education and Cultural Affairs shall
5 promulgate rules, pursuant to chapter 1-26, that calculate exclusions for revenue received from
6 opting out of the property tax limitations such that all expenditures shall be credited to formula
7 revenue and unreserved general fund balance from the preceding fiscal year prior to any credits
8 against opt-out revenue.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

933H0493

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 168 - 02/05/2002

Introduced by: Senator Greenfield and Representative Begalka

1 FOR AN ACT ENTITLED, An Act to permit certain nonprofits to have a temporary on-sale
2 license.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of §§ 35-4-11 and 35-4-19, any municipality may issue a
7 special events temporary on-sale license in addition to any other licenses held by the special
8 events license applicant, if the licensee is recognized as an exempt organization under section
9 501(c)(19) of the United States Internal Revenue Code, as amended, and in effect on January 1,
10 2002, and the licensee holds a license within the municipality pursuant to subdivision 35-4-2(16).

11 No public hearing is required for the issuance of a license pursuant to this section if the individual
12 applying for the license holds an alcoholic beverage license in the municipality or holds an
13 operating agreement for a municipal alcoholic beverage license. Any license issued pursuant to
14 this section may be issued for a period of time, not to exceed two consecutive days, established
15 by the municipal governing body.



1 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any license issued pursuant to section 1 of this Act shall be issued to the person and location
4 specified on the application and the licensee shall comply with the provisions of § 35-4-60.
5 However, if such license is issued in a municipality which holds a license pursuant to subdivision
6 35-4-2(5), the licensee may only dispense alcoholic beverages obtained through the municipal
7 off-sale establishment. Notwithstanding § 35-5-21.1, the fee provided for in this section shall be
8 retained by the municipal governing body issuing such license. Each application shall be
9 accompanied by the fee prior to consideration by the municipal governing body.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

843H0688

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 178 - 02/06/2002

Introduced by: Senators de Hueck, Greenfield, and Symens and Representatives Garnos,
Madsen, and Van Gerpen

1 FOR AN ACT ENTITLED, An Act to revise the procedure for assessing certain agricultural
2 land.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-6-33.2 be amended to read as follows:

5 10-6-33.2. Capacity of land in agricultural use to produce agricultural products shall be based
6 on average yields under natural conditions, ~~in the case of~~ for land producing crops or plants; and
7 on the average "acres per animal unit," ~~in the case of grazing~~ for noncrop land; ~~said.~~ The average
8 shall affect each operating unit and shall be based, to the extent possible, on the ten-year period
9 immediately preceding the tax year in issue. In determining ~~such~~ the capacity to produce, the
10 county director of equalization ~~and/or~~ and the county board of equalization ~~must take into~~
11 ~~consideration~~ may consider yields, ~~and/or~~ and carrying capacity, as determined by the soil
12 conservation service, the agricultural stabilization and conservation service, the extension
13 service, federal land bank, the Department of Revenue, and private lending agencies dealing with
14 land production capacities.



1 Section 2. That § 10-6-33.15 be amended to read as follows:

2 10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be
3 determined using capitalized actual annual cash rent. The actual annual cash rent is the actual
4 annual cash rent, ~~excluding the actual per acre tax on agricultural land,~~ determined through an
5 analysis of actual arm's length rental agreements collected within the county in the year prior to
6 the year for which the income value is being determined. The actual cash rent shall include the
7 per acre tax on agricultural land if such tax is the responsibility of the lessee, is an express
8 provision of the rental agreement, and is paid by the lessee in addition to the actual rental
9 income. The annual cash rent shall be capitalized at eight percent.

10 Section 3. That § 10-6-33.16 be amended to read as follows:

11 10-6-33.16. The secretary of revenue may enter into a contract for the collection of cash rent
12 information by county for the purpose of § 10-6-33.15. The secretary of revenue shall make such
13 information available for use by any county director of equalization. Cash rent information shall
14 be adjusted by soil survey statistics if available.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

363H0702

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 179** - 02/05/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Symens and Diedrich (Larry) and Representatives Jaspers and Burg

1 FOR AN ACT ENTITLED, An Act to regulate sampling procedures for verification of
2 transgenic seed use.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Farmer," the person responsible for planting a crop on, managing the crop, and
6 harvesting the crop from land on which a patent infringement is alleged to have
7 occurred; and

8 (2) "Transgenic organism," an organism that has been modified by genetic engineering to
9 contain DNA from an outside source.

10 Section 2. Before a person holding a patent on transgenic seed may enter upon any land
11 farmed by another for the purpose of obtaining crop samples to determine whether patent
12 infringement has occurred, the person holding the patent:

13 (1) Shall notify the farmer in writing of the allegation that a patent infringement has
14 occurred and request written permission to enter upon the farmer's land; and



1 (2) Shall obtain the written permission of the farmer.

2 The farmer shall grant or deny access within seven days of receipt of request to enter the
3 land. If the farmer withholds written permission, the person holding a patent may petition the
4 circuit court for an order granting permission to enter upon the farmer's land.

5 Section 3. If either party requests the secretary of agriculture to collect the samples, the cost
6 shall be divided equally between the parties.

7 Section 4. If the person holding a patent believes that the crop from which samples are to be
8 taken may be subject to intentional damage or destruction, the person may seek a protection
9 order from the circuit court. The protection order may not interrupt or interfere with normal
10 farming practices, including harvest and tillage.

11 Section 5. The samples may be taken from a standing crop, from representative standing
12 plants in the field, or from crops remaining in the field after harvest.

13 Section 6. The secretary of agriculture may promulgate rules, pursuant to chapter 1-26, to
14 determine the following sampling protocols:

- 15 (1) To determine who is authorized to collect samples;
- 16 (2) To determine methods of sample storage;
- 17 (3) To establish standards for sampling, inspecting, analyzing, and testing seeds; and
- 18 (4) To implement fees to recover sampling costs.

19 Section 7. The results of any testing conducted under this Act shall be sent by registered
20 letter to either party by the other within thirty days after the results are reported from the testing
21 laboratory.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0729

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 180 - 02/05/2002

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to regulate unsolicited electronic commerce.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Any contract entered in response to an unsolicited facsimile or electronic mail
4 offer to sell, lease, or provide any property, good, service, or extension of credit may be
5 cancelled by the recipient within three days of receipt of the goods contracted for by providing
6 electronic, facsimile, or written notice or by returning any property or goods received in
7 substantially the same condition as received. Any person who has received such notice of
8 cancellation shall, within ten business days:

9 (1) Refund any payment made under the contract;

10 (2) Return any goods or property traded or exchanged under the contract; and

11 (3) Take all steps necessary to terminate the contract and place the parties in the same
12 positions they held prior to entering the contract.

13 No person cancelling a contract under this section is liable for money damages, specific
14 performance, or penalty arising from the contract.

