

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

724J0349

HOUSE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1117** - 01/28/2004

Introduced by: Representatives Hargens, Cutler, Hunhoff, Madsen, and Sebert and Senators Moore, Duniphan, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the requirements for operating a motor vehicle
2 with an instruction permit.

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

4 Section 1. That § 32-12-11 be amended to read as follows:

5 32-12-11. Any person who is at least fourteen years of age but less than eighteen years of
6 age applying for a South Dakota operator's license, restricted minor's permit, or instruction
7 permit who does not currently hold an operator's license, motorcycle operator's license,
8 restricted minor's permit, motorcycle restricted minor's permit, instruction permit, or motorcycle
9 instruction permit that has been valid continuously for one hundred eighty days, shall apply to
10 the Department of Public Safety for an instruction permit which shall be held for a minimum
11 of one hundred eighty continuous days. The department may, after the applicant has successfully
12 passed all parts of the examination other than the driving test and paid a fee which is equal in
13 amount to the fee prescribed for a license in § 32-12-16, issue to the applicant an instruction
14 permit. The instruction permit entitles the applicant, while having the permit in the applicant's
15 immediate possession, to drive a motor vehicle upon the public highways for a period of one



1 year during the hours of 6 a.m. to 8 p.m. local time if accompanied by a person holding a valid
2 operator's license who is at least eighteen years of age, has had at least one year of driving
3 experience, and who is occupying a seat beside the applicant. The holder of an instruction
4 permit may apply for a restricted minor's permit or operator's license after holding a valid
5 instruction permit for one hundred eighty continuous days.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

292J0242

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1122 - 01/28/2004

Introduced by: Representatives Michels, Cutler, Deadrick (Thomas), Engels, Gillespie, Madsen, McCaulley, and O'Brien and Senators Knudson and de Hueck

1 FOR AN ACT ENTITLED, An Act to revise the procedure for registering a business name.

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

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

4 37-11-1. It is a Class 2 misdemeanor for any person ~~or copartnership~~ to engage in or conduct
5 a business for profit in this state under any name which does not plainly show the true surname
6 of each person interested in such business unless a statement is filed first. The statement shall
7 be verified by each person interested in the business, showing the name, post office address, and
8 residence address of each person interested in the business and the address where the main
9 office of the business is to be maintained. The statement shall be electronically filed in the office
10 ~~of the register of deeds in each county where the business is maintained~~ with the secretary of
11 state and the filing shall be renewed every fifth year thereafter. A fee of ten dollars shall be
12 ~~charged for paid with~~ each new filing and renewal ~~in accordance with subdivision 7-9-15(3).~~

13 Section 2. That § 37-11-2 be amended to read as follows:

14 37-11-2. A verified statement as described in § 37-11-1 shall be similarly filed ~~from time~~
15 ~~to time~~ upon any change in ownership, operation, or persons interested in the business. A fee



1 ~~of ten dollars shall be charged for paid with~~ each filing under this section ~~in accordance with~~
2 ~~subdivision 7-9-15(3).~~

3 Section 3. That § 37-11-3 be amended to read as follows:

4 37-11-3. The ~~register of deeds~~ secretary of state shall record the information required ~~by and~~
5 ~~filed with him~~ pursuant to the provisions of §§ 37-11-1 and 37-11-2 in such manner as may be
6 necessary to effectuate the purposes of this chapter.

7 Section 4. That § 37-11-2.1 be repealed.

8 ~~37-11-2.1. The register of deeds shall cause to be placed in each of the legal publications in~~
9 ~~the county in the first January issue thereof a notice briefly setting forth the obligation provided~~
10 ~~for in §§ 37-11-1 and 37-11-2.~~

11 Section 5. The secretary of state may expend funds from § 57A-9-527 for developing and
12 maintaining a system for recording the information filed pursuant to this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

770J0445

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1125 - 01/28/2004

Introduced by: Representatives Madsen, Cutler, Davis, Hackl, Hanson, Hargens, Hennies, Hunhoff, Juhnke, Konold, LaRue, O'Brien, Pederson (Gordon), Peterson (Jim), Rhoden, Sebert, and Teupel and Senators de Hueck, Bogue, Duenwald, Duniphan, Earley, Greenfield, Koetzle, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the establishment of
2 proof of compliance with applicable standards as due care in certain utility negligence
3 claims.

