

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

723C0129

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1082 - 2/10/99

Introduced by: Representatives Brooks, Crisp, Fiegen, Haley, Jaspers, Juhnke, Kooistra, Patterson, Slaughter, and Sutton (Daniel) and Senators Lange, Albers, Hutmacher, Madden, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the impoundment of
2 animals and the regulation of certain kennels.

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

4 Section 1. That § 40-1-1 be amended to read as follows:

5 40-1-1. Terms used in chapters 40-1 and 40-2, mean:

6 (1) "Abandonment," giving up with the intent of never again regaining one's interests in,
7 or rights to, an animal other than placing ownership with a responsible party;

8 (2) "Animal," any mammal, bird, reptile, amphibian or fish, except humans;

9 (3) "Board," the South Dakota animal industry board;

10 (4) "Captive wild animal," any wild animal held in man-made confinement or physically
11 altered to limit movement and facilitate capture;

12 (5) "Domestic animal," any animal that through long association with man, has been bred
13 to a degree which has resulted in genetic changes affecting the temperament, color,
14 conformation or other attributes of the species to an extent that makes it unique and

1 different from wild individuals of its kind;

2 (6) "Exotic animal," any animal not occurring naturally in the United States either
3 currently or historically;

4 (7) "Impoundment," taking physical control and custody of an animal;

5 (7A) "Kennel," any establishment where dogs or cats, for commercial purposes, are kept
6 for a period longer than twelve consecutive hours for breeding, grooming, training,
7 sale, or sporting purposes or for the provision of shelter, food, and water. Kennel
8 does not include a pound owned and operated by any political subdivision of the state
9 or a person's home where dogs or cats are kept as pets;

10 (8) "Non-domestic animal," any animal that is not domestic;

11 (9) "Other livestock," any agricultural or commercial animal owned, bred or raised for
12 profit, but not including dogs, cats, rabbits or other household pets;

13 (10) "Wild animal," any animal not in captivity, other than a domestic animal; and

14 (11) "Zoological animal," any animal in any zoo or intended to be used in a zoo.

15 Section 2. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any kennel in this state shall be operated in accordance with the standards specified in 9 CFR
18 Chapter 1, Part 3, Subpart A, Sections 3.1 to 3.12, inclusive, as amended to January 1, 1999.

19 The board, any law enforcement officer, or any agent or officer of a humane society may enter
20 and inspect any premises necessary to ensure compliance with this section, as provided in §§ 40-

21 1-28 and 40-1-29. If the inspection reveals a violation of this section, the board, law enforcement
22 officer, or agent or officer of a humane society may impound the affected animals as provided

23 in § 40-1-5; or, if the circumstances warrant, the board, law enforcement officer, or agent or
24 officer of the humane society may issue a written warning to the owner or operator of the kennel.

25 The warning shall state that the owner or operator has ten days to bring the kennel into

1 compliance with the provisions of this section. At the end of the ten-day period, the warning
2 period may be extended if, in the judgement of the board, law enforcement officer, or agent or
3 officer of the humane society, progress toward substantial compliance with the provisions of this
4 section is being made. If the board, law enforcement officer, or agent or officer of the humane
5 society determines that sufficient progress is not being made or if the circumstances otherwise
6 warrant, the affected animals may be impounded pursuant to § 40-1-5. The provisions of this
7 section do not preclude other actions authorized by this chapter or any other provision of law
8 for the protection of animals.

9 Section 3. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any animal impounded pursuant to this chapter shall be held at the designated facility until
12 the violator is in compliance with this chapter or for a period not to exceed ten days. After ten
13 days of impoundment, the animal becomes the property of the jurisdiction that impounded the
14 animal, unless an extension is necessary for the impounding jurisdiction to have sufficient time
15 to prepare a court case if prosecution is warranted, or unless a bond is posted as provided in this
16 Act. Any animal impounded for reasons beyond the control of the owner shall be held for ten
17 days, during which time a reasonable effort shall be made to contact the owner or the owner's
18 representative. After the tenth day of impoundment in such circumstances, the animal becomes
19 the property of the impounding jurisdiction. Any animal awaiting disposition by the courts shall
20 remain in the custody of the impounding jurisdiction unless such disposition is made or the
21 animal is placed in a foster home until legal arrangements have been completed.

