

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

734Q0472

SENATE ENGROSSED NO. **SB 98** - 2/17/2009

Introduced by: Senators Abdallah, Ahlers, Fryslie, Miles, Olson (Russell), and Peterson and Representatives Gosch, Feickert, Kirkeby, Kirschman, Lange, Lederman, Pitts, and Solberg

1 FOR AN ACT ENTITLED, An Act to revise the minimum amount required for reporting  
2 damage to a motor vehicle and a boat.

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

4 Section 1. That § 32-3-51.7 be amended to read as follows:

5 32-3-51.7. Each certificate of title issued by the department shall contain the following  
6 phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This  
7 information is available upon written request from the Department of Revenue and Regulation,  
8 Division of Motor Vehicles. Each certificate of title shall also contain on ~~its~~ the title's front a  
9 statement as to whether previous damage disclosure statements as provided by § 32-3-51.8  
10 indicate the motor vehicle had been damaged at one time in excess of ~~five~~ eight thousand dollars  
11 ~~as provided by § 32-3-51.8~~ or forty percent of the motor vehicle's clean retail fair market value,  
12 immediately prior to sustaining damage as determined by the most current Midwest Edition of  
13 the National Automobile Dealer's Association (NADA) Guide, using all options, additions, and  
14 deductions, whichever is less. The NADA Guide may be available through a public library,



1 insurance agent, auto dealer, or online at [www.nadaguides.com](http://www.nadaguides.com).

2 Section 2. That § 32-3-51.8 be amended to read as follows:

3 32-3-51.8. Upon the sale, transfer, trade-in, or titling of a motor vehicle, the seller,  
4 transferor, trader, or person wishing to title in South Dakota shall submit an accurately  
5 completed damage disclosure statement. The completed damage disclosure statement may be  
6 on the back of the certificate of title or on a separate document that has been approved for use  
7 by the department. Except as otherwise provided by this section, no certificate of title may be  
8 issued by the department unless the damage disclosure statement accompanies the application.  
9 It is a Class 1 misdemeanor to intentionally falsify any information on the damage disclosure  
10 statement. No person or dealer is liable to a subsequent owner of a vehicle because a prior  
11 owner of the vehicle failed to disclose that the vehicle had previously been damaged and  
12 repaired. This section does not apply to any motor vehicle more than six model years old as  
13 calculated from the first day of January of the designated model year or with a gross vehicle  
14 weight rating of more than sixteen thousand pounds and does not apply if a rebuilt title or  
15 junking certificate is sought.

16 This section applies to all other motor vehicles, but only damage in excess of five eight  
17 thousand dollars or forty percent of the motor vehicle's clean fair market retail value  
18 immediately prior to sustaining damage, as determined by the then current Midwest Edition of  
19 the National Automobile Dealer's Association (NADA) Guide, using all options, additions, and  
20 deductions, whichever is less shall be disclosed in the statement. If the motor vehicle has  
21 incurred damages more than once, only those damages that occurred at one time are considered  
22 in determining whether the damages exceeded five eight thousand dollars or forty percent of its  
23 clean retail fair market value immediately prior to sustaining damage, as determined by the most  
24 current Midwest Edition of the NADA Guide, whichever is less.

1 Section 3. That § 32-3-51.14 be amended to read as follows:

2 32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the  
3 damage disclosure statement provided by § 32-3-51.8. An area for a damage disclosure  
4 statement shall appear on the back of each certificate of title issued by the department. The  
5 department may also approve separate documents on which a damage disclosure statement may  
6 be submitted. The damage disclosure statement form shall indicate whether the motor vehicle  
7 has been damaged such that it cost more than ~~five~~ eight thousand dollars or forty percent of its  
8 clean retail fair market value immediately prior to sustaining damage as provided by §§ 32-3-  
9 51.7 and 32-3-51.8, whichever is less, to repair to its predamaged condition and any other  
10 damage information the department deems appropriate. If a separate document from the  
11 certificate of title contains the damage disclosure statement, the document shall also require the  
12 following information: year, make, model, and vehicle identification number of the motor  
13 vehicle.

