

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

578J0032

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1003 - 01/21/2004

Introduced by: Representatives Dykstra, Bartling, Bradford, Deadrick (Thomas), Elliott, Heineman, LaRue, McLaughlin, and Peterson (Jim) and Senators Duxbury and Koskan at the request of the Interim Committee on School District Educational Equality and Organization

1 FOR AN ACT ENTITLED, An Act to allow two or more school districts to include a proposed
2 excess tax levy in their consolidation plan.

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

4 Section 1. That § 13-6-13 be amended to read as follows:

5 13-6-13. The plan shall contain:

- 6 (1) A map or maps showing the boundaries of the proposed district or districts, the
7 boundaries of the existing districts involved, the location of existing and proposed
8 attendance centers and a description of the facilities, and the proposed school bus
9 routes, if any;
- 10 (2) A legal description of the boundaries of the proposed district or districts;
- 11 (3) Estimates of the school age population within the proposed district or districts;
- 12 (4) The assessed valuation of all taxable property of each existing district and of the
13 proposed district or districts;
- 14 (5) Outstanding general obligation bonds of any component district, funds in all school



1 accounts and estimated receipts in all accounts in process of collection;

2 (6) If a joint district, the designation of the county of jurisdiction;

3 (7) The official name of the proposed district;

4 (8) A statement with regard to a proposed method of adjustment of assets and liabilities;

5 (9) The proposed number of school board members if a new entity is to be created;

6 (10) A description of the proposed educational program;

7 (11) A reasonably detailed budget showing estimated annual receipts and expenditures for
8 the operation of the proposed district or districts;

9 (12) A statement recognizing any requests for minor boundary changes;

10 (13) Such additional information as may be necessary to show compliance with the
11 standards for school districts as adopted by the South Dakota Board of Education.

12 ~~When~~ If the plan proposes the dissolution and annexation of a school district to one or more
13 school districts, the school board of the receiving district, or districts, shall by resolution express
14 their acceptance or rejection of all or part of the district to be dissolved as set forth in the
15 proposed plan.

16 If the school boards of two or more school districts are developing a plan to consolidate, and
17 two-thirds of the members of each affected school board agree, the plan may also include the
18 provisions of an excess tax levy authorized in § 10-12-43 if an excess tax levy currently exists
19 in one or more of the school districts. If the plan is approved by the voters, the proposed excess
20 tax levy may be applied in the new consolidated school district. If a proposed excess tax levy
21 is included in the plan, the plan shall state the amount of the proposed excess tax levy. The
22 proposed excess tax levy may be applied for taxes payable in any of the five years following the
23 date of reorganization. In addition, each school board involved in the development of the plan
24 shall announce the inclusion of the proposed excess tax levy in the plan to the taxpayers in the

1 manner set forth in § 10-12-43.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

159J0065

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1005 - 01/22/2004

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

Introduced by: Representatives Hargens, Christensen, Davis, Hackl, Hanson, Hundstad, Koistinen, McCoy, Weems, and Wick and Senators Symens, Albers, Dempster, Kleven, and Knudson at the request of the Interim Committee on Property Tax Exemptions

1 FOR AN ACT ENTITLED, An Act to require counties to determine the unreserved general
2 fund balance at certain times of the fiscal year and to publish and report this information.

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

4 Section 1. That § 7-21-18.1 be amended to read as follows:

5 7-21-18.1. The total ~~unobligated~~ unreserved fund balance of ~~all funds~~ the general fund may
6 not exceed forty percent of the total amount of all general fund appropriations contained in the
7 budget for the next fiscal year. The total unreserved fund balance of the general fund of the
8 county as of March thirty-first and September thirtieth shall be published in the minutes of the
9 proceedings of the board of county commissioners and reported to the Department of Legislative
10 Audit. The report shall be on forms prescribed by the Department of Legislative Audit.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0220

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1044** - 01/21/2004

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

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding damage disclosure
2 information on certain vehicles coming into the state.

