State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

473S0012

HOUSE BILL NO. _____

Introduced by: _____

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

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

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

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

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

Section 4. The state seal may not be used:

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

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charge;

(2) In a political campaign to assist or defeat any candidate for elective office; or

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

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

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

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

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

~~1-6-3.1. No person may reproduce, duplicate, or otherwise use the official seal of the State of South Dakota, or its facsimile, adopted and described in §§ 1-6-1 and 1-6-2, or the state commemorative medallion design or the state bullion piece design adopted by the commissioner of administration for any for-profit, commercial purpose without specific authorization from the commissioner of the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.~~

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

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

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

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

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

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