

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0338

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1016 - 01/24/2007

Introduced by: The Committee on Judiciary at the request of the Bureau of Administration

1 FOR AN ACT ENTITLED, An Act to exempt law enforcement and emergency vehicle
2 accidents and convictions from certain driving records.

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

4 Section 1. That § 32-12-61 be amended to read as follows:

5 32-12-61. The Department of Public Safety shall file all abstracts of court records of
6 convictions received by it under the laws of this state and all accident reports received. The
7 Department of Public Safety shall maintain records or make suitable notations on the individual
8 record of each licensee and any person domiciled in this state who is required to have a driver
9 license showing the convictions, disqualifications, and other licensing actions for violations of
10 any state or local law relating to motor vehicle traffic control committed while the licensee or
11 person was operating any type of vehicle and the traffic accidents in which the licensee or
12 person has been involved. The information shall be readily ascertainable and available for the
13 consideration of the department upon any application for renewal of a license. However, with
14 the exception of convictions resulting from operation of a commercial motor vehicle, no
15 conviction for speeding which is ten miles per hour or less over the posted speed limit and no



1 speeding conviction received from another state may be entered on the licensee's driving record,
2 but may be recorded separately. The separate record may not be made available to the public.
3 No accident may be entered on the driving record of a law enforcement officer, firefighter, or
4 emergency medical technician if such accident resulted from the law enforcement officer's,
5 firefighter's, or emergency medical technician's response to a call of duty as a law enforcement
6 officer, firefighter, or emergency medical technician and the law enforcement officer, firefighter,
7 or emergency medical technician was lawfully engaged in the performance of official duties and
8 was driving an official vehicle. Such accident shall be recorded separately. The separate record
9 is not available to the public, except pursuant to court order or subpoena.

10 Section 2. That § 32-35-101 be amended to read as follows:

11 32-35-101. The Department of Public Safety shall furnish to any person upon request a
12 certified abstract of the operating record for the last three years of any person subject to the
13 provisions of this chapter. The abstract shall include enumeration of any motor vehicle accidents
14 in which the person has been involved and reference to any convictions of the person for a
15 violation of the motor vehicle laws as reported to the department. No accident may be entered
16 on the driving record of a law enforcement officer, firefighter, or emergency medical technician
17 if such accident resulted from the law enforcement officer's, firefighter's, or emergency medical
18 technician's response to a call of duty as a law enforcement officer, firefighter, or emergency
19 medical technician and the law enforcement officer, firefighter, or emergency medical
20 technician was lawfully engaged in the performance of official duties and was driving an official
21 vehicle. Such accident shall be recorded separately. The separate record is not available to the
22 public, except pursuant to court order or subpoena. The department shall collect four dollars for
23 each abstract. The fee shall be credited to the state motor vehicle fund. Any governmental entity
24 or subdivision is exempt from this fee.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0276

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1025** -

01/25/2007

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the definition of
2 predator/varmint and predator/varmint licenses.

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

4 Section 1. That subdivision (21) of § 41-1-1 be amended to read as follows:

5 (21) "Predator/varmint," coyote, gray fox, red fox, skunk, ~~English house sparrow,~~
6 ~~European starling,~~ gopher, ground squirrel, chipmunk, jackrabbit, marmot, ~~unbanded~~
7 ~~undomesticated pigeon (rock dove),~~ porcupine, crow, and prairie dog;

8 Section 2. That § 41-6-30 be amended to read as follows:

9 41-6-30. Except as provided in this section, it is a Class 2 misdemeanor for a nonresident
10 to hunt, take, or kill ~~jackrabbits, prairie dogs, gophers, ground squirrels, chipmunks, coyotes,~~
11 ~~red fox, grey fox, skunk, crow, porcupine, English house sparrow, European starling, unbanded~~
12 ~~undomesticated pigeon (rock dove), or marmot,~~ species defined as a predator/varmint in § 41-1-
13 1 without a nonresident predator/varmint license or in violation of the conditions of the license
14 or the rules of the Game, Fish and Parks Commission.



1 A nonresident predator/varmint license, notwithstanding the provisions of § 41-6-24, allows
2 a nonresident to take or kill ~~jackrabbits, prairie dogs, gophers, ground squirrels, chipmunks,~~
3 ~~coyotes, red fox, grey fox, skunk, English house sparrow, European starling, unbanded~~
4 ~~undomesticated pigeon (rock dove), and within the lawful season, crow, porcupine, and marmot,~~
5 species defined as a predator/varmint in § 41-1-1, except by means of aerial hunting or as
6 prohibited by statute or rule.