22 Section 4. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 If any animal has been impounded pursuant to this chapter, the impounding jurisdiction may
25 file a petition with the circuit court requesting the owner or custodian of the animal to post a

1 bond to cover the costs of care of the animal while it is impounded. The petition shall be
2 accompanied by an affidavit or statement by the impounding jurisdiction setting forth an estimate
3 of the reasonable expenses the jurisdiction expects to incur in providing care for the animal,
4 including veterinary care, food, board, and other expenses necessary for the care of the animal.
5 The owner or custodian of the animal shall be provided written notice of the petition by personal
6 service or certified mail. Any such mail shall be sent to the last known address, or if the address
7 is not known, the notice shall be sent to the address from which the animal was seized. Refusal
8 to accept certified mail or failure to receive mail due to other delays does not negate this section.

9 Section 5. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The court in which a petition is filed pursuant to section 4 of this Act shall hold a hearing on
12 the petition. At the hearing the impounding jurisdiction has the burden of proof that there is
13 probable cause to find that the animal was the subject of a violation of this chapter. If the court
14 finds that probable cause exists the court shall order the owner or custodian of the animal to post
15 a bond to cover the cost of the care of the animal for a minimum of thirty days. The bond shall
16 be posted within a maximum of three business days following the bond hearing judgement. If
17 bond has not been posted within the allotted three business days, the animal immediately
18 becomes the property of the impounding jurisdiction. If, at the end of thirty days, the matter for
19 holding the animal has not been adjudicated, another bond shall be posted. The renewal bond
20 shall be paid no later than the close of business on the thirtieth day. If the thirtieth day falls on
21 a weekend or holiday, the bond shall be posted by the close of business on the last regular
22 business day before the weekend or holiday. The bond shall be renewed every thirty days
23 thereafter until the matter is adjudicated by the court having jurisdiction. Failure to repost a bond
24 by the end of any thirty day period constitutes voluntary relinquishment of the animal. Upon
25 conviction of the accused, the court may order any remaining bond money or the animal or both

1 forfeited to the impounding jurisdiction. If the accused is acquitted or discharged without
2 conviction, the court shall direct the delivery of the animal and any bond posted, less any
3 reasonable medical, housing, and administrative costs.

4 Section 6. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The bond authorized in sections 4 and 5 of this Act is intended to cover housing, feeding,
7 emergency medical care, immunizations, and routine medical care for the animal. Any animal
8 displaying signs of illness at the time of the impoundment shall be treated at the expense of the
9 owner or custodian. Any impounded animal that has not been inoculated or is not current in its
10 inoculations for ailments common to its species shall be inoculated at the expense of the owner
11 or custodian. Any impounded animal displaying symptoms of illness or injury that in the opinion
12 of a licensed veterinarian would cause undue suffering to the animal or pose a substantial health
13 risk to other animals shall be humanely euthanized immediately. However, in a case involving an
14 animal that has not become property of the impounding jurisdiction under this Act, the
15 impounding jurisdiction shall provide written notice via certified mail to the owner or custodian
16 of the animal of its intention to euthanize the animal. The impounding authority shall then wait
17 seventy-two hours after sending the notice before euthanization of the animal, unless the owner
18 or custodian agrees to have the animal euthanized. No veterinarian licensed pursuant to chapter
19 36-12 or any person assisting a veterinarian licensed pursuant to chapter 36-12 is liable for any
20 civil damages arising out of the euthanization of the impounded animal.

1 **BILL HISTORY**

2 1/20/99 First read in House and referred to Agriculture and Natural Resources. H.J. 94

3 2/9/99 Scheduled for Committee hearing on this date.

4 2/9/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 9, NAYS 4.

5 H.J. 428

6 2/9/99 Scheduled for Committee hearing on this date.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

235C0610

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1184** - 2/10/99

Introduced by: Representatives Chicoine and Broderick and Senator Albers

1 FOR AN ACT ENTITLED, An Act to allow for the transfer of money from a school district's
2 special education fund to its general fund under certain circumstances.

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

4 Section 1. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a school district that contracts pursuant to § 13-15-11 transferred money out of its general
7 fund to its special education fund in the school years ending June 30, 1993, and June 30, 1994,
8 then the school district may at any time transfer from its special education fund to its general
9 fund an amount of money equal to those previous transfers from its general fund to its special
10 education fund.

11 Section 2. Section 1 of this Act is repealed on July 1, 2000.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to Education. H.J. 209

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/9/99 Scheduled for Committee hearing on this date.

6 2/9/99 Education Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 431

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

444C0795

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1243** - 2/10/99

Introduced by: Representatives McNenny, Eccarius, Klaudt, Koskan, Pummel, and Putnam and
Senators Kleven and Drake

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to conflicts of interest
2 by school district personnel.

