



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0196

## SENATE COMMERCE ENGROSSED NO. **SB 35** - 1/22/2008

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

1 FOR AN ACT ENTITLED, An Act to establish fair claims standards and procedures for  
2 property casualty insurance claims.

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

4 Section 1. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Agent," any person, corporation, association, partnership, or other legal entity  
8 authorized to represent an insurer with respect to a claim;
- 9 (2) "Claim file," any retrievable electronic file, paper file, or combination of both related  
10 to a claim arising under an insurance policy or contract;
- 11 (3) "Comparable motor vehicle," when compared to the insured motor vehicle, a motor  
12 vehicle that is of comparable value. In determining comparable value factors to be  
13 considered are whether the vehicle is the same manufacturer, same or newer year,  
14 similar body style, similar options and mileage, in as good or better overall condition,



1 available for inspection at a licensed dealer within a reasonable distance of the  
2 insured's residence;

3 (4) "Days," calendar days;

4 (5) "Insured," an insured or legal representative of an insured, including a member of the  
5 insured's immediate family designated by the insured, making a claim under a policy.

6 The term does not include a third party claimant;

7 (6) "Investigation," any activity of an insurer directly or indirectly related to the  
8 determination of liabilities under coverages afforded by an insurance policy or  
9 insurance contract;

10 (7) "Notification of claim," any notification, whether in writing or other means  
11 acceptable under the terms of an insurance policy, to an insurer or its agent by an  
12 insured, which reasonably apprises the insurer of the facts pertinent to a claim;

13 (8) "Reasonable explanation," information sufficient to enable the insured to compare  
14 the allowable benefits with policy provisions and determine whether proper payment  
15 has been made;

16 (9) "Replacement crash part," sheet metal or plastic parts which generally constitute the  
17 exterior of a motor vehicle, including inner and outer panels;

18 (10) "Written communications," includes all correspondence, regardless of source or type  
19 that is materially related to the handling of the claim.

20 Section 2. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 The provisions of this Act set forth minimum standards for the investigation and disposition  
23 of first party automobile insurance claims arising under contracts or certificates issued to  
24 residents of this state and do not apply to claims involving workers' compensation, fidelity,

1 suretyship, or boiler and machinery insurance. Nothing in this Act creates or implies a private  
2 cause of action for violation of this Act nor creates or implies third party bad faith. A violation  
3 of this Act is not admissible in any private cause of action. A domestic, foreign, or alien insurer  
4 transacting business in this state violates this Act by either:

- 5 (1) A series of acts or practices in violation of this Act if done with such frequency as to  
6 indicate a general business practice to engage in that type of conduct; or
- 7 (2) An act or practice in violation of this Act that is done flagrantly and in conscious  
8 disregard of this Act.

9 Section 3. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 No insurer may fail, for known losses, to fully disclose to insureds, the benefits, coverages,  
12 or other provisions of a policy or contract under which a claim is presented.

13 Section 4. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 No insurer may indicate to an insured on a payment draft, check, or in any accompanying  
16 letter that the payment is final or a release of any claim unless the policy limit has been paid or  
17 there has been a compromise settlement agreed to by the insured and the insurer as to coverage  
18 and amount payable under the contract.

19 No insurer may issue any check or draft in partial settlement of a loss or claim under a  
20 specific coverage that contains language purporting to release the insurer or its insured from  
21 total liability.

22 Any payment of a claim to an insured shall be made payable to the insured only and may not  
23 include other persons unless either there is written permission given by the insured, the insurer  
24 is aware of a lien, assignment, or other legal claim to the proceeds of the claim, or the additional

1 payee is listed as loss payee on the policy. If an insured requests the inclusion of an additional  
2 payee in writing or by other means that are documented in the claim file, the insurer shall honor  
3 that request.