7 However, if a nonresident possesses a nonresident small game license, a nonresident
8 waterfowl license, a nonresident big game license, a nonresident shooting preserve license while
9 on a licensed shooting preserve, or a nonresident turkey license as provided in § 41-6-17, 41-6-
10 18.1, 41-6-20, or 41-6-28, the nonresident need not acquire the nonresident predator/varmint
11 license as provided in this section to hunt the species enumerated by this section in the manner
12 and places permitted. A nonresident small game license, a nonresident waterfowl license, a
13 nonresident big game license, or a nonresident turkey license is valid for hunting those animals
14 permitted by the nonresident predator/varmint license from date of purchase until the end of the
15 license year as provided by rules promulgated by the Game, Fish and Parks Commission
16 pursuant to chapter 1-26. However, a nonresident shooting preserve license is valid for hunting
17 ~~predators and varmints~~ species defined as a predator/varmint in § 41-1-1 on a licensed shooting
18 preserve during the shooting preserve season.

19 Section 3. That § 41-6-80 be amended to read as follows:

20 41-6-80. Except as provided in this section, it is a Class 2 misdemeanor for a resident to
21 hunt, take, or kill ~~jackrabbits, prairie dogs, gophers, ground squirrels, chipmunks, coyotes, red~~
22 ~~fox, grey fox, skunk, raccoons, badgers, crow, porcupine, brown headed cow birds, English~~
23 ~~house sparrow, European starling, unbanded undomesticated pigeon (rock dove), or marmot,~~
24 or species defined as a predator/varmint in § 41-1-1 without a resident predator/varmint license

1 or in violation of the conditions of the license or the rules of the Game, Fish and Parks
2 Commission. A resident predator/varmint license allows a resident to take or kill ~~jackrabbits,~~
3 ~~prairie dogs, gophers, ground squirrels, chipmunks, coyotes, red fox, grey fox, skunk,~~ raccoons,
4 badgers, ~~brown-headed cow birds, English house sparrow, European starling, unbanded~~
5 ~~undomesticated pigeon (rock dove), and within the lawful season, crow, porcupine, and marmot~~
6 or species defined as a predator/varmint in § 41-1-1, except by means of aerial hunting or as
7 prohibited by statute or rule. A resident of this state is not required to secure a predator/varmint
8 license to hunt, take, or kill a predator/varmint on lands owned or operated by the resident.

9 However, if a resident possesses a resident small game license, a resident youth small game
10 license, a resident big game license, a license to take fur-bearing animals, or a resident turkey
11 license, the resident need not acquire the resident predator/varmint license as provided in this
12 section to hunt the species enumerated by this section in the manner and places permitted. A
13 resident small game license, a resident youth small game license, a resident big game license,
14 a license to take fur-bearing animals, or a resident turkey license is valid for hunting those
15 animals permitted by the resident predator/varmint license from date of purchase until the end
16 of the license year as provided by rules promulgated by the Game, Fish and Parks Commission
17 pursuant to chapter 1-26.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0335

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1073 - 01/24/2007

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding identification and
2 recording for products containing pseudoephedrine or ephedrine.

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

4 Section 1. That § 34-20D-8 be amended to read as follows:

5 34-20D-8. If offering for sale a product containing pseudoephedrine or ephedrine as an
6 active ingredient, a retailer shall, before making such a sale, require and make a record of the
7 identification of the person purchasing the product containing pseudoephedrine or ephedrine.
8 For purposes of this section, the term, identification, means a document issued by a
9 governmental agency which contains a description of the person or a photograph of the person,
10 or both, and gives the person's date of birth, such as a driver's license, passport, or military
11 identification card. The retailer shall maintain the record of identification, including the
12 purchaser's name and date of birth. ~~On August 1, 2006, and no later than the fifth day of every~~
13 ~~month thereafter, the retailer shall send any such records to the Office of the Attorney General,~~
14 for two years, after which the record may be destroyed. No retailer may use or maintain the
15 record for any private or commercial purpose or disclose the record to any person, except as



- 1 authorized by law. The retailer shall disclose the record, upon request, to a law enforcement
- 2 agency for a law enforcement purpose.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

717N0320

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1111** - 01/23/2007

Introduced by: Representatives Rounds, Halverson, and Hanks and Senators Gant and Bartling

1 FOR AN ACT ENTITLED, An Act to permit local government officials and employees to use
2 electronic payments and to permit the state and its political subdivisions to accept electronic
3 payments.

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

5 Section 1. That § 4-3-27 be amended to read as follows:

6 4-3-27. Notwithstanding any other provision of law, local government officials and
7 employees may be permitted to use a credit card or electronic payment for the purchase of
8 materials, supplies, equipment, or other authorized transactions for the benefit of the local
9 government entity. Before authorizing the use of a credit card or electronic payment, the
10 governing body shall, by resolution, establish policies providing for the use and accountability
11 of credit card purchases or electronic transactions. However, no governing body may mandate
12 that the recipient of the payment shall accept payment by electronic transaction.

