

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

473S0012

SENATE ENGROSSED NO. **SB 3** - 2/2/2011

Introduced by: Senators Rave, Haverly, Putnam, and Tieszen and Representatives Kirkeby, Feickert, Wink, and Wismer at the request of the Interim Bureau of Administration Agency Review Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use of the state
2 seal.

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

4 Section 1. Except as otherwise provided in this Act, the state seal may be used only for
5 official purposes.

6 Section 2. The secretary of state may authorize the use of the state seal for use on
7 commemorative and souvenir items, and for historical, educational, and civic purposes. Such
8 authorization shall be in writing. Application for the authorization shall be in writing and shall
9 be accompanied by a filing fee, the amount of which shall be established by the secretary of state
10 by rules promulgated pursuant to chapter 1-26.

11 Section 3. The secretary shall set the fee at a level adequate to cover the administrative costs
12 of processing the applications. If the secretary determines that a permitted use of the seal could
13 financially benefit the state, the secretary may condition authorization upon a licensing
14 agreement to secure those benefits for the state. Any fee collected pursuant to this section shall



1 be deposited in the South Dakota state seal preservation fund.

2 Section 4. The state seal may not be used:

3 (1) On or in connection with any advertising or promotion for any product, business,
4 organization, service, or article whether offered for sale for profit or offered without
5 charge; or

6 (2) In a manner which may operate or be construed as an endorsement of any business,
7 organization, product, service, or article.

8 Section 5. The secretary of state shall promulgate rules pursuant to chapter 1-26 to govern
9 the use of the seal in a manner consistent with this chapter. Any rule governing the use of the
10 seal shall be designed to prevent inappropriate or misleading use of the seal and to assure
11 tasteful and high-quality reproduction of the seal. The rules shall also prescribe the
12 circumstances when a licensing arrangement shall be required and the method for determining
13 licensing fees.

14 Section 6. No person may use the state seal without the authorization of the secretary of state
15 as provided by this Act. No person may use any symbol that imitates the seal or that is
16 deceptively similar in appearance to the seal. Any violation of this section is a Class 1
17 misdemeanor.

18 Section 7. Nothing in this Act prohibits the reproduction of the state seal for illustrative
19 purposes by the news media if the reproduction by the news media is incidental to the
20 publication or the broadcast. Nothing in this Act prohibits a characterization of the state seal
21 from being used in political cartoons.

22 Section 8. That § 1-6-3.1 be repealed.

23 ~~— 1-6-3.1. No person may reproduce, duplicate, or otherwise use the official seal of the State~~
24 ~~of South Dakota, or its facsimile, adopted and described in §§ 1-6-1 and 1-6-2, or the state~~

1 commemorative medallion design or the state bullion piece design adopted by the commissioner
2 of administration for any for-profit, commercial purpose without specific authorization from the
3 commissioner of the Bureau of Administration. A violation of this section is a Class 1
4 misdemeanor.

5 Section 9. That § 1-6-3.2 be repealed.

6 ~~—1-6-3.2. No person may sell or offer for sale a replica or facsimile of the official seal of the
7 State of South Dakota, adopted and described in §§ 1-6-1 and 1-6-2, or the state commemorative
8 medallion design or the state bullion piece design adopted by the commissioner of
9 administration without the specific authorization from the commissioner of the Bureau of
10 Administration. A violation of this section is a Class 1 misdemeanor.~~

11 Section 10. That § 1-6-3.3 be repealed.

12 ~~—1-6-3.3. The Bureau of Administration shall charge a royalty for the privilege of using the
13 seal, the state commemorative medallion design, or the state bullion piece design. The Bureau
14 of Administration may not charge a royalty if the state seal, the state commemorative medallion
15 design, or the state bullion piece design is used for an educational purpose. The royalty fee
16 collected for the use of the state commemorative medallion design shall be deposited in the
17 commemorative coin fund provided for in § 1-6-23. All other royalty fees collected pursuant to
18 this chapter shall be deposited in the state general fund.~~

19 Section 11. That § 1-6-3.4 be repealed.

20 ~~—1-6-3.4. Notwithstanding the provisions of §§ 1-6-3.1 to 1-6-3.3, inclusive, the secretary of
21 state shall continue as the custodian of the state seal pursuant to § 1-8-2.~~

22 Section 12. There is hereby created within the state treasury the South Dakota state seal
23 preservation fund to be administered by the Office of the Secretary of State for the purpose of
24 the preservation and reproduction of the state seal of South Dakota. All moneys in the South

1 Dakota seal preservation fund are subject to appropriation by the Legislature through the
2 General Appropriations Act or special appropriations. Any interest earned on money in the fund
3 shall be credited to the fund.