

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0318

## HOUSE BILL NO. 1049

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the permitting and  
2 the regulation of shooting preserves and to declare an emergency.

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

4 Section 1. That § 41-10-1 be amended to read as follows:

5 41-10-1. ~~In Terms used in this chapter, unless the context otherwise requires mean:~~

6 (1) "Commission," ~~shall mean the South Dakota~~ the Game, Fish and Parks Commission,  
7 acting directly or through its duly authorized officers or agents;

8 (2) "Department," the Department of Game, Fish and Parks, acting directly or through  
9 its duly authorized officers or agents;

10 (3) "Person," ~~shall include~~ includes individuals, copartnerships, associations, and  
11 corporations;

12 ~~(3)(4)~~ "Shooting ~~preserves~~ preserve," ~~shall be an~~ any acreage either privately owned  
13 or leased on which hatchery raised game is released for the purpose of hunting,  
14 for a fee, over an extended season.

15 Section 2. That § 41-10-2 be amended to read as follows:



1 41-10-2. The ~~Game, Fish and Parks Commission~~ department may issue and renew shooting  
2 preserve operating permits for privately owned and operated shooting preserves.

3 Section 3. That § 41-10-3 be amended to read as follows:

4 41-10-3. Any person owning, holding, or controlling, by lease or otherwise, any contiguous  
5 tract of land of not more than one thousand two hundred eighty acres, who desires to establish  
6 a shooting preserve under the regulations provided in this chapter, ~~shall~~ may make application  
7 to the ~~Game, Fish and Parks Commission~~ department for a shooting preserve operating permit.  
8 ~~Said~~ The application shall be made by the applicant, ~~his agent, or his~~ or the applicant's agent or  
9 attorney, and shall be accompanied by a fee which is determined as provided by § 41-10-4.

10 Section 4. That § 41-10-4.5 be amended to read as follows:

11 41-10-4.5. Upon receipt of a written application for a new shooting preserve operating  
12 permit, the ~~commission shall schedule a public hearing on the application~~ department shall  
13 notify the public of the application by publishing notice of the time and manner in which  
14 interested persons may present written data, opinions, or arguments to the department on the  
15 application. The department shall publish the notice of the time, place, and purpose of the  
16 hearing once at least twenty days before the hearing prior to the time designated by the  
17 department in the published notice in at least three newspapers of general circulation in areas  
18 of the state likely to be affected by the proposed permit. After ~~the hearing, the commission~~ the  
19 time designated by the department in the published notice, the department may issue the permit  
20 in accordance with the requirements of § 41-10-7.

21 Section 5. That § 41-10-6 be amended to read as follows:

22 41-10-6. Upon receipt of the application for a shooting preserve operating permit, the ~~Game,~~  
23 ~~Fish and Parks Commission~~ department shall inspect the area described in ~~such~~ the application,  
24 the premises, and the facilities. The ~~commission~~ department also shall evaluate the ability of the

1 applicant to operate an area of this character.

2 Section 6. That § 41-10-7 be amended to read as follows:

3 41-10-7. If the ~~Game, Fish and Parks Commission~~ finds that department is satisfied that all  
4 of the following criteria have been established by the applicant:

5 (1) The applicant for a shooting preserve operating permit proposes to comply with all  
6 of the provisions of this chapter;

7 (2) The applicant is financially able to provide the necessary facilities and services to  
8 operate a shooting preserve;

9 (3) The preserve shall be open to the general public without restrictions as to race, color,  
10 or creed;

11 (4) The operation will not work a fraud upon persons who are permitted to hunt thereon;

12 (5) The operation is not designed to circumvent game laws and regulations;

13 (6) The issuance of the permit will be in the public interest;

14 (7) The applicant is a resident of the state;

15 (8) The applicant does not operate or own any interest in more than two shooting  
16 preserves; and

17 (9) The preserve for which an operating permit is requested is at least one mile from any  
18 game production area or other publicly owned shooting area, or if located within one  
19 mile of such areas, the preserve would not take unfair advantage of wildlife habitat  
20 developments or wildlife population existing on those areas, or would not otherwise  
21 be detrimental to the public interest;

22 the ~~commission~~ department shall approve the application and issue a shooting preserve  
23 operating permit for the operation of a shooting preserve on the property described in the  
24 application with the rights and subject to the limitations prescribed in this chapter and the

1 commission rules promulgated ~~thereunder~~ pursuant to this chapter. However, the provisions of  
2 subdivisions (7) and (9) of this section do not apply to any shooting preserve licensed pursuant  
3 to this chapter, prior to July 1, 1986.

4 Section 7. That § 41-10-14 be amended to read as follows:

5 41-10-14. Within the limits set by the ~~Game, Fish and Parks Commission~~ commission, in  
6 rules promulgated pursuant to chapter 1-26, the shooting preserve operator may establish his  
7 ~~own~~ shooting hours and limitations and restrictions on the age, sex, ~~and number, and type~~ of  
8 each game species that may be taken by each person, ~~and he~~. The operator may establish his  
9 ~~own shooting hours, bag limits, and the fees to be charged to his~~ the operator's guests.

10 Section 8. That § 41-10-16 be amended to read as follows:

11 41-10-16. Any person licensed to hunt a species as required by this chapter may harvest and  
12 legally possess pen raised or wild game shot on a shooting preserve if ~~such~~ the game is tagged  
13 as directed by the ~~Game, Fish and Parks Commission~~ commission in rules promulgated  
14 pursuant to chapter 1-26. The provisions of this section relating to issuance of tags and  
15 remittance of tag fees, shall be administered by the ~~Department of Game, Fish and Parks~~  
16 department pursuant to commission rules adopted pursuant to § 41-2-18. The cost of each ~~such~~  
17 tag to the shooting preserve operator shall be established by the commission in rules  
18 promulgated pursuant to chapter 1-26.

19 Section 9. That chapter 41-10 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 If an applicant is denied a shooting preserve operating permit by the department, the  
22 applicant may make a written request to the department for a contested case hearing before the  
23 commission pursuant to chapter 1-26. The written request shall be mailed to the department by  
24 certified mail, return receipt requested, on or before thirty days have elapsed from the date that

1 the notice of application denial has been provided to the applicant.

2 Section 10. Whereas, this Act is necessary for the support of the state government and its

3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in

4 full force and effect from and after its passage and approval.