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

4 Section 1. That § 32-3-51.16 be amended to read as follows:

5 32-3-51.16. The department shall, in a conspicuous location, place ~~the damage information~~
6 ~~pursuant to § 32-3-51.7~~ on the first South Dakota title and all subsequent titles issued for any
7 motor vehicle ~~which came into the state unrepaired~~ and for which a salvage certificate of title
8 was issued by another state ~~unless the person applying for the South Dakota title maintains at~~
9 ~~his place of business proof that the vehicle did not sustain damage equivalent to the amount set~~
10 ~~forth in this chapter. The proof shall include two photographs showing all four sides of the~~
11 ~~motor vehicle and either an insurance adjuster's written report or a written repair estimate which~~
12 ~~details the parts, labor, paint, and frame work required to repair the motor vehicle.~~

13 ~~— The photographs and other documents showing proof that the amount of damage is less than~~
14 ~~set forth in this chapter shall be maintained by the person applying for a title for at least two~~



- 1 ~~years, the name of the previous state and any brand or notation indicated on the title by that~~
- 2 state.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0359

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1050 - 01/22/2004

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain standards for insurance producers licensure
2 and to prohibit insurance producers from influencing certain witnesses.

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

4 Section 1. That § 58-30-167 be amended to read as follows:

5 58-30-167. The director may suspend for not more than twelve months, or may revoke or
6 refuse to continue, any license issued under this chapter; or any license of a surplus lines broker
7 after a hearing. Notice of such hearing and of the charges against the licensee shall be given to
8 the licensee and to the insurers represented by such licensee or to the appointing agent of a
9 producer at least twenty days before the hearing. The director may suspend, revoke, or refuse
10 to issue or renew an insurance producer's license or may accept a monetary penalty in
11 accordance with § 58-4-28.1 or any combination thereof, for any one or more of the following
12 causes:

13 (1) Providing incorrect, misleading, incomplete, or materially untrue information in the
14 license application;

15 (2) Violating any insurance laws or rules, subpoena, or order of the director or of another



- 1 state's insurance director, commissioner, or superintendent;
- 2 (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
- 3 (4) Withholding, misappropriating, or converting any monies or properties received in
- 4 the course of doing insurance business;
- 5 (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract
- 6 or application for insurance;
- 7 (6) Having been convicted of a felony;
- 8 (7) Having admitted or been found to have committed any insurance unfair trade practice
- 9 or fraud;
- 10 (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence,
- 11 untrustworthiness, or financial irresponsibility in the conduct of business in this state
- 12 or elsewhere;
- 13 (9) Having an insurance producer license, or its equivalent, denied, suspended, or
- 14 revoked in any other state, province, district, or territory;
- 15 (10) Forging another's name to an application for insurance or to any document related to
- 16 an insurance transaction;
- 17 (11) Using notes or any other reference material to complete an examination for an
- 18 insurance license;
- 19 (12) Knowingly accepting insurance business from an individual who sells, solicits, or
- 20 negotiates insurance and is not licensed; ~~or~~
- 21 (13) Failing to comply with an administrative or court order imposing a child support
- 22 obligation; or
- 23 (14) Not trustworthy or not of good character as to morals or integrity.

24 Section 2. That chapter 58-30 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 No insurance producer may, directly or indirectly, attempt to influence a witness to decline
3 to testify or to testify falsely or withhold any testimony, information, document, or thing in any
4 matter before the division.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0382

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1055 - 01/21/2004

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney
General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the offense of witness
2 tampering.

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

4 Section 1. That § 22-11-19 be amended to read as follows:

5 22-11-19. A person who injures or threatens to injure any person or property, or with intent
6 to influence a witness, offers, confers, or agrees to confer any benefit on a witness or
7 prospective witness in an official proceeding to induce the witness to:

8 (1) Testify falsely;

9 (2) Withhold any testimony, information, document, or thing;

10 (3) Elude legal process summoning ~~him~~ the witness to testify or supply evidence; or

11 (4) Absent himself or herself from an official proceeding to which ~~he~~ the witness has
12 been legally summoned;

13 is guilty of tampering with a witness. Tampering with a witness is a Class 4 felony.

