

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0242

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1053** - 1/27/98

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

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding registration,
2 numbering, titling, and taxation of certain boats.

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

4 Section 1. That § 10-60-5 be amended to read as follows:

5 10-60-5. On used large boats, the county treasurer shall, for the purpose of this chapter, use
6 the most generally used and approved nationally recognized dealers' guide provided by the
7 secretary of revenue. ~~For those cases of large boats~~ If the large boat is not covered by the
8 provided ~~dealer guides~~ dealers' guide, the county treasurer shall seek assistance from the
9 ~~Department of Revenue~~ department.

10 The secretary of revenue shall file notice of approved national dealer or appraisal guides with
11 the secretary of state indicating the effective date of such approval. Such filing is not subject to
12 chapter 1-26.

13 Section 2. That § 10-60-6 be amended to read as follows:

14 10-60-6. The new owner of a large boat shall present to the county treasurer in the county
15 of the owner's residence the manufacturer's statement of origin or assigned certificate of title if

1 a title has been previously issued for the large boat, an application for title and registration and
2 a bill of sale containing a complete description of the large boat, the purchaser's name and
3 address, the previous owner's name and address, the full purchase price as defined by this chapter
4 and how computed, the trade-in allowance and description of the trade, if any, and any other
5 relevant information the ~~Department of Revenue~~ department may require. If a person
6 intentionally falsifies information on the certificate, the person is guilty of a Class 6 felony.

7 Section 3. That § 10-60-7 be amended to read as follows:

8 10-60-7. The excise tax levied by this chapter shall be paid to the county treasurer in the
9 county of the new owner's residence when the owner applies for title and registers the large boat.

10 Section 4. That § 10-60-8 be amended to read as follows:

11 10-60-8. If any large boat has been subjected previously to a sales tax, use tax, excise tax,
12 or similar tax by this or any other state or its political subdivision, no tax is owed to this state if
13 the tax has been paid by the applicant to this or any other state. If the amount of tax levied and
14 paid is the same or more than the amount of tax levied by this chapter, no tax or refund is due
15 under this chapter. The county treasurer shall require of ~~all applicants~~ each applicant making
16 application for registration of a large boat in this state ~~an affidavit of a licensed dealer,~~ to furnish
17 a bill of sale, receipt or other tangible evidence that the amount of tax has been paid by the
18 current applicant. If sufficient proof is not furnished, the county treasurer shall collect the tax
19 levied by this chapter on the retail value of the large boat listed in a nationally recognized ~~boat~~
20 dealers' guide. The value shall be the retail value of the large boat on the day it entered the state.

21 Section 5. That § 42-8-2 be amended by adding thereto a NEW SUBDIVISION to read as
22 follows:

23 "Department," the Department of Revenue;

24

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

1 42-8-5. A boat requiring numbering by this state shall be registered with the ~~Department of~~
2 ~~Revenue~~ department for either a one-year period or a three-year period. The application shall be
3 accompanied by a fee to be set by rules promulgated by the Game, Fish and Parks Commission
4 pursuant to chapter 1-26. The new owner of the boat shall present to the ~~county treasurer of his~~
5 ~~county, or, in the case of a nonresident of this state, the treasurer of any county, application for~~
6 ~~the registration of the boat, certificate of title or registration if the boat has not been titled~~
7 ~~previously or other acceptable ownership document previously issued for the boat if the boat is~~
8 ~~used or a manufacturer's statement of origin if the boat is new, and purchase agreement or a bill~~
9 ~~of sale. The application form shall be furnished by the Department of Revenue. The application~~
10 ~~shall be signed by the owner of the boat. The application shall be accompanied by a fee to be set~~
11 ~~by rules promulgated by the Game, Fish and Parks Commission pursuant to chapter 1-26. The~~
12 ~~owner of a boat which has not been previously registered in South Dakota shall furnish proof~~
13 ~~that an excise, sales, use or a similar tax has been paid before the boat is registered. The owner~~
14 ~~may submit a copy of an invoice showing that tax was included in the sale price of the boat as~~
15 ~~proof that the tax obligation has been met in South Dakota or any other jurisdiction a~~
16 manufacturer's statement of origin or assigned certificate of title if a title has been previously
17 issued for the large boat, or if no title is required, the ownership document issued by that
18 jurisdiction; a bill of sale containing a complete description of the large boat; the purchaser's
19 name and address; the previous owner's name and address; the full purchase price as defined by
20 this chapter and how computed; the trade-in allowance and description of the trade, if any; and
21 any other relevant information the department may require to the county treasurer in the county
22 of the owner's residence or if the new owner is a nonresident to any county treasurer. If a person
23 intentionally falsifies information on the certificate, the person is guilty of a Class 6 felony.

