

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0301

## HOUSE BILL NO. 1042

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the definition of  
2 residency and the issuance of resident hunting, fishing, and trapping licenses.

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

4 Section 1. That § 41-1-1 be amended by adding thereto a NEW SUBDIVISION to read as  
5 follows:

6 "Domicile," a person's established, fixed, and permanent home to which the person,  
7 whenever absent, has the present intention of returning;

8 Section 2. That subdivision (22) of § 41-1-1 be amended to read as follows:

9 (22) "Resident," a person ~~actually living~~ having a domicile within ~~and intending to make~~  
10 ~~the person's home in this state. However, any person who has lawfully acquired a~~  
11 ~~resident hunting, fishing, or trapping license and who leaves the state after acquiring~~  
12 ~~the license to take up residency elsewhere may continue to exercise all the privileges~~  
13 ~~granted by the license until the license expires if the person's respective privileges are~~  
14 ~~not revoked or suspended pursuant to §§ 41-6-75 to 41-6-75.2, inclusive. No resident~~  
15 ~~may lose rights under this title by reason of the resident's absence on business of the~~



1 ~~United States or of this state, or armed services of the United States or the spouse of~~  
2 ~~an active duty military person, or any student regularly attending a school of higher~~  
3 ~~learning as a full-time student~~ for at least ninety consecutive days immediately  
4 preceding the date of application for, purchasing, or attempting to purchase any  
5 license required under the provisions of this title or rules of the commission, who  
6 makes no claim of residency in any other state or foreign country for any purpose,  
7 and other than for a person described in section 3 of this Act, claims no resident  
8 hunting, fishing, or trapping privileges in any other state or foreign country, and prior  
9 to any application for any license, transfers to this state the person's driver's license  
10 and motor vehicle registrations;

11 Section 3. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 For the purposes of this title, the following are deemed to be residents of this state:

- 14 (1) Any person who previously had a domicile in this state who is absent due to business  
15 of the United States or of this state, or is serving in the armed forces of the United  
16 States or the spouse of an active duty military person;
- 17 (2) Any person who previously had a domicile in this state who is absent due to the  
18 person's regular attendance at a post-high school institution as a full-time student;
- 19 (3) Any person in the active military of the United States or that person's spouse who is  
20 continuously stationed in this state;
- 21 (4) Any person who is a patient in any war veterans' hospital within this state;
- 22 (5) Any person who is an employee of the veterans' administration or any veterans'  
23 hospital in this state;
- 24 (6) Any person residing on restricted military reservations in this state;

- 1       (7) Any person attending regularly a post-high school institution in this state as a  
2       full-time student for thirty days or more immediately preceding the application;
- 3       (8) Any foreign exchange student over sixteen years of age attending a public or private  
4       high school who has resided in the state for thirty days or more preceding the  
5       application;
- 6       (9) Any foreign exchange student who is between the ages of twelve years and sixteen  
7       years who has completed the Department of Game, Fish and Parks' course of  
8       instruction in the safe handling of firearms and has been issued a certificate of  
9       competency upon completion of instruction and who has resided in the state for thirty  
10      days or more preceding application for a license;
- 11      (10) Any person who is a minor dependent of a resident of this state; and
- 12      (11) Any person who does not reside in South Dakota but who is a member of the South  
13      Dakota National Guard or of any other unit of a reserve component of the armed  
14      forces of the United States that is located in South Dakota.

15      Section 4. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17      Except for a person who continues to qualify for resident privileges as provided in section  
18 3 of this Act, a person is deemed to have terminated the person's South Dakota resident status  
19 if the person applies for, purchases, or accepts a resident hunting, fishing, or trapping license  
20 issued by another state or foreign country; registers to vote in another state or foreign country;  
21 accepts a driver's license issued by another state or foreign country; or moves to any other state  
22 or foreign country and makes it the person's domicile or makes any claim of residency for any  
23 purpose in the other state or foreign country. However, a person who has lawfully acquired a  
24 resident hunting, fishing, or trapping license and who leaves the state after acquiring the license

1 to take up residency elsewhere may continue to exercise all the privileges granted by the license  
2 until the license expires if the person's respective privileges are not revoked or suspended  
3 pursuant to §§ 41-6-75 to 41-6-75.2, inclusive.

4 Section 5. That § 41-6-52 be amended to read as follows:

5 41-6-52. No person other than a resident as defined in this title may make application for,  
6 purchase, or attempt to purchase a resident license under §§ 41-6-12 to 41-6-45.1, inclusive;  
7 ~~unless the applicant has been a resident of this state for at least ninety days before making of the~~  
8 ~~application and claims no resident privileges in any other state. Before making application for,~~  
9 ~~purchasing, or attempting to purchase a resident hunting or fishing license in the state, the~~  
10 ~~applicant shall transfer to this state the applicant's driver's license and motor vehicle registration~~  
11 ~~for motor vehicles used in this state. However, any person in the active military of the United~~  
12 ~~States or that person's spouse who has been continuously stationed in this state; any person who~~  
13 ~~is a patient in any war veterans' hospital within this state; any person who is an employee of the~~  
14 ~~veterans' administration or any veterans' hospital; any person residing on restricted military~~  
15 ~~reservations in this state; any person attending regularly a post-high school institution as a full-~~  
16 ~~time student for thirty days or more immediately preceding the application; any foreign~~  
17 ~~exchange student over sixteen years of age attending a public or private high school who has~~  
18 ~~resided in the state for thirty days or more preceding the application; any foreign exchange~~  
19 ~~student who is between the ages of twelve years and sixteen years who has completed the~~  
20 ~~Department of Game, Fish and Parks' course of instruction in the safe handling of firearms and~~  
21 ~~has been issued a certificate of competency upon completion of instruction and who has resided~~  
22 ~~in the state for thirty days or more preceding his application; or any person who is a minor~~  
23 ~~dependent of a resident of this state, is a resident of the state for the purpose of this title. Any~~  
24 ~~person who does not reside in South Dakota but who is a member of the South Dakota National~~

1 ~~Guard or of any other unit of a reserve component of the armed forces of the United States that~~  
2 ~~is located in South Dakota is a resident of the state for the purpose of acquiring resident small~~  
3 ~~game and fishing licenses. A violation of this section is a Class 2 misdemeanor.~~

4 Section 6. That § 41-6-16.2 be amended to read as follows:

5 41-6-16.2. Any resident who is on active duty in the armed forces of the United States and  
6 who is stationed at a location outside the state may fish and hunt small game without payment  
7 of a fee or the applicable hunting and fishing license authorizing the activity. However, if the  
8 resident is hunting migratory birds, the resident shall obtain a migratory bird certification permit  
9 and federal migratory bird stamp. While engaged in the permitted activity, the resident shall  
10 ~~have in possession~~ possess and display appropriate military orders indicating the resident is on  
11 active duty stationed outside of South Dakota and a valid ~~South Dakota driver's license or South~~  
12 ~~Dakota~~ military identification card. This section does not apply to any person who is serving on  
13 active duty for training as a member of the armed forces reserve or national guard.