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

5 Section 1. That § 47-21-75 be amended to read as follows:

6 47-21-75. Construction of electric lines by a cooperative shall ~~as a minimum requirement,~~
7 comply with the standards of the National Electrical Safety Code in effect at the time of ~~such~~
8 the construction; ~~provided, however, that where Y-connected circuits with neutral conductors~~
9 ~~effectively grounded throughout their length are used in the construction or reconstruction of~~
10 ~~electrical distribution or transmission lines, minimum vertical clearance of wires or neutral~~
11 ~~conductors over ground or rails shall be determined by the voltage between the wires and the~~
12 ~~ground, if such voltage does not exceed fifteen thousand volts.~~ Proof of compliance with the
13 requirements of the applicable National Electrical Safety Code establishes due care in the
14 defense of a negligence claim alleging a violation of that standard.



1 Section 2. That § 31-26-5 be amended to read as follows:

2 31-26-5. The grantee under § 31-26-1 shall construct and maintain ~~said~~ the grantee's poles,
3 wires, or underground cable and line in accordance with the applicable National Electrical
4 Safety Code adopted by the Bureau of Standards of the United States Department of Commerce.
5 Proof of compliance with the requirements of an applicable National Electrical Safety Code
6 standard establishes due care in the defense of a negligence claim alleging a violation of that
7 standard.

8 Section 3. That § 31-26-22 be amended to read as follows:

9 31-26-22. The Transportation Commission may ~~adopt~~ promulgate rules and the Department
10 of Transportation may issue permits, to allow electrical lines, pipelines, communication lines
11 and other utilities, including rural water service pipelines, whether above or below ground, to
12 operate the facilities over, under, or along public grounds, streets, alleys and highways under
13 its jurisdiction in this state. Any rule ~~adopted under~~ promulgated pursuant to this section shall
14 set forth application and issuance of permit criteria and installation standards necessary to
15 preserve a safe traffic environment, the appearance of the highway, and the efficiency and
16 economy of highway maintenance and shall be ~~adopted~~ promulgated pursuant to chapter 1-26.
17 Proof of compliance with the requirements of the applicable National Electrical Safety Code
18 standard establishes due care in the defense of a negligence claim alleging a violation of that
19 standard.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

716J0456

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1146** - 01/28/2004

Introduced by: Representatives Weems, Konold, LaRue, and Peterson (Jim) and Senators Olson (Ed), Kelly, Knudson, and Koskan

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of metal plates with a special
2 designation to a licensed vehicle dealer to enable commercial use of a vehicle under certain
3 conditions.

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

5 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The department shall issue metal numerical license plates to licensed vehicle dealers upon
8 application and payment of the gross weight tonnage fees pursuant to § 32-9-15 at the time of
9 annual renewal for each set desired. The license plates shall be numbered consecutively and
10 shall bear as a prefix the number 88. If a dealer's license is revoked or canceled or the dealer
11 goes out of business, the 88 plates shall be returned to the department. If any person operates
12 a motor vehicle with 88 plates after the dealer license is revoked or canceled or after the dealer
13 goes out of business, or if the person refuses to return the plates, the person is guilty of a Class
14 2 misdemeanor.

15 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Any vehicle owned by a licensed new or used vehicle dealer that is being used to transport
3 any inventory replacement vehicle bearing an 88 license plate issued pursuant to section 1 of
4 this Act may be operated on the streets and highways of this state as a motor carrier if the
5 provisions of section 2 of this Act are met. The dealer 88 license plate is transferable by the
6 dealer from one vehicle owned by the dealer to another vehicle owned by the dealer. However,
7 no dealer 88 license plate may be used on a vehicle for lease or hire, or on a wrecker or service
8 truck.

9 Section 3. That chapter 32-9 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any new or used vehicle owned by a licensed vehicle dealer, bearing a dealer's 88 license
12 plate issued pursuant to the provisions of sections 1 and 2 of this Act may operate such vehicle
13 for the licensed dealership as a motor carrier under the following conditions:

- 14 (1) The motor vehicle shall comply with all provisions of this chapter pertaining to
15 overweight operation;
- 16 (2) The maximum licensed gross weight may not exceed twenty-six thousand pounds;
17 and
- 18 (3) The gross weight tonnage fees shall be paid pursuant to § 32-9-15 with the tonnage
19 sticker affixed to the 88 plate prior to operation as a motor carrier.

20 Any violation of this section is a class 2 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

580J0409

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1166** - 01/28/2004

Introduced by: Representatives Glenski, Craddock, Gassman, McCoy, McLaughlin,
Murschel, Rounds, Smidt, and Van Gerpen and Senators Earley and Abdallah

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large
2 boats.