24 Section 7. That § 42-8-6 be amended to read as follows:

25 42-8-6. Upon receipt of an application under § 42-8-5 in approved form, the county treasurer

1 shall enter the application upon the records of its office and issue to the applicant a registration
2 stating the number awarded to the boat and two validation decals. The registration shall state the
3 name and address of the owner. The owner shall attach to each side of the bow of the boat the
4 boat number assigned and validation decal as prescribed by rules of the ~~Department of Revenue~~
5 ~~so they~~ department so the boat number and validation decal are clearly visible. Failure to properly
6 attach and display a boat number or validation decal as provided by this section is a Class 2
7 misdemeanor.

8 Section 8. That § 42-8-8.1 be amended to read as follows:

9 42-8-8.1. The department ~~of game, fish and parks~~ shall issue boat license tags of a durable
10 material to boat manufacturers and dealers upon application and payment of fifteen dollars for
11 each set of boat license tags desired. Each set of boat license tags shall be valid until December
12 thirty-one next following the date of issuance.

13 Section 9. That § 42-8-8.4 be amended to read as follows:

14 42-8-8.4. ~~When~~ If a new or used boat is sold by a boat manufacturer or boat dealer, the boat
15 manufacturer or boat dealer may provide a temporary tag permit to operate the boat in this state
16 for thirty days after the date of sale of the boat or until the time the purchaser receives ~~his~~ the
17 licenses from the county treasurer, whichever occurs first. The temporary boat license tags shall
18 be displayed as required by § 42-8-6 and rules promulgated, pursuant to chapter 1-26, by the
19 ~~Department of Revenue~~ department.

20 Section 10. That § 42-8-12 be repealed.

21 ~~—42-8-12. The owner shall furnish the department of revenue notice of the transfer of all or~~
22 ~~any part of his interest other than the creation of a security interest in a boat numbered in this~~
23 ~~state pursuant to §§ 42-8-5 to 42-8-10, inclusive, or of the destruction or abandonment of the~~
24 ~~boat, within fifteen days thereof. The transfer, destruction, or abandonment terminates the~~
25 ~~certificate of number for the boat, except that in the case of a transfer of a part interest which~~

1 ~~does not affect the owner's right to operate the boat, the transfer does not terminate the~~
2 ~~certificate of number. A violation of this section is a petty offense.~~

3 Section 11. That § 42-8-16 be amended to read as follows:

4 42-8-16. ~~Every~~ Each registration and validation decal shall expire on December thirty-first
5 of the terminal year for the period issued. Validation decals may be purchased as early as
6 December first for the following year. The registration may be renewed by the owner and new
7 validation decals obtained as provided in § 42-8-5.

8 Section 12. That § 42-8-18 be amended to read as follows:

9 42-8-18. The ~~Department of Revenue~~ department may upon written request and receipt of
10 a two dollar fee furnish a person a certified abstract regarding registration information of any
11 boat registered under the provisions of this chapter. The fee shall be deposited in the state motor
12 vehicle fund. Governmental entities and their subdivisions are exempt from this fee requirement.

13 Section 13. That § 42-8-21 be amended to read as follows:

14 42-8-21. Any ~~certified~~ law enforcement officer ~~may board any boat to determine if that boat~~
15 ~~and its occupants are in compliance with all state and federal laws~~ of this state or its subdivisions
16 may enforce the provisions of this chapter and in the exercise thereof has the authority to stop
17 and board any boat subject to this chapter.