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

4 Section 1. That § 13-20-2.1 be amended to read as follows:

5 13-20-2.1. No school district officer or employee may be interested in the sale, proceeds, or
6 profits of any book, apparatus, or furniture used or to be used in any school district of this state
7 in which the officer serves or the employee is employed. No such officer or employee may sell
8 or promote, on school property where the officer or employee is employed, any item or service
9 in which the officer or employee has a financial interest, including textbooks, instructional
10 supplies, reference books, equipment, student photographs, or items of clothing used by teams,
11 classes, or clubs or any other item or service to the students or staff of the school. A violation
12 of this section is a Class 2 misdemeanor unless the sale is exempt as provided in § 6-1-2 or the
13 purchase is made at public auction.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to committee assignment waived. H.J. 243

3 1/29/99 Referred to Education. H.J. 266

4 2/9/99 Scheduled for Committee hearing on this date.

5 2/9/99 Education Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 431

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

672C0677

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1257** - 2/10/99

Introduced by: Representatives Peterson and Richter and Senators Everist and Madden

1 FOR AN ACT ENTITLED, An Act to revise how certain alcoholic beverage licenses are issued
2 to certain nonprofit organizations by a municipality or county.

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

4 Section 1. That § 35-4-104 be amended to read as follows:

5 35-4-104. Any municipality or county may issue a ~~special~~ an on-sale malt beverage retailers'
6 license and a ~~special~~ retail on-sale wine dealers' license or an on-sale license pursuant to
7 subdivision 35-4-2(4) to a community playhouse operating as a nonprofit organization for use
8 in conjunction with a theatrical production. recognized as an exempt organization under section
9 501(c)(3) of the Internal Revenue Code, as amended, and in effect on January 1, 1999, for the
10 sale of alcoholic beverages at a community playhouse or a museum of arts and science. The sale
11 of alcoholic beverages may only occur in connection with a theatrical or musical production,
12 exhibition, or other special event conducted by the nonprofit organization. Any license issued
13 pursuant to this section may be issued for a period of time established by the municipal governing
14 board or board of county commissioners up to a period of one year. ~~However, such use may not~~
15 ~~exceed sixty days per year. The selling, serving or dispensing of malt beverages and wine may~~
16 ~~not occur more than one hour before the commencement of a performance or at any time after~~

1 ~~the performance is concluded.~~

2 Section 2. That § 35-4-105 be amended to read as follows:

3 35-4-105. A license issued pursuant to § 35-4-104 shall be issued to the organization and
4 location specified on the application, and in the case of an on-sale license under subdivision 35-4-
5 2(4), shall be exempt from the quotas established in § 35-4-11. Notwithstanding subdivisions
6 35-4-2(4), (12), and (16), the fee for each license is one hundred dollars. Each application shall
7 be accompanied by the fee prior to consideration by the governing body or board of county
8 commissioners. Notwithstanding § 35-5-21.1, the fee provided for in this section shall be
9 retained by the governing body or board of county commissioners issuing such license.

1 **BILL HISTORY**

2 1/29/99 First read in House and referred to Local Government. H.J. 268

3 2/9/99 Scheduled for Committee hearing on this date.

4 2/9/99 Local Government Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 430

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

934C0816

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB1271 - 2/10/99

Introduced by: Representatives Fitzgerald, Burg, Clark, Hennies, and McCoy and Senators
Kleven and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the licensing of
2 counselor applicants.

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

4 Section 1. That chapter 36-32 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any applicant who entered a doctoral or master degree program in counseling at any
7 accredited institution of higher education between July 1, 1990, and June 30, 1998, and who has
8 been and continues to be enrolled in that program until graduation is entitled to apply for
9 licensure under the provisions of § 36-32-13, as the provisions of § 36-32-13 existed on June 30,
10 1998. The provisions of this section apply only to applicants who successfully complete such
11 program before July 1, 2000.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to Commerce. H.J. 282

3 2/9/99 Scheduled for Committee hearing on this date.

4 2/9/99 Commerce Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 429

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0222

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB50** - 2/10/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to establish standards for the advertisement, solicitation, and
2 sale of life and health insurance.

