

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

921A0624

## SENATE BILL NO. 224

Introduced by: Senators Lawler, Brown (Arnold), Dunn (Rebecca), Hunhoff, Hutmacher, and Kloucek and Representatives Brown (Jarvis), Chicoine, Kazmerzak, Lee, Lucas, Matthews, Waltman, and Weber

1 FOR AN ACT ENTITLED, An Act to make odor subject to air quality regulation.

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

3 Section 1. That § 34A-1-2 be amended to read as follows:

4 34A-1-2. Terms used in this chapter mean:

5 (1) "Air contaminant," dust, fumes, mist, smoke, other particulate matter, vapor, gas,  
6 odors or odorous substances, radioactive materials as defined in chapter 34-21, or any  
7 combination thereof;

8 (2) "Air pollution," the presence in the outdoor atmosphere of one or more air  
9 contaminants in such quantities and duration as is or tend to be injurious to human  
10 health or welfare, animals or plant life, or property, or would interfere with the  
11 enjoyment of life or property, including the presence of offensive or noxious odor;

12 (3) "Board," the Board of Minerals and Environment;

13 (4) "Department," the Department of Environment and Natural Resources;

14 (5) "Emission," a release into the outdoor atmosphere of air contaminants;

15 (6) "Person," any individual, partnership, limited liability company, firm, association,

1 municipality, public or private corporation, subdivision or agency of the state, trust,  
2 estate, or any other legal entity;

3 (7) "Secretary," the secretary of environment and natural resources.

4 Section 2. That chapter 34A-1 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Department of Health may promulgate rules pursuant to chapter 1-26 to classify air  
7 contaminant sources relating to odor according to levels and types of emissions and other  
8 characteristics that relate to odor as a form of air pollution. The rules may require reporting for  
9 any such class or classes. Classifications made pursuant to this section may be for application to  
10 the state as a whole or to any designated area of the state and may be made with special  
11 reference to effects on health, economic, and social factors and effects on property. The rules  
12 may also include ambient air quality standards for the state as a whole or for any part of the state  
13 with respect to odor and odorous substances. The rules may also include testing and monitoring  
14 procedures and requirements for the regulation of odor. A violation of the standards is subject  
15 to §34A-1-39.

16 Section 3. That chapter 34A-1 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 The Department of Health is responsible for the administration, monitoring, and enforcement  
19 of any rules or standards issued pursuant to section 2 of this Act that relate to odor or odorous  
20 substances. For purposes of this section, the Department of Health may exercise any of the  
21 powers conferred by this chapter on the Department of Environment and Natural Resources or  
22 the Board of Minerals and Environment.