

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0405

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1082 - 02/03/2004

Introduced by: The Committee on Commerce at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding registered agents and
2 service of process for certain business entities.

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

4 Section 1. That § 47-34A-110 be amended to read as follows:

5 47-34A-110. Any registered agent of a limited liability company may resign as agent upon
6 filing a written notice of resignation, ~~executed~~ with the secretary of state, ~~who~~. The registered
7 agent shall forthwith mail a copy of the resignation to the limited liability company at its
8 registered office, if not discontinued, and the other copy to the limited liability company at its
9 principal office by certified mail, return receipt requested. The appointment of the agent shall
10 terminate upon the expiration of thirty days after receipt of notice by the secretary of state.

11 Section 2. That § 47-22-46 be amended to read as follows:

12 47-22-46. Any registered agent of a corporation may resign as such agent upon filing ~~an~~
13 ~~original and an exact or conforming copy of a~~ written notice thereof with the secretary of state;
14 ~~who~~. The registered agent shall forthwith mail ~~the~~ a copy to the corporation at its registered
15 office, if not discontinued, and another copy to the corporation at its principal office by certified



1 mail, return receipt requested. The appointment of the agent shall terminate thirty days after
2 receipt of notice by the secretary of state.

3 Section 3. That § 47-8-12.1 be amended to read as follows:

4 47-8-12.1. Any registered agent of a foreign corporation may resign as such agent upon
5 ~~filing an original and one exact or conforming copy of a~~ written notice thereof with the secretary
6 of state, ~~who.~~ The registered agent shall forthwith mail ~~the~~ a copy to the corporation at its
7 principal office by certified mail, return receipt requested in the state or country under whose
8 laws it is incorporated. The appointment of such agent shall terminate thirty days after receipt
9 of notice by the secretary of state.

10 Section 4. That § 47-22-6 be amended to read as follows:

11 47-22-6. The articles of incorporation shall set forth:

- 12 (1) The name of the corporation;
- 13 (2) The period of duration, which may be perpetual;
- 14 (3) The purpose or purposes for which the corporation is organized;
- 15 (4) If the corporation is to have no members, a statement to that effect;
- 16 (5) If the corporation is to have one or more classes of members, any provision which the
17 incorporators elect to set forth in the articles of incorporation designating the class
18 or classes of members and stating the qualifications and rights of the members of
19 each class;
- 20 (6) If the directors or any of them are not to be elected or appointed by one or more
21 classes of members, a statement of the manner in which such directors shall be
22 elected or appointed;
- 23 (7) Any provisions, not inconsistent with law, which the incorporators elect to set forth
24 in the articles of incorporation for the regulation of the internal affairs of the

1 corporation, including any provision for distribution of assets on dissolution or final
2 liquidation;

3 (8) The street address, or a statement that there is no street address, of its initial
4 registered office, and the name of its initial registered agent at such address and ~~his~~
5 the registered agent's written consent to the appointment. Such consent may be given
6 by electronic signature pursuant to chapter 53-12;

7 (9) The number of directors constituting the initial board of directors, and the names and
8 addresses of the persons who are to serve as the initial directors; and

9 (10) The name and address of each incorporator.

10 It is not necessary to set forth in the articles of incorporation any of the corporate powers
11 enumerated in chapters 47-22 to 47-28, inclusive.

12 Section 5. That § 47-22-44 be amended to read as follows:

13 47-22-44. A corporation may change its registered office or change its registered agent, or
14 both, upon filing in the Office of the Secretary of State a statement setting forth:

15 (1) The name of the corporation;

16 (2) The street address of its current ~~registration~~ registered office or a statement that there
17 is no street address;

18 (3) If the address of its registered office is to be changed, the street address, or a
19 statement that there is no street address, of its new registered office;

20 (4) The name of its current registered agent;

21 (5) If its registered agent is to be changed, the name of its successor registered agent and
22 the new agent's written consent to the appointment. Such consent may be given by
23 electronic signature pursuant to chapter 53-12;

24 (6) That the street address, or a statement that there is no street address, of its registered

1 office and the address of the office of its registered agent, as changed, will be
2 identical; and

3 (7) That such change was authorized by resolution duly adopted by its board of directors.

