

## 2025 South Dakota Legislature

**Senate Bill 14****AMENDMENT 14E  
FOR THE SENATE JUDICIARY ENGROSSED BILL**

1 **An Act to revise and repeal provisions related to agricultural production facilities**  
2 **and to provide a penalty therefor.**

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

4 **Section 1. That § 22-30A-17 be AMENDED:**

5 **22-30A-17.** Grand theft is a Class 6 felony, if the property stolen:

6 (1) Exceeds one thousand dollars in value but is less than or equal to two thousand  
7 five hundred dollars;

8 (2) Is a firearm with a value of less than or equal to two thousand five hundred dollars;  
9 or

10 (3) Is taken from the person of another with a value of less than or equal to two  
11 thousand five hundred dollars; ~~or~~

12 (4) ~~The property stolen is cattle, horses, mules, sheep, goats, buffalo, or captive~~  
13 ~~nondomestic elk.~~ Is livestock, as defined in § 21-61-1, with a value of less than or  
14 equal to two thousand five hundred dollars.

15 Grand theft is a Class 5 felony if the value of the property is more than two  
16 thousand five hundred dollars but less than or equal to five thousand dollars.

17 Grand theft is a Class 4 felony if the value of the property is more than five  
18 thousand dollars but less than or equal to one hundred thousand dollars.

19 Grand theft is a Class 3 felony if the value of the property is more than one hundred  
20 thousand dollars but less than or equal to five hundred thousand dollars.

21 **Section 2. That § 40-38-1 be AMENDED:**

22 **40-38-1.** Terms used in this chapter mean:

23 (1) "Agricultural production facility," real or personal property that is used primarily  
24 for agricultural purposes, including:

- 1           (a) A vehicle, building, structure, research facility, or area where an animal is  
2           kept, handled, housed, transported, exhibited, bred, or offered for sale; or  
3           (b) A barn, crop field, elevator, garden, greenhouse, nursery, orchard, research  
4           facility, seedhouse, warehouse, structure, machinery, or equipment;  
5       (2) "Animal," any living vertebrate except human beings;  
6       ~~(2)~~ ~~"Animal facility," any vehicle, building, structure, research facility, premises, or~~  
7       ~~area where an animal is kept, handled, housed, transported, exhibited, bred, or~~  
8       ~~offered for sale;~~  
9       (3) "Consent," ~~consent~~ permission by the owner or by a person legally authorized to  
10       act for the owner. Consent is not effective if:  
11       (a) Induced by force or threat;  
12       (b) Given by a person the offender knows is not legally authorized to act for  
13       the owner; or  
14       (c) Given by a person who by reason of age, mental disease, or defect, or  
15       influence of drugs or alcohol is known by the offender to be incapable of  
16       consenting;  
17       (4) "Crop," a plant or plant product that is grown for food, feed, fiber, forage, or fuel;  
18       (5) "Deception," the act of knowingly:  
19       (a) Creating or confirming another person's belief or impression as to the  
20       existence or nonexistence of a fact or condition that is false and that the  
21       actor does not believe to be true; or  
22       (b) Failing to correct a false belief or impression as to the existence or  
23       nonexistence of a fact or condition that the actor previously created or  
24       confirmed;  
25       (6) "Deprive," to:  
26       (a) Withhold an animal or material appurtenant to an animal from the owner  
27       permanently or for so extended a period of time that a major portion of the  
28       value or enjoyment of the animal or property is lost to the owner;  
29       (b) Restore an animal or property only upon payment of a reward or other  
30       compensation; or  
31       (c) Dispose of an animal or other property in a manner that makes recovery of  
32       the animal or property by the owner unlikely;  
33       ~~(5)~~(7) "Owner," a person who has title to the property, legal possession of the property,  
34       or a greater right to possession of the property than the other;  
35       ~~(6)~~(8) "Possession," actual custody, control, or management; and

(7)(9) "Research facility," any place at which any scientific test, experiment, or investigation involving the use of any living animal or crop is carried out, conducted, or attempted.

