

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0352

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1042 - 02/23/2005

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 abandoned motor
2 vehicles.

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

4 Section 1. That § 32-30-12.2 be amended to read as follows:

5 32-30-12.2. No person ~~shall intentionally~~ may abandon a motor vehicle on any public
6 highway or right-of-way. A violation of this section is a ~~Class 1~~ Class 2 misdemeanor. Any
7 person convicted of abandoning a motor vehicle shall be ordered to pay ~~a fine of five hundred~~
8 ~~dollars~~ any reasonable towing and storage fees, if the person was notified pursuant to § 32-36-8.

9 The court shall suspend the fine if the person pays for the towing and storage expenses.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

668L0454 **SENATE EDUCATION COMMITTEE ENGROSSED NO.**
HB 1093 - 02/25/2005

Introduced by: Representatives Novstrup, Elliott, Frost, Garnos, Halverson, Hennies,
Koistinen, Krebs, Murschel, Nelson, O'Brien, Rhoden, and Sigdestad and
Senators Sutton (Duane) and Hundstad

1 FOR AN ACT ENTITLED, An Act to allow certain nonpublic school students to participate in
2 interscholastic activities at other nonpublic schools.

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

4 Section 1. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any seventh or eighth grade student who attends a nonpublic elementary or middle school
7 that is not affiliated with a nonpublic high school may participate in interscholastic activities
8 at a nonpublic high school, at the discretion of the nonpublic school, if the student meets the
9 same scholastic standards required by the South Dakota High School Activities Association for
10 high school participation.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

264L0557

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1139** -

02/24/2005

Introduced by: Representatives McLaughlin, Buckingham, Cutler, Fryslie, Halverson, Hanks, Murschel, Pederson (Gordon), and Rave and Senators Sutton (Dan), Bartling, Broderick, Hundstad, Koetzle, McCracken, Moore, Peterson (Jim), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to energy conservation
2 measures.

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

4 Section 1. That § 1-33B-2 be amended to read as follows:

5 1-33B-2. For the purposes of this chapter, the term[—], energy conservation measure[—], means
6 a training program or facility alteration intended to reduce either energy consumption or
7 operating costs, or both, or increase operating revenues through the generation of energy,
8 renewable energy, or improved metering technology, including the following:

- 9 (1) Insulation of the building or any structure associated with the building;
- 10 (2) Window or door replacement, weather stripping, or modifications that reduce energy
11 consumption;
- 12 (3) Automated or computerized energy control systems;
- 13 (4) Replacement or modification to increase the energy efficiency of the lighting,



1 heating, air conditioning, or ventilating systems;

2 (5) Energy recovery or cogeneration systems;

3 (6) Repair or maintenance items, when included in energy efficiency improvements of
4 the building, if overall measures meet the ~~ten-year~~ fifteen-year payback as provided
5 in § 1-33B-7; ~~and~~

6 (7) Energy source conversions which provide either operational or energy cost savings,
7 or both; and

8 (8) Other energy or utility-related improvements in facilities, systems, or technology that
9 improve energy or metering efficiency or increase operating revenues through the
10 generation of energy, renewable energy, or improved metering technology.

11 Nothing in this section addresses the relationship between an electric utility and its customer
12 under a proposed energy exchange contract, where the customer seeks status as a qualifying
13 facility under the Public Utility Regulatory Policies Act of 1978, as defined by 18 CFR Part 292,
14 Subpart B, as it existed on January 1, 2005.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

168L0675

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1152** - 02/23/2005

Introduced by: Representatives Kroger and Rave and Senators Kooistra and Bartling

1 FOR AN ACT ENTITLED, An Act to establish an internal service fund for municipal
2 equipment purchases.

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

4 Section 1. That chapter 9-21 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The governing body of a municipality may by resolution create an internal service fund to
7 provide for the acquisition of equipment. Moneys may be budgeted and transferred to the fund
8 from any source which may lawfully be used for such purpose, including equipment usage
9 charges on any municipal department or agency. For purposes of this section, the term,
10 equipment, includes machinery, motor vehicles, and any other equipment or personal property.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

517L0577

SENATE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1202** - 02/24/2005

Introduced by: Representatives Cutler, Hennies, Hunhoff, Kraus, Murschel, Pederson (Gordon), Rounds, Sebert, Tornow, and Willadsen and Senators Napoli, Abdallah, Bartling, Bogue, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to provide for a salvage title.