4 Such statement shall be executed by the chair of the board of directors, by the corporation's
5 president or by another of the corporation's officers and delivered to the secretary of state.

6 Section 6. That § 47-27-1 be amended to read as follows:

7 47-27-1. Any foreign corporation, in order to procure a certificate of authority to engage in
8 business in this state, shall make application to the secretary of state, which application shall set
9 forth:

10 (1) The name of the corporation and the state or country under the laws of which it is
11 incorporated;

12 (2) The date of incorporation and the period of duration of the corporation;

13 (3) The street address of the principal office of the corporation in the state or country
14 under whose laws it is incorporated;

15 (4) The street address, or a statement that there is no street address, of the proposed
16 registered office of the corporation in this state, and the name of its proposed
17 registered agent in this state at such address and ~~his~~ the registered agent's written
18 consent to the appointment. Such consent may be given by electronic signature
19 pursuant to chapter 53-12;

20 (5) The purpose or purposes of the corporation in engaging in business in this state;

21 (6) The names and respective addresses of the directors and officers of the corporation;
22 and

23 (7) Such additional information as may be necessary in order to enable the secretary of
24 state to determine whether such corporation is entitled to a certificate of authority to

1 engage in business in this state.

2 An original and one exact or conforming copy of the application shall be made on forms
3 prescribed and furnished by the secretary of state and shall be executed and acknowledged by
4 the ~~chairman~~ chair of the board of directors, by the corporation's president, or by another of the
5 corporation's officers.

6 Section 7. That § 47-27-24 be amended to read as follows:

7 47-27-24. Any foreign corporation authorized to engage in business in this state may change
8 its registered office or change its registered agent, or both, upon filing in the Office of the
9 Secretary of State a statement setting forth:

- 10 (1) The name of the corporation;
- 11 (2) The street address, or a statement that there is no street address, of its current
12 registered office;
- 13 (3) If the address of its registered office is to be changed, the street address of the new
14 registered office;
- 15 (4) The name of its current registered agent;
- 16 (5) If its registered agent is to be changed, the name of the new registered agent and the
17 new agent's written consent to the appointment. Such consent may be given by
18 electronic signature pursuant to chapter 53-12;
- 19 (6) That the address of its registered office and the address of the office of its registered
20 agent, as changed, will be identical; and
- 21 (7) That such change was authorized by resolution duly adopted by its board of directors.

22 The statement shall be executed ~~and acknowledged~~ for the corporation by the ~~chairman~~ chair
23 of the board of directors, by the corporation's president, or by another of the corporation's
24 officers or, if the corporation is in the hands of a receiver, trustee, or other court-appointed

1 fiduciary, by that fiduciary.

2 Section 8. That § 47-20-17 be amended to read as follows:

3 47-20-17. A corporation may change its registered office or change its registered agent, or
4 both, upon filing in the Office of the Secretary of State a statement setting forth:

5 (1) The name of the corporation;

6 (2) The street address, or a statement that there is no street address, of its current
7 registered office;

8 (3) If the address of its current registered office is to be changed, the street address, or
9 a statement that there is no street address, of its new registered office;

10 (4) The name of its current registered agent;

11 (5) If its current registered agent is to be changed, the name of the new registered agent
12 and the new agent's written consent to the appointment. Such consent may be given
13 by electronic signature pursuant to chapter 53-12;

14 (6) That the address of its registered office and the address of the business office of its
15 registered agent, as changed, will be identical; and

16 (7) That such change was authorized by resolution duly adopted by the board of
17 directors.