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

4 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or
8 person wishing to register in South Dakota a large boat which is titled in another state or
9 jurisdiction shall submit an accurately completed damage disclosure statement when applying
10 for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure statement
11 may be on the back of the certificate of title or on a separate document that has been approved
12 for use by the department. No certificate of title may be issued by the department unless the
13 damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to
14 intentionally falsify any information on the damage disclosure statement. No person is liable to
15 a subsequent owner of a large boat because a prior owner of the large boat failed to disclose that



1 the large boat had previously been damaged and repaired. This section applies to any large boat
2 with damage in excess of five thousand dollars and is six years old or less. If the large boat has
3 incurred damages more than once, only those damages which occurred at one time would be
4 considered in determining whether the damages exceeded five thousand dollars.

5 Section 2. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of the damage disclosure statement provided by section 1 of this Act, the
8 term, damage, means damage to the large boat caused by fire, vandalism, collision, weather,
9 submersion in water, or flood, and does not include normal wear and tear, glass damage,
10 mechanical repairs, or electrical repairs that have not been caused by fire, vandalism, collision,
11 weather, submersion in water, or flood.

12 Section 3. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The department shall retain each damage disclosure statement received. The statement shall
15 become part of the title history available to the public pursuant to § 32-3A-38.

16 Section 4. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for
19 the damage disclosure statement provided by section 1 of this Act. An area for a damage
20 disclosure statement shall appear on the back of each certificate of title issued by the
21 department. The department may also approve separate documents on which a damage
22 disclosure statement may be submitted. The damage disclosure statement form shall indicate
23 whether the large boat has been damaged such that it cost more than five thousand dollars to
24 repair to its predamaged condition and any other damage information the department deems

1 appropriate. If a separate document from the certificate of title contains the damage disclosure
2 statement, the document shall also require the following information: year, make, model, and
3 hull identification number of the large boat.

4 Section 5. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1
7 of this Act shall include the costs necessary to return the damaged large boat to its predamaged
8 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

9 Section 6. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for
12 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that
13 discloses damage to the large boat in accordance with the provisions of this Act, as determined
14 by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe
15 the format and construction of the sticker, decal, or notice.

16 Section 7. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Each certificate of title issued by the department shall contain the following phrase: South
19 Dakota state law requires the disclosure of damage on large boats. This information is available
20 upon written request from the Department of Revenue and Regulation. Each certificate of title
21 shall also contain on its front a statement as to whether previous damage disclosure statements
22 indicate the large boat had been damaged at one time in excess of five thousand dollars.

23 Section 8. That § 32-3A-38 be amended to read as follows:

24 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish

1 a person a certified abstract of the title history which shall include any damage disclosure
2 statement of any boat registered under the provisions of this chapter. The abstract may include
3 all documents filed with the department to establish the title history of the boat. The fee shall
4 be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are
5 exempt from this fee requirement.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

381J0464

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1175** - 01/28/2004

Introduced by: Representatives Madsen, Cutler, Haverly, Michels, and O'Brien and Senators Earley, Bogue, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization program and to
2 provide for the continuous appropriation of certain federal funds.

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

4 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Brownfields revitalization program," a program to provide funding to assist in the
8 assessment, cleanup, and redevelopment of brownfields sites;

9 (2) "Brownfields site," real property, the expansion, redevelopment, or reuse of which
10 may be complicated by the presence or potential presence of a hazardous substance,
11 pollutant, or contaminant;

12 (3) "Real property," residential, commercial, or industrial properties.

13 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The state brownfields revitalization program is hereby established. A brownfields revolving



1 loan subfund and a brownfields assessment and cleanup subfund are created within the water
2 and environment fund established pursuant to § 46A-1-60. The subfunds shall be maintained
3 separately; and all money for use in the program shall be deposited into the subfunds, including
4 all federal brownfields revitalization program grants, all repayments of assistance awarded from
5 the subfunds, interest on investments made on money in the subfunds, proceeds of discretionary
6 bond issues allowed by § 46A-1-31, and principal and interest on loans made from the subfunds.
7 Money in the subfunds may be used only for purposes authorized under federal law. The
8 subfunds may be pledged or assigned by the district to or in trust for the holders of the bonds
9 of the district and may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

10 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Money from the brownfields revitalization program subfunds shall be disbursed and
13 administered according to rules promulgated by the Board of Water and Natural Resources
14 pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The provisions of §§
15 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields revitalization program
16 subfunds of the water and environment fund or grants and loans from the subfunds made under
17 the brownfields revitalization program described in sections 2 to 5 of this Act, inclusive.

18 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26
21 to implement the provisions of this Act consistent with the requirements of federal law in order
22 for an approved brownfields revitalization program to become eligible for grant funds from the
23 United States Environmental Protection Agency. The rules shall include criteria and procedures
24 for the selection of projects to receive funds from the brownfields revitalization program and

1 for the administration of the program.

