

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

807H0521

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1188** - 02/08/2002

Introduced by: Representatives Teupel, Adelstein, Derby, Frost, Hennies (Thomas), Kooistra, Madsen, Pummel, and Rhoden and Senators Apa, Brosz, McCracken, Olson (Ed), Reedy, Symens, and Whiting

1 FOR AN ACT ENTITLED, An Act to revise certain penalties for moving or obtaining a used  
2 mobile home or manufactured home without an affidavit from the county treasurer.

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

4 Section 1. That § 32-5-16.6 be amended to read as follows:

5 32-5-16.6. If the owner of the used mobile home or manufactured home, prior to moving the  
6 home, fails to obtain an affidavit from the county treasurer of the county in which the used  
7 mobile home or manufactured home is registered, stating that the current year's taxes are paid  
8 as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil  
9 penalty ~~of two hundred fifty dollars to~~ on the owner. If a regulated lender, as defined in  
10 § 54-3-14, is repossessing a used mobile home or manufactured home and fails to obtain an  
11 affidavit, prior to moving the home, from the county treasurer of the county in which the used  
12 mobile home or manufactured home is registered, stating that the current year's taxes are paid  
13 as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil  
14 penalty ~~of two hundred fifty dollars to~~ on the lender.



1       The court shall levy a civil penalty of two hundred fifty dollars for the first violation within  
2 a one-year period, five hundred dollars for the second violation within a one-year period, and one  
3 thousand dollars for each subsequent violation within a one-year period. All civil penalties  
4 collected pursuant to this section shall be deposited in the county general fund of the county in  
5 which the used mobile home or manufactured home is registered. The county treasurer shall  
6 notify the Department of Revenue of any violation resulting in a civil penalty assessment for  
7 failure to obtain a tax affidavit prior to moving a mobile or manufactured home.

8       Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10       If a transporter of a used mobile home or manufactured home, prior to transporting, fails to  
11 obtain an affidavit from the county treasurer of the county in which the used mobile home or  
12 manufactured home is registered, stating that the current year's taxes are paid as described in  
13 §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil penalty on the  
14 transport owner. If a manufacturer or licensed dealer, as defined in chapter 32-7A, is moving,  
15 repossessing, trading, purchasing, or receiving onto the manufacturer's or licensed dealer's lot  
16 a used mobile home or manufactured home and fails to obtain an affidavit from the county  
17 treasurer of the county in which the used mobile home or manufactured home is registered,  
18 stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive,  
19 or § 10-9-3, the court shall assess a civil penalty on the manufacturer or licensed dealer.

20       The court shall levy a civil penalty of two hundred fifty dollars for the first violation within  
21 a one-year period, five hundred dollars for the second violation within a one-year period, and one  
22 thousand dollars for each subsequent violation within a one-year period. All civil penalties  
23 collected pursuant to this section shall be deposited in the county general fund of the county in  
24 which the used mobile home or manufactured home is registered. The county treasurer shall

1 notify the Department of Revenue of any violation resulting in a civil penalty assessment for  
2 failure to obtain a tax affidavit prior to moving a mobile or manufactured home.

3 Section 3. For the purposes of sections 1 and 2 of this Act, if the owner, lender, licensed  
4 dealer, or transporter are the same party the court may not assess multiple civil penalties for any  
5 one violation.

6 Section 4. That chapter 32-9 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The department may, pursuant to chapter 1-26, revoke and cancel or suspend the commercial  
9 motor vehicle certificate which belongs to any person who the court has assessed a civil penalty  
10 pursuant to section 2 of this Act four or more times within a one-year period.

11 Section 5. That chapter 32-9 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The department may, pursuant to chapter 1-26, revoke or suspend the transporter plate  
14 issued pursuant § 32-9-57 which belongs to any transporter who the court has assessed a civil  
15 penalty pursuant to section 2 of this Act four or more times within a one-year period. It is a Class  
16 1 misdemeanor for any transporter to fail or refuse to surrender to the department upon its lawful  
17 demand any transporter plate which has been revoked or suspended.

18 Section 6. That § 32-7A-4.2 be amended to read as follows:

19 32-7A-4.2. The department may deny any application, or suspend or revoke any license  
20 issued under the provisions of this chapter, for a violation of any of the following provisions:

- 21 (1) Commission of fraud or willful misrepresentation in the application for or in obtaining  
22 a license;
- 23 (2) A previous manufacturer or dealer license revocation in this or any other state;
- 24 (3) Willful violation, which leads to a conviction, of any law of this state which relates to

- 1 dealing in manufactured homes or mobile homes;
- 2 (4) Willful failure to comply with any administrative rule promulgated by the department;
- 3 (5) Perpetration of a fraud upon any person as a result of dealing in manufactured homes  
4 or mobile homes;
- 5 (6) Failure to allow department inspections, including initial and annual inspections,  
6 complaint investigations and necessary follow-up inspections;
- 7 (7) Willful misrepresentation through false, deceptive, or misleading statements with  
8 regard to the sale or financing of manufactured homes or mobile homes which a dealer  
9 has, or causes to have, advertised, printed, displayed, published, distributed,  
10 broadcast, televised, or made in any manner with regard to the sale or financing of  
11 manufactured homes or mobile homes;
- 12 (8) Refusal to comply with a licensee's responsibility under the terms of the new  
13 manufactured home or mobile home warranty issued by its respective manufacturer,  
14 unless such refusal is at the direction of the manufacturer;
- 15 (9) Willful failure to comply with the terms of any bona fide written, executed agreement  
16 pursuant to the sale of a manufactured home or mobile home;
- 17 (10) Violation by the dealer of any applicable manufactured home building or safety code;
- 18 (11) Failure to continuously occupy a principal place of business licensed under § 32-7A-2;
- 19 (12) Willful failure to deliver the manufacturer's statement of origin to the county treasurer  
20 or the certificate of title to a person entitled to it within ~~fifteen~~ thirty days after date  
21 of delivery;
- 22 (13) Conviction within the previous ten years, of a crime that related directly to the  
23 business of the dealer or manufacturer involving fraud, misrepresentation or misuse  
24 of funds;

- 1 (14) Inability to obtain or renew a surety bond;
- 2 (15) Misuse of the dealers' metal plates and lending for use on mobile homes or  
3 manufactured homes not owned by the manufacturer or dealer;
- 4 (16) Transporting a used mobile home or manufactured home without an affidavit, four or  
5 more times within a one-year period, from the county treasurer of the county in which  
6 the mobile home or manufactured home is registered, stating that the current year's  
7 taxes are paid; or
- 8 (17) Having a used mobile home or manufactured home located on the licensed dealer's or  
9 manufacturer's lot without an affidavit, four or more times within a one-year period,  
10 from the county treasurer of the county in which the mobile home or manufactured  
11 home is registered, stating that the current year's taxes were paid when the licensed  
12 dealer acquired the home.