18 Section 9. That § 47-24-6 be amended to read as follows:

19 47-24-6. Any domestic nonprofit corporation authorized to engage in business in this state
20 shall file, within the time prescribed by §§ 47-24-7 to 47-24-9, inclusive, a report setting forth:

21 (1) The name of the corporation;

22 (2) The street address, or a statement that there is no street address, of the registered
23 office of the corporation in this state and the name of its registered agent at such
24 address;

1 (3) A brief statement of the nature of the affairs which the corporation is conducting;

2 (4) The amount of property which the corporation may hold and the amount of property
3 held; and

4 (5) The names and respective addresses of the directors and officers of the corporation.

5 The report shall be made on forms prescribed and furnished by the secretary of state and the
6 information therein contained shall be given as of the date of the execution of the report. It shall
7 be executed for the corporation by the ~~chairman~~ chair of the board of directors, by its president,
8 or by another of its officers. ~~It shall be acknowledged by the officer executing the report.~~ If the
9 corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, the report
10 shall be executed ~~and acknowledged~~ on behalf of the corporation by that fiduciary.

11 Section 10. That § 47-27-18 be amended to read as follows:

12 47-27-18. Any foreign corporation authorized to engage in business in this state, shall file,
13 within the time prescribed by this chapter, an annual report setting forth:

14 (1) The name of the corporation and the state or country under whose laws it is
15 incorporated;

16 (2) The street address, or a statement that there is no street address, of the registered
17 office of the corporation in this state and the name of its registered agent at such
18 address and the address of its principal office in the state or country under whose
19 laws it is incorporated;

20 (3) A brief statement of the character of the affairs which the corporation is conducting
21 in this state; and

22 (4) The names and respective addresses of the directors and officers of the corporation.

23 The annual report shall be made on forms prescribed and furnished by the secretary of state
24 and the information therein contained shall be given as of the date of the execution of the report.

1 It shall be executed ~~and acknowledged~~ by the ~~chairman~~ chair of the board, by the corporation's
2 president or another of the corporation's officers or, if the corporation is in the hands of a
3 receiver, trustee, or other court-appointed fiduciary, it shall be executed ~~and acknowledged~~ on
4 behalf of the corporation by that fiduciary.

5 Section 11. That § 47-2-30 be amended to read as follows:

6 47-2-30. Any registered agent of a corporation may resign as agent upon filing an original
7 written notice thereof with the secretary of state and by mailing an exact or conforming copy
8 thereof ~~with by certified mail, return receipt requested, to the secretary of state, who shall mail~~
9 ~~the copy to the corporation at its registered office~~ corporation. The appointment of the agent
10 shall terminate thirty days after receipt of notice by the secretary of state.

11 Section 12. That § 47-9-2 be amended to read as follows:

12 47-9-2. The annual report required by § 47-9-1 shall be made on forms prescribed and
13 furnished by the secretary of state and the required information shall be given as of the date of
14 the execution of the report, except as to the information required by subdivisions 47-9-1(7) and
15 (8), which shall be given as of the close of business on the day prior to the anniversary date of
16 the corporation next preceding the date provided in § 47-9-3 for filing such report. It shall be
17 executed by the ~~chairman~~ chair of the board of directors, by its president, or another of its
18 officers or if the corporation has not been formed, by an incorporator, or, if the corporation is
19 in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary. ~~The~~
20 ~~report shall be acknowledged.~~

21 Section 13. That § 47-8-12 be amended to read as follows:

22 47-8-12. A foreign corporation authorized to do or engage in business in this state may
23 change its registered office or change its registered agent, or both, upon filing in the Office of
24 the Secretary of State a statement setting forth:

- 1 (1) The name of the corporation;
 - 2 (2) The street address, or a statement that there is no street address, of its current
3 registered office;
 - 4 (3) If the address of its registered office is to be changed, the street address, or a
5 statement that there is no street address, of the new registered office;
 - 6 (4) The name of its current registered agent;
 - 7 (5) If its registered agent is to be changed, the name of the successor registered agent and
8 ~~his~~ the registered agent's written consent to the appointment;
 - 9 (6) That the address of its registered office and the street address of the business office
10 of its registered agent, as changed, will be identical;
 - 11 (7) That such change was authorized by resolution duly adopted by its board of directors.
- 12 Such statement shall be executed by the corporation by its president or a vice-president;
13 ~~acknowledged by him,~~ and delivered to the secretary of state.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

237J0507

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1160** -

02/03/2004

Introduced by: Representatives Juhnke, Garnos, Lintz, and Rhoden and Senator Duenwald

1 FOR AN ACT ENTITLED, An Act to establish a pilot program for the issuance of transferable
2 landowner big game hunting licenses.

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

4 Section 1. That chapter 41-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Game, Fish and Parks Commission, in rules promulgated pursuant to chapter 1-26, shall
7 establish a pilot program for the issuance to landowners or lessees of transferable deer, antelope,
8 or turkey hunting licenses. The rules shall specify four to six counties located west of the
9 Missouri River in which the pilot program will operate. Under the program any landowner or
10 lessee in the program area who owns or leases at least six hundred forty acres of agricultural,
11 grazing, or timber land may apply for one transferable license for deer, antelope, or turkey in
12 addition to any license for these species to which the landowner or lessee would otherwise be
13 entitled. Under the program, at least twenty-five percent of the eligible applicants shall be issued
14 transferable licenses in accordance with a selection process specified in the rules. Each
15 transferable license shall be issued at the same cost as a corresponding nontransferable license.



1 The landowner or lessee may sell or transfer the license to a hunter for use on the landowner's
2 or lessee's property.

3 Section 2. That § 41-6-71 be amended to read as follows:

4 41-6-71. ~~No~~ Except as provided in section 1 of this Act, no license issued under this chapter
5 or part of a license or tag is transferable. A violation of this section is a Class 1 misdemeanor.

6 Section 3. Sections 1 and 2 of this Act are repealed on July 1, 2007.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

931J0615

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1165** -
02/02/2004

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

Introduced by: Representatives Glenski, Engels, Hunhoff, Kraus, McCoy, Schafer, Smidt, Solum, and Van Gerpen and Senators Dempster and Kleven

1 FOR AN ACT ENTITLED, An Act to amend rule-making authority and rules to allow certain
2 facilities and hospice programs to redispense certain pharmaceutical drugs under certain
3 circumstances.

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

5 Section 1. That § 36-11-11 be amended by adding thereto a NEW SUBDIVISION to read
6 as follows:

7 Redispensing of pharmaceuticals.

8 Section 2. That ARSD 20:51:15:01 be amended by adding thereto a NEW SUBDIVISION
9 to read as follows:

10 "Hospice program," a coordinated program of inpatient services providing palliative rather
11 than curative care for a patient.

12 Section 3. That ARSD 20:51:13:02.01 be amended to read as follows:

13 20:51:13:02.01. Return of unused unit dose drugs by patients in hospice programs, nursing
14 facilities, or assisted living facilities. Only unused unit dose drugs from patients in a hospice



1 program, a nursing facility, or an assisted living facility may be returned to the pharmacy that
2 dispensed the drugs for credit and redispensing if the following requirements are met:

3 (1) The facility consults with a licensed pharmacist to oversee the drug distribution to
4 ensure that a person trained and knowledgeable in the storage, use, and administration of the
5 drug has been in control of any unit dose drug being returned to the pharmacy and that the unit
6 dose drug has not come into the physical possession of the person for whom it was prescribed;

7 (2) The pharmacy's manager has received written approval from the board of a protocol
8 detailing the procedure used to repackage, label, transfer, restock, redispense, and credit any unit
9 dose drugs returned to the pharmacy;

10 (3) The drugs are provided in the manufacturer's unit dose packaging or are repackaged by
11 the pharmacy in a hermetically sealed single unit dose container that meets Class A or Class B
12 standards on pages 1937 and 1938 of the United States Pharmacopeia;

