

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0248

HOUSE BILL NO. 1018

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to transfer the collection of various fees from the
2 Department of Revenue to the Department of Environment and Natural Resources.

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

4 Section 1. That § 1-50-11 be amended to read:

5 1-50-11. The obligation to pay the fee imposed by § 1-50-8 shall be upon the owner or
6 operator of any facility required to make notification and shall accrue upon ~~July 1, 1992, and~~
7 ~~upon~~ the appropriate SARA reporting deadline each year ~~thereafter~~. The fee is due and payable
8 within thirty days and shall be remitted to the Department of ~~Revenue~~ Environment and Natural
9 Resources along with ~~such~~ the forms as that may be prescribed by the secretary of ~~revenue~~
10 environment and natural resources in rules promulgated pursuant to chapter 1-26. A late
11 reporting fee of ten percent of the amount due under this section or of fifteen dollars, whichever
12 amount is greater, shall be assessed for any fee or portion of a fee not timely paid in accordance
13 with this section.

14 Any facility that knowingly fails to submit the appropriate forms, or ~~which shall~~ that
15 knowingly ~~submit~~ submits fraudulent forms, shall be reported to the appropriate local



1 emergency planning committee and county commission, and shall be referred to the United
2 States Environmental Protection Agency for appropriate enforcement under section 325 of the
3 Emergency Planning and Community Right-to-Know Act of 1986 as amended to January 1,
4 1992.

5 Section 2. That § 34A-1-58.1 be amended to read:

6 34A-1-58.1. Ethanol production plants are exempt from the fees established in § 34A-1-58;
7 and, in lieu thereof, are subject to the fees established by this section. Concurrent with the
8 submittal of a permit application pursuant to this chapter, the applicant for an air quality permit
9 for an ethanol production plant shall submit to the department an application fee of one
10 thousand dollars. In addition, the owner or operator of an ethanol production plant shall submit
11 to the department an annual fee for the duration of the air quality permit. The annual fee shall
12 consist of an administrative fee of one thousand dollars and an emissions fee in the amount of
13 forty dollars per ton of total suspended particulate matter, sulfur dioxide, nitrogen oxide, volatile
14 organic compounds, and hazardous air pollutants emitted to the air by the ethanol production
15 plant during the previous calendar year. The department shall give written notice of the amount
16 of the fee to be assessed and the basis for the assessment under this section to the owner or
17 operator of the ethanol production plant by June first of each calendar year. The annual fee shall
18 accrue on July first of the year after the permit is issued and annually thereafter. The annual fee
19 is due and payable by July thirty-first and shall be remitted to the Department of ~~Revenue~~
20 Environment and Natural Resources along with ~~such the~~ forms ~~as may be~~ prescribed by the
21 secretary ~~of revenue~~ in rules promulgated pursuant to chapter 1-26. The fees shall be
22 administered and used by the department in the same manner as prescribed for other fees
23 established in this chapter.

24 Section 3. That § 34A-1-60 be amended to read:

1 34A-1-60. The obligation to pay the annual fee imposed by § 34A-1-58 is upon the owner
2 or operator of a regulated air contaminant source and shall accrue on July first for all facilities.
3 The fee is due and payable by July thirty-first and shall be remitted to the Department of
4 ~~Revenue~~ Environment and Natural Resources along with ~~such the~~ forms ~~as may be~~ prescribed
5 by the secretary ~~of revenue~~ in rules promulgated pursuant to chapter 1-26.

6 Section 4. That § 34A-2-122 be amended to read:

7 34A-2-122. The obligation to pay the annual fee imposed by §§ 34A-2-117 to 34A-2-120,
8 inclusive, is on the owner or operator of a surface water discharge or pretreatment system and
9 accrues on July first, for all nonpublicly-owned facilities. The fee is due and payable by July
10 thirty-first and shall be remitted to the Department of ~~Revenue~~ Environment and Natural
11 Resources along with ~~such the~~ forms ~~as may be~~ prescribed by the secretary ~~of revenue~~ in rules
12 promulgated pursuant to chapter 1-26.

13 The obligation to pay the annual fee imposed by §§ 34A-2-117 to 34A-2-120, inclusive, is
14 on the owner or operator of a surface water discharge or pretreatment system and accrues on
15 January first for all publicly-owned facilities. The fee is due and payable by January thirty-first
16 and shall be remitted to the Department of ~~Revenue~~ Environment and Natural Resources along
17 with ~~such the~~ forms ~~as may be~~ prescribed by the secretary ~~of revenue~~ in rules promulgated
18 pursuant to chapter 1-26.

19 The obligation to pay the application fee imposed by §§ 34A-2-117 to 34A-2-120, inclusive,
20 is on the owner or operator of a facility requesting either coverage under a general permit or
21 water quality certification under section 401 of the Federal Water Pollution Control Act as
22 amended to January 1, 2011. The application fee for such water quality certification does not
23 apply to treatment works already required to submit a fee under other provisions of §§ 34A-2-
24 117 to 34A-2-120, inclusive. The fee is due and payable and shall be remitted to the Department

1 of Environment and Natural Resources along with ~~such~~ the application forms ~~as may be~~
2 prescribed by the secretary ~~of environment and natural resources~~ in rules promulgated pursuant
3 to chapter 1-26.

4 Section 5. That § 34A-2-125 be amended to read:

5 34A-2-125. In addition to any other tax or fee levied by law, and notwithstanding the
6 provisions of § 34A-2-117, there is hereby imposed an annual fee on all concentrated animal
7 feeding operations that are required to operate under a general or individual water pollution
8 control permit issued under chapter 34A-2 or required to obtain approval of plans and
9 specifications submitted after July 1, 1997, pursuant to § 34A-2-27. The fee is two hundred fifty
10 dollars for operations with two thousand or more animal units, one hundred seventy-five dollars
11 for operations with one thousand to one thousand nine hundred ninety-nine animal units, and
12 one hundred dollars for operations with less than one thousand animal units. The obligation to
13 pay the fee is on the person filing the application for the water pollution control permit or the
14 person required to obtain plans and specifications approval and accrues on July first of each
15 year. By August first of each year, the Department of Environment and Natural Resources shall
16 submit a billing to each person obligated to pay the fee. The fee is due and payable by
17 September thirtieth and shall be remitted to the Department of ~~Revenue~~ Environment and
18 Natural Resources.

19 There is hereby established in the environment and natural resources fee fund established
20 in § 1-40-30 the concentrated animal feeding operation administrative subfund. The subfund
21 consists of moneys from public and private sources including legislative appropriations, federal
22 grants, gifts, and fees received pursuant to this section. The subfund shall be maintained
23 separately and be administered by the Department of Environment and Natural Resources in
24 order to defray the expenses associated with administering the concentrated animal feeding

1 operation program. Expenditures from the subfund shall be appropriated through the normal
2 budget process. Unexpended funds and interest shall remain in the subfund until appropriated
3 by the Legislature.

4 Section 6. That § 34A-3A-23 be amended to read:

5 34A-3A-23. The obligation to pay the fee imposed by § 34A-3A-20 shall be upon the owner
6 and operator of a public drinking water system and shall accrue on July first. The fee is due and
7 payable by July thirty-first and shall be remitted to the Department of ~~Revenue~~ Environment and
8 Natural Resources along with ~~such the~~ such the forms ~~as may be~~ prescribed by the secretary of ~~revenue~~
9 in rules promulgated pursuant to chapter 1-26.