



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0275

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1020** -

02/18/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to authorize the Game, Fish and Parks Commission to  
2 revise certain provisions related to the licensing of and hunting methods used by disabled  
3 hunters.

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

5 Section 1. That § 41-8-37 be amended to read as follows:

6 41-8-37. No person, who is in or on a motor vehicle, may discharge a firearm or bow and  
7 arrow at any wild animals except coyotes, jackrabbits, rodents, skunks, badgers, raccoons, and  
8 foxes.

9 Licensed hunters who are paraplegics or otherwise physically unable to walk with or without  
10 crutches, braces, or other mechanical support; or who are otherwise considered to be limited or  
11 impaired in their ability to walk, and who have been issued a disabled hunter permit by the  
12 department, may shoot in fields, woods, or from public roads from a stationary motor vehicle  
13 while hunting game animals or game birds in accordance with the conditions of the permit and  
14 rules promulgated by the Game, Fish and Parks Commission ~~pursuant to chapter 1-26.~~ The



1 commission shall promulgate rules pursuant to chapter 1-26 to establish the definition of disabled  
2 hunter; the eligibility criteria, application, and approval procedures for issuance of a disabled  
3 hunter permit; the duration of a permit; and the extent of the permitted shooting activities.

4 A violation of this section is a Class 2 misdemeanor.

5 Section 2. That § 32-20-6.6 be amended to read as follows:

6 32-20-6.6. No person, other than a law enforcement officer or conservation officer, or any  
7 person on the person's own land or land leased by the person, may operate or ride on any  
8 motorcycle or off-road vehicle with any firearm in the person's possession unless the firearm is  
9 completely unloaded and within a carrying case which encloses the entire firearm. However, this  
10 section does not apply to any person who is carrying a pistol and possesses a permit to carry a  
11 concealed pistol issued pursuant to chapter 23-7. This section does not apply to any person who  
12 holds a permit issued pursuant to § 41-8-37 while engaged in hunting from an off-road vehicle  
13 in accordance with the provisions of the permit. This section shall be enforced by all law  
14 enforcement officers including conservation officers; ~~notwithstanding the provisions of~~  
15 ~~§ 41-15-10.1.~~ A violation of this section is a Class 2 misdemeanor.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

544I0334

## SENATE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1072** - 02/11/2003

Introduced by: Representatives Madsen, Elliott, Gillespie, Hennies, Konold, Lintz, and Rave  
and Senators Duniphan, Abdallah, Duenwald, Kelly, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the operation of  
2 vehicles upon the approach of authorized emergency vehicles.

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

4 Section 1. That § 32-31-6.1 be amended to read as follows:

5 32-31-6.1. Upon approaching from any direction any stopped authorized emergency vehicle  
6 making use of red visual signals meeting the requirements of this ~~chapter title~~, the driver of every  
7 other vehicle shall come to a complete stop before ~~he reaches~~ reaching the stopped emergency  
8 vehicle and may, unless otherwise directed, proceed with caution only after ~~he has ascertained~~  
9 ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle  
10 making use of amber or yellow warning lights, the driver of every other vehicle shall:

11 (1) If driving on an interstate highway or other highway with two or more lanes traveling  
12 in the same direction as the vehicle, merge into the lane farthest from the vehicle and  
13 proceed with caution, unless otherwise directed; or

14 (2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour  
15 less than the posted speed limit or five miles per hour when the speed limit is posted



- 1 at twenty miles per hour or less and proceed with caution, unless otherwise directed.
- 2 A violation of this section is a Class 2 misdemeanor.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

655I0052

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 8 - 02/03/2003**

Introduced by: Senators Moore, de Hueck, Ham, Kleven, Koskan, and Nachtigal and  
Representatives Hennies, Konold, Madsen, Murschel, Van Gerpen, and Wick  
at the request of the Interim Juvenile Offenses and Sentencing Committee

1 FOR AN ACT ENTITLED, An Act to reconstitute the Juvenile Justice and Delinquency Act  
2 Advisory Group and to revise its authority and responsibilities.

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

4 Section 1. That § 1-15-28 be amended to read as follows:

5 1-15-28. The Department of Corrections shall be responsible, through the ~~state advisory~~  
6 ~~group~~ Council of Juvenile Services established in § 1-15-29, for supervising the preparation and  
7 administration of the state's plan required by Section 223(a) for participation in the formula  
8 grants program of the Act. The Department of Corrections shall be responsible for providing  
9 staff and support services to the ~~state advisory group~~ Council of Juvenile Services and  
10 implementing the plan in a manner which will ensure compliance with Sections 223(a)(12), (13),  
11 and (14) of the Act. The department shall seek necessary authority and take all necessary action  
12 as provided by law to enforce compliance with the Act.