13 (4) The unit dose package is labeled by the manufacturer with the drug lot number and
14 expiration date;

15 (5) If the drug is repackaged by the pharmacy, each single unit dose prepackaged or
16 repackaged container must be labeled in accordance with this regulation. Labeling must include
17 the following:

18 (a) Name and strength of the medication;

19 (b) A suitable expiration date which shall not be later than the expiration date on the
20 manufacturer's container, or one year maximum from the date the drug is prepackaged or
21 repackaged;

22 (c) The date the product was prepackaged or repackaged;

23 (d) The manufacturer's lot number, expiration date, and identity;

24 (e) The identity of the pharmacist responsible for prepackaging or repackaging;

1 If the requirements of subdivisions (d) and (e) are maintained in the internal
2 records of the drug outlet, those requirements may be omitted from the labeling.

3 (6) The drug's packaging is tamper resistant and shows no evidence of contamination, such
4 as an opened or stained container;

5 (7) The unit dose drugs have not reached the expiration date;

6 (8) The drugs have not been dispensed in packaging that intermingles different drugs in a
7 single compartment; and

8 (9) The drugs are not controlled drugs.

9 Unused unit dose drugs that are returned under this section may be redispensed pursuant to
10 § 20:51:13:02.03.

11 Section 4. That ARSD 20:51:13:02.03 be amended to read as follows:

12 20:51:13:02.03. Redispensing unit dose drugs returned from hospice programs, nursing
13 facilities, or assisted living facilities. Unused unit dose drugs that are returned under
14 § 20:51:13:02.01 may be redispensed under the following conditions:

15 (1) Drugs may not be removed and repackaged from the returned unit dose package prior
16 to redispensing;

17 (2) Drugs in a manufacturer's unit dose package may be redispensed as often as necessary,
18 if the integrity of the original product and package is maintained;

19 (3) Drugs which have been repackaged into a unit dose package by the pharmacy may be
20 redispensed into a unit dose distribution system and mixed with drugs of a different lot number
21 provided that all lot numbers and expiration dates are placed on the unit dose package;

22 (4) Drugs may be removed from a unit dose package for dispensing in a traditional
23 dispensing system as defined in § 20:51:21:01.

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

480J0658

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1221** - 02/03/2004

Introduced by: Representative Wick and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to require certain publishers to provide electronic versions
2 of textbooks suitable for conversion into Braille.

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

4 Section 1. Upon request, a publisher of a textbook that is adopted for instructional use by
5 a school district shall furnish the South Dakota State Library with an electronic version of the
6 textbook if the textbook is for a literary subject; or, if the textbook is for a nonliterary subject,
7 such as natural sciences, computer science, mathematics, or music, an electronic version shall
8 be furnished if the technology is available to convert the textbook directly to a format
9 compatible with Braille translation software. The publisher shall provide the electronic file to
10 the requesting agency within sixty days of receiving written notice that the file is needed. The
11 cost of the electronic publisher's file may not exceed the cost of a print copy of the same title.
12 Legacy materials are exempt from the requirements of this section. For purposes of this section,
13 the term, legacy, means images and graphics requiring release and permission from another
14 source other than the publisher. The Department of Education shall oversee the process
15 established in this section to ensure that the textbooks and electronic files arrive by the start of



1 the school year.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

663J0698

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1241** - 02/03/2004

Introduced by: Representatives LaRue, Bartling, Gassman, Hanson, McLaughlin, Novstrup, O'Brien, Rhoden, Solum, and Thompson and Senators Schoenbeck, Apa, Dempster, and Kleven