18 Section 14. That § 42-8-72 be amended to read as follows:

19 42-8-72. ~~Every~~ Each owner of a large boat subject to titling under §§ 42-8-71 to 42-8-74,
20 inclusive, and §§ 42-8-76 to 42-8-84, inclusive, shall apply to the county treasurer for issuance
21 of a certificate of title for the large boat within thirty days after acquisition. The application shall
22 be on forms the department prescribes, and accompanied by the certificate of title or other
23 acceptable ownership document previously issued for the boat if the boat is used or the
24 manufacturer's statement of origin if the boat is new, a bill of sale and the required fee. The
25 application shall contain the date of sale and purchase price of the large boat or the fair market

1 value if no sale immediately preceded the transfer, and any additional information the ~~Department~~
2 ~~of Revenue~~ department requires. If the application is made for a large boat last previously
3 registered or titled in another state or foreign country, ~~it~~ the application shall contain this
4 information and any other information the department requires.

5 Section 15. That § 42-8-74 be amended to read as follows:

6 42-8-74. Any boat dealer or motor vehicle dealer licensed pursuant to chapter 32-6B
7 transferring a large boat requiring titling under §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76
8 to 42-8-84, inclusive, shall assign the title to the new owner, or ~~in the case of~~ if a new large boat,
9 the boat dealer shall assign the manufacturer's certificate of origin to the new owner. Within
10 thirty days the applicant shall forward all title fees and applications to the county treasurer.

11 Section 16. That § 42-8-78 be amended to read as follows:

12 42-8-78. No manufacturer or boat dealer may transfer ownership of a new large boat without
13 supplying the transferee with the manufacturer's or importer's certificate of origin signed by the
14 manufacturer's or importer's authorized agent. The certificate shall contain information the
15 ~~Department of Revenue~~ department requires. No boat dealer may purchase or acquire a new
16 large boat without obtaining from the seller a manufacturer's statement of origin. Any person
17 who does not comply with this section is guilty of a Class 2 misdemeanor.

18

19 Section 17. That § 42-8-80 be amended to read as follows:

20 42-8-80. A dealer shall maintain for three years a record of any large boat bought, sold,
21 exchanged, or received for sale or exchange. This record shall be open to inspection by
22 ~~Department of Revenue~~ department representatives during reasonable business hours.

23 Section 18. That § 42-8-83 be amended to read as follows:

24 42-8-83. The department ~~of revenue~~ shall prescribe and provide suitable forms for
25 applications, certificate of title, notices of security interests, and all other notices and forms

1 necessary to implement §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84.

2 Section 19. That § 42-8-84 be amended to read as follows:

3 42-8-84. The owner of a large boat not yet subject to the titling requirements of §§ 42-8-71
4 to 42-8-74, inclusive and §§ 42-8-76 to 42-8-84, inclusive, may apply to the county treasurer of
5 the owner's residence for a certificate of title for the large boat. ~~The application shall be~~
6 ~~accompanied by proof of ownership and a certificate issued by the secretary of state that there~~
7 ~~are or are not liens of record encumbering the large boat.~~ If there are one or more liens on the
8 large boat, the department shall note the liens on the certificate of title in order of their priority
9 and shall deliver or mail the certificate of title to the owner or as otherwise directed by the
10 owners.

11 Upon issuance of the certificate of title for the large boat, the large boat shall thereafter be
12 subject to the requirements of §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84,
13 inclusive, as though the boat was required to be titled.

14 The owner shall present the certificate of title to the county register of deeds when a release
15 statement is filed and a new or endorsed certificate shall be issued to the owner.