13 Section 2. That § 4-3-28 be amended to read as follows:

14 4-3-28. Notwithstanding any other provision of law, the state and its political subdivisions
15 may accept a credit card ~~or~~, a debit card, or an electronic payment as payment for a transaction.



1 The state and its political subdivisions may assess and collect a fee in an amount sufficient to
2 cover any processing fee associated with a credit card ~~or~~, debit card, or electronic transaction.
3 The Bureau of Finance and Management shall promulgate rules pursuant to chapter 1-26
4 relating to the establishment and collection of a processing fee associated with a credit card or
5 debit card transaction. The governing body of each political subdivision may, by resolution,
6 establish and collect a processing fee associated with a credit card ~~or~~, debit card, or electronic
7 transaction.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0313

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 11** - 01/25/2007

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the licensing of
2 commercial drivers.

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

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

5 32-12A-1. Terms used in this chapter mean:

6 (1) "Alcohol," any substance containing any form of alcohol;

7 (2) "Commercial driver license," or "CDL," a license issued in accordance with the
8 requirements of this chapter to an individual that authorizes the individual to drive
9 a class of commercial motor vehicle;

10 (3) "Commercial driver license information system," or "CDLIS," the information system
11 established pursuant to the Commercial Motor Vehicle Safety Act (CMVSA) to serve
12 as a clearinghouse for locating information related to the licensing and identification
13 of commercial motor vehicle drivers;

14 (4) "Commercial driver instruction permit," a permit issued pursuant to § 32-12A-12;

15 (5) "Commercial motor vehicle," a motor vehicle designed or used to transport



- 1 passengers or property:
- 2 (a) If the vehicle has a gross combination weight rating of twenty-six thousand
3 one pounds or more and the towed unit has a gross vehicle weight rating of
4 more than ten thousand pounds;
- 5 (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or
6 more pounds;
- 7 (c) If the vehicle is designed to transport sixteen or more passengers, including the
8 driver; or
- 9 (d) If the vehicle is of any size and is used in the transportation of hazardous
10 materials and is required to be placarded in accordance with 49 C.F.R. Part
11 172, Subpart F, as amended through January 1, ~~2005~~ 2007;
- 12 (6) "Controlled substance," any substance so classified under section 102(6) of the
13 Controlled Substances Act (21 U.S.C. § 802(6)), and includes all substances listed
14 on Schedules I through V, of 21 C.F.R. Part 1308, inclusive, as amended through
15 January 1, ~~2005~~ 2007;
- 16 (7) "Conviction," an unvacated adjudication of guilt, or a determination that a person has
17 violated or failed to comply with the law in a court of original jurisdiction or an
18 authorized administrative tribunal, an unvacated forfeiture of bail or collateral
19 deposited to secure the person's appearance in court, a plea of guilty or nolo
20 contendere accepted by the court, the payment of a fine or court cost, or violation of
21 a condition of release without bail, regardless of whether or not the penalty is rebated,
22 suspended, or probated;
- 23 (8) "Department," the Department of Public Safety;
- 24 (9) "Disqualification," any of the following actions:

- 1 (a) The suspension, revocation, or cancellation of a CDL by the state or
2 jurisdiction of issuance;
- 3 (b) Any withdrawal of a person's privileges to drive a commercial motor vehicle
4 by a state or other jurisdiction as the result of a violation of state or local law
5 relating to motor vehicle traffic control (other than parking, vehicle weight, or
6 vehicle defect violations); or
- 7 (c) A determination by the Federal Motor Carrier Safety Administration that a
8 person is not qualified to operate a commercial motor vehicle;
- 9 (10) "Domicile," the state where a person has that person's true, fixed, and permanent
10 home and principal residence and to which that person has the intention of returning
11 whenever that person is absent;
- 12 (11) "Drive," to drive, operate, or be in actual physical control of a motor vehicle;
- 13 (12) "Driver," any person who drives, operates, or is in actual physical control of a
14 commercial motor vehicle, or who is required to hold a commercial driver license;
- 15 (13) "Employer," any person, including the United States, a state, or a political
16 subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a
17 person to drive a commercial motor vehicle;
- 18 (14) "Endorsement," an authorization to a person's CDL required to permit the person to
19 operate certain types of commercial motor vehicles;
- 20 (15) "Fatality," the death of a person as the result of a motor vehicle accident;
- 21 (16) "Felony," any offense under state or federal law that is punishable by death or
22 imprisonment for a term exceeding one year;
- 23 (17) "Foreign jurisdiction," any jurisdiction other than a state of the United States;
- 24 (18) "Gross combination weight rating" or "GCWR," the value specified by the