1 FOR AN ACT ENTITLED, An Act to revise the qualifications for receiving a temporary on-
2 sale license for certain annual events.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any municipality hosting an annual event attended by ten thousand or more persons may
7 issue to any licensee licensed within the municipality pursuant to subdivision 35-4-2(4) a
8 temporary on-sale license to be operated, in conjunction with the annual event, on the premises
9 of a gated outdoor facility. The gated outdoor facility shall provide seating for a minimum of
10 one thousand persons and be surrounded by a fence or other structure that restricts access to the
11 facility. Before a temporary license may be issued in a municipality hosting an annual event, the
12 municipal finance officer shall estimate the previous year's attendance at the event and provide
13 the estimate to the governing body of the municipality. Any temporary license issued pursuant
14 to this section shall be issued for a period not to exceed five consecutive days and the temporary



1 license shall expire at twelve midnight on the fifth day after issuance. The licensee operating
2 the temporary license shall provide qualified security personnel to maintain order on the
3 premises of the outdoor facility. The fee for the temporary license shall be equal to or exceed
4 five hundred dollars and the fee shall be retained by the municipal governing body issuing the
5 temporary license.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

562J0646

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1288 - 02/03/2004

Introduced by: Representative Novstrup and Senator Duxbury

1 FOR AN ACT ENTITLED, An Act to provide certain safety measures and requirements for
2 entertainment facilities.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Entertainment facility," any fair, carnival, amusement park, water park, or family
6 entertainment center;

7 (2) "Family entertainment center," facility consisting of two or more of the following
8 elements: go-karts, miniature golf, batting cages, bumper boats, a climbing wall, or
9 an arcade;

10 (3) "Owner," any person who owns, leases, controls, manages, or contracts for the
11 operation of an entertainment facility, including the state or any of its subdivisions;

12 (4) "Parent," any parent, custodian, or guardian responsible for the control, safety,
13 training, or education of a minor, disabled, or incompetent person;

14 (5) "Ride," any mechanical device or devices which carry or convey passengers along,
15 around, or over a fixed or restricted route or course for the purpose of giving its



1 passengers amusement, pleasure, thrills, or excitement; and any passenger or gravity
2 propelled ride when located in an entertainment facility. However, the term does not
3 include locomotives weighing more than seven tons, operating on a track the length
4 of which is one-half mile or greater, the gauge of which is three feet or greater, and
5 the weight of which is a least sixty pounds per yard;

6 (6) "Sign," any symbol or language reasonably calculated to communicate information
7 to persons or their parents, including placards, pre-recorded messages, live public
8 addresses, stickers, pictures, pictograms, guidebooks, brochures, video, verbal
9 information, and visual signals.

10 Section 2. Any person, or the person's parent on a person's behalf, shall report in writing to
11 the owner any injury sustained at an entertainment facility before leaving the owner's premises.

12 The report shall include the following information:

- 13 (1) The name, address, and phone number of the injured person;
14 (2) A full description of the incident, the injuries claimed, any treatment received, and
15 the location, date, and time of the injury;
16 (3) The cause of the injury, if known; and
17 (4) The names, addresses, and phone numbers of any witnesses to the incident.

18 If the person, or the person's parent on a person's behalf, is unable to file a report because
19 of the severity of the injuries or because of circumstances beyond the person's control, the
20 person or the person's parent shall file the report as soon as reasonably possible.

21 The failure of any person, or the person's parent on a person's behalf, to report any injury
22 under this section has no effect on the person's right to commence a civil action.

23 Section 3. Any person at an entertainment facility shall obey the posted rules, warnings, and
24 oral instructions for any ride issued by the owner and refrain from acting in any manner that may

1 cause or contribute to injuring the person or others, including:

- 2 (1) Exceeding the limits of the person's ability;
- 3 (2) Interfering with safe operation of any ride;
- 4 (3) Failing to engage any safety devices that are provided;
- 5 (4) Disconnecting or disabling a safety device except at the express instruction of the
6 owner's agent or employee;
- 7 (5) Altering or enhancing the intended speed, course, or direction of any ride;
- 8 (6) Using the controls of any ride designed solely to be operated by the owner's agent or
9 employee;
- 10 (7) Extending arms and legs beyond the carrier or seating area except at the express
11 direction of the owner's agent or employee;
- 12 (8) Throwing, dropping, or expelling an object from or toward any ride except as
13 permitted by the owner's agent or employee;
- 14 (9) Getting on or off any ride except at the designated time and area, if any, at the
15 direction of the owner's agent or employee, or in an emergency;
- 16 (10) Failing to reasonably control the speed or direction of the person or any ride that
17 requires the person to control or direct himself or herself or a ride; and
- 18 (11) Overloading any ride beyond its designed capacity.

