

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

345A0589

HOUSE BILL NO. 1158

Introduced by: Representatives Chicoine, Kazmerzak, Lee, Lockner, Schrempp, Waltman, and Weber and Senators Kloucek, Hunhoff, Hutmacher, Lawler, and Symens

1 FOR AN ACT ENTITLED, An Act to prohibit certain hog farming operations that have
2 committed environmental or other violations from operating in South Dakota.

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

4 Section 1. The secretary of the Department of Environment and Natural Resources, the
5 Water Management Board, the Board of Minerals and Environment, or any other permitting
6 entity of the State of South Dakota shall reject an application by any swine operation for any
7 permit to operate or authorization to operate under a general permit filed pursuant to Title 34A
8 upon making a specific finding that the applicant or any officer, director, partner, or resident
9 general manager of the swine operation for which application has been made or any officer,
10 director, partner, or resident general manager of any entity with which the applicant is
11 contracting or proposes to contract for purposes of establishing or expanding a swine operation:

- 12 (1) Has intentionally misrepresented a significant material fact in applying for a permit;
- 13 (2) Has been convicted of a violation of the environmental laws of any state or the United
14 States that has caused significant and material environmental damage;
- 15 (3) Has had any permit revoked under the environmental laws of any state or the United

1 States;

2 (4) Has otherwise demonstrated through clear and convincing evidence of previous
3 actions that the applicant lacks the necessary good character and competency to
4 reliably carry out the obligations imposed by law upon the permit holder; or

5 (5) Has been denied a permit based on a substantially similar application by the same
6 applicant within the past five years, which denial has not been reversed by a court of
7 competent jurisdiction. Nothing in this subdivision prohibits an applicant from
8 submitting a new application for a permit previously denied, if the new application
9 represents a good faith attempt by the applicant to correct the deficiencies that served
10 as the basis for the denial in the original application.

11 For purposes of this Act, a swine operation includes an individual, corporation, or
12 cooperative that owns or proposes to own swine in this state and is engaged or proposes to
13 engage, directly or on a contract basis, in the breeding, farrowing, feeding, or raising of swine
14 in this state. Any application filed pursuant to Title 34A for a swine operation shall include a
15 certification, sworn to under oath and signed by the applicant, that the applicant is not
16 disqualified by reason of this Act from obtaining a permit. In the absence of evidence to the
17 contrary, that certification shall constitute a prima facie showing of the suitability and
18 qualification of the applicant. If at any point in the application review, recommendation, or
19 hearing process, the secretary finds the applicant has intentionally made any material
20 misrepresentation of fact in regard to this certification, consideration of the application may be
21 suspended and the application may be rejected as provided for under this Act. Applications
22 rejected pursuant to this Act constitute final agency action upon that application and may be
23 appealed to circuit court as provided for under chapter 1-26.