1 manufacturer as the loaded weight of a combination (articulated) vehicle. In the
2 absence of a value specified by the manufacturer, GCWR shall be determined by
3 adding the GVWR of the power unit and the total weight of the towed unit and any
4 load thereon;

5 (19) "Gross vehicle weight rating," or "GVWR," the value specified by the manufacturer
6 as the loaded weight of a single vehicle;

7 (20) "Hazardous materials," ~~the same as that found in Section 103 of the Hazardous~~
8 ~~Materials Transportation Act (49 App. U.S.C. § 1801 et seq.)~~ any material that has
9 been designated as hazardous under 49 U.S.C. 5103 as amended through January 1,
10 2007 and is required to be placarded under subpart F of 49 CFR part 172 or any
11 quantity of a material listed as a select agent or toxin in 42 CFR part 73, as amended
12 through January 1, ~~2005~~ 2007;

13 (21) "Imminent hazard," the existence of a condition that presents a substantial likelihood
14 that death, serious illness, severe personal injury, or a substantial endangerment to
15 health, property, or the environment may occur before the reasonably foreseeable
16 completion date of a formal proceeding begun to lessen the risk of that death, illness,
17 injury, or endangerment;

18 (22) "Motor vehicle," a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn
19 by mechanical power, used on highways, but does not include any vehicle, machine,
20 tractor, trailer, or semitrailer operated exclusively on a rail;

21 (23) "Noncommercial motor vehicle," a motor vehicle or combination of motor vehicles
22 not defined as a commercial motor vehicle;

23 (24) "Nonresident CDL," a commercial driver license issued by a state to a person who
24 resides in a foreign jurisdiction or a person domiciled in another state that is

1 prohibited from issuing commercial driver licenses by the Federal Motor Carrier
2 Safety Administration;

3 (25) "Notice of final administrative decision," a determination rendered by an agency of
4 competent jurisdiction when all avenues of appeal have been exhausted or time to
5 appeal has elapsed;

6 (26) "Operator's license," any license issued by a state to a person which authorizes the
7 person full privileges to drive a motor vehicle;

8 (27) "Out-of-service order," an out-of- service order as defined by 49 C.F.R. part 390.5,
9 as of January 1, ~~2005~~ 2007;

10 (28) "Recreational vehicle," a vehicle which is self-propelled or permanently towable by
11 a light duty truck and designed primarily not for use as a permanent dwelling but as
12 temporary living quarters for recreational, camping, travel, or seasonal use;

13 (29) "School bus," any motor vehicle that is used to transport sixteen or more passengers,
14 including the driver, and is used to transport pre-primary, primary, or secondary
15 school students from home to school, from school to home, or to and from school-
16 sponsored events. School bus does not include a bus used as a common carrier;

17 (30) "Serious traffic violation," a conviction of:

18 (a) Excessive speeding, involving a single charge of any speed fifteen miles per
19 hour or more, above the posted speed limit, in violation of chapter 32-25;

20 (b) Reckless driving, in violation of § 32-24-1;

21 (c) Careless driving, in violation of § 32-24-8;

22 (d) Improper or erratic traffic lane changes, in violation of § 32-26-6;

23 (e) Following the vehicle ahead too closely, in violation of § 32-26-40;

24 (f) A violation of any state or local law related to motor vehicle traffic control,

- 1 other than a parking violation, arising in connection with a fatal accident;
- 2 (g) Failure to stop or yield, in violation of §§ 32-29-2.1, 32-29-2.2, 32-29-3, and
- 3 32-29-4;
- 4 (h) Failure to stop or slow vehicle for a school bus, in violation of § 32-32-6;
- 5 (i) Eluding a police vehicle, in violation of § 32-33-18;
- 6 (j) Overtaking or passing another vehicle, in violation of §§ 32-26-26, 32-26-27,
- 7 32-26-28, 32-26-34, 32-26-35, 32-26-36, and 32-26-37;
- 8 (k) Driving a commercial motor vehicle without obtaining a commercial driver
- 9 license, in violation of § 32-12A-6;
- 10 (l) Driving a commercial motor vehicle without a commercial driver license in
- 11 the driver's possession in violation of § 32-12A-6. Any person who provides
- 12 proof to the court or to the enforcement authority that issued the citation, by
- 13 the date the person was required to appear in court or to pay a fine for the
- 14 violation, that the person held a valid commercial driver license on the date the
- 15 citation was issued, is not guilty of a serious traffic violation; or
- 16 (m) Driving a commercial motor vehicle without the proper class of commercial
- 17 driver license or endorsement, or both, for the specific vehicle group being
- 18 operated or for the passengers or type of cargo being transported in violation
- 19 of § 32-12A-6;

20 (31) "State," a state of the United States and the District of Columbia;

21 (32) "United States," the fifty states and the District of Columbia.