**Section 3. That § 40-38-2 be AMENDED:**

**40-38-2.** No person, without consent, may:

- (1) Intentionally damage or destroy an ~~animal~~ agricultural production facility, ~~or an animal, or property in or on the animal facility,~~ or obstruct any enterprise conducted at the ~~animal~~ agricultural production facility;
- (2) Acquire or otherwise exercise control over an ~~animal~~ agricultural production facility or an animal or other property from an ~~animal~~ agricultural production facility with the intent to deprive the owner or to obstruct the enterprise conducted at the facility;
- (3) Enter an ~~animal~~ agricultural production facility, not then open to the public, with intent to commit any act prohibited by this section;
- (4) Enter an ~~animal~~ agricultural production facility and remain concealed, with intent to commit any act prohibited by this section;
- (5) Enter an ~~animal~~ agricultural production facility and commit or attempt to commit any act prohibited by this section; ~~or~~
- (6) Intentionally turn out or release any animal or any plant pest or pathogen in or on an ~~animal~~ agricultural production facility;
- (7) Use deception to gain access to or employment at an agricultural facility that is not open to the public, with the intent to cause physical or economic harm or other injury to the agricultural production facility; or
- (8) Knowingly place or use a camera or electronic surveillance device that transmits or records images or data while committing criminal trespass as set forth in chapter 22-35.

This section does not apply to lawful activities of a governmental agency or emergency service carrying out its duties under law.

**Section 4. That § 40-38-3 be AMENDED:**

**40-38-3.** No person may, without consent, and with the intent to obstruct the enterprise conducted at ~~the animal~~ an agricultural production facility, enter or remain on ~~an animal~~ the agricultural production facility, if the person had notice that the entry was forbidden or received notice to depart but failed to do so. Notice includes communication

by the owner or any person with apparent authority to act for the owner, fencing or other enclosures designed to exclude trespassers or to contain animals, or a sign posted on the property or at the entrance to the animal agricultural production facility indicating that entry is forbidden. This section does not apply to lawful activities of a governmental agency or emergency service carrying out its duties under law.

**Section 5. That § 40-38-4 be AMENDED:**

**40-38-4.** Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class 2 misdemeanor if there is damage of four hundred dollars or less. Any person who violates subdivision 40-38-2(7) or (8), is guilty of a Class 2 misdemeanor. Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class 1 misdemeanor if there is damage of ~~in~~ an amount greater than four hundred dollars and less than one thousand dollars. Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class 4 felony if there is damage of one thousand dollars or greater. Any person who violates subdivisions 40-38-2(2) to (5), inclusive, is guilty of a Class 4 felony.

**~~Section 6. That a NEW SECTION be added to chapter 34A-2:~~**

~~The department may not provide an aggregated list, regardless of physical form, containing the address, geographic coordinate systems location, or legal location of a concentrated animal feeding operation with coverage under a general or individual water pollution control permit issued pursuant to § 34A-2-36, except as required by federal law or regulation, or at the discretion of the department in response to a request from a South Dakota state agency or local government for information regarding a permitted operation in the jurisdiction of the agency or local government.~~

**Section 6. That § 21-60-1 be REPEALED.**

~~No person other than the owner may, willfully and knowingly, damage or destroy any field crop, animal, or organism product that is grown for personal or commercial purposes, or for testing or research purposes, in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state, or local government agency. Any person who violates this provision is liable for twice the value of the crop, animal, or organism damaged or destroyed. However, this section does not apply to crops, animals, or organism damaged or destroyed by emergency vehicles and personnel acting in a reasonable and prudent manner.~~

1   **Section 7. That § 21-60-2 be REPEALED.**

2           ~~In awarding damages under this chapter, the court shall consider the market value~~  
3           ~~of the crop, animal, or organism prior to damage or destruction, and production, research,~~  
4           ~~testing, replacement, and development costs directly related to the crop, animal, or~~  
5           ~~organism that has been damaged or destroyed as part of the value.~~

6   **Section 8. That § 21-60-3 be REPEALED.**

7           ~~Damages available under this chapter are limited to twice the market value of the~~  
8           ~~crop, animal, or organism prior to damage or destruction plus twice the actual damages~~  
9           ~~involving production, research, testing, replacement, and development costs directly~~  
10          ~~related to the crop, animal, or organism that has been damaged or destroyed.~~