2 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The brownfields revitalization program subfunds are hereby continuously appropriated to
5 the South Dakota Board of Water and Natural Resources. Money received for these programs
6 may be used only for purposes authorized by the federal Small Business Liability Relief and
7 Brownfields Revitalization Act (P.L. 107-118) as amended to January 1, 2004.

8 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,
11 and sustainably reuse eligible brownfields sites as authorized in the Comprehensive
12 Environmental Response, Compensation, and Liability Act of 1980, as amended to January 1,
13 2004, and in the Small Business Liability Relief and Brownfields Revitalization Act, P.L.
14 107-118 as amended to January 1, 2004.

15 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any eligible entity establishing a brownfields program may exercise all powers necessary
18 or appropriate to carry out the purposes of this Act, including the following:

19 (1) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold
20 in its corporate name or use and control as provided by law both real and personal
21 property and easements and rights-of-way within or without the corporate limits for
22 all purposes authorized by this Act or necessary to the exercise of any power granted
23 in this Act;

24 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the

- 1 municipality or county as provided by this Act;
- 2 (3) To exercise the power of eminent domain only as necessary to carry out its purposes
- 3 and duties as provided in this Act;
- 4 (4) To borrow money and to issue certificates, warrants, general obligation bonds and
- 5 non-ad valorem tax bonds for purposes of this Act;
- 6 (5) To accept funds, property, and services or other assistance, financial or otherwise,
- 7 from federal, state, and other public and private sources to carry out the purposes of
- 8 this Act;
- 9 (6) To contract or cooperate with any person, the state, or any political subdivision of the
- 10 state, any federal agency, or any private or public entity to carry out the purposes of
- 11 this Act;
- 12 (7) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,
- 13 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and
- 14 information concerning any brownfields site, or any related development, structure,
- 15 or facility necessary to carry out the purposes of this Act; and
- 16 (8) To do and perform all acts authorized in this Act and all other acts necessary and
- 17 proper for carrying out and exercising the powers granted by this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

457J0098

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1201** - 01/28/2004

Introduced by: Representatives Williamson and Murschel and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of revenue bonds to finance
2 certain water pipelines or aqueducts.

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

4 Section 1. That § 46A-1-72 be amended to read as follows:

5 46A-1-72. Construction of a ~~West River pipeline or aqueduct from the Oahe~~ a mainstream
6 Missouri reservoir, the Missouri River itself, or adjacent aquifers to the border with Wyoming
7 one or more communities in South Dakota is hereby authorized for a main delivery pipeline
8 capable of delivering ~~approximately twenty-seven thousand acre-feet of water per year with up~~
9 ~~to approximately seven thousand acre-feet to be available for use in western South Dakota and~~
10 ~~the balance into Wyoming~~ water sufficient to supply or supplement the needs of the
11 communities and other private or commercial users purchasing water from the communities.

12 Section 2. That § 46A-1-73 be amended to read as follows:

13 46A-1-73. The South Dakota Conservancy District is hereby authorized to issue bonds for
14 ~~the West River~~ a pipeline or aqueduct pursuant to section 1 of this Act in an amount not to
15 exceed ~~three hundred fifty~~ five hundred million dollars. The district may enter into a financing



1 agreement to loan the proceeds of the bonds as authorized by law. The financing agreement shall
2 provide for repayment of the loan through payments sufficient to pay the principal of, premium,
3 if any, and interest on the bonds. The loan shall be secured by ~~take or pay~~ contracts for the
4 ~~transportation of coal~~ delivery and sale of water and such additional security as is necessary for
5 repayment and to market the bonds. The bonds ~~shall do~~ not constitute an indebtedness of the
6 state and ~~shall do~~ not constitute nor give rise to a pecuniary or moral liability of the state or a
7 charge against its general credit or taxing powers. No tax revenues of the state, its people, or any
8 of its political subdivisions ~~shall may~~ be in any manner obligated to pay for any portion of the
9 construction or financing of the ~~West River~~ pipeline or aqueduct.

10 Section 3. That § 46A-1-74 be repealed.

11 ~~46A-1-74. The South Dakota Conservancy District is hereby authorized to contract, without~~
12 ~~using state tax revenues, for an independent market study to determine the demand for water~~
13 ~~from the West River Aqueduct.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

592J0717

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1207 - 01/28/2004

Introduced by: Representatives Cutler, Gillespie, LaRue, Madsen, and Michels and Senators de Hueck, Albers, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to provide that any judgment of conviction indicate whether
2 the charge involves domestic abuse.

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

4 Section 1. That § 25-10-34 be amended to read as follows:

5 25-10-34. ~~Any~~ The state's attorney of the county where a crime is believed to have been
6 committed shall indicate on the summons, complaint, information, indictment, or arrest warrant
7 shall indicate any, and judgment of conviction whether the charge that involves domestic abuse.