19 A violation of this section is a petty offense.

20 Section 4. Any person who is under the influence of alcohol or any drug that affects the
21 person's ability to safely use any ride or obey the posted rules, warnings, or oral instructions is
22 guilty of a petty offense. Any person who is under the influence of alcohol or any drug such that
23 it affects another person's ability to safely use any ride is guilty of a petty offense.

24 Section 5. The owner shall display a sign that states that "State law requires you to obey all

1 safety warnings and directions and behave in a manner that will not cause or contribute to
2 injuring yourself or others. All injuries must be reported before leaving." The owner shall
3 display the required sign at any station for reporting an injury or any first aid station. In addition,
4 the owner shall display the required sign at such locations as will reasonably alert the public and
5 give notice to the rules and warnings.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0217

SENATE ENGROSSED NO. **SB 26** - 01/27/2004

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

1 FOR AN ACT ENTITLED, An Act to provide a penalty for failure to pay a civil penalty if
2 special fuel containing dye is detected in a motor vehicle.

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

4 Section 1. That § 10-47B-185 be amended to read as follows:

5 10-47B-185. A person who operates or maintains a motor vehicle in this state with special
6 fuel that contains dye as provided under § 10-47B-20 in the engine fuel supply tank is subject
7 to a civil penalty of two hundred fifty dollars if the violation occurs in a motor vehicle which
8 is not a qualified vehicle. If the violation occurs in a qualified vehicle, the person is subject to
9 a civil penalty of five hundred dollars. The person is subject to a five hundred dollar civil
10 penalty on all subsequent violations which occur in any motor vehicle other than a qualified
11 vehicle and subject to a civil penalty of one thousand dollars on all subsequent violations which
12 occur in any qualified vehicle. If the person believes that the assessment arose from a mistake
13 of fact or error of law, the person may request a hearing in accordance with § 10-59-9. Failure
14 to pay the civil assessment within ninety days after the date of the assessment or ninety days
15 after the civil assessment becomes final pursuant to an administrative appeal, is a Class 1



1 misdemeanor. Any motor vehicle owned by the state, a county, or municipal corporation for the
2 construction, repair, and maintenance of the public highways on any public highway is not
3 subject to this section. Any intercity bus as defined by 26 U.S.C. § 6427(b) is not subject to this
4 section with regards to any dyed diesel fuel purchased in another state and imported in the
5 engine fuel supply tank of the bus. Any fuel purchased in this state for use in an intercity bus
6 shall be taxed and undyed. Any motor vehicle owned by the federal government is not subject
7 to this section.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0222

SENATE TAXATION COMMITTEE ENGROSSED NO. **SB 31** - 01/28/2004

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

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions that levy the fuel excise tax on
2 biodiesel, biodiesel blends, and ethyl alcohol.

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

4 Section 1. That § 10-47B-5 be amended to read as follows:

5 10-47B-5. A fuel excise tax is imposed on all motor fuel and special fuel that is removed
6 from a terminal in this state at the rack or used at the terminal. This tax is not imposed if the fuel
7 is withdrawn from a terminal for export by the consignee, if the consignee is specifically
8 licensed to export fuel from this state, into the state which is indicated as the destination state
9 on the bill of lading which was issued by the terminal operator for the fuel. This tax is not
10 imposed if the fuel removed is ethyl alcohol or biodiesel which has been removed by a licensed
11 blender or supplier, for resale over a terminal rack, is invoiced separately from gasoline, and is
12 not sold as an ethanol blend or biodiesel blend. The tax imposed shall be at the rate indicated
13 in § 10-47B-4.

14 Section 2. That § 10-47B-6 be amended to read as follows:

15 10-47B-6. A fuel excise tax is imposed on all motor fuel or special fuel, except unblended



1 ethyl alcohol or biodiesel, imported into this state in the bulk cargo area of any motor vehicle,
2 vessel rail car, or trailer by any means other than through a terminal located in this state, upon
3 its entry into this state. The tax imposed shall be at the rate indicated in § 10-47B-4.

4 Section 3. That § 10-47B-9 be amended to read as follows:

5 10-47B-9. A fuel excise tax is imposed on unblended ethyl alcohol or biodiesel sold by an
6 ethanol producer, supplier, importer, or blender unless the sale is made to a licensed supplier
7 for resale, to a licensed blender, or to a licensed exporter for export to another state who is
8 specifically licensed to export to that state. The tax imposed shall be at the rate set for motor
9 fuel in § 10-47B-4.

10 Section 4. That § 10-47B-10 be amended to read as follows:

11 10-47B-10. A fuel excise tax is imposed on all motor fuel or special fuel which has been
12 removed from a terminal in this state at the rack by a licensed exporter for which the bill of
13 lading issued for the fuel by the terminal operator indicates a destination state other than South
14 Dakota, and the fuel is later diverted by the exporter to a destination within this state for
15 off-loading or is transferred or sold to another person within this state prior to off-loading in any
16 destination state. This tax is not imposed if the fuel is ethyl alcohol or biodiesel, the exporter
17 is also licensed as a blender or supplier, and the product is purchased and invoiced separately
18 from gasoline and not as an ethanol blend. The tax imposed shall be at the rate set for motor fuel
19 or special fuel in § 10-47B-4.

20 Section 5. That subdivisions (1B) and (39) of § 10-47B-3 be amended and that two NEW
21 SUBDIVISIONS be added to read as follows:

22 (1B) "~~Biodiesel blend,~~" a ~~blended special fuel containing a minimum of two percent by~~
23 ~~volume of biodiesel. Biodiesel means a renewable, biodegradable, mono alkyl ester~~
24 ~~combustible liquid fuel that is derived from agricultural plant oils or animal fats and~~

1 ~~that meets American Society For Testing and Materials Specification D 6751-02 for~~
2 ~~Biodiesel Fuel (B100) Blend Stock for Distillate Fuels as in effect on December 31,~~
3 ~~2002 fuel comprised of mono-alkyl esters of long chain fatty acids derived from~~
4 ~~vegetable oils or animal fats, designated B100, and meeting the requirements of the~~
5 ~~American Society of Testing and Materials D 6751 as of January 1, 2004;~~

6 (1C) "Biodiesel blend," a blended special fuel containing a minimum of two percent by
7 volume of biodiesel;

8 (12A) "Ethyl alcohol," a fuel that has been denatured as prescribed in § 10-47B-166. This
9 definition does not apply to § 10-47B-162 or 10-47B-166;

10 (39) "Special fuel," all combustible gases and liquids that are:

11 (a) Suitable for the generation of power in an internal combustion engine or
12 motor; or

13 (b) Used exclusively for heating, industrial, or farm purposes other than for the
14 operation of a motor vehicle.

15 The term includes diesel fuel, fuel oil, heating fuel, biodiesel, all special fuel blends,
16 and all kerosene products except K-1. The term does not include motor fuel, liquid
17 petroleum gas, compressed natural gas, natural gas which is not compressed natural
18 gas, compounds or blends of fuels which are prepared and used strictly as racing
19 fuels in motor vehicles operated solely off of public highways in organized racing
20 events. The term, special use fuel, is synonymous with the term, special fuel;

21