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

3 Section 1. That § 32-3-26.1 be repealed.

4 ~~—32-3-26.1. Any insurance company authorized to do business in this state does not need to~~
5 ~~apply for a certificate of title as provided by § 32-3-26, if the motor vehicle, trailer, or~~
6 ~~semitrailer is acquired as the result of an insurance claim settlement and is being transferred to~~
7 ~~a licensed motor vehicle dealer. Instead, upon such a transfer of the motor vehicle, trailer, or~~
8 ~~semitrailer, the insurance company shall give the licensed motor vehicle dealer a reassignment~~
9 ~~of the title of the motor vehicle, trailer, or semitrailer.~~

10 Section 2. For purposes of this Act, the term, salvage vehicle, means any vehicle that an
11 insurer or self insurer determines a total loss due to damage caused by fire, vandalism, collision,
12 weather, submersion in water, or flood. This section does not apply to any motor vehicle more
13 than six model years old or with a gross vehicle weight rating of more than sixteen thousand
14 pounds.



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

3 If an insurer, in settlement of a total loss insurance claim, or self insurer acquires the
4 ownership of any salvage vehicle as defined in section 2 of this Act that does not have a salvage
5 vehicle title, the insurer shall within thirty days following acquisition of the certificate of title
6 of that vehicle, surrender the certificate of title for such vehicle to the department. The
7 department shall promptly issue a title indicating it is a salvage vehicle to the insurer or self
8 insurer. Once a vehicle has been branded a salvage vehicle, nothing in this section prohibits a
9 person from obtaining a rebuilt title pursuant to § 32-3-53.

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

12 If an insurer or self insurer declares a vehicle to be a total loss but does not acquire
13 ownership of the vehicle, the owner shall obtain a salvage title for the vehicle. The insurer or
14 self insurer shall, in writing, notify the owner of the obligation to obtain a salvage title before
15 the owner sells or transfers the title. If the owner sells or transfers the ownership of the vehicle
16 without first obtaining a salvage title, the owner is guilty of a Class 1 misdemeanor. This section
17 does not apply to any motor vehicle more than six model years old or with a gross vehicle
18 weight rating of more than sixteen thousand pounds.

19 Section 5. That § 32-3-51.9 be amended to read as follows:

20 32-3-51.9. For the purposes of the damage disclosure statement provided by § 32-3-51.8,
21 "~~damage~~ the term, damage, is damage to the motor vehicle caused by fire, vandalism, collision,
22 weather, submersion in water, or flood, and does not include normal wear and tear, glass
23 damage, mechanical repairs, or electrical repairs that have not been caused by fire, vandalism,
24 collision, weather, submersion in water, or flood.

1 Section 6. That § 32-3-51.5 be amended to read as follows:

2 32-3-51.5. Any motor vehicle, trailer, or semitrailer whose title has been marked by another
3 state or jurisdiction, shall receive a title, which shall contain the damage disclosure information
4 as set forth in §§ 32-3-51.7 and 32-3-51.8. However, if the title has been branded as salvage or
5 with any other similar brand by another state or jurisdiction the applicant shall receive a salvage
6 title or, at the option of the owner, a junking certificate.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

439L0743

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1222 - 02/23/2005

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

Introduced by: Representatives O'Brien, Boomgarden, Cutler, Hennies, Kraus, Murschel, and Willadsen and Senators Olson (Ed) and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish child neglect and endangerment as criminal
2 offenses and to provide penalties therefor.

