

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0352

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 64** - 02/04/2015

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the registration of
2 business names.

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

4 Section 1. That § 37-11-1 be amended to read as follows:

5 37-11-1. Any person engaging in or conducting a business ~~for profit~~ in this state shall file
6 a fictitious name statement unless one of the following apply:

7 (1) The name of the business plainly shows the true surname of each person interested
8 in the business; or

9 (2) The name of the business is on file with the secretary of state in a required business
10 filing.

11 ~~Failure to file a required fictitious name statement is a Class 2 misdemeanor.~~ The fictitious
12 name statement shall include the name, post office address, and residence address of each
13 person interested in the business and the address where the main office of the business is to be
14 maintained. The fictitious name statement shall be electronically filed with the secretary of state,



1 or filed in paper form with any register of deeds in the state. The filing shall be renewed every
2 fifth year thereafter. A fee of ten dollars shall be paid with each new filing and renewal. The fee
3 shall be retained by the filing office receiving the filing.

4 Section 2. That § 37-11-5 be amended to read as follows:

5 37-11-5. No person or firm ~~engaged in conducting or~~ operating or interested in a business
6 ~~in this state contrary to the provisions of §§ 37-11-1 and 37-11-2 shall,~~ may maintain any legal
7 ~~action at law or otherwise~~ in the name under which the business is conducted ~~nor on their own~~
8 ~~account to~~ unless the person or firm has complied with the provisions of §§ 37-11-1 and 37-11-
9 2. No such person or firm may recover anything or enforce any right claimed to be due or arising
10 out of the operation of ~~said~~ the business until the statement required by § 37-11-1 or 37-11-2
11 has been filed. ~~For the purpose of this section only, if any person interested in said business shall~~
12 ~~refuse to verify such statement those remaining may verify if stating therein the requirements~~
13 ~~as to those failing to verify and that they have refused to verify.~~