

2021 South Dakota Legislature

House Bill 1219**AMENDMENT 1219A FOR THE INTRODUCED BILL**

1 **An Act to ~~provide for the betterment of agriculture in South Dakota~~ join the**
2 **Interstate Cooperative Meatpacking Compact.**

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

4 ~~Section 1. This Act provides provisions for the betterment of agriculture in South~~
5 ~~Dakota.~~

6 **Section 1.** That a NEW SECTION be added:

7 **39-5-55. Interstate Cooperative Meatpacking Compact.**

8 The Interstate Cooperative Meatpacking Compact is enacted into law with all other
9 participating states in the following form:

10 Article I. Purpose

- 11 (1) The compacting states to this interstate compact recognize the importance of
12 providing the public with a safe, wholesome, and unadulterated meat supply.
13 (2) The purpose of this compact, through joint and cooperative action among the
14 compacting states is to:
15 (a) Expand opportunities for the livestock and meatpacking economy
16 throughout the western United States; and
17 (b) Promote commerce between the compacting states.
18 (3) It is the policy of the compacting states to cooperate and to observe their individual
19 and collective duties and responsibilities for the appropriate inspection, sanitation,
20 recordkeeping, sampling, labeling, public health, and humane methods of
21 slaughtering for those establishments subject to this compact.
22 (4) The intent of the compacting states is to maintain and enhance a state-based meat
23 inspection process that is at least equal to applicable federal laws and rules,
24 including the authorities under the:
25 (a) Federal Meat Inspection Act, 21 U.S.C. 501 through 695;

- 1 (b) Federal Poultry Products Inspection Act, 21 U.S.C 451 through 470, as those
2 acts read on March 27, 2013;
3 (c) Federal Humane Methods of Slaughter Act of 1978, 7 U.S.C. 1901, 1902,
4 1904, 1906, and 1907, as that act read on March 27, 2007;
5 (d) The labelling requirements of the Federal Food, Drug, and Cosmetic Act, 21
6 U.S.C. 301 through 392, as that law read on October 1, 1987; and
7 (e) Federal regulations promulgated under these federal acts.

8 Article II. Definitions

- 9 (1) "Compacting state" means any state that has enacted the enabling legislation for
10 this compact.
11 (2) "Livestock" means cattle, buffalo, sheep, swine, goats, rabbits, horses, mules, or
12 other equines, whether alive or dead.
13 (3) "Livestock product" or "poultry product" means a product capable of use as human
14 food that is wholly or partially made from meat.
15 (4) "Meat" means the edible flesh of livestock or poultry and includes livestock and
16 poultry products. This term does not include cell-cultured edible products.
17 (5) "Meat establishment" means an establishment licensed by a state at which
18 inspection of the slaughter of livestock or poultry or the preparation of meat food
19 products is maintained under applicable meat and poultry inspection laws,
20 including those listed in Article I. The term includes a mobile slaughter facility.
21 (6) "Retail food establishment" means an operation, whether mobile or at a temporary
22 or stationary facility or location, that meets one or more of the conditions in
23 subsections (6)(a)(i) and (6)(a)(ii) and that may include a central processing
24 facility that supplies a transportation vehicle or a vending location or satellite
25 feeding location. A retail food establishment:
26 (a)
27 (i) Stores, processes, packages, serves, or vends food directly to the
28 consumer or otherwise provides food for human consumption at a
29 venue that may include:
30 (A) A restaurant;
31 (B) A market;
32 (C) A satellite or catered feeding location;
33 (D) A catering operation if the catering operation provides food
34 directly to a consumer or to a conveyance used to transport
35 people;

- 1 (E) A vending location;
2 (F) A conveyance used to transport people;
3 (G) An institution; or
4 (H) A food bank; and
5 (ii) Relinquishes possession of food to a consumer directly or indirectly
6 by using either a delivery service, as is done for grocery or
7 restaurant orders, or a common carrier that provides deliveries.
8 (b) The term is not dependent on whether consumption is on or off the premises
9 or whether there is a charge for food served to the public.
10 (c) The term does not include:
11 (i) Milk producers' facilities, milk pasteurization facilities, or milk
12 product manufacturing plants;
13 (ii) Slaughterhouses, meat packing plants, or meat depots;
14 (iii) Growers or harvesters of raw agricultural commodities;
15 (iv) A cottage food operation;
16 (v) a person that sells or serves only commercially prepackaged foods
17 that are not potentially hazardous;
18 (vi) A food stand that offers raw agricultural commodities;
19 (vii) A wholesale food establishment, including those wholesale food
20 establishments that are located on the same premises as a retail
21 food establishment;
22 (viii) A kitchen in a domestic residence used for preparing food to sell or
23 serve at a function by a nonprofit organization as provided in
24 subsection (6)(c)(xiii);
25 (ix) Custom meat and game animal processors that receive from an
26 owner the remains of a carcass and process those remains for
27 delivery to the owner for the exclusive use in the owner's household
28 by the owner or members of the owner's household, including the
29 owner's family pets, or of the owner's nonpaying guests or
30 employees. For this exemption to apply, the carcass must be kept
31 separate from other meat food products and parts that are to be
32 prepared for sale.
33 (x) Private, religious, fraternal, youth, patriotic, or civic organizations
34 that serve or sell food to the public over no more than four days in
35 a twelve-month period;