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

4 Section 1. It is a Class 1 misdemeanor for any parent, guardian, or custodian to willfully
5 deprive his or her child of necessary food, clothing, medical care, shelter, or supervision if the
6 parent, guardian, or custodian is reasonably able to make the necessary provisions and the
7 deprivation harms the child's physical, mental, or emotional health.

8 Section 2. It is a Class 6 felony for any parent, guardian, or custodian to knowingly permit
9 any continuing physical or sexual abuse of his or her child.

10 Section 3. It is a Class 1 misdemeanor for any parent, guardian, or custodian to:

11 (1) Intentionally or recklessly cause or permit his or her child to be placed in a situation
12 likely to substantially harm the child's physical health or cause the child's death, other
13 than the inherent risks associated with sports, athletics, or other childhood activities;
14 or



1 (2) Knowingly cause or permit his or her child to be present where any person is
2 manufacturing, using, or distributing methamphetamines or any other unlawfully
3 manufactured controlled drug or substance.

4 Section 4. It is a defense to prosecution under this Act if, at the time of the offense, there
5 was a reasonable apprehension in the mind of the defendant that acting to stop or to prevent the
6 offense would result in substantial bodily harm to the defendant or the child in retaliation.

7 Section 5. The code counsel shall codify this Act in a newly created chapter in Title 22
8 entitled "Offenses Against the Family."

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

592L0590

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1233** - 02/23/2005

Introduced by: Representatives Hunt, Dykstra, Gillespie, Glenski, Hargens, Heineman, Howie, Jerke, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, Michels, Miles, Pederson (Gordon), Putnam, Rave, Rhoden, Schafer, Street, Tornow, Weems, Wick, and Willadsen and Senators Bartling, Abdallah, Broderick, Earley, Hanson (Gary), Kloucek, Lintz, Moore, Peterson (Jim), Schoenbeck, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to establish a task force to study abortion and to provide
2 for its composition, scope, and administration.

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

4 Section 1. There is hereby established the South Dakota Task Force to Study Abortion. The
5 task force shall consist of seventeen members. Six members shall be appointed by the Speaker
6 of the House of Representatives, and six members shall be appointed by the President Pro
7 Tempore of the Senate, and five members shall be appointed by the Governor. Not all members
8 appointed by each appointive power may belong to the same political party. If there is a vacancy
9 on the task force, the vacancy shall be filled in the same manner as the original appointment.

10 Section 2. The task force shall be under the supervision of the Executive Board of the
11 Legislative Research Council and staffed and funded as an interim legislative committee.

12 Section 3. The task force shall study the practice of abortion since its legalization, the body
13 of knowledge concerning the development and behavior of the unborn child which has



1 developed because of technological advances and medical experience since the legalization of
2 abortion, the societal, economic, and ethical impact and effects of legalized abortion, the degree
3 to which decisions to undergo abortions are voluntary and informed, the effect and health risks
4 that undergoing abortions has on the women, including the effects on the women's physical and
5 mental health, including the delayed onset of cancer, and her subsequent life and socioeconomic
6 experiences, the nature of the relationship between a pregnant woman and her unborn child,
7 whether abortion is a workable method for the pregnant woman to waive her rights to a
8 relationship with the child, whether the unborn child is capable of experiencing physical pain,
9 whether the need exists for additional protections of the rights of pregnant women
10 contemplating abortion, and whether there is any interest of the state or the mother or the child
11 which would justify changing the laws relative to abortion. The task force shall prepare a report
12 detailing its findings, which shall include any proposals for additional legislation as it may deem
13 advisable, and submit the report to the Governor and Legislature no later than December 1,
14 2005.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

552L0747

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1240** - 02/23/2005

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

Introduced by: Representatives Gillespie and Dykstra and Senator Broderick

1 FOR AN ACT ENTITLED, An Act to require that notice of certain tax equalization decisions
2 be published.

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

4 Section 1. That § 10-11-26.1 be amended to read as follows:

5 10-11-26.1. The county board of equalization shall give written notice of its decision to be
6 postmarked on or before the Friday following its adjournment to each person owning property
7 on which action was taken and to the clerk of the affected local board of equalization. In
8 addition, the county shall publish the minutes in a legal newspaper of the county in the same
9 manner as other proceedings of the board of county commissioners are published as provided
10 in § 10-11-40.