4 Section 5. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Each insurer, upon receiving notification of a claim, shall acknowledge the receipt of the  
7 notice within a reasonable period of time. Payment of the claim may be made in lieu of an  
8 acknowledgment. If an acknowledgment is made by means other than writing or electronically,  
9 an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and  
10 dated. Notification of a claim given to an agent of an insurer is notification to the insurer. Other  
11 means of acknowledgment may include acknowledgment by phone or by leaving a voice mail  
12 message.

13 A reply shall be made within a reasonable period of time on all other relevant  
14 communications from an insured which reasonably suggest that a response is expected. The  
15 reply shall acknowledge receipt of the claim communication and include what steps the insurer  
16 intends to take in response to the communication and what steps the insured needs to take. No  
17 action needs to be taken to acknowledge receipt or inform what steps are to be taken by the  
18 insurer or insured if there is an agreed upon waiver for that aspect of the claim.

19 Each insurer, upon receiving notification of claim, shall within a reasonable period of time  
20 provide necessary claim forms, instructions, and reasonable assistance to allow the insured to  
21 comply with the policy conditions and the insurer's reasonable requirements.

22 Section 6. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Upon receipt by the insurer of properly executed proofs of loss, the insured shall, within a

1 reasonable period of time, be advised of the acceptance or denial of the claim by the insurer. No  
2 insurer may deny a claim on the grounds of a specific policy provision, condition, or exclusion  
3 unless reference to the provision, condition, or exclusion is included in the denial. Any denial  
4 shall be given to the insured in writing and the claim file of the insurer shall contain  
5 documentation of the denial as required by § 58-3-7.4.

6 If there is a reasonable basis supported by specific information available for review by the  
7 division that the insured has fraudulently caused or contributed to the loss, the insurer is relieved  
8 from the requirements of this section. After receipt by the insurer of a properly executed proof  
9 of loss, the insured shall be advised of the acceptance or denial of the claim within a reasonable  
10 time for completing the investigation.

11 Section 7. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 If the insurer needs more time to determine whether a claim should be accepted or denied,  
14 the insurer shall, within a reasonable period of time, notify the insured after receipt of the proofs  
15 of loss, giving the reasons more time is needed. If the investigation remains incomplete, the  
16 insurer shall correspond with the insured at reasonable intervals and include in that  
17 correspondence the reason for needing additional time.

18 If there is a reasonable basis supported by specific information available for review by the  
19 division for suspecting that the insured has fraudulently caused or contributed to the loss, the  
20 insurer is relieved from the requirements of this section. After receipt by the insurer of a  
21 properly executed proof of loss, the insured shall be advised of the acceptance or denial of the  
22 claim by the insurer within a reasonable time for completing the investigation.

23 Section 8. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1       The insurer shall affirm or deny liability on claims within a reasonable time and shall, within  
2 a reasonable period of time, tender payment to any person entitled to payment after affirmation  
3 of liability, if the amount of the claim is determined and not in dispute. In any claim where  
4 multiple coverages are involved, any payment which is not in dispute and where the payee is  
5 known shall be made within a reasonable period of time.

6       Section 9. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8       No insurer may require any insured to submit to a polygraph examination.

9       Section 10. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11       No insurer may pay or offer to pay an insured an amount less than what is required under  
12 the terms of the policy or any applicable legal requirement. If, after an insurer denies a claim and  
13 the insured objects to the denial, the insurer shall notify the insured in writing that the insured  
14 may have the matter reviewed by the division and provide the address and phone number of the  
15 division.

16       Section 11. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18       Any insurer covering motor vehicles shall provide for settlement of a claim, less any  
19 applicable deductible or copayments, using one of the following methods:

- 20       (1) Cost of the repairs;
- 21       (2) Actual cash value; or
- 22       (3) Replacement cost.

23       If the settlement of an insured's motor vehicle total loss is on the basis of actual cash value  
24 or replacement with a comparable motor vehicle, one of the methods provided in sections 12

1 to 15, inclusive, of this Act applies.