22 Section 2. That § 32-12A-7 be amended to read as follows:

23 32-12A-7. Each commercial motor vehicle driver shall meet the minimum standards and

24 qualifications established under this chapter and in accordance with 49 C.F.R. subpart 383.23

1 as amended through January 1, ~~2005~~ 2007. Each commercial motor vehicle driver shall obtain
2 a commercial driver license.

3 Section 3. That § 32-12A-9 be amended to read as follows:

4 32-12A-9. The following are exempt from the provisions of this chapter:

5 (1) Operators involved in farm to market transportation movements, at least sixteen years
6 of age holding a valid operator's license, limited to those operators of a farm vehicle:

7 (a) Controlled and operated by a farmer;

8 (b) Used to transport either agricultural products, farm machinery or farm supplies
9 to or from a farm; and

10 (c) Not used in the operations of a common or contract motor carrier;

11 (2) Operators of emergency fire fighting equipment necessary to the preservation of life
12 or property or the execution of emergency governmental functions performed under
13 emergency conditions that are not subject to normal traffic regulation, or
14 nonemergency conditions when operated by members of a fire fighting agency;

15 (3) Operators of ~~military~~ commercial motor vehicles for military purposes including:

16 (a) Active duty military personnel;

17 (b) Members of the military reserves;

18 (c) Members of the national guard on active duty, including personnel on full-
19 time national guard duty, personnel on part-time national guard training and
20 national guard military technicians (civilians who are required to wear military
21 uniforms); and

22 (d) Active duty U.S. Coast Guard personnel;

23 (4) Operators of recreational vehicles; and

24 (5) Operators of rental transporting equipment used as personal family use vehicles.

1 United States reserve technicians are not exempt under the provisions of subdivision (3) of
2 this section.

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

4 32-12A-11. No person may be issued a commercial driver license unless that person is a
5 resident of this state, has passed a knowledge and skills test for driving a commercial motor
6 vehicle that complies with the minimum federal standards established by federal regulation
7 enumerated in 49 C.F.R. Part 383, Subparts G and H as amended through January 1, ~~2005~~2007,
8 and has satisfied all other requirements of the CMVSA in addition to other requirements
9 imposed by state law or federal regulation. The tests shall be prescribed and conducted by the
10 department.

11 The department may authorize a person, an employer, a private driver training facility, other
12 private institution, a department, agency, or instrumentality of local government, of this state
13 or another state, to administer the skills test specified by this section, if:

14 (1) The test is the same which would otherwise be administered by the department; and

15 (2) The third party has entered into an agreement with the department that complies with
16 requirements of 49 C.F.R. Part 383.75 as amended through January 1, ~~2005~~2007.

17 Failure to comply with agreement may result in termination of the agreement.

18 The department may waive the skills test specified in this section for a commercial driver
19 license applicant who meets the requirements of 49 C.F.R. Part 383.77 as amended through
20 January 1, ~~2005~~ 2007.

21 No commercial driver license or commercial driver instruction permit may be issued to a
22 person while the person is subject to a disqualification from driving a commercial motor
23 vehicle, or while the person's operator's license or driving privilege is suspended, revoked, or
24 cancelled in any state; nor may a commercial driver license be issued to a person who has a

1 commercial driver license, noncommercial driver license, noncommercial instruction permit or
2 commercial driver instruction permit issued by any other state unless the person first surrenders
3 all such licenses or permits, which shall be destroyed by the department. The issuing jurisdiction
4 shall be notified that the licensee has applied for a commercial driver license or commercial
5 driver instruction permit in a new jurisdiction. A violation of this provision is a Class 2
6 misdemeanor.

7 Section 5. That § 32-12A-13 be amended to read as follows:

8 32-12A-13. The department may issue a nonresident CDL to:

- 9 (1) A person who is domiciled in a foreign jurisdiction whose commercial motor vehicle
10 testing and licensing standards, as determined by the administrator of the Federal
11 Motor Carrier Safety Administration, do not meet the testing standards established
12 in 49 C.F.R. Part 383 as amended through January 1, ~~2005~~ 2007;
- 13 (2) A person who is domiciled in a state whose commercial driver licensing program has
14 been decertified by the administrator of the Federal motor Carrier Safety
15 Administration.

16 The word "nonresident" shall appear on the face of the nonresident CDL. An applicant
17 shall surrender any nonresident CDL issued by another state. The holder of a nonresident CDL
18 is subject to the same disqualifications and conditions applicable to a commercial driver license
19 issued to a person domiciled in this state.