- 1 (xi) A private organization that serves food only to its members and their
2 guests;
- 3 (xii) A bed and breakfast, a hotel, a motel, a roominghouse, a guest
4 ranch, an outfitting and guide facility, a boardinghouse, or a tourist
5 home that serves food only to registered guests and day visitors;
- 6 (xiii) A nonprofit organization that operates a temporary food
7 establishment under a permit as provided in § 34-18-17;
- 8 (xiv) Persons who sell or serve at a farmer's market or a food stand whole
9 shell eggs, hot coffee, hot tea, or other food not meeting the
10 definition of potentially hazardous, as authorized by the appropriate
11 municipal or county authority;
- 12 (xv) A day-care center or day-care providers who are not subject to
13 licensure, as provided under chapter 26-6;
- 14 (xvi) A private domestic residence that receives catered or home-
15 delivered food;
- 16 (xvii) A contract cook; or
- 17 (xviii) A provider of free samples to the public as a marketing activity if the
18 provider is a licensed wholesale food establishment, a cottage food
19 operation, or a seller at a farmer's market.

20 (7) "Retail meat establishment" means a commercial establishment at which meat or
21 meat products are displayed for sale or provision to the public, with or without
22 charge.

23 (8) "State" means a state withing the United States, the District of Columbia or its
24 designee, the Commonwealth of Puerto Rico, the United States Virgin Islands,
25 Guam, American Samoa, and the Northern Marianas Islands.

26 (9) "Western cooperative program" means the participating, compacting states that
27 promise to adhere to this compact.

Article III. Cooperative commerce

29 (1) A meat establishment in a compacting state may participate in the western
30 cooperative program.

31 (2) A meat establishment participating in the western cooperative program may sell
32 and transport meat, livestock products, or poultry products to a retail food
33 establishment, retail meat establishment, or meat depot in another compacting
34 state.

Article IV. Applicability of other laws

1 (1) This compact does not prohibit compacting states from participating in the United
2 States department of agriculture food safety inspection services' cooperative
3 interstate shipment program.

4 Article V. Compact administrator and interchange of information.

5 (1) The head of the licensing authority of each party state shall be the administrator
6 of this compact for the administrator's state. The administrators, acting jointly,
7 shall have the power to formulate all necessary and proper procedures for the
8 exchange of information under this compact.

9 (2) The administrator of each party state shall furnish to the administrator of each
10 other party state any information or documents reasonably necessary to facilitate
11 the administration of this compact.

12 Article VI. Defaulting and resolution of disputes

13 (1) The administrator of each party state shall resolve disputes among the compacting
14 states by simple majority vote.

15 (2) If the administrators determines that any compacting state has defaulted in the
16 performance of any of its obligations or responsibilities under this compact, the
17 administrators may suspend or revoke membership in the compact. The
18 administrators may suspend a participating state only after all other reasonable
19 means of securing compliance under the terms of this compact have been
20 exhausted and the administrators have determined that the offending state is in
21 default

22 (3) Upon determining default, the administrators shall:

23 (a) Immediately notify the defaulting state in writing of the penalty imposed by
24 the administrators and a cure for the default; and

25 (b) Stipulate the conditions and the time period within which the defaulting
26 state shall cure its default.

27 (4)

28 (a) If the defaulting state fails to cure the default within the time period
29 specified by the interstate commission, the defaulting state must be
30 terminated from the compact upon an affirmative vote of a majority of the
31 compacting states. All rights, privileges, and benefits conferred by this
32 compact must be terminated from the effective date of the termination.

33 (b) The administrators shall give immediate notice of suspension or termination
34 to the governors of each state.

1 (5) The administrators may, by a simple majority vote, initiate legal action in the
2 United States district court for the District of Columbia or other court of competent
3 jurisdiction to to enforce compliance with the provisions of the compact. In the
4 event that judicial enforcement is necessary, the prevailing party must be awarded
5 all costs of the litigation, including reasonable attorney fees.

6 Article VII. Effective date and amendment

7 (1) The compact becomes effective and binding upon legislative enactment of the
8 compact into law by the participating states. The initial effective date is July 1,
9 2021. Thereafter, it becomes effective and binding as to any other compacting
10 state upon enactment of the compact into law by that state.

11 (2) The administrators may propose amendments to the compact for enactment by
12 the compacting states. An amendment is effecting and binding upon the interstate
13 commission and the compacting states when it is enacted into law by the consent
14 of the compacting states.

15 Article VIII. Severability

16 (1) The provisions of this compact are severable, and if any phrase, clause, sentence,
17 or provision is unenforceable, the remaining provisions of the compact remain
18 enforceable.

19 (2) The provisions of this compact must be liberally constructed to effectuate its
20 purposes.

21 Article IX. Withdrawal and termination

22 (1) When effective, the compact must continue in force and remain binding upon each
23 compacting state. However, a compacting state may withdraw from the compact
24 by specifically repealing the statute that enacted the compact into law.

25 (2) The effective date of withdrawal is the effective date of the repeal.

26 (3) The withdrawing state shall immediately notify the compact administrators in each
27 participating state upon the introduction of legislation repealing this compact in the
28 withdrawing state.

29 (4) Reinstatement following withdrawal of any compacting state must occur upon the
30 withdrawing state reenacting the compact or upon a later date as determined by
31 the compact administrators.

32 (5) The compact dissolves effective upon the date of the withdrawal or default of the
33 compacting state, which reduced membership in the compact to one compacting
34 state.