



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

318P0459

## HOUSE COMMERCE ENGROSSED NO. **HB 1142** - 2/7/2008

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

Introduced by: Representatives Dreyer, Brunner, Buckingham, Dykstra, Elliott, Gilson, Halverson, Haverly, Heineman, Kirkeby, Krebs, Lust, Miles, Novstrup (Al), Novstrup (David), Olson (Betty), Olson (Russell), Pederson (Gordon), Peters, Rave, Rounds, Tidemann, Wick, and Willadsen and Senators Gant, Abdallah, Dempster, Gray, Hauge, Heidepriem, Katus, Koetzle, Maher, McCracken, Nesselhuf, Olson (Ed), Sutton, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to authorize additional off-sale retail liquor licenses in  
2 certain municipalities.

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

4 Section 1. That § 35-4-4 be amended to read as follows:

5 35-4-4. No person, corporation, or business entity may ~~be the holder of~~ hold or have an  
6 interest in more than three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13).  
7 However, a person, corporation, or business entity may hold or have an interest in three  
8 additional retail licenses issued under subdivision 35-4-2(4) if the licensee derives more than  
9 fifty percent of the licensee's annual gross receipts from the sale of food at the location where  
10 the license is held. Any person, corporation, or business entity may hold or have an interest in  
11 additional retail licenses issued under subdivision 35-4-2(3) in municipalities of the first class  
12 if the licensee derives more than fifty percent of the licensee's annual gross receipts from the



1 sale of food, prepared food, and food ingredients at the location where the license is held. Any  
2 such new licensee under subdivision 35-4-2(3) shall sell its alcoholic beverages, other than malt  
3 beverages, in an area which is separated by a physical barrier from the rest of the establishment.  
4 For the purposes of this section, a physical barrier includes a wall or fence erected for the sole  
5 purpose of separating the area in which the alcoholic beverages are sold from the rest of the  
6 establishment. For purposes of this section, location means one contiguous piece of real estate  
7 on which sales are generated by the licensee.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

268P0252

## HOUSE JUDICIARY ENGROSSED NO. **HB 1173** 2/6/2008

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

Introduced by: Representatives Gosch, Juhnke, Kirkeby, Lust, Olson (Betty), Olson (Ryan), Rhoden, and Turbiville and Senators Hansen (Tom), Abdallah, Gray, and McCracken

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the effect of  
2 suspended impositions of sentence on parole eligibility of certain offenders.

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

4 Section 1. That chapter 24-15A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 If a person receives a suspended imposition of sentence for an offense committed on or after  
7 July 1, 2008, and that offense constitutes a felony under the laws of the state, any other state,  
8 or the United States at the time of the suspension of imposition, that offense, whether or not  
9 discharge and dismissal have occurred, shall be considered a prior felony conviction for  
10 purposes of establishment of an initial parole date pursuant to this chapter. The date of the first  
11 order suspending the imposition of sentence, whether or not discharge and dismissal have  
12 occurred, shall be the date of conviction for purposes of establishment of an initial parole date  
13 pursuant to this chapter.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

415P0625

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1178** - 2/7/2008

Introduced by: Representatives Tidemann, Carson, Dennert, Glenski, Haverly, and Putnam  
and Senators Apa, Bartling, Gray, Greenfield, Hoerth, Hunhoff, Maher, and  
Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the costs related to the  
2 intensive methamphetamine treatment program in the women's state correctional system.

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

4 Section 1. There is hereby appropriated from the general fund the sum of nine hundred  
5 nineteen thousand six hundred twenty-six dollars (\$919,626), or so much thereof as may be  
6 necessary, and 6.0 FTEs to the Department of Human Services for costs related to the intensive  
7 methamphetamine treatment program in the women's state correctional system.

8 Section 2. There is hereby appropriated from the general fund the sum of six hundred ninety-  
9 four thousand seventy-eight dollars (\$694,078), or so much thereof as may be necessary, and  
10 9.0 FTEs to the Department of Corrections for costs related to the intensive methamphetamine  
11 treatment program in the women's state correctional system.

12 Section 3. There is hereby appropriated from other fund expenditure authority the sum of  
13 fifty-three thousand seven hundred thirty dollars (\$53,730), or so much thereof as may be  
14 necessary, and 1.0 FTE to the Department of Health for costs related to the intensive



1 methamphetamine treatment program in the women's state correctional system.

2 Section 4. The secretary of the Department of Human Services, the secretary of the  
3 Department of Corrections, or the secretary of the Department of Health shall approve vouchers  
4 and the state auditor shall draw warrants to pay expenditures authorized by this Act.

5 Section 5. Any amounts appropriated in this Act not lawfully expended or obligated by June  
6 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

910P0624

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1179** - 2/7/2008

Introduced by: Representatives Tidemann, Haverly, and Putnam and Senators Apa, Gray, Hoerth, Hunhoff, Maher, and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the support of the state fair.

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

3 Section 1. There is hereby appropriated from the general fund the sum of seven hundred  
4 sixty-eight thousand four dollars (\$768,004), or so much thereof as may be necessary, to the  
5 Department of Agriculture for the support of the state fair.

6 Section 2. The secretary of the Department of Agriculture shall approve vouchers and the  
7 state auditor shall draw warrants to pay expenditures authorized by this Act.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

928P0696

HOUSE STATE AFFAIRS  
ENGROSSED NO. **HB 1266** - 2/6/2008

Introduced by: Representatives Hunt, Deadrick, Lust, and Thompson and Senators Hunhoff, Hundstad, and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to require standards for the exercise of delegated legislative  
2 authority.

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

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

6 Whenever a statute delegates quasi-legislative authority to an administrative agency to carry  
7 out legislative objectives by promulgating an administrative rule pursuant to chapter 1-26, the  
8 statute shall provide an intelligible standard to guide the agency in the exercise of the delegated  
9 legislative authority. Any statute that delegates an absolute discretion to an administrative  
10 agency is considered to be an unlawful delegation of legislative authority.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

288P0724

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1267** - 2/7/2008

Introduced by: Representatives Tidemann, Boomgarden, Faehn, Pitts, Rausch, Rounds, Weems, and Wick and Senators Smidt (Orville), Hunhoff, Nesselhuf, and Sutton

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the lease, lease purchase, or  
2 financing of two airplanes for transportation at the University of South Dakota and South  
3 Dakota State University, and to declare an emergency.

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

5 Section 1. There is hereby appropriated from the state aeronautics fund the sum of two  
6 hundred fifty-nine thousand dollars (\$259,000), or so much thereof as may be necessary, to the  
7 Board of Regents for the acquisition through a ten-year lease, lease purchase, or financing of  
8 two airplanes for general transportation at the University of South Dakota and South Dakota  
9 State University.

10 Section 2. There is hereby appropriated from other funds the sum of two hundred fifty-nine  
11 thousand dollars (\$259,000), or so much thereof as may be necessary, to the Board of Regents  
12 for the purposes of section 1 of this Act.

13 Section 3. The executive director of the Board of Regents shall approve vouchers and the  
14 state auditor shall draw warrants to pay expenditures authorized by this Act.