2 Section 12. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The insurer may elect to offer a replacement motor vehicle that is a comparable motor  
5 vehicle. The insurer shall pay all applicable taxes, license fees, and other fees incident to  
6 transfer of evidence of ownership of the motor vehicle paid, at no cost other than any deductible  
7 provided in the policy. The offer and any rejection by the insured shall be documented in the  
8 claim file.

9 Section 13. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 The insurer may, as a means of determining the actual cash value of the motor vehicle, elect  
12 a cash settlement based upon the actual cost, less any deductible provided in the policy and any  
13 appropriate appearance adjustment, to purchase a comparable motor vehicle including all  
14 applicable taxes, license fees, and other fees incident to transfer of evidence of ownership of a  
15 comparable motor vehicle. Any differences in the insured's motor vehicle compared to a similar  
16 motor vehicle in the local market area that are attributable to normal cleaning and similar minor  
17 appearance alterations by a dealer to make the motor vehicle ready for sale may not be used to  
18 determine that the vehicle is not comparable. Actual cost may be derived from:

- 19 (1) The cost of two or more comparable motor vehicles in the local market area if the  
20 motor vehicles are available or were available within the last ninety days to  
21 consumers in the insured's local market area;
- 22 (2) One of two or more quotations obtained by the insurer from two or more licensed  
23 dealers located within the local market area if the cost of comparable motor vehicles  
24 are not available pursuant to subdivision (1); or

1       (3) Any source for determining statistically valid fair market values that meet all of the  
2 following criteria:

3           (a) The source shall give primary consideration to the values of motor vehicles in  
4 the local market area and may consider data on motor vehicles outside the  
5 area;

6           (b) The source's database shall produce values for at least eighty-five percent of  
7 all makes and models for the last fifteen model years taking into account the  
8 values of all major options for such motor vehicles; and

9           (c) The source shall produce fair market values based on current data available  
10 from the area surrounding the location where the insured motor vehicle was  
11 principally garaged or add data as is necessary to assure statistical validity.

12       If the cost of repair of the motor vehicle is less than the actual cash value of the motor  
13 vehicle, the insurer shall pay at least the cost of repair. If the claim is paid based upon the cost  
14 of repair, the cost of the repair including labor shall be paid to the insured regardless of whether  
15 the motor vehicle is repaired. Any deductions from actual cash value, including a deduction for  
16 salvage, which is permitted if the insured retains the vehicle, shall be reasonable, measurable,  
17 discernible, itemized, and specified as to dollar amount. The basis for the settlement shall be  
18 fully explained to the insured.

19       An insurer is deemed to have met the requirements of this section if a mutual agreement has  
20 been reached between the insured and the insurer as to the payment of claim.

21       Section 14. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23       If the insurer is notified within thirty-five days of the receipt of the claim draft that the  
24 insured cannot purchase a comparable motor vehicle for the market value, the insurer shall

1 reopen its claim file and the following procedures apply:

2 (1) The insurer may locate a comparable motor vehicle by the same manufacturer, same  
3 year, similar body style, and similar options and price range for the insured for the  
4 market value determined by the insurer at the time of settlement. Any such motor  
5 vehicle must, if requested by the insured, be available through licensed dealers;

6 (2) The insurer shall either pay the insured the difference between the market value  
7 before applicable deductions and the cost of the comparable motor vehicle of like  
8 kind and quality which the insured has located, or negotiate and effect the purchase  
9 of this motor vehicle for the insured; or

10 (3) The insurer may elect to offer a replacement in accordance with the provisions set  
11 forth in section 12 of this Act.

12 Section 15. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The insurer is not required to take action under section 14 of this Act if its documentation  
15 to the insured at the time of settlement included written notification of the availability and  
16 location of a specific and comparable motor vehicle. The documentation shall include the motor  
17 vehicle identification number.

18 Section 16. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 No insurer may require an insured to travel an unreasonable distance either to inspect a  
21 replacement motor vehicle, to obtain a repair estimate, or to have the motor vehicle repaired at  
22 a specific repair shop.