20 Section 6. That § 32-12A-14 be amended to read as follows:

21 32-12A-14. The application for a commercial driver license or commercial instruction
22 permit, shall include the following:

- 23 (1) The full legal name and current mailing and residential address of the applicant;
- 24 (2) A physical description of the applicant including sex, height, weight and eye color;

- 1 (3) Date of birth;
- 2 (4) The applicant's social security number;
- 3 (5) The applicant's signature;
- 4 (6) The applicant's color photograph;
- 5 (7) Certifications including those required by 49 C.F.R. Part 383.71(a) as amended
- 6 through January 1, ~~2005~~ 2007;
- 7 (8) A consent to release driving record information ; and
- 8 (9) The names of all states where the applicant has previously been licensed to drive any
- 9 type of motor vehicle during the ten-year period immediately preceding the date of
- 10 the application.

11 Section 7. That § 32-12A-21 be amended to read as follows:

12 32-12A-21. The holder of a valid commercial driver license may drive any vehicle in the

13 class for which that license is issued, and any lesser class of vehicle, except a motorcycle. No

14 person may drive a vehicle requiring an endorsement unless the proper corresponding

15 endorsement appears on that person's commercial driver license. A commercial driver license

16 may be issued with the following classifications:

- 17 (1) Class A Combination Vehicle. Any combination of commercial motor vehicles and
- 18 towed vehicles with a gross vehicle weight rating of twenty-six thousand one or more
- 19 pounds if the gross vehicle weight rating of the vehicles being towed are in excess
- 20 of ten thousand pounds. This class includes:
 - 21 (a) Any vehicle designed to transport sixteen or more passengers, including the
 - 22 driver; and
 - 23 (b) Any vehicle used in the transportation of hazardous materials that require the
 - 24 vehicle to be placarded under 49 C.F.R. Part 172, Subpart F, as amended

1 through January 1, ~~1993~~ 2007;

2 (2) Class B Heavy Straight Vehicle. Any single commercial motor vehicle with a gross
3 vehicle weight rating of twenty-six thousand one or more pounds or any such
4 commercial motor vehicle towing a vehicle with a gross weight rating not exceeding
5 ten thousand pounds. This class includes:

6 (a) Any vehicle designed to transport sixteen or more passengers, including the
7 driver; and

8 (b) Any vehicle used in the transportation of hazardous materials which require
9 the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F, as amended
10 through January 1, ~~1993~~ 2007;

11 (3) Class C Small Vehicle. Any single vehicle, or combination of vehicles, that meet
12 neither the definition of class A nor that of class B as contained in this section. This
13 class includes any vehicle designed to transport sixteen or more passengers, including
14 the driver, or is used in the transportation of hazardous materials which require the
15 vehicle to be placarded under 49 C.F.R. Part 172, Subpart F, as amended through
16 January 1, ~~1993~~ 2007.

17 Section 8. That § 32-12A-24 be amended to read as follows:

18 32-12A-24. No person under the age of eighteen may receive an endorsement on a
19 commercial driver license to drive a school bus. Any school bus endorsed driver operating with
20 an intrastate restriction shall meet all requirements of 49 C.F.R. Part 391 Subpart E as amended
21 through January 1, ~~2005~~ 2007, in the area of physical qualifications.

22 Section 9. That § 32-12A-41 be amended to read as follows:

23 32-12A-41. Any person is disqualified from driving a commercial motor vehicle for not less
24 than one hundred twenty days if convicted within a three-year period of three serious traffic

1 violations committed while operating a commercial motor vehicle. Any person is disqualified
2 from driving a commercial motor vehicle for a period of not less than one hundred twenty days
3 if convicted within a three-year period of three serious traffic violations committed while
4 operating a noncommercial motor vehicle and any of these convictions result in the revocation,
5 cancellation, or suspension of the CDL holder's license or noncommercial driving privileges.
6 Any disqualification period imposed under this section shall be in addition to any other previous
7 period of disqualification.

8 Section 10. That § 32-12A-48 be amended to read as follows:

9 32-12A-48. The secretary of the Department of Public Safety may promulgate rules,
10 pursuant to chapter 1-26, in the following areas:

- 11 (1) Definitions;
- 12 (2) Commercial driver license waivers;
- 13 (3) Single license requirement;
- 14 (4) Notification requirements and employer responsibilities;
- 15 (5) Federal disqualifications and penalties;
- 16 (6) Testing and licensing procedures;
- 17 (7) Vehicle groups and endorsements;
- 18 (8) Required knowledge and skills;
- 19 (9) Tests;
- 20 (10) Background check requirements;
- 21 (11) Commercial driver license document; and
- 22 (12) Other rules necessary to implement the provisions of C.F.R. 49, Chapter 3,
23 Subchapter B, parts 383, 384, 390, 391, and 392, inclusive, as amended through
24 January 1, ~~2005~~ 2007.