1       Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by June  
2       30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

3       Section 5. Whereas, this Act is necessary for the support of the state government and its  
4       existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
5       full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

813P0151

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1272** - 2/6/2008

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

Introduced by: Representatives Feinstein, Ahlers, Burg, Dennert, Elliott, Engels, Gassman, Lucas, Miles, Moore, Nygaard, Sigdestad, Thompson, and Van Norman and Senators Hanson (Gary), Bartling, Heidepriem, Hoerth, Jerstad, Katus, Kloucek, Koetzle, Maher, Nesselhuf, and Two Bulls

1 FOR AN ACT ENTITLED, An Act to revise the defined sources of renewable electricity and  
2 recycled energy.

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

4 Section 1. That § 49-34A-94 be amended to read as follows:

5 49-34A-94. For the purposes of §§ 49-34A-94 to 49-34A-96, inclusive, renewable electricity  
6 and recycled energy include electricity generated from facilities using one or more of the  
7 following sources:

8 (1) Wind that uses wind as the source of energy to produce electricity;

9 (2) Solar that uses the sun as the source of energy to produce electricity;

10 (3) Hydroelectric that uses water as the source of energy to produce electricity;

11 (4) Hydrogen that is generated from one of the sources listed in this section;

12 (5) Biomass that uses agricultural crops and agricultural wastes and residues, wood and  
13 wood wastes and residues, animal and other degradable organic wastes, municipal



1            solid waste, or landfill gas as the fuel to produce electricity;

2            (6)    Geothermal that uses energy contained in heat that continuously flows outward from  
3            the earth as the source of energy to produce electricity; and

4            (7)    Recycled energy systems that produce electricity from currently unused waste heat  
5            resulting from combustion or other processes and which do not use an additional  
6            combustion process. The term does not include any system whose primary purpose  
7            is the generation of electricity.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

564P0675

## HOUSE COMMERCE ENGROSSED NO. **HB 1283** - 2/7/2008

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

Introduced by: Representatives Brunner and Peters and Senators Maher and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise on-sale alcoholic beverage licenses in  
2 municipalities.

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

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

- 6 (1) Distillers--four thousand dollars. However, no license fee is required for  
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer  
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or  
9 dispose of alcohol for any use other than an industrial use, the license fee required  
10 by this section shall be allocated to and payable for the portion of the year the  
11 manufacturer devoted to such other use for each calendar month or fraction thereof  
12 while so engaged, but in no case less than one-twelfth of said license fee;
- 13 (2) Wholesalers of alcoholic beverages--five thousand dollars;
- 14 (3) Off-sale--not less than five hundred dollars in municipalities of the first class, not



1 more than four hundred dollars in municipalities of the second class, and not more  
2 than three hundred dollars in municipalities of the third class. The renewal fee for  
3 such licenses may not exceed five hundred dollars in municipalities of the first class,  
4 four hundred dollars in municipalities of the second class, and three hundred dollars  
5 in municipalities of the third class;

6 (4) ~~On-sale--in municipalities of various classes: municipalities of the first class,;~~ not  
7 less than one dollar for each person residing within the municipality as measured by  
8 the last preceding federal census, the renewal fee for such license ~~is fifteen hundred~~  
9 ~~dollars; municipalities of the second class, no more than twelve hundred dollars;~~  
10 ~~municipalities of the third class, no more~~ may not be less than nine hundred dollars;

11 (5) Off-sale licenses issued to municipalities under local option--not less than two  
12 hundred fifty dollars;

13 (6) On-sale licenses issued outside municipalities--except as provided in § 35-4-11.9, not  
14 less than the maximum that the municipality to which the applicant is nearest is  
15 charging for a like license in that municipality, the renewal fee shall be the same as  
16 is charged for a like license in the nearest municipality. However, if the nearest  
17 municipality is more than fifteen miles from the on-sale license, the fee shall be  
18 established pursuant to § 35-4-11.10. If the municipality to which the applicant is  
19 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a  
20 specified fee, then the fee shall be the maximum amount that could be charged as if  
21 the municipality had not been authorized to obtain on-sale licenses pursuant to § 35-  
22 3-13. However, if the nearest municipality is a municipality of the first class and is  
23 authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be more  
24 than one hundred fifty percent of the minimum a municipality not so authorized may

- 1 charge for a like license. The renewal fee shall be the same as could be charged for  
2 a like license in the nearest municipality;
- 3 (7) Solicitors--twenty-five dollars;
- 4 (8) Transportation companies--twenty-five dollars;
- 5 (9) Carrier--one hundred dollars, which fee entitles the licensee to sell or serve alcoholic  
6 beverages on all conveyances the licensee operates within the state;
- 7 (10) Dispensers--ten dollars;
- 8 (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;
- 9 (12) On-sale dealers in wine for Sunday--five hundred dollars;
- 10 (13) Convention facility on-sale--not less than one dollar for each person residing within  
11 the municipality as measured by the last preceding federal census, the renewal fee for  
12 such license, in municipalities of the first class, is fifteen hundred dollars; the  
13 renewal fee for such license, in municipalities of the second class, is no more than  
14 twelve hundred dollars; the renewal fee for such license, in municipalities of the third  
15 class, is no more than nine hundred dollars;
- 16 (14) Manufacturers of malt beverages--five hundred dollars;
- 17 (15) Wholesalers of malt beverages--four hundred dollars;
- 18 (16) Malt beverage retailers, being both package dealers and on-sale dealers--two hundred  
19 fifty dollars;
- 20 (17) Malt beverage package dealers--one hundred fifty dollars;
- 21 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight  
22 for each day of the week between the hours of seven a.m. and two a.m. to nonprofit  
23 corporations established pursuant to chapter 7-27--two hundred dollars; and
- 24 (19) Off-sale package wine dealers in table wines, sparkling wines, sacramental wine, and

1           distilled spirits produced from product provided to an artisan distiller by the  
2           respective farm winery to be operated in conjunction with a farm winery established  
3           pursuant to chapter 35-2--one hundred fifty dollars.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

573P0495

## HOUSE COMMERCE ENGROSSED NO. **HB 1294** - 2/7/2008

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

Introduced by: Representatives Faehn, Brunner, Cutler, Davis, Halverson, Howie, Krebs, McLaughlin, Pitts, Rave, Street, Tidemann, Turbiville, Van Etten, Vehle, Wick, and Willadsen and Senators Turbak Berry, Garnos, Greenfield, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to authorize a class of full-service restaurant on-sale  
2 licenses to be issued by first class municipalities.

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

4 Section 1. In addition to the number of on-sale licenses that may be issued pursuant to  
5 § 35-4-11, a first class municipality may issue additional on-sale licenses for full-service  
6 restaurants. The number of full-service restaurant on-sale licenses that may be issued pursuant  
7 to this section may not exceed ten percent of the total number of on-sale licenses allowed or  
8 issued pursuant to §§ 35-4-11 and 35-4-13 or three on-sale licenses, whichever is greater.

9 Section 2. Terms used in this Act mean:

10 (1) "Bar," any permanently installed counter within the restaurant area from which  
11 alcoholic beverages are regularly served to customers by a person who is tending bar  
12 or drawing or mixing alcoholic beverages;

13 (2) "Full-service restaurant," any restaurant at which a waiter or waitress delivers food



1 and drink offered from a printed food menu to patrons at tables, booths, or the bar.  
2 Any restaurant that only serves fry orders or food and victuals such as sandwiches,  
3 hamburgers, or salads is not a full-service restaurant;

4 (3) "Restaurant," any area in a building maintained, advertised, and held out to the public  
5 as a place where individually priced meals are prepared and served primarily for  
6 consumption in such area and where seventy percent or more of the gross revenue of  
7 the restaurant is derived from the sale of prepared food and nonalcoholic beverages.  
8 The restaurant shall have a dining room or rooms, a kitchen, and the number and  
9 kinds of employees necessary for the preparing, cooking, and serving of meals.