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

4 Section 1. This Act applies to all individual and group health policies which are solicited or
5 sold in this state that are subject to chapters 58-15, 58-16, 58-17, 58-18, 58-18B, 58-37A, 58-
6 38, 58-39, 58-40, and 58-41. However, this Act does not apply to insurance policies and
7 subscriber contracts subject to the medicare supplement requirements. Except for the exemptions
8 specified in this section, this Act applies to any solicitation, negotiation, or effectuation of life
9 insurance occurring within this state. This Act applies to any issuer of life insurance contracts
10 including fraternal benefit societies. This Act does not apply to:

- 11 (1) Group annuities;
- 12 (2) Credit life insurance;
- 13 (3) Group life insurance (except for disclosures relating to preneed funeral contracts or
14 prearrangements as provided by this Act. These disclosure requirements extend to the
15 issuance or delivery of certificates as well as to the master policy);
- 16 (4) Life insurance policies issued in connection with pension and welfare plans as defined

1 by and which are subject to the federal Employee Retirement Income Security Act of
2 1974 (ERISA), 29 U.S.C. Section 1001 *et seq.* as amended to January 1, 1999;

3 (5) Variable life insurance under which the amount or duration of the life insurance varies
4 according to the investment experience of a separate account; or

5 (6) Variable annuities under which the amount varies according to the investment
6 experience.

7 Section 2. The purpose of this Act is to establish guidelines and permissible and
8 impermissible standards of conduct in the solicitation of and advertising of life and health
9 insurance in a manner which:

10 (1) Prevents unfair, deceptive, and misleading advertising;

11 (2) Is conducive to accurate presentation and description to the insurance-buying public
12 through the advertising media and material used by insurance agents and companies;

13 (3) Provides for the full disclosure of the benefits, limitations, and exclusions of policies
14 sold;

15 (4) Sets forth minimum standards and guidelines to assure a full and truthful disclosure
16 to the public of all material and relevant information in the advertising of life insurance
17 policies and annuity contracts;

18 (5) Requires insurers to deliver to purchasers of life insurance information which will
19 improve the buyer's ability to select the most appropriate plan of life insurance for the
20 buyer's needs;

21 (6) Improves the buyer's understanding of the basic features of the policy which has been
22 purchased or which is under consideration;

23 (7) Improves the ability of the buyer to evaluate the relative costs of similar plans of life
24 insurance;

25 (8) Provides reasonable standardization and simplification of terms and coverages of

1 health insurance policies and subscriber contracts of nonprofit hospital, medical, and
2 dental service associations to facilitate public understanding and comparison;

3 (9) Eliminates provisions contained in health insurance policies and subscriber contracts
4 of nonprofit hospital, medical, and dental service associations which may be
5 misleading or unreasonably confusing in connection either with the purchase of such
6 coverages or with the settlement of claims; and

7 (10) Provides for full disclosure in the sale of life or health coverages.

8 Section 3. For the purposes of this Act, the term, advertisement, includes:

9 (1) Any printed and published material, audio visual material, and descriptive literature
10 of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts,
11 billboards, and similar displays;

12 (2) Any descriptive literature and sales aids of all kinds issued by an insurer, agent,
13 producer, broker or solicitor for presentation to members of the insurance-buying
14 public, including circulars, leaflets, booklets, depictions, illustrations, Internet
15 communications, form letters, and lead-generating devices of all kinds;

16 (3) Any prepared sales talks, presentations, and material for use by agents, brokers,
17 producers, and solicitors whether prepared by the insurer or the agent, broker,
18 producer, or solicitor; and

19 (4) Any advertising material included with a policy if the policy is delivered and material
20 is used in the solicitation of renewals and reinstatements.

21 Section 4. For the purposes of this Act, the term, advertisement, does not include:

22 (1) Any material to be used solely for the training and education of an insurer's
23 employees, agents, or brokers;

24 (2) Any material used in-house by insurers;

25 (3) Any communications within an insurer's own organization not intended for

1 dissemination to the public;

2 (4) Any individual communications of a personal nature with current policyholders other
3 than material urging such policyholders to increase or expand coverages;

4 (5) Any correspondence between a prospective group or blanket policyholder and an
5 insurer in the course of negotiating a group or blanket contract;

6 (6) Any court-approved material ordered by a court to be disseminated to policyholders;
7 or

8 (7) Any general announcement from a group or blanket policyholder to eligible
9 individuals on an employment or membership list that a contract or program has been
10 written or arranged if the announcement clearly indicates that it is preliminary to the
11 issuance of a booklet and the announcement does not describe the benefits under the
12 contract or program or describe advantages as to the purchase of the contract or
13 program.

14 Section 5. In order to provide for full and fair disclosure in the sale of health