16 Section 20. That § 42-8-85 be amended to read as follows:

17 42-8-85. The secretary of revenue may adopt rules, promulgated pursuant to chapter 1-26,
18 to establish uniform procedures for the administration of the titling of large boats and registration
19 and numbering of boats, ~~which may be adopted in~~ for the following areas:

- 20 (1) Application requirements for the registration and titling of boats, assignment of
21 certificate of title, certificate of title for boats previously registered, time limits for
22 making application, duplicate certificates and transfer of certificate, lien recording,
23 assignment of liens, execution of cancellation of liens, delivery of title, abandoned,
24 repossessed, and operation by law; and
- 25 (2) Issuance, display, inspection, expiration, cancellation, and removal of certificates of

1 number and boat identification tags.

2 Violation of a rule adopted pursuant to this section is a Class 2 misdemeanor.

3 Section 21. That § 42-8-88 be amended to read as follows:

4 42-8-88. Any person who is an owner of a boat who is required to apply for title or
5 registration, or both, and whose legal residence or chief place of business is outside the state,
6 shall submit an application, a copy of a valid title if from a title issuing state from another
7 jurisdiction or other form of ownership acceptable to the department and payment of all
8 applicable fees to the county treasurer. Upon receipt of such information, the county treasurer
9 shall issue a nonnegotiable interstate title. A nonnegotiable title is not a valid legal document for
10 any purpose or transaction except to make application for yearly South Dakota registration. The
11 nonnegotiable title is valid as long as title ownership remains the same. ~~A violation~~ Failure to
12 apply for a title as provided by this section is a Class 2 misdemeanor.

13 Section 22. That § 42-8-90 be amended to read as follows:

14 42-8-90. The ~~Department of Revenue~~ department may upon written request and receipt of
15 a five dollar fee furnish a person a certified abstract of the title history of any boat registered
16 under the provisions of this chapter. The abstract may include all documents filed with the
17 department to establish the title history of the boat. The fee shall be deposited in the state motor
18 vehicle fund. Governmental entities and their subdivisions are exempt from this fee requirement.

19 Section 23. That § 42-8-91 be amended to read as follows:

20 42-8-91. A person, in possession of a title either in his name or assigned to ~~him~~ the person
21 or a bill of sale which lists ~~him~~ the person as a purchaser of the boat, may procure from any
22 county treasurer a temporary permit which allows use of the boat in South Dakota waters. The
23 title or bill of sale shall be available for inspection by any ~~peace~~ law enforcement officer if the
24 boat is being used. The permit may be purchased for any period from five to fifteen consecutive
25 days at a fee of one dollar per day for each day the permit is required. The minimum permit fee

1 is five dollars. The fee is payable to the county treasurer at the time of purchase. All permit fees
2 shall be forwarded monthly by the county treasurer to the ~~Department of Revenue~~ department.
3 The fee shall be deposited in the state motor vehicle fund. Only one permit may be issued yearly
4 for each boat.

5 Section 24. That § 42-8-92 be amended to read as follows:

6 42-8-92. If ownership of a large boat is being transferred, the application for certificate of
7 title shall be filed within thirty days after the date of assignment or acquisition of the large boat.
8 However, a boat dealer need not apply for a certificate of title on any large boat held in stock or
9 acquired for stock purposes unless otherwise required under this chapter. Upon transfer of ~~such~~
10 a the large boat, the boat dealer shall give the transferee a reassignment of the certificate of title
11 or the manufacturer's statement of origin.

12 Section 25. That § 42-8-101 be amended to read as follows:

13 42-8-101. If the secretary finds that an applicant for a certificate of title or registration of a
14 boat is not entitled thereto, under the provisions of this chapter or the chapter which imposes tax
15 on boats, ~~he~~ the secretary may refuse to issue a certificate or to register such vehicles, and may
16 for a like reason, and after notice and hearing, revoke title, license and registration already
17 acquired. The notice shall be served in person or by registered or certified mail.

1 **BILL HISTORY**

2 1/13/98 First read in House and referred to Transportation. H.J. 29

3 1/16/98 Scheduled for Committee hearing on this date.

4 1/16/98 Transportation Deferred to another day, AYES 0, NAYS 0.

5 1/21/98 Scheduled for Committee hearing on this date.

6 1/26/98 Scheduled for Committee hearing on this date.

7 1/26/98 Transportation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 211