10 Section 3. An applicant for a full-service restaurant on-sale license shall provide sufficient  
11 documentation to the municipality to prove that the primary source of revenue from the  
12 operation of the restaurant will be derived from the sale of prepared food and nonalcoholic  
13 beverages and not from the sale of alcoholic beverages. The supporting documentation  
14 concerning the primary source of revenue submitted pursuant to this section is confidential.

15 Section 4. When the municipality is renewing a full-service restaurant on-sale license, the  
16 municipality shall condition the licence renewal upon receiving documentation that seventy  
17 percent or more of gross sales from the preceding twelve months operation of the full service  
18 restaurant is derived from the sale of prepared food and nonalcoholic beverages. The full-service  
19 restaurant on-sale licensee shall submit an annual report to the municipality on the sales for the  
20 full-service restaurant that includes an oath verifying the validity of the information provided  
21 in the report. The report and the supporting documentation submitted pursuant to this section  
22 are confidential. The report shall contain the annual gross sales of the licensee for the following  
23 two categories:

24 (1) Food and nonalcoholic beverage sales; and

1 (2) Alcoholic beverage sales.

2 Section 5. A full-service restaurant on-sale licensee may only serve alcoholic beverages for  
3 on-premise consumption in the bar and dining room area of the restaurant.

4 Section 6. The provisions of § 35-4-81 apply to each full-service restaurant on-sale licensee,  
5 except, that no licensee may sell, serve, or allow to be consumed on the premises covered by  
6 the license, any alcoholic beverages between the hours of eleven p.m. and eleven a.m.

7 Section 7. A restaurant that has a full-service restaurant on-sale license may only be  
8 advertised or held out to the public as primarily a food eating establishment.

9 Section 8. No restaurant that has a full-service restaurant on-sale license may:

10 (1) Conduct video lottery pursuant to chapter 42-7A upon the location where the license  
11 is held;

12 (2) Allow smoking on the premises; or

13 (3) Transfer or sell the full-service restaurant on-sale license to another location.

14 Section 9. No premise licensed under the provisions of subdivision 35-4-2 (4), (6), (11), or  
15 (13) prior to July 1, 2008, may be licensed as a full-service restaurant on-sale license prior to  
16 July 1, 2020.

17 Section 10. The license fee for a restaurant license issued by a first class municipality with  
18 a population that is:

19 (1) Sixty thousand or more, may not be less than two hundred thousand dollars;

20 (2) Twenty thousand or more but less than sixty thousand, may not be less than one  
21 hundred thousand dollars; and

22 (3) Less than twenty thousand, may not be less than seventy-five thousand dollars.

23 Section 11. No on-sale license annexed into a municipality pursuant to § 35-4-13 may be  
24 transferred to a new location for a period of three years after the annexation.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

894P0722

## HOUSE EDUCATION ENGROSSED NO. **HB 1306** - 2/5/2008

Introduced by: Representatives DeVries, Boomgarden, Bradford, Brunner, Buckingham, Gilson, Hackl, Howie, Koistinen, Miles, Noem, Olson (Betty), Olson (Ryan), Rhoden, Steele, Turbiville, Van Norman, and Weems and Senators Duenwald, Abdallah, Apa, Garnos, Gray, Greenfield, Jerstad, McNenny, and Napoli

1 FOR AN ACT ENTITLED, An Act to allow certain students to participate in the opportunity  
2 scholarship program under certain circumstances.

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

4 Section 1. That § 13-55-31 be amended to read as follows:

5 13-55-31. In order to be eligible for a South Dakota opportunity scholarship award, a student  
6 shall:

- 7 (1) Be a resident of South Dakota at the time of graduation from high school;
- 8 (2) Have a composite score of 24, or higher, on the test administered by the American  
9 College Testing Program or a verbal-mathematics score of 1070-1100, on the  
10 Scholastic Assessment Test and the ACT or SAT test shall be taken before the  
11 student graduates from high school;
- 12 (3) Meet the high school course requirements as provided in Board of Regents Policy  
13 Number 2:3(2)(F) as in effect on January 1, 2003;



1 (4) Attend a university, college, or technical school that is accredited by the North  
2 Central Association of Colleges and Schools and that provides instruction from a  
3 campus located in South Dakota; and

4 (5) Enter into the program within five years of graduation from high school or within one  
5 year of the student's release from active duty with an active component of the armed  
6 forces if the release is within five years of the student's graduation from high school.  
7 If a student attends full-time a regionally accredited university, college, or technical  
8 school located outside South Dakota and within two years following high school  
9 graduation or within two years following release from active military service returns  
10 to the state to attend full-time a regionally accredited university, college, or technical  
11 school, the student is eligible to receive a partial award.

12 Notwithstanding requirements in subdivision 13-55-31(3), students excused from public  
13 school attendance pursuant to § 13-27-2 shall be eligible to participate in the South Dakota  
14 opportunity scholarship program by meeting the requirements in subdivisions 13-55-31(1), 13-  
15 55-31(2), 13-55-31(4), and 13-55-31(5). In addition to meeting the requirements of subdivision  
16 13-55-31(2), such students shall score at least 22 on any subtest of the test administered by the  
17 American College Testing Program in order to be eligible for the opportunity scholarship  
18 program.

19 A student is eligible to participate in the South Dakota opportunity scholarship program for  
20 the equivalent of four academic years (eight consecutive spring and fall terms) or until the  
21 attainment of a baccalaureate or technical degree, whichever comes first. However, the  
22 executive director of the Board of Regents may grant exceptions to the continuous enrollment  
23 requirements for good cause shown.

24 A student who would have been eligible for the scholarship, but who applies after

1 completing one or more semesters of full-time work at an accredited institution, may be  
2 admitted to the program only if the student has complied with the same grade point and credit  
3 hour requirements that would apply to program participants. Admission granted under these  
4 circumstances may not be retroactive, and eligibility for participation in the program shall be  
5 reduced by one semester for each semester of work completed prior to admission to the  
6 program.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

744P0709

## HOUSE TAXATION ENGROSSED NO. **HB 1307** - 2/7/2008

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

Introduced by: Representatives Wick, Faehn, Novstrup (Al), Tidemann, and Weems and  
Senator McNenny

1 FOR AN ACT ENTITLED, An Act to provide for a legislative study of the classifications of  
2 real property.

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

4 Section 1. The Executive Board of the Legislative Research Council shall appoint an interim  
5 committee to study issues related to real property classifications and the criteria used to establish  
6 such classes of property. The study shall evaluate the existing classifications of property and  
7 determine whether additional classifications of property should be created. The feasibility of  
8 establishing property classifications for cropland, noncropland (grazing), recreation, and  
9 speculation should be evaluated. The committee shall report its recommendations to the 2009  
10 Legislature.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

169P0512

HOUSE JUDICIARY ENGROSSED NO. **HB 1313** -  
2/6/2008

Introduced by: Representatives Olson (Ryan), Gilson, Gosch, Hills, Lust, and Rounds and  
Senators Albers and Abdallah

1 FOR AN ACT ENTITLED, An Act to prohibit the use of certain electronic communication  
2 devices to communicate threats and harassment and to provide a penalty therefor.

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

4 Section 1. That § 49-31-31 be amended to read as follows:

5 49-31-31. It is a Class 1 misdemeanor for a person to use a telephone or other electronic  
6 communication device for any of the following purposes:

- 7 (1) To ~~call~~ contact another person with intent to terrorize, intimidate, threaten, harass or  
8 annoy such person by using obscene or lewd language or by suggesting a lewd or  
9 lascivious act;
- 10 (2) To ~~call~~ contact another person with intent to threaten to inflict physical harm or  
11 injury to any person or property;
- 12 (3) To ~~call~~ contact another person with intent to extort money or other things of value;
- 13 (4) To ~~call~~ contact another person with intent to disturb ~~him~~ that person by repeated  
14 anonymous telephone calls or intentionally failing to replace the receiver or



1 disengage the telephone connection.