14 Section 4. That § 32-3-51.15 be amended to read as follows:

15 32-3-51.15. The dollar amount of damage to a motor vehicle required to be disclosed  
16 pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle  
17 to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the  
18 damaged motor vehicle. If the retail value of labor has not been determined by a purchase in the  
19 ordinary course of business (for example, the labor is performed by the owner of the vehicle),  
20 the retail value of the labor is presumed to be the product of the repair time, as provided in a  
21 generally accepted autobody repair flat rate manual, multiplied by ~~thirty-five~~ forty-five dollars.

22 Section 5. That § 32-3A-38.1 be amended to read as follows:

23 32-3A-38.1. Upon the sale, assignment, or transfer of a large boat, or if registering a large  
24 boat in South Dakota which is titled in another state or jurisdiction, the seller, assignor, or

1 transferor, or person wishing to register in South Dakota a large boat which is titled in another  
2 state or jurisdiction shall submit an accurately completed damage disclosure statement when  
3 applying for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure  
4 statement may be on the back of the certificate of title or on a separate document that has been  
5 approved for use by the department. No certificate of title may be issued by the department  
6 unless the damage disclosure statement accompanies the application. It is a Class 1  
7 misdemeanor to intentionally falsify any information on the damage disclosure statement. No  
8 person is liable to a subsequent owner of a large boat because a prior owner of the large boat  
9 failed to disclose that the large boat had previously been damaged and repaired. This section  
10 applies to any large boat with damage in excess of five ~~eight~~ thousand dollars or forty percent  
11 of the boat's clean fair market value immediately prior to sustaining damage, as determined by  
12 the then current Midwest Edition of the National Automobile Dealer's Association (NADA)  
13 Guide, using all options, additions, and deductions, whichever is less, and is six years old or  
14 less. If the large boat has incurred damages more than once, only those damages which occurred  
15 at one time would be considered in determining whether the damages exceeded five ~~eight~~  
16 thousand dollars or forty percent of its clean retail fair market value immediately prior to  
17 sustaining damage, as determined by the most current Midwest Edition of the NADA Guide,  
18 whichever is less. The NADA Guide may be available through a public library, insurance agent,  
19 auto dealer, or online at [www.nadaguides.com](http://www.nadaguides.com).

20 Section 6. That § 32-3A-38.4 be amended to read as follows:

21 32-3A-38.4. The department shall promulgate rules, pursuant to chapter 1-26, to prescribe  
22 the format for the damage disclosure statement provided by § 32-3A-38.1. An area for a damage  
23 disclosure statement shall appear on the back of each certificate of title issued by the  
24 department. The department may also approve separate documents on which a damage

1 disclosure statement may be submitted. The damage disclosure statement form shall indicate  
2 whether the large boat has been damaged such that it cost more than five eight thousand dollars  
3 or forty percent of its clean retail fair market value immediately prior to sustaining damage, as  
4 determined by the most current Midwest Edition of the NADA Guide, whichever is less, to  
5 repair to its predamaged condition and any other damage information the department deems  
6 appropriate. If a separate document from the certificate of title contains the damage disclosure  
7 statement, the document shall also require the following information: year, make, model, and  
8 hull identification number of the large boat.

9 Section 7. That § 32-3A-38.7 be amended to read as follows:

10 32-3A-38.7. Each certificate of title issued by the department shall contain the following  
11 phrase: South Dakota state law requires the disclosure of damage on large boats. This  
12 information is available upon written request from the Department of Revenue and Regulation.  
13 Each certificate of title shall also contain on its front a statement as to whether previous damage  
14 disclosure statements indicate the large boat had been damaged at one time in excess of five  
15 eight thousand dollars or forty percent of its clean retail fair market value immediately prior to  
16 sustaining damage, as determined by the most current Midwest Edition of the NADA Guide,  
17 whichever is less.