

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

628Q0594

HOUSE BILL NO. 1167

Introduced by: Representatives Cutler, Fargen, Hunt, and Rave and Senators Knudson,
Abdallah, Hanson (Gary), and Peterson

1 FOR AN ACT ENTITLED, An Act to revise the statute of frauds with respect to the sale of
2 grain, grain sorghums, beans, and oilseeds.

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

4 Section 1. That § 57A-2-201 be amended to read as follows:

5 57A-2-201.

6 (1) Except as otherwise provided in this section a contract for the sale of goods for the
7 price of five hundred dollars or more is not enforceable by way of action or defense
8 unless there is some writing sufficient to indicate that a contract for sale has been
9 made between the parties and signed by the party against whom enforcement is
10 sought or by his authorized agent or broker. A writing is not insufficient because it
11 omits or incorrectly states a term agreed upon but the contract is not enforceable
12 under this paragraph beyond the quantity of goods shown in such writing.

13 (2) Between merchants if within a reasonable time a writing in confirmation of the
14 contract and sufficient against the sender is received and the party receiving it has
15 reason to know its contents, it satisfies the requirements of subsection (1) against



1 such party unless written notice of objection to its contents is given within ten days
2 after it is received.

3 (3) A contract which does not satisfy the requirements of subsection (1) but which is
4 valid in other respects is enforceable

5 (a) If the goods are to be specially manufactured for the buyer and are not suitable
6 for sale to others in the ordinary course of the seller's business and the seller,
7 before notice of repudiation is received and under circumstances which
8 reasonably indicate that the goods are for the buyer, has made either a
9 substantial beginning of their manufacture or commitments for their
10 procurement; or

11 (b) If the party against whom enforcement is sought admits in his pleading,
12 testimony or otherwise in court that a contract for sale was made, but the
13 contract is not enforceable under this provision beyond the quantity of goods
14 admitted; or

15 (c) With respect to goods for which payment has been made and accepted or
16 which have been received and accepted (§ 57A-2-606); or

17 (d) With respect to the sale of grain, grain sorghums, beans and oil seeds:

18 (i) If the party seeking enforcement of the contract has a recorded
19 statement of the contract terms with the party against whom
20 enforcement is sought or a noncontract party's verbal or written
21 verification of the contract terms confirmed by the party against whom
22 enforcement is sought; or

23 (ii) If the party seeking enforcement of the contract has a written agreement
24 by the party against whom enforcement is sought providing for the

1 enforcement of verbal contracts; or
2 (iii) If within a reasonable time a writing in confirmation of the contract and
3 sufficient against the sender is received and the party receiving the
4 writing in confirmation has reason to know its contents, the writing in
5 confirmation satisfies the requirements of subsection (1) of this section
6 against such party unless written notice of objection to its contents is
7 given within two days after the writing in confirmation is received.