2 It is a Class 1 misdemeanor for a person to knowingly permit a telephone or other electronic  
3 communication device under his or her control to be used for a purpose prohibited by this  
4 section.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

687P0710

## HOUSE EDUCATION ENGROSSED NO. **HB 1317** - 2/5/2008

Introduced by: Representatives Novstrup (Al), Brunner, DeVries, Feinstein, Hackl, Heineman, Krebs, Miles, Novstrup (David), Peters, Thompson, Van Etten, Weems, and Wick and Senators Greenfield, Hansen (Tom), Jerstad, Maher, McCracken, McNenny, Napoli, Smidt (Orville), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to require the Department of Education to develop a pilot  
2 program which provides certain school district information on a centralized website and to  
3 provide certain reporting requirements.

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

5 Section 1. The Department of Education shall develop a pilot program which includes a  
6 searchable website that is accessible by the public at no cost. The pilot website shall contain  
7 expenditure information for three school districts to be selected by the secretary of the  
8 Department of Education. The searchable website shall be operational by November 1, 2008,  
9 and shall include individual disbursements detailing the date of the transaction, the payee, and  
10 the amount.

11 Section 2. The secretary shall submit a report to the Eighty-Fourth Legislature that estimates  
12 the cost of providing a similar searchable website that would include expenditure information  
13 for all school districts in the state.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0690

HOUSE STATE AFFAIRS  
ENGROSSED NO. **HB 1319** - 2/6/2008

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the purpose of making  
2 revolving loans to public entities for energy saving projects.

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

4 Section 1. Within the energy conservation loan special revenue fund, there shall be created  
5 the state government energy savings subfund and the community energy savings subfund. The  
6 state government energy savings subfund shall be used for the purpose of making loans to state  
7 agencies and institutions for energy saving capital improvement projects. The community energy  
8 savings subfund shall be used for the purpose of making loans to counties, municipalities, and  
9 school districts for energy saving capital improvement projects.

10 Section 2. Each loan made from the community energy savings subfund shall require a ten  
11 percent match from the loan recipient as a condition of the loan, and the payment of such  
12 interest established by Bureau of Administration pursuant to section 5 of this Act.

13 Section 3. Any repayment of a loan made and any interest on the loan shall be receipted into  
14 the energy conservation loan special revenue fund. Any money in the fund is hereby  
15 continuously appropriated for the purposes of making loans as provided in this Act. Loan



1 repayments shall be calculated based upon the savings generated by the project for the loan  
2 recipient.

3 Section 4. The Bureau of Administration may accept and expend for the purpose of this Act,  
4 in addition to the amounts deposited in the energy conservation loan special revenue fund, any  
5 funds obtained from federal sources, gifts, contributions, or any other source if the acceptance  
6 and expenditure is approved in accordance with § 4-8B-10.

7 Section 5. The Bureau of Administration shall promulgate rules pursuant to chapter 1-26  
8 concerning the following:

- 9 (1) The submission of an energy plan by a governmental entity prior to the approval of  
10 a loan. Each energy plan shall include the efforts to be made by the governmental  
11 entity to reduce or minimize energy consumption and expenditures;
- 12 (2) Eligibility criteria for a loan;
- 13 (3) Application procedures for a loan;
- 14 (4) Criteria for determining which applicants will receive a loan;
- 15 (5) The terms of repayment including interest at a rate not to exceed four percent; and
- 16 (6) Follow-up reporting to the Bureau of Administration to assure compliance with  
17 project plans.

18 Section 6. There is hereby appropriated from the general fund the sum of five million dollars  
19 (\$5,000,000), or so much thereof as may be necessary, to the state government energy savings  
20 subfund established pursuant to section 1 of this Act.

21 Section 7. There is hereby appropriated from the general fund the sum of five million dollars  
22 (\$5,000,000), or so much thereof as may be necessary, to the community energy savings subfund  
23 established pursuant to section 1 of this Act.

24 Section 8. The commissioner of the Bureau of Administration and the secretary of the

1 Department of Tourism and State Development shall approve vouchers and the state auditor  
2 shall draw warrants to pay expenditures authorized by this Act.

3 Section 9. The provisions of § 4-8-21 do not apply to the funds appropriated by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0737

HOUSE STATE AFFAIRS  
ENGROSSED NO. **HB 1320** - 2/6/2008

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to provide tax incentives for certain wind energy facilities  
2 and energy transmission equipment.

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

4 Section 1. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms as used in sections 1 to 7 of this Act, inclusive, mean:

7 (1) "Collector system," all property used or constructed to interconnect individual wind  
8 turbines within a wind farm into a common project, including step-up transformers,  
9 electrical collection equipment, collector substation transformers, and  
10 communication systems;

11 (2) "Company," any person, corporation, limited liability company, association,  
12 company, partnership, political subdivision, rural electric cooperative, or any group  
13 or combination acting as a unit;

14 (3) "Nameplate capacity," the number of kilowatts a wind farm can produce, as assigned  
15 to the power units in the wind farm by the manufacturer and determined by the



1           secretary;

2       (4)   "Wind farm," all real or personal property used or constructed for the purpose of  
3           producing electricity for commercial purposes utilizing the wind as an energy source  
4           and with a nameplate capacity of at least five thousand kilowatts. The term includes  
5           the collector system;

6       (5)   "Transmission line," an electric transmission line and associated facilities including  
7           the collector system, with a design of one hundred fifteen kilovolts or more.

8       Section 2. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
9       follows:

10       Any company owning or holding under lease, or otherwise, real or personal property used,  
11       or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,  
12       shall pay the alternative annual taxes provided in sections 3 and 4 of this Act. The alternative  
13       taxes imposed by sections 3 and 4 of this Act are in lieu of all taxes levied by the state, counties,  
14       municipalities, school districts, or other political subdivisions of the state on the personal and  
15       real property of the company which is used or intended for use as a wind farm, but are not in  
16       lieu of the retail sales and service tax imposed by chapter 10-45, the use tax imposed by chapter  
17       10-46, or any other tax.

18       Section 3. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
19       follows:

20       Any company owning or holding under lease, or otherwise, real or personal property used,  
21       or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,  
22       shall pay an annual tax equal to three dollars multiplied by the nameplate capacity of the wind  
23       farm. The tax shall be imposed beginning the first calendar year the wind farm generates gross  
24       receipts. The tax shall be paid annually to the secretary the first day of February of the following

1 year. The tax for the first calendar year shall be prorated based upon the percentage of the  
2 calendar year remaining after the company generates gross receipts. Except as otherwise  
3 provided in this Act, the provisions of chapter 10-59 apply to the administration of the tax.

4 Section 4. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any company owning or holding under lease, or otherwise, real or personal property used,  
7 or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,  
8 shall pay an annual tax of two percent of the gross receipts of the wind farm. For purposes of  
9 this section, the gross receipts of the wind farm is its production of electricity in kilowatt hours  
10 multiplied by the South Dakota electricity base rate of \$0.0475 per kilowatt hour in 2008, with  
11 the electricity base rate of \$0.0475 per kilowatt hour increasing by 2.5 percent on an annual  
12 basis thereafter, as determined by the secretary. The owner of a wind farm subject to tax under  
13 this section shall file a report with the secretary detailing the amount of electricity in  
14 kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary  
15 shall prescribe the form of the report. The tax for the gross receipts generated in a calendar year  
16 shall become due and be payable to the secretary on the first day of February of the following  
17 year. Except as otherwise provided in this Act, the provisions of chapter 10-59 apply to the  
18 administration of the tax.