11 Section 2. That § 10-11-44 be amended to read as follows:

12 10-11-44. Any person, firm, limited liability company, corporation, taxing district,
13 governmental subdivision, or agency interested as described in § 10-11-42 may appeal from a
14 decision of the county board of equalization to the circuit court in and for such county. Such
15 appeal shall be filed within thirty days after of the published notice required by § 10-11-26.1 or



1 the written notice that has been served of the decision ~~of~~ by the county board of equalization
2 ~~and~~, whichever occurred last. The appeal shall be filed in the same manner and upon the same
3 conditions and terms as other appeals may be taken from decisions of a board of county
4 commissioners.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

742L0509

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB 1248 - 02/24/2005

Introduced by: Representatives McLaughlin, Brunner, Frost, Hanks, Hennies, Jerke, Koistinen, Rausch, and Tornow and Senators Adelstein, Bogue, Duenwald, Duniphan, Hundstad, McNenny, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money lenders.

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

3 Section 1. That § 54-4-40 be amended to read as follows:

4 54-4-40. Any person who engages in the business of lending money shall apply for a license
5 as prescribed by §§ 54-4-36 to 54-4-63, inclusive. The applicant shall apply for a license under
6 oath on forms supplied by the division. The application shall contain the name of the applicant's
7 business, proof of surety bond, address of the business, the names and addresses of the partners,
8 members, officers, directors, or trustees, and other information ~~as required by the director by~~
9 ~~rule or order~~ may consider necessary. The applicant shall pay an original license fee as set by
10 rules of the commission promulgated pursuant to chapter 1-26 not to exceed one thousand
11 dollars. If the application of an existing licensee is for an additional location, the application
12 need only include the location and identity of the location manager, plus any changes from the
13 existing license, or such other information the director may consider necessary.

14 Section 2. That § 54-4-42 be amended to read as follows:



1 54-4-42. The applicant shall submit with the application for a license a bond in an amount
2 not to exceed the total of ~~five~~ ten thousand dollars for the first license and ~~one~~ two thousand five
3 hundred dollars for each additional license. The bond shall be satisfactory to the director and
4 issued by a surety company qualified to do business as a surety in this state. The bond shall be
5 in favor of this state for the use of this state and any person who has a cause of action under
6 §§ 54-4-36 to 54-4-63, inclusive, against the licensee. The bond shall be conditioned on:

- 7 (1) The licensee's faithful performance under §§ 54-4-36 to 54-4-63, inclusive, and any
8 rules adopted pursuant to §§ 54-4-36 to 54-4-63, inclusive; and
9 (2) The payment of any amounts that are due to the state or another person during the
10 calendar year for which the bond is given.

11 The aggregate liability of a surety to all persons damaged by a licensee's violation of §§ 54-
12 4-36 to 54-4-63, inclusive, may not exceed the amount of the bond.

13 Section 3. That § 54-4-43 be amended to read as follows:

14 54-4-43. The director shall investigate the facts ~~and, after~~ concerning the application. The
15 director may review, either deny or and consider the relevant business records of the applicant
16 and the competence, experience, integrity, and financial ability of any person who is a member,
17 partner, director, officer, or twenty-five percent or more shareholder of the business. If the
18 director finds that the financial responsibility, financial condition, business experience,
19 character, and general fitness of the applicant reasonably warrant the belief that the business will
20 be conducted lawfully and fairly, the director may grant a license based on the findings.