14 Section 2. That chapter 22-11 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 A person who injures or threatens to injure any person or property in retaliation for that
2 person testifying in an official proceeding, or for cooperating with law enforcement, government
3 officials, investigators or prosecutors, is guilty of tampering with a witness. Tampering with a
4 witness is a Class 4 felony.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0388

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1059** -

01/22/2004

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 permit certain persons to discharge pyrotechnics on land
2 owned or leased by the Department of Game, Fish and Parks.

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

4 Section 1. That § 34-37-11 be amended to read as follows:

5 34-37-11. No person may sell or cause to be sold, discharge or cause to be discharged, any
6 pyrotechnics of any description whatever within the exterior boundaries of the Black Hills
7 Forest Fire Protection District, national forest, national park, state forest, or any land owned or
8 leased by the Department of Game, Fish and Parks. However, the ~~secretary of the~~ Department
9 of Game, Fish and Parks may, by written authorization, permit the discharge of pyrotechnics,
10 pyrotechnic displays, sales, or exhibits on land owned or leased by the department unless
11 otherwise prohibited by statute. Any violation of this section which occurs on any land owned
12 or leased by the Department of Game, Fish and Parks is a Class 2 misdemeanor. Any ~~other~~
13 subsequent violation of this ~~chapter~~ section is a Class 1 misdemeanor.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0387

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1060** -

01/22/2004

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 permit dependent children of resident active duty military
2 service persons to obtain deer and antelope hunting licenses under certain circumstances.

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

4 Section 1. That § 41-6-21 be amended to read as follows:

5 41-6-21. The Game, Fish and Parks Commission may, by rules ~~adopted~~ promulgated
6 pursuant to § 41-2-18, set the number of licenses issued for the hunting, taking, or killing of any
7 big game animal during any season and establish who ~~shall be~~ is eligible to apply for such
8 licenses. Any person in the armed services of the United States who is absent from this state on
9 active duty during the entire time for making application, and is otherwise qualified and a
10 resident of South Dakota, may apply for and shall receive deer and west river antelope licenses.

11 In addition, any spouse and any minor dependent child of such a person in the armed services
12 who ~~is~~ are also absent from this state during the entire time for making application, and ~~is~~ are
13 otherwise qualified, may apply for and shall receive deer and west river antelope licenses. In
14 establishing eligibility, the commission may give preference to persons who actually operate or



1 live as owner or tenant on agricultural, timber, or grazing lands situated within the areas opened
2 to such big game hunting. It is a Class 2 misdemeanor for anyone to apply for such licenses
3 except those persons whose eligibility has been established by statute or rule of the Game, Fish
4 and Parks Commission.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0400

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1079 - 01/16/2004

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding preliminary hearings
2 for parole violators.

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

4 Section 1. That § 24-15-23 be amended to read as follows:

5 24-15-23. ~~Within~~ Subject to the provisions of sections 2 and 3 of this Act, within ten
6 working days of the arrest of the parolee, a preliminary hearing shall be held. The preliminary
7 hearing shall be held before an independent hearing officer to determine if there is probable
8 cause to believe that the parolee has violated the terms and conditions of the parolee's parole
9 status. The parolee has the right to waive this preliminary hearing at any time after the order for
10 arrest has been issued by the executive director of the Board of Pardons and Paroles. If probable
11 cause is found to exist, the parolee is to be returned to the penitentiary, there to be held, for a
12 hearing to be held before the Board of Pardons and Paroles to determine whether the parole
13 should be revoked. If the parolee wishes to admit to an alleged violation of conditions of parole,
14 the parolee may waive a personal appearance at the revocation hearing with the board.

15 Section 2. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 A preliminary hearing as provided for in § 24-15-23 is not required if:

- 3 (1) The parolee is under arrest and being held on an order issued by a jurisdiction other
4 than the Board of Pardons and Paroles;
- 5 (2) The parolee left the state or other approved jurisdiction without authorization and
6 was apprehended outside of that jurisdiction; or
- 7 (3) The parolee was convicted of a felony or misdemeanor in a South Dakota court or a
8 court of another state or a federal court.