13 Section 2. That § 1-15-29 be amended to read as follows:

14 1-15-29. There is hereby established a twenty-member ~~state advisory group~~ Council of



1 Juvenile Services to be appointed by the Governor and shall be comprised of individuals who  
2 have training, experience, or special knowledge of juvenile delinquency prevention or treatment  
3 or of the administration of juvenile justice. The membership of the ~~advisory group~~ Council of  
4 Juvenile Services shall comply with Section 223(a)(3) of the Juvenile Justice and Delinquency  
5 Act. The initial members to be appointed shall draw lots to determine who will hold the eight  
6 three-year terms, the six two-year terms, and the six one-year terms. Thereafter, each member  
7 shall serve ~~terms~~ a term of three years. Members may be reappointed and may continue to serve  
8 an expired term until replaced by the Governor. A chairperson, who may not be a full-time  
9 federal, state, or local employee, for the ~~advisory group~~ Council of Juvenile Services shall be  
10 chosen annually by a majority vote of its members at the first meeting each fiscal year.

11 Section 3. That § 1-15-30 be amended to read as follows:

12 1-15-30. The ~~state advisory group~~ Council of Juvenile Services shall be responsible for the  
13 following:

- 14 (1) In conjunction with the secretary of the Department of Corrections, establish policy  
15 on how the formula grants program of the Juvenile Justice and Delinquency Act is to  
16 be administered in South Dakota;
- 17 (2) Approve the state plan, and any modifications thereto, required by 223(a) of the Act  
18 prior to submission to the Office of Juvenile Justice and Delinquency Prevention;
- 19 (3) Submit annual recommendations to the Governor and Legislature concerning the  
20 functions of the ~~advisory group~~ Council of Juvenile Services and the status of the  
21 state's compliance with the Act;
- 22 (4) Approve or disapprove grant applications and other funding requests submitted to the  
23 Department of Corrections under §§ 1-15-27 to 1-15-31, inclusive, and assist with  
24 monitoring grants and other fund awards;

- 1 (5) Assist the Department of Corrections in monitoring the state's compliance with the  
2 Act;
- 3 (6) Study the coordination of the various juvenile intervention, prevention, treatment, and  
4 rehabilitation programs;
- 5 (7) Study effective juvenile sentencing, adjudication, and diversion policies and  
6 provisions;
- 7 (8) Make a special study of, and make an annual report to the Governor, the Unified  
8 Judicial System, and the Legislature by June thirtieth of each year concerning, the  
9 appropriate administration of and provision for children in need of supervision in this  
10 state;
- 11 (9) Contact and seek regular input from juveniles currently under the jurisdiction of the  
12 juvenile justice system; and
- 13 ~~(7)~~(10) Perform other such activities as determined by the Governor, the secretary of  
14 the Department of Corrections, or the Council of Juvenile Services.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

239I0601

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 119** - 02/18/2003

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

Introduced by: Senators Moore and Duniphan and Representatives Smidt and Michels

1 FOR AN ACT ENTITLED, An Act to require owners of abandoned vehicles to pay for certain  
2 towing and storage expenses and to provide a penalty for the intentional abandonment of  
3 certain motor vehicles.

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

5 Section 1. Any owner of a motor vehicle who abandons the motor vehicle on any public  
6 highway or right-of-way is financially responsible to the towing company for the expense of  
7 towing the motor vehicle. The owner is also financially responsible for any storage expense  
8 pursuant to § 32-36-8.

9 Section 2. No owner of a motor vehicle may intentionally abandon the motor vehicle on any  
10 public highway or right-of-way. A violation of this section is a Class 1 misdemeanor. Any person  
11 convicted of abandoning a motor vehicle shall be sentenced to the county jail for a minimum of  
12 ten days and ordered to pay a fine of five hundred dollars. The court shall suspend the sentence  
13 to county jail and the fine if the owner pays for the towing and storage expenses.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

74110658

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 163** - 02/13/2003

Introduced by: Senators Symens and Diedrich (Larry) and Representatives Peterson (Jim),  
Pederson (Gordon), and Putnam

1 FOR AN ACT ENTITLED, An Act to require that certain biodiesel fuel blends be available for  
2 sale.

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

4 Section 1. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read  
5 as follows:

6 "Biodiesel blend," a blended special fuel containing a minimum of two percent by volume of  
7 biodiesel. Biodiesel means a renewable, biodegradable, mono alkyl ester combustible liquid fuel  
8 that is derived from agricultural plant oils or animal fats and that meets American Society For  
9 Testing and Materials Specification D 6751-02 for Biodiesel Fuel (B100) Blend Stock for  
10 Distillate Fuels.