21 Section 4. That § 54-4-45 be amended to read as follows:

22 54-4-45. ~~Any license shall be renewed~~ A license expires on July first. To renew a license,
23 the licensee shall file for renewal by June fifteenth. The renewal application shall include a
24 renewal fee not to exceed one thousand dollars, as set by rules of the commission promulgated

1 pursuant to chapter 1-26, proof of surety bond, and any other information as required by the
2 director, by rule or order. Any licensee that files for renewal after June fifteenth and before July
3 first shall pay a late fee in addition to the renewal fee. The late fee, not to exceed twenty-five
4 percent of the renewal fee, shall be established by the commission in rules promulgated pursuant
5 to chapter 1-26. After June thirtieth no license may be issued unless an application is filed
6 pursuant to § 54-4-40.

7 Section 5. That § 54-4-48 be amended to read as follows:

8 54-4-48. The director may, ~~upon ten days notice to the licensee,~~ issue a cease and desist
9 order from any practice that does not conform to the requirements set forth in §§ 54-4-36 to 54-
10 4-63, inclusive, or ~~rules any commission rule adopted by commission, order, or condition~~
11 imposed in writing, or any federal statute, rule, or regulation pertaining to consumer credit. A
12 cease and desist order may be issued to any licensee or to any person engaging in the business
13 of lending money without a license. A licensee aggrieved by such order may appeal pursuant
14 to chapters 1-26 and 1-26D.

15 Section 6. That § 54-4-49 be amended to read as follows:

16 54-4-49. The director may suspend or revoke a license for good cause pursuant to ~~chapter~~
17 chapters 1-26 and 1-26D. If the licensee is the holder of more than one license, the director may
18 suspend or revoke any or all of the licenses. For purposes of this section, good cause includes
19 any of the following:

- 20 (1) Violation of any statute, rule, order, or written condition of the commission or any
21 federal statute, rule, or regulation pertaining to consumer credit;
22 (2) Engaging in harassment or abuse, the making of false or misleading representations,
23 or engaging in unfair practices involving lending activity; or
24 (3) Performing an act of commission or omission or practice that is a breach of trust or

1 a breach of fiduciary duty.

2 Section 7. That § 54-4-50 be amended to read as follows:

3 54-4-50. An action may ~~also~~ be brought in circuit court by the attorney general or the
4 division, or both, to enjoin a licensee from engaging in or continuing a violation or from doing
5 any act in furtherance thereof. ~~In any action, an order or judgment may be entered awarding a~~
6 ~~temporary or permanent injunction.~~

7 Section 8. That § 54-4-57 be amended to read as follows:

8 54-4-57. The division ~~shall~~ may annually, or as often as the director considers necessary,
9 conduct an examination of business records and accounts of any licensee licensed under §§ 54-
10 4-36 to 54-4-63, inclusive. ~~The director may order an examination if circumstances require a~~
11 ~~special examination.~~ The director may charge back to the licensee any cost associated with an
12 on-site examination. The director may waive an on-site examination and only require an annual
13 self-examination. If a licensee conducts a self-examination, the licensee shall provide any
14 information requested under oath and on forms provided by the division by order or rule. The
15 provisions of § 51A-2-35 apply to records and examination reports required under this chapter.

16 Section 9. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 If the division requires the production of records that are located outside this state, the party
19 shall either make them available to the division at a convenient location within this state or pay
20 the reasonable and necessary expenses for the division to examine them at the place where they
21 are maintained. The director may designate representatives, including officials of the state in
22 which the records are located, to inspect them on the director's behalf.

23 Section 10. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A person licensed pursuant to this Act shall appoint a resident agent for service of process
2 and provide notice of such appointment to the director.

3 Section 11. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 A person licensed pursuant to this Act shall consent to be sued in the circuit courts of the
6 state for purposes of the director enforcing any provision of chapter 54-4 and any rules
7 promulgated pursuant to chapter 54-4. The consent to suit shall be demonstrated by the
8 execution and submission of a consent to suit form prepared by the director, with proof of
9 authority to consent and execute the form.