19 Section 5. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The secretary shall deposit the tax imposed by sections 3 and 4 of this Act into the wind  
22 energy tax fund. There is created in the state treasury the wind energy tax fund.

23 Section 6. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1       The secretary shall distribute all of the tax deposited in the wind energy tax fund pursuant  
2 to section 3 of this Act and twenty percent of the tax deposited in the wind energy tax fund  
3 pursuant to section 4 of this Act to the county treasurer where the wind farm is located. If the  
4 wind energy tax fund contains less than twenty percent of the gross receipts tax from section 4  
5 of this Act, due to the transmission line rebate under section 7 of this Act, the secretary shall  
6 distribute the remainder of funds after the rebate to the county treasurer where the wind farm  
7 is located. If a wind farm is located in more than one county, each county shall receive the same  
8 percentage of the tax as the percentage of wind towers in the wind farm located in the county.  
9 Upon receipt of the taxes, the county auditor shall apportion the tax among all taxing  
10 jurisdictions where a wind tower is located. The tax shall be apportioned in the same manner  
11 as agricultural real property taxes would have been apportioned between the taxing jurisdictions.  
12 The secretary shall distribute the money to the counties on or before the first day of May.

13       Section 7. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15       Any company requiring transmission lines wind farm collector systems or both in South  
16 Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is eligible for  
17 a partial rebate of the tax paid under section 4 of this Act. The company shall apply for the  
18 rebate on forms prescribed by the secretary. The total amount of tax rebated shall be no more  
19 than fifty percent of the cost of the transmission lines and wind farm collector systems in South  
20 Dakota.

21       The maximum rebate any company may receive in one year is ninety percent of the tax paid  
22 under section 4 of this Act for the first five years and fifty percent of the tax paid under section  
23 4 of this Act for the next five years. The secretary shall determine when the wind farm is  
24 commercially operational. No wind farm may receive a rebate under this section after this ten

1 year period.

2 The secretary shall rebate the tax from the wind energy tax fund by the first day of June. The  
3 secretary may provide a tax credit, in lieu of full payment of the gross receipts tax, of up to  
4 eighty percent of the transmission rebate value that has been approved by the secretary. Any  
5 revenue in the wind energy tax fund after the rebates are paid shall be deposited in the property  
6 tax reduction fund.

7 Section 8. That § 10-4-36 be amended to read as follows:

8 10-4-36. ~~At~~ For wind energy properties with less than five thousand kilowatts of nameplate  
9 capacity, all real property used or constructed for the purpose of producing electricity for  
10 commercial purposes that utilizes the wind as an energy source is classified for tax purposes as  
11 wind energy property and shall be assessed and taxed in the same manner as other real property  
12 and shall be locally assessed by the county director of equalization pursuant to § 10-3-16. For  
13 the purposes of §§ 10-4-36 to 10-4-38, inclusive, real property includes the base, foundation,  
14 tower, and substations. Real property does not include the wind turbine or blades attached  
15 thereto.

16 Section 9. That § 10-4-37 be amended to read as follows:

17 10-4-37. Any wind energy property of a commercial wind power production facility with  
18 less than five thousand kilowatts of nameplate capacity shall be assessed under the provisions  
19 of this chapter.

20 Section 10. That chapter 10-46C be amended by adding thereto a NEW SECTION to read  
21 as follows:

22 Any project receiving a permit for the payment of the tax pursuant to chapter 10-46C is not  
23 eligible for the refund provided in chapter 10-45B.

24 Section 11. That chapter 10-45B be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Any project receiving a permit for the refund of the tax pursuant to chapter 10-45B is not  
3 eligible for the permit provided in chapter 10-46C.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0149

## SENATE ENGROSSED NO. **SB 2** - 1/16/2008

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

1 FOR AN ACT ENTITLED, An Act to prohibit public access to birth dates of voters contained  
2 in the master voter registration file.

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

4 Section 1. That § 12-4-9 be amended to read as follows:

5 12-4-9. The county auditor shall maintain and safeguard a file of voters in computer format  
6 that contains each person registered in each voting precinct within the county. This file shall be  
7 known as the master registration file and shall be, at all times during office hours, open to public  
8 inspection. However, public access to social security numbers and driver license numbers  
9 contained in the master registration file shall be ~~restricted~~ prohibited. Public access to each  
10 voter's day and month of birth shall be restricted. Public access to the voter's year of birth is not  
11 restricted. The master registration file shall contain all information from each voter's registration  
12 card except the description of the location of the voter's residence. The master registration file  
13 shall also include the date of the last election the voter has voted in and when the voter's  
14 information was last updated. The master registration file may also contain additional voter  
15 history information.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0143

## SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 3** - 1/14/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain procedures concerning elections for special  
2 districts and to declare an emergency.

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

4 Section 1. That § 6-16-4 be amended to read as follows:

5 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least  
6 once each week for two consecutive weeks, the last publication to be not less than ~~twenty-five~~  
7 twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of  
8 election at least once each week for two consecutive weeks, the last publication to be not less  
9 than four nor more than ten days before the election in at least one legal newspaper of general  
10 circulation in the proposed district.

11 Section 2. That § 6-16-5 be amended to read as follows:

12 6-16-5. ~~The~~ If the proposed district contains less than one thousand eligible voters as defined  
13 in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within  
14 the district to conduct an election on the question of formation of the special district. The date



1 may not be more than sixty days after the appropriate board declares that the application for  
2 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall  
3 serve as the superintendent, to conduct the election. The vote upon the question of incorporation  
4 shall be by ballot which conforms to a ballot for a statewide question except that the statement  
5 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast  
6 and counted, the judges shall prepare a certification showing the whole number of ballots cast,  
7 together with the number voting for and the number voting against incorporation, and shall  
8 return the certification to the county auditor. If a majority of the votes cast on the question of  
9 formation is in favor, an election shall be conducted by those present at the same meeting to  
10 elect the initial board of directors or trustees.

11 Section 3. That § 6-16-8 be amended to read as follows:

12 6-16-8. The State Board of Elections may promulgate rules pursuant to chapter 1-26  
13 concerning:

- 14 (1) The petition form; ~~and~~ for the formation of a special district;  
15 (2) The notice of election; and  
16 (3) The nominating petition.

17 The petition form and notice of election shall include a description of the proposed district  
18 boundaries.

19 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6,  
22 the county auditor shall set a date for an election to be held within the district on the question  
23 of formation of the special district. The date may not be more than sixty days after the  
24 appropriate board declares that the application for incorporation is valid. The election shall be

1 conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot  
2 which conforms to a ballot for a statewide question except that the statement required to be  
3 printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed  
4 by the county commission.

5 Section 5. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 If a majority of the votes cast in an election conducted pursuant to section 4 of this Act is  
8 in favor on the question of formation of the special district, an election shall be conducted by  
9 the county auditor within sixty days after the official canvass to elect the initial board of  
10 directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor  
11 shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of  
12 nominating petitions may begin upon completion of the official canvass of the election to form  
13 the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least  
14 thirty days before the election. The nominating petitions shall contain signatures of at least  
15 twenty-five registered voters in the district. Absentee ballots shall be made available to the  
16 voters no later than twenty days before the date of election. The election shall be canvassed by  
17 the county commission.