11 Section 2. Beginning on July 1, 2005, the end seller in this state shall also offer a biodiesel  
12 blend containing at least two percent by volume of biodiesel.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

78110577

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 179** - 02/12/2003

Introduced by: Senators Symens, Abdallah, Bogue, Duenwald, McCracken, and Moore and  
Representatives Hanson, Burg, Olson (Mel), and Peterson (Bill)

1 FOR AN ACT ENTITLED, An Act to revise and expand certain provisions relating to wind  
2 energy development.

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

4 Section 1. That § 43-13-19 be amended to read as follows:

5 43-13-19. No interest in any resource located on a tract of land and associated with the  
6 production or potential production of energy from wind power on the tract of land may be  
7 severed from the surface estate as defined in § 45-5A-3, ~~except that~~ in fee, remainder, or  
8 permanent easement. However, such rights may be leased as a wind easement for a period not  
9 to exceed fifty years. Any such wind easement lease is void if no development of the potential  
10 to produce energy from wind power has occurred on the land within five years after the lease  
11 began. The payment of any such wind easement lease shall be on an annual basis.

12 Section 2. That § 43-13-18 be amended to read as follows:

13 43-13-18. Any deed, will, or other instrument that creates a wind easement shall include:

14 (1) A description of the real property subject to the easement and a description of the real  
15 property benefiting from the wind easement;



- 1       (2)    A description of the vertical and horizontal angles, expressed in degrees, and distances
- 2            from the site of the wind power system in which an obstruction to the wind is
- 3            prohibited or limited;
- 4       (3)    Any terms or conditions under which the easement is granted or may be terminated;
- 5       (4)    Any provisions for compensation of the owner of the real property benefiting from the
- 6            easement in the event of interference with the enjoyment of the easement, or
- 7            compensation of the owner of the real property subject to the easement for
- 8            maintaining the easement; and
- 9       (5)    Any other provisions necessary or desirable to execute the instrument.

10       No instrument creating a wind easement may bind any of the parties to confidentiality  
11       concerning the terms of the easement. Any such confidentiality provision is void.

12       Section 3. That chapter 43-13 be amended by adding thereto a NEW SECTION to read as  
13       follows:

14       No wind power turbine may be erected within a distance to an adjoining property of less than  
15       three times the total swept rotorblade diameter of the installed turbine unless the adjoining  
16       landowner has consented in writing for compensation received.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0757

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 220** - 02/18/2003

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Dakota Corps scholarship program, to  
2 provide for its funding, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. The Dakota Corps scholarship program is hereby established within the  
5 Department of Education and Cultural Affairs. The purpose of the Dakota Corps scholarship is  
6 to encourage South Dakota's high school graduates to remain in South Dakota upon completion  
7 of their postsecondary education and to contribute to South Dakota and its citizens.

8 Section 2. Terms used in this Act mean:

- 9 (1) "Department," the Department of Education and Cultural Affairs;
- 10 (2) "Secretary," the secretary of the Department of Education and Cultural Affairs;
- 11 (3) "Eligible institution," a university, college, or technical school that is accredited by the  
12 North Central Association of Colleges and Schools and provides instruction from a  
13 campus located in South Dakota;
- 14 (4) "Area of critical need," an occupation within South Dakota for certain employers in  
15 certain geographical areas as specified by rules promulgated by the department;



1 (5) "Dakota Corps tuition award," an amount not to exceed the maximum tuition and fees  
2 for sixteen credit hours at an institution of higher education under the control of the  
3 South Dakota Board of Regents.