23 Section 17. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1 Each insurer shall include the insured's deductible, if any, in subrogation demands.  
2 Subrogation recoveries shall be shared at least on a proportionate basis with the insured, unless  
3 the deductible amount has been otherwise recovered. No deduction for expenses may be made  
4 from the deductible recovery unless an outside attorney is retained to collect the recovery. The  
5 deduction may then be for only a pro rata share of the allocated loss adjustment expense.

6 Section 18. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 If partial losses are settled on the basis of a written estimate prepared by or for the insurer,  
9 the insurer shall supply the insured with a copy of the estimate upon which the settlement is  
10 based. The estimate prepared by or for the insurer shall be reasonable, in accordance with  
11 applicable policy provisions, and in an amount which will allow for repairs to be made in a  
12 workmanlike manner. If the insured subsequently claims, based upon a written estimate which  
13 the insured obtains, that necessary repairs will exceed the written estimate prepared by or for  
14 the insurer, the insurer shall, unless the repairs are not necessary to compensate the insured for  
15 a covered loss, pay the difference between the estimates, or, within a reasonable period of time,  
16 provide the insured with the name of at least one repair shop that will make the repairs for the  
17 amount of the written estimate.

18 Section 19. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 If the insurer reduces a claim offer or settlement because of betterment or depreciation all  
21 information for the reduction shall be documented in the claim file. Each deduction shall be  
22 itemized, specified as to dollar amount, and shall be reasonable.

23 Section 20. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1        If the insurer recommends or offers the repair be done at a specific motor vehicle repair  
2 shop, the insurer shall, within a reasonable period of time, cause the damaged motor vehicle to  
3 be restored to its condition prior to the loss at no additional cost to the insured other than as  
4 stated in the policy.

5        Section 21. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7        The insurer shall provide reasonable notice to an insured prior to termination of payment for  
8 motor vehicle storage charges. The insurer shall allow reasonable time for the insured to remove  
9 the motor vehicle from storage prior to the termination of payment.

10       Section 22. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12       The insurer shall pay all reasonable towing charges irrespective of the towing company used  
13 by the insured.

14       Section 23. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16       Betterment is not allowed unless the repairs or replaced parts increase the market value of  
17 the motor vehicle as a whole. Any deductions set forth in this section shall be measurable,  
18 itemized, specified as to dollar amount, and documented in the claim file.

19       Section 24. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21       No insurer may require the insured to supply parts for replacement.

22       Section 25. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24       All replacement crash parts and used parts shall be identified and be of like, kind, and

1 quality as the original part.

# 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

831P0124

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 111** - 1/22/2008

Introduced by: Senators Duenwald, Abdallah, Apa, Garnos, Hansen (Tom), Hauge, Lintz, Maher, McCracken, Napoli, Peterson (Jim), and Schmidt (Dennis) and Representatives Brunner, Cutler, DeVries, Gilson, Hackl, Jerke, Juhnke, Kirkeby, Koistinen, Lucas, Novstrup (David), Olson (Russell), Rausch, Steele, and Turbiville

1 FOR AN ACT ENTITLED, An Act to extend the prohibition of road hunting of big game to  
2 include hunting using certain additional weapons.

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

4 Section 1. That § 41-9-1.2 be amended to read as follows:

5 41-9-1.2. No person may hunt big game on interstate highways or controlled access facilities  
6 as defined in § 31-8-1 within this state.

7 No person may discharge a rifle firearm, muzzleloader, crossbow, or bow and arrow at a big  
8 game animal from within the right-of-way of an improved public highway. However, any person  
9 who possesses a disabled hunter permit issued by the department to shoot from a vehicle as  
10 provided in § 41-8-37 may hunt on public rights-of-way adjoining publicly-owned hunting areas  
11 and on rights-of-way adjoining private lands with the written permission of the owner or lessee.

12 Retrieval of lawfully taken big game is permitted on all public rights-of-way.

13 A violation of this section is a Class 2 misdemeanor.



# 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