18 Section 6. Whereas, this Act is necessary for the support of the state government and its  
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
20 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

544P0250

SENATE TRANSPORTATION ENGROSSED NO. **SB**

**63** - 1/17/2008

Introduced by: Senators McCracken, Abdallah, Albers, Garnos, Hauge, Knudson, Maher, Napoli, Olson (Ed), Peterson (Jim), and Turbak Berry and Representatives Vehle, Gillespie, Gosch, Halverson, Hargens, Krebs, and Lust

1 FOR AN ACT ENTITLED, An Act to require local law enforcement officers to provide certain  
2 information to repossession businesses under certain circumstances.

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

4 Section 1. Any person in the business of repossessing motor vehicles may request any local  
5 law enforcement officer to provide the license plate number and color of a motor vehicle  
6 licensed in South Dakota. If a person in the business of repossessing motor vehicles provides  
7 a copy of the contract for the repossession of the motor vehicle to a local law enforcement  
8 officer, the officer shall provide the license plate number and color of the motor vehicle to the  
9 person. Any law enforcement officer, who in good faith releases information pursuant to this  
10 section, is immune from civil liability for such release.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

644P0188

SENATE TRANSPORTATION ENGROSSED NO. **SB**

**64** - 1/22/2008

Introduced by: Senators Napoli, Bartling, Duenwald, Heidepriem, Maher, McCracken, McNenny, Olson (Ed), Peterson (Jim), Schmidt (Dennis), and Sutton and Representatives Peters, Brunner, Hackl, Kirkeby, Lust, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding the regulation of  
2 recreational park trailers.

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

4 Section 1. That subdivision (2) of § 10-45D-1 be amended to read as follows:

5 (2) "Campground," any property or premise kept, used, maintained, advertised, or held  
6 out to the public to be a place where sites are available for placing of tents, campers,  
7 trailers, recreational park trailers, mobile homes, or other mobile accommodations  
8 to transient guests. Campgrounds include city, county, and state-owned  
9 campgrounds, as well as concessionaires or contractors who manage or operate  
10 publicly owned campgrounds. The following constitute campgrounds: campgrounds,  
11 camping cabins, camping resorts, commercial picnic grounds, organizational camps,  
12 park units, recreational vehicle parks, trailer parks, and youth camps;

13 Section 2. That § 32-3-1 be amended to read as follows:



1 32-3-1. Terms used in chapters 32-3 to 32-5B, inclusive, mean:

2 (1) "Commercial motor vehicle," any motor vehicle used or maintained for the  
3 transportation of persons or property for hire, compensation, or profit, or designed,  
4 used, or maintained primarily for the transportation of property, and not specifically  
5 excluded under § 32-9-3;

6 (2) "Component part," any part of a motor vehicle, trailer, or semitrailer other than a tire,  
7 having a vehicle identification number;

8 (3) "Dealer," any person who, for commission or with intent to make a profit or gain,  
9 sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale  
10 or exchange of new, or new and used vehicles, or who is engaged wholly or in part  
11 in the business of selling new, or new and used vehicles, whether or not such vehicles  
12 are owned by that person;

13 (4) "Department," Department of Revenue and Regulation;

14 (4A) "Gross vehicle weight rating," the value specified by the manufacturer as the loaded  
15 weight of a single vehicle;

16 (5) "Junking certificate," a certificate of ownership, which may not be restored to a title  
17 document which allows highway use, issued by the department to the owner of a  
18 vehicle which is going to be dismantled and sold for parts;

19 (6) "Manufactured home," a structure, transportable in one or more sections, which is  
20 eight body feet or more in width or forty body feet or more in length in the traveling  
21 mode, or is three hundred twenty or more square feet when erected on a site; which  
22 is built on a permanent chassis and designed to be used as a dwelling, with or without  
23 a permanent foundation, when connected to the required utilities; and which contains  
24 the plumbing, heating, air conditioning, and electrical systems therein. The term

1 includes any structure which meets all the requirements of this subdivision and any  
2 other structure which has been certified by the secretary of housing and urban  
3 development. The term does not include a recreational park trailer;

4 (7) "Manufacturer," any person, firm, corporation, limited liability company, or  
5 association engaged in the manufacture of new motor vehicles as a regular business;

6 (8) "Mobile home," a movable or portable unit, designed and constructed to be towed on  
7 its own chassis (comprised of frame and wheels) , and designed to be connected to  
8 utilities for year-round occupancy. The term includes:

9 (a) Units containing parts that may be folded, collapsed, or telescoped when being  
10 towed and that may be expanded to provide additional cubic capacity; and

11 (b) Units composed of two or more separately towable components designed to  
12 be joined into one integral unit capable of being separated again into the  
13 components for repeated towing.

14 The term does not include a recreational park trailer;

15 (9) "Moped," a motor driven cycle equipped with two or three wheels. If a combustion  
16 engine is used, the maximum piston or rotor displacement shall be fifty cubic  
17 centimeters regardless of the number of chambers in such power source. The power  
18 source shall be equipped with a power drive system that functions directly or  
19 automatically only, not requiring clutching or shifting by the operator after the drive  
20 system is engaged;

21 (10) "Motorcycle," includes motorcycles, motorbikes, mopeds, bicycles with motor  
22 attached, and all motor operated vehicles of the bicycle or tricycle type, whether the  
23 motive power be a part thereof or attached thereto, and having a saddle or seat with  
24 the driver sitting astride or upon it, or a platform on which the driver stands, but

- 1           excluding a tractor;
- 2       (11) "Motor vehicle," automobiles, motor trucks, motorcycles, house trailers, trailers, and
- 3           all vehicles propelled by power other than muscular power, except traction engines,
- 4           road rollers, farm wagons, freight trailers, vehicles that run only on rails or tracks,
- 5           and off-road vehicles as defined in § 32-20-1;
- 6       (12) "New motor vehicle," any motor vehicle to which a manufacturer's statement of
- 7           origin has not been transferred, or is a motor vehicle on which title was issued from
- 8           the manufacturer's statement of origin or manufacturer's certificate of origin and is
- 9           still in the name of the first person who took title to the vehicle;
- 10      (13) "Noncommercial motor vehicle," any motor vehicle not classified as a commercial
- 11           motor vehicle;
- 12      (14) "Noncommercial trailer or semitrailer," any trailer or semitrailer not used or
- 13           maintained for the transportation of persons or property for hire, compensation, or
- 14           profit;
- 15      (14A) "Notation," a physical or electronic process of recording a lien on a certificate of title,
- 16           a manufacturer's statement of origin, or a manufacturer's certificate of origin;
- 17      (15) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
- 18           primarily to be operated on land other than a highway and includes, ~~but is not limited~~
- 19           ~~to,~~ all terrain vehicles, dune buggies, and any vehicle whose manufacturer's statement
- 20           of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle
- 21           is not for highway use. ~~Off-road vehicle~~ The term does not include a farm vehicle as
- 22           defined in this section;
- 23      (16) "Owner," any person, firm, association, or corporation renting a motor vehicle or
- 24           having the exclusive use thereof, under a lease or otherwise, for a period greater than

1 thirty days; as between contract vendor and contract vendee, the term "owner" shall  
2 refer to the contract vendee, unless the contrary clearly appears from the context of  
3 chapters 32-3 to 32-5B, inclusive, or a person having legal possession or title;

4 (17) "Rebuilt vehicle," any motor vehicle, trailer, or semitrailer that has been rebuilt by  
5 the addition or deletion of assemblies, subassemblies, parts, or component parts so  
6 that upon gross visual examination it does not appear to be the vehicle described in  
7 the certificate of title last issued for the vehicle, or whose title has been marked as  
8 "rebuilt" by this state or another state or jurisdiction;

9 (17A) "Recreational park trailer," a vehicle that is primarily designed to provide temporary  
10 living quarters for recreational, camping, or seasonal use and which:

11 (a) Is built on a single chassis mounted on wheels;

12 (b) Has a gross trailer area not exceeding four hundred square feet in the setup  
13 mode;

14 (c) Is certified by the manufacturer as complying with American National  
15 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and

16 (d) Has at least a seventeen digit identification number and the manufacturer has  
17 designated the vehicle as a recreational park model on the manufacturer  
18 statement of origin;

19 (18) "Recreational vehicle," a vehicular portable structure built on a chassis designed to  
20 be used as a temporary dwelling for travel, recreational, ~~and~~ vacation, or seasonal  
21 uses, permanently identified as "a travel trailer" or a recreational park trailer by the  
22 manufacturer of the trailer;

23 (19) "Road tractor," any motor vehicle designed and used for drawing other vehicles,  
24 except farm or logging tractors used exclusively for farming or logging, and not so

1 constructed as to carry any load thereon either independently or any part of the  
2 weight of a vehicle or load so drawn;

3 (20) "Secretary," secretary of revenue and regulation;

4 (21) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,  
5 designed and used in conjunction with a fifth wheel connecting device on a motor  
6 vehicle constructed so that some part of its weight and that of its load rests upon or  
7 is carried by another vehicle;

8 (22) "State," includes the territories and the federal districts of the United States;

9 (23) "Trailer," any vehicle without motive power designed for carrying property or  
10 passengers wholly on its own structure and for being drawn by a motor vehicle;

11 (24) "Truck tractor," any motor vehicle designed and used primarily for drawing other  
12 vehicles and not so constructed as to carry a load other than a part of the weight of  
13 the vehicle and load so drawn;

14 (25) "Used vehicle," any motor vehicle to which title has been issued to someone other  
15 than the first person who took title to the motor vehicle from the manufacturer's  
16 statement of origin or manufacturer's certificate of origin; and

17 (26) "Vehicle identification number," the number assigned by the manufacturer or by the  
18 department for the purpose of identifying the vehicle. The term includes any number  
19 or letters assigned by the manufacturer for the purpose of identifying a component  
20 part and any such number stamped on a vehicle or part according to law or the rules  
21 promulgated by the department for the purpose of identifying the vehicle or part.

22 Section 3. That § 32-6B-1 be amended by adding thereto a NEW SUBDIVISION to read as  
23 follows:

24 "Recreational park trailer," a vehicle that is primarily designed to provide temporary

1 living quarters for recreational, camping, or seasonal use and which:

- 2 (a) Is built on a single chassis mounted on wheels;
- 3 (b) Has a gross trailer area not exceeding four hundred square feet in the setup  
4 mode;
- 5 (c) Is certified by the manufacturer as complying with American National  
6 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and
- 7 (d) Has at least a seventeen digit identification number and the manufacturer has  
8 designated the vehicle as a recreational park model on the manufacturer  
9 statement of origin.

10 Section 4. That § 32-6B-12 be amended to read as follows:

11 32-6B-12. Any dealer's license issued under this chapter shall be of the following classes:

- 12 (1) "Vehicle dealer's license," to permit the licensee to engage in the business of selling  
13 or exchanging new, or new and used, vehicles;
- 14 (2) "Used vehicle dealer's license," to permit the licensee to engage in the business of  
15 selling or exchanging used vehicles only;
- 16 (3) "Motorcycle dealer's license," to permit the licensee to engage in the business of  
17 selling or exchanging new or used motorcycles only;
- 18 (4) "Trailer dealer's license," to permit the licensee to engage in the business of selling  
19 or exchanging trailers, semitrailers, recreational park trailers, or travel trailers only,  
20 new or used; or
- 21 (5) "Emergency vehicle dealer's license," to permit the licensee to engage in the business  
22 of selling or exchanging new or used authorized emergency vehicles.

23 A license certificate identifying the class of dealership and containing a distinguishing  
24 identification number of licensee shall be issued by the department if the application is in

1 compliance with the provisions of this chapter.

2 Section 5. That subdivision (1) of § 34-18-1 be amended to read as follows:

3 34-18-1. Terms used in this chapter mean:

4 (1) Campground, a plot of ground for public use upon which two or more campsites are  
5 located, established, maintained, advertised, or held out to the public to be a place  
6 where camping units can be located and occupied as temporary living quarters for  
7 children or adults, or both. Camping units are considered to be trailers, tent campers,  
8 campers, tents, recreational park trailers, or other equipment that may be used by the  
9 ~~traveling~~ public at individual campsites located at campgrounds or areas used by the  
10 public as campgrounds;

11

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

833P0414

## HOUSE TRANSPORTATION ENGROSSED NO. **SB 87** - 2/5/2008

Introduced by: Senators Gant, Garnos, and Peterson (Jim) and Representatives Steele, Juhnke, and Weems

1 FOR AN ACT ENTITLED, An Act to reduce the period of effectiveness for cease and desist  
2 orders issued to certain dealers.

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

4 Section 1. That § 32-6B-41.1 be amended to read as follows:

5 32-6B-41.1. In addition to any other remedy provided by law, the secretary of revenue and  
6 regulation may issue an order directing a vehicle dealer to cease and desist from engaging in any  
7 act or practice enumerated in § 32-6B-41. A cease and desist order issued pursuant to this  
8 section ~~shall be~~ is effective for a period of ~~five~~ two years.

9 Section 2. That § 32-6C-14.1 be amended to read as follows:

10 32-6C-14.1. In addition to any other remedy provided by law, the secretary of revenue and  
11 regulation may issue an order directing a snowmobile dealer to cease and desist from engaging  
12 in any act or practice enumerated in § 32-6C-14. A cease and desist order issued pursuant to this  
13 section is effective for a period of ~~five~~ two years.

14 Section 3. That § 32-7A-4.3 be amended to read as follows:



1        32-7A-4.3. In addition to any other remedy provided by law, the secretary of revenue and  
2 regulation may issue an order directing a dealer to cease and desist from engaging in any act or  
3 practice enumerated in § 32-7A-4.2. A cease and desist order issued pursuant to this section is  
4 effective for a period of ~~five~~ two years.

5        Section 4. That § 32-7B-17.1 be amended to read as follows:

6        32-7B-17.1. In addition to any other remedy provided by law, the secretary of revenue and  
7 regulation may issue an order directing a boat dealer to cease and desist from engaging in any  
8 act or practice enumerated in § 32-7B-17. A cease and desist order issued pursuant to this  
9 section is effective for a period of ~~five~~ two years.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

708P0550

## SENATE TRANSPORTATION ENGROSSED NO. **SB** **139** - 1/22/2008

Introduced by: Senators Turbak Berry, Albers, Hoerth, Koetzle, and Lintz and  
Representatives Faehn, Koistinen, and Rave

1 FOR AN ACT ENTITLED, An Act to revise the definition for authorized emergency vehicles.

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

3 Section 1. That subdivision (2) of § 32-14-1 be amended to read as follows:

4 (2) "Authorized emergency vehicle," a vehicle of a fire department, a police vehicle, ~~and~~  
5 an ambulance ~~and~~ or emergency vehicle of a municipal department or public service  
6 corporation that is designated or authorized by the department, and an emergency  
7 vehicle titled to a local organization for emergency management created pursuant to  
8 chapter 33-15;

9



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

635P0615

## HOUSE TRANSPORTATION ENGROSSED NO. **SB 156** - 2/5/2008

Introduced by: Senators Apa, Abdallah, Hunhoff, Koetzle, Maher, and Napoli and  
Representatives Pederson (Gordon), Dennert, Moore, and Turbiville

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding special motor vehicle  
2 license plates for veterans with a disability, prisoners of war, Pearl Harbor survivors, and  
3 Purple Heart recipients.