4 Section 3. In order to be eligible for a Dakota Corps scholarship a person shall:

- 5 (1) Have graduated from an accredited South Dakota high school;
- 6 (2) Apply for a Dakota Corps scholarship within one year of graduation from high school  
7 or within one year of the person's release from active duty with an active component  
8 of the armed forces if the release is within five years of the person's graduation from  
9 high school;
- 10 (3) Have a composite score of 24 or greater on the test administered by American  
11 College Testing Program and have graduated from high school with a grade point  
12 average of 2.8 or greater on a 4.0 scale;
- 13 (4) Agree in writing to stay in South Dakota and work in an area of critical need for a  
14 period of five years following graduation from an eligible institution; and
- 15 (5) Enroll in or be accepted for enrollment by an eligible institution for a course of study  
16 leading to a baccalaureate or technical degree from an eligible institution.

17 Section 4. In order to maintain eligibility for a Dakota Corps scholarship a person shall:

- 18 (1) Maintain a 2.8 grade point average on a 4.0 scale and complete at least thirteen credit  
19 hours of instruction per semester;
- 20 (2) Attend an eligible institution for eight consecutive spring and fall terms or until the  
21 person has earned a baccalaureate or technical degree; and
- 22 (3) Completed fewer than one hundred twenty-eight credit hours of instruction.

23 Section 5. The secretary may award Dakota Corps scholarships only to the extent that funds  
24 are available to provide scholarships. If the amount of money in the Dakota Corps scholarship

1 fund is insufficient to provide a Dakota Corps scholarship to all eligible applicants, the secretary  
2 shall consider a person's grade point average, composite score on the test administered by the  
3 American College Testing Program, and financial need to award a Dakota Corps scholarship.

4 Section 6. If a person has been awarded a Dakota Corps scholarship, the department shall  
5 pay the person's tuition and fees not to exceed the Dakota Corps tuition award on behalf of the  
6 person to the eligible institution at the time that tuition and fees are normally paid.

7 Section 7. A person who has received a Dakota Corps scholarship is not required to repay  
8 any part of the scholarship if within six months of earning a baccalaureate or technical degree the  
9 person is continuously employed in South Dakota for a period of sixty consecutive months in an  
10 area of critical need.

11 Section 8. If a person who has received a Dakota Corps scholarship does not maintain  
12 eligibility as specified in section 4 of this Act, the person shall reimburse the state the amount of  
13 Dakota Corps scholarship paid on behalf of the person, excluding any tuition waivers,  
14 scholarships, or other financial grants received pursuant to section 7 of this Act, according to a  
15 repayment schedule set by the department according to rules promulgated pursuant to chapter  
16 1-26.

17 Section 9. If a person who has received a Dakota Corps scholarship does not meet the  
18 requirement in section 8 of this Act, the person shall reimburse the state the amount of Dakota  
19 Corps scholarship paid on behalf of the person, excluding any tuition waivers, scholarships, or  
20 other financial grants received pursuant to section 7 of this Act, to the department according to  
21 a repayment schedule set by the department according to rules promulgated pursuant to chapter  
22 1-26. The amount of repayment shall be based on the ratio of sixty months minus the number of  
23 months a person was continuously employed in an area of critical need to sixty months.

24 Section 10. If a person who has received a Dakota Corps scholarship is unable to maintain

1 eligibility or remain employed in an area of critical need for sixty consecutive months due to  
2 factors outside the control of the person, the secretary may waive or delay the repayment  
3 provisions of this Act.

4 Section 11. A person who has received a Dakota Corps scholarship shall annually report to  
5 the department the person's academic and occupational status on forms prescribed by the  
6 department.

7 Section 12. There is hereby created in the state treasury a separate fund known as the Dakota  
8 Corps scholarship fund. Money from any source for the purpose of providing to scholarships  
9 pursuant to this Act shall be deposited into the Dakota Corps scholarship fund. Any money  
10 repaid pursuant to section 9 or 10 of this Act shall be deposited into the Dakota Corps  
11 scholarship fund.

12 Section 13. There is hereby continuously appropriated to the department any money in the  
13 Dakota Corps scholarship fund for the purpose of providing scholarships pursuant to this Act.

14 Section 14. The secretary shall approve vouchers and the state auditor shall draw warrants  
15 to pay expenditures authorized by this Act.

16 Section 15. The department may promulgate rules, pursuant to chapter 1-26, to define  
17 occupations and geographical areas as areas of critical need, determine the amount of the Dakota  
18 Corps tuition award, establish procedures for the awarding and acceptance of Dakota Corps  
19 scholarships, monitor the academic and occupational status of persons who have received a  
20 Dakota Corps scholarship, establish financial need criteria, and establish repayment schedules.

21 Section 16. Whereas, this Act is necessary for the support of the state government and its  
22 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
23 force and effect from and after its passage and approval.