9 Section 3. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If a preliminary hearing under § 24-15-23 is required and a parolee fails to receive a
12 preliminary hearing prior to the parolee's return to a Department of Corrections facility, the
13 parolee shall receive a preliminary hearing within ten working days of the parolee's return to a
14 Department of Corrections facility.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

337J0339

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1099 - 01/22/2004

Introduced by: Representatives Konold, Haverly, O'Brien, Sigdestad, Solum, and Wick and
Senators Kelly, Albers, Brown, Duxbury, Earley, Ham-Burr, Kleven,
McCracken, Moore, Olson (Ed), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish a statute of limitations for real estate licensees
2 and their licensed real estate firms for alleged malpractice, mistake, error, and omission.

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

4 Section 1. That chapter 15-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No action may be brought against a licensed real estate broker, broker associate, or
7 salesperson, or any agent or employee thereof, for malpractice, error, mistake, or omission,
8 whether based upon contract or tort, unless it is commenced within three years of the occurrence
9 of the alleged malpractice, error, mistake, or omission. This section is prospective in
10 application.

11 Section 2. That chapter 15-2 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 No action may be brought against a licensed partnership, association, limited liability
14 company, or corporation of a real estate broker, or any agent or employee thereof, for



1 malpractice, error, mistake, or omission, whether based upon contract or tort, unless it is
2 commenced within three years of the occurrence of the alleged malpractice, error, mistake, or
3 omission. This section is prospective in application.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

483J0152

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1105** - 01/22/2004

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

Introduced by: Representatives Hennies, Bartling, Bradford, Davis, Elliott, Hunhoff, Kroger, LaRue, McLaughlin, Murschel, and Solum and Senators Ham-Burr, Abdallah, Bogue, de Hueck, Duenwald, Duniphan, Earley, Greenfield, Knudson, Nachtigal, Reedy, Sutton (Dan), and Vitter

1 FOR AN ACT ENTITLED, An Act to permit certain temporary on-sale licenses to be issued
2 by municipalities and counties.

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

4 Section 1. That § 35-4-11.4 be amended to read as follows:

5 35-4-11.4. Any municipality or county may issue a special malt beverage retailers' license
6 ~~and~~, a special retail on-sale wine dealers' license, and a special on-sale license, notwithstanding
7 the provisions of §§ 35-4-11, 35-4-11.1, and 35-4-19, to any civic, charitable, educational, or
8 fraternal organization in conjunction with a special event within the municipality or within the
9 county. Educational does not include any elementary, secondary, or higher educational
10 institution in the public school system of this state. No public hearing is required for the
11 issuance of a license pursuant to this section if the individual applying for the license holds an
12 alcoholic beverage license in the municipality or county or holds an operating agreement for a
13 municipal alcoholic beverage license. Any license issued pursuant to this section may be issued



1 for a period of time established by the municipal governing body or board of county
2 commissioners. However, such period may not exceed fifteen consecutive days. If an
3 organization receiving a license pursuant to this section conducts a street dance in conjunction
4 with the special event, the organization shall provide qualified security personnel as deemed
5 necessary by the governing body which issued the license to maintain order during the street
6 dance.

7 Section 2. That § 35-4-11.5 be amended to read as follows:

8 35-4-11.5. Any license issued pursuant to § 35-4-11.4 shall be issued to the organization and
9 location specified on the application. Notwithstanding subdivisions ~~35-4-2(12)~~ 35-4-2(4), (6),
10 (12), and (16), the governing body or the board of county commissioners, as appropriate, shall
11 determine the fee for this license, which may not exceed fifty dollars per day. Each application
12 shall be accompanied by the fee prior to consideration by the governing body or board of county
13 commissioners. Notwithstanding § 35-5-21.1, the fee provided for in this section shall be
14 retained by the governing body or board of county commissioners issuing the license.