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

5 Section 1. That § 32-5-108 be amended to read as follows:

6 32-5-108. Any resident veteran owner of a motor vehicle who has received the United States  
7 Veterans' Administration K Award, meets the qualifications established by Public Law 187 of  
8 the Eighty-second Congress for a veteran to receive an automobile, or a veteran who has been  
9 rated as in receipt of a statutory benefit for loss or loss of use of one or more extremities, or a  
10 veteran who receives a veteran's allotment for total disability under compensation which is  
11 considered a service-connected injury, upon application to the department shall receive a ~~set~~  
12 maximum of two sets of special license plates for any automobile, pickup truck, or van licensed  
13 pursuant to § 32-5-5 or a motorcycle licensed pursuant to § 32-5-9. The veteran may choose to  
14 use one of the two sets of plates on a noncommercial motor vehicle that is a pickup truck and



1 that weighs more than six thousand pounds licensed pursuant to § 32-5-6.3 or a motor home  
2 licensed pursuant to § 32-5-6.1. The veteran shall pay the regular license fees set out in §§ 32-5-  
3 6.3 and 32-5-6.1 and may not be required to pay the ten dollars for the special plates and  
4 renewal stickers. The special plates shall be displayed as set forth in § 32-5-98. The design of  
5 the license plate shall consist of a white background bordered on the left by a blue field with  
6 white stars and on the right by alternating red and white stripes. The words "Disabled Veteran"  
7 shall be inscribed on the plate in blue, in at least ten point bold type. The license plate shall be  
8 reflectorized and validated each year with a sticker in the same manner as a noncommercial  
9 license plate. License fees for the special plates shall be ten dollars for the plates and the  
10 renewal stickers. No license fee or sticker fee pursuant to § 32-5-6 or 32-5-9 may be charged  
11 to the veteran. The fees shall be deposited in the license plate special revenue fund.

12 In order to qualify for a special license plate pursuant to this section, a veteran shall, in  
13 addition to meeting the qualifications established in the first paragraph, have incurred disabling  
14 injuries while serving the United States in active duty during a time of war or while participating  
15 in a military mission involving armed conflict. If it is determined that the veteran owner does  
16 not qualify for the special plates or if the veteran owner dies, the plates shall be surrendered to  
17 the county treasurer of applicant's residence. The treasurer shall notify the secretary who shall  
18 make the necessary changes in the registration file. Failure to surrender the special license plates  
19 as required by this section is a Class 2 misdemeanor.

20 Section 2. That § 32-5-109 be amended to read as follows:

21 32-5-109. Any resident of this state who was a prisoner of war while serving in the United  
22 States armed forces and who received an honorable discharge from the United States armed  
23 forces is eligible to apply to the secretary for a maximum of two sets special motor vehicle  
24 license plates if the resident has first complied with all laws of this state for any automobile,

1 pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle licensed pursuant to § 32-5-9.  
2 The veteran may choose to use one of the two sets of plates on a noncommercial motor vehicle  
3 that is a pickup truck and that weighs more than six thousand pounds licensed pursuant to § 32-  
4 5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The veteran shall pay the regular license  
5 fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be required to pay the ten dollars for the  
6 special plates and renewal stickers. Each application shall be on a form prescribed by the  
7 secretary and shall include certification of the applicant's prisoner of war status from the United  
8 States Veterans' Administration. The applicant shall pay a ten dollar fee and shall receive special  
9 plates. The special plates shall be displayed as set forth in § 32-5-98. A fee of ten dollars shall  
10 be paid for the renewal stickers. No registration fee or sticker fee may be charged to the  
11 applicant pursuant to § 32-5-6 or 32-5-9. The fees shall be deposited into the license plate  
12 special revenue fund. Upon approval of the application, the secretary shall issue the license  
13 plates which shall be numbered consecutively, beginning with the number 1, and the number  
14 shall be preceded by the letters POW. If it is determined that an applicant does not qualify for  
15 the special plates or if the applicant dies, the plates shall be surrendered to the county treasurer  
16 of the applicant's residence. The treasurer shall notify the secretary who shall make the  
17 necessary changes in the registration file. Failure to surrender the special license plates as  
18 required by this section is a Class 2 misdemeanor.

19 Section 3. That § 32-5-109.1 be amended to read as follows:

20 32-5-109.1. Any resident of this state who was serving in the United States armed forces  
21 and survived the attack at Pearl Harbor, Hawaii, on December 7, 1941, and who received an  
22 honorable discharge, may apply to the secretary for a maximum of two sets of special motor  
23 vehicle license plates if the applicant has complied with all the laws of this state for any  
24 automobile, pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle licensed pursuant

1 to § 32-5-9. The veteran may choose to use one of the two sets of plates on a noncommercial  
2 motor vehicle that is a pickup truck and that weighs more than six thousand pounds licensed  
3 pursuant to § 32-5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The veteran shall pay  
4 the regular license fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be required to pay the  
5 ten dollars for the special plates and renewal stickers. Each application shall be on a form  
6 prescribed by the secretary and shall include such information as the secretary may require. The  
7 applicant shall pay a ten dollar fee and shall receive special plates. The special plates shall be  
8 displayed as set forth in § 32-5-98. A fee of ten dollars shall be paid for the renewal stickers. No  
9 registration fee or sticker fee may be charged to the applicant pursuant to § 32-5-6 or 32-5-9.  
10 The fee shall be deposited into the license plate special revenue fund. Upon approval of the  
11 application, the secretary shall issue the license plates. The license plates shall be numbered  
12 consecutively beginning with number 1 and contain a symbol to be determined by the secretary  
13 indicating that the owner of the vehicle is a Pearl Harbor survivor. If it is determined that an  
14 applicant does not qualify for the special plates or if the applicant dies, the plates shall be  
15 surrendered to the county treasurer of the applicant's residence. The treasurer shall notify the  
16 secretary who shall make the necessary changes in the registration file.

17 Section 4. That § 32-5-109.2 be amended to read as follows:

18 32-5-109.2. Any resident veteran owner of a motor vehicle who has received the Purple  
19 Heart Medal may apply to the secretary to receive a maximum of two sets of special license  
20 plates for any automobile, pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle  
21 licensed pursuant to § 32-5-9. The veteran may choose to use one of the two sets of plates on  
22 a noncommercial motor vehicle that is a pickup truck and that weighs more than six thousand  
23 pounds licensed pursuant to § 32-5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The  
24 veteran shall pay the regular license fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be

1 required to pay the ten dollars for the special plates and renewal stickers. The fee for the special  
2 license plates and the renewal stickers for the plates shall be issued only upon proof of payment  
3 of the current registration fees shall be ten dollars. The special plates shall be numbered  
4 consecutively beginning with number 1 and contain a symbol to be determined by the secretary  
5 indicating that the owner has received the Purple Heart Medal. The special plates shall be  
6 displayed as set forth in § 32-5-98. The special license plate shall be reflectorized and validated  
7 each year with a sticker in the same manner as a noncommercial license plate. No license fees  
8 ~~may be charged for the special plates and its or renewal stickers~~ fees may be charged to the  
9 applicant pursuant to § 32-5-6 or 32-5-9. If it is determined that the veteran owner does not  
10 qualify for the special plates or if the veteran owner dies, the plates shall be surrendered to the  
11 county treasurer of the applicant's residence. The treasurer shall notify the secretary who shall  
12 make the necessary changes in the registration file. Failure to surrender the special license plates  
13 as required by this section is a Class 2 misdemeanor.