1 Section 11. That § 32-12A-50 be amended to read as follows:

2 32-12A-50. Notwithstanding any law to the contrary, a person may drive a commercial
3 motor vehicle in this state if the person has a valid commercial driver license or commercial
4 driver license instruction permit issued by any state or province or territory of Canada or if the
5 person has a valid licencia federal de conductor (federal license of driver) issued by Mexico in
6 accordance with the minimum federal standards for the issuance of commercial motor vehicle
7 driving licenses, if the person is not suspended, revoked, or cancelled, and if the person is not
8 disqualified from driving a commercial motor vehicle, or subject to an out-of-service order. The
9 department shall give any out-of-state conviction full faith and credit and treat it, for sanctioning
10 purposes under this chapter, as if it had occurred in this state.

11 Section 12. That § 32-12A-52 be amended to read as follows:

12 32-12A-52. Any person is disqualified from driving a commercial motor vehicle for a period
13 of ninety days if convicted of a first violation of an out-of-service order.

14 If a violation of an out-of-service order pursuant to this section occurred while transporting
15 hazardous materials required to be placarded under ~~the Hazardous Materials Transportation Act~~
16 ~~(49 U.S.C. app. 1801-1813 as of January 1, 1996)~~ 49 C.F.R. Part 172, Subpart F, as amended
17 through January 1, 2007, or while operating a motor vehicle designed to transport more than
18 sixteen passengers, including the driver, the operator is disqualified for a period of one hundred
19 eighty days.

20 Section 13. That § 32-12A-53 be amended to read as follows:

21 32-12A-53. Any person is disqualified from driving a commercial motor vehicle for a period
22 of one year if convicted of two violations of out-of-service orders in separate incidents during
23 a ten-year period.

24 If the violations of out-of-service orders pursuant to this section occurred while transporting

1 hazardous materials required to be placarded under ~~the Hazardous Materials Transportation Act~~
2 ~~(49 U.S.C. app. 1801-1813 as of January 1, 1996)~~ 49 C.F.R. Part 172, Subpart F, as amended
3 through January 1, 2007, or while operating a motor vehicle designed to transport more than
4 sixteen passengers, including the driver, the operator is disqualified for a period of three years.

5 Section 14. That § 32-12A-54 be amended to read as follows:

6 32-12A-54. Any person is disqualified from driving a commercial motor vehicle for a period
7 of three years if convicted of three or more violations of out-of-service orders in separate
8 incidents during a ten-year period.

9 If the violations of out-of-service orders pursuant to this section occurred while transporting
10 hazardous materials required to be placarded under ~~the Hazardous Materials Transportation Act~~
11 ~~(49 U.S.C. app. 1801-1813 as of January 1, 1996)~~ 49 C.F.R. Part 172, Subpart F, as amended
12 through January 1, 2007, or while operating a motor vehicle designed to transport more than
13 sixteen passengers, including the driver, the operator is disqualified for a period of five years.

14 Section 15. That § 32-12A-58 be amended to read as follows:

15 32-12A-58. The state hereby adopts Title 49 of the Code of Federal Regulations, chapter 3,
16 subpart B, parts 383 and 384, inclusive, June 17, 1994, as amended through January 1, ~~2005~~
17 2007.

18 Section 16. That § 32-12A-60 be amended to read as follows:

19 32-12A-60. Any person is disqualified from driving a commercial motor vehicle for a period
20 of one hundred twenty days if convicted during any three-year period, while driving a
21 commercial motor vehicle, of a second ~~violation~~ conviction or any combination of convictions
22 of § 32-29-4, 32-29-5, 32-29-7, 32-29-8, or 32-29-9 in separate incidents.

23 Section 17. That § 32-12A-61 be amended to read as follows:

24 32-12A-61. Any person is disqualified from driving a commercial motor vehicle for a period

1 of one year if convicted during any three-year period, while driving a commercial motor vehicle,
2 of a third or subsequent ~~violation~~ conviction or any combination of convictions of § 32-29-4,
3 32-29-5, 32-29-7, 32-29-8, or 32-29-9 in separate incidents.

4 Section 18. That § 32-12A-62 be amended to read as follows:

5 32-12A-62. Any disqualification imposed in accordance with the provisions of 49 CFR part
6 383.52 as amended through January 1, ~~2005~~ 2007, relating to notification from the Federal
7 Motor Carrier Safety Administration that the driver is disqualified from driving a commercial
8 motor vehicle and is determined to constitute an imminent hazard becomes a part of the driver's
9 record maintained by the department.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0211

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 22** - 01/12/2007

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to prohibit the filing of tariffs for certain
2 telecommunications services and to impose certain requirements regarding the availability
3 of telecommunications services information.

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

5 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Unless exempted from filing by § 49-31-5.1, a telecommunications company shall file tariffs
8 only for emerging and noncompetitive telecommunications services. No other
9 telecommunications services may be tariffed.

10 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 A telecommunications company shall make available to any person, in at least one location,
13 during regular business hours, information concerning its current rates, terms, and conditions
14 for all of its telecommunications services. The information shall be made available in an easy
15 to understand format and in a timely manner. Following an inquiry or complaint from a person



1 concerning a rate, term, or condition for a telecommunications service, a telecommunications
2 company shall specify that such information is available and the manner in which the person
3 may obtain the information. A telecommunications company shall notify a customer of any
4 materially adverse change to any rate, term, or condition of any telecommunications service
5 being provided to the customer. The notification shall be made at least thirty days in advance
6 of the change.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0382

SENATE ENGROSSED NO. **SB 58** - 01/17/2007

Introduced by: The Committee on State Affairs at the request of the Department of Tourism
and State Development

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the South Dakota
2 Energy Infrastructure Authority.

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

4 Section 1. That § 1-16I-2 be amended to read as follows:

5 1-16I-2. The South Dakota Energy Infrastructure Authority is created as a body corporate
6 and politic to diversify and expand the state's economy by developing in this state the energy
7 production facilities and the energy transmission facilities necessary to produce and transport
8 energy to markets within the state and outside of the state.

9 Section 2. That § 1-16I-5 be amended to read as follows:

10 1-16I-5. In order to finance energy transmission facilities as authorized pursuant to this
11 chapter, the authority may issue and have outstanding bonds to finance such facilities in an
12 amount not to exceed one billion dollars. However, no bonds may be issued until the issuance
13 of the bonds is specifically approved by an act of the Legislature. The authority shall have
14 contracts sufficient to justify the issuance of bonds.

15 Section 3. That § 1-16I-6 be amended to read as follows:



1 1-16I-6. The authority shall:

2 (1) Meet with any interested owner of transmission lines in South Dakota and any
3 interested generator and distributor of electricity to consumers in South Dakota by
4 August first each year to understand the generation of electricity in South Dakota and
5 the transmission enhancements needed for the transmission of electricity to, from,
6 and within South Dakota, and to analyze how the authority could proactively assist
7 in developing the generation and transmission infrastructure;

8 (2) Report its findings and make recommendations to the Governor, the Legislature, and
9 the South Dakota congressional delegation by December first of each year concerning
10 what the private sector, the state, and the federal government can do to create and
11 enhance the generation of electricity in South Dakota and the transmission of
12 electricity to, from, and within South Dakota. The report due December 1, ~~2005~~
13 2007, shall address and quantify market opportunities for the development, use in-
14 state, and export of South Dakota's enormous wind power resource, including, as
15 appropriate, the export of South Dakota's enormous wind power resource;

16 (3) Annually evaluate state laws and rules affecting electric generation and electric
17 transmission and make recommendations to the Governor and the Legislature for
18 improvements ~~by December first of each year~~;

19 (4) Annually evaluate federal laws and rules affecting electric generation and electric
20 transmission and make recommendations to the South Dakota congressional
21 delegation for improvements by December first of each year;

22 (5) Identify opportunities where owners of transmission lines in South Dakota and
23 generators and distributors of electricity to consumers in South Dakota can cooperate
24 to improve and increase electric transmission in South Dakota and communicate

1 those opportunities to owners, generators, and distributors of electricity in South
2 Dakota;

3 (6) Assist any entity that wants to build new or upgrade existing electric transmission
4 facilities to, from, and within South Dakota by helping the entity develop a business
5 plan and identify financing options; and

6 (7) Assist other state transmission authorities and any federal or regional entity wanting
7 to build new or upgrade existing transmission facilities to deliver electricity to, from,
8 and within South Dakota.

9 Section 4. That § 1-16I-9 be amended to read as follows:

10 1-16I-9. Members of the board shall receive compensation for the performance of their
11 duties as established by the Legislature in accordance with § 4-7-10.4 from the funds of the
12 authority. Members may be reimbursed at rates established by the ~~Bureau of Personnel~~ Board
13 of Finance for necessary expenses, including travel and lodging expenses, incurred in
14 connection with the performance of their duties as members.

15 Section 5. That § 1-16I-12 be amended to read as follows:

16 1-16I-12. The board shall meet on the call of the chair, upon the written request of ~~four~~ three
17 members of the board, or upon the request of the executive director.

18 Section 6. That § 1-16I-13 be amended to read as follows:

19 1-16I-13. A majority of the members of the board constitute a quorum for the transaction
20 of business. All official acts of the authority shall require the affirmative vote of at least ~~four~~
21 three members of the board at a meeting of the board at which the members casting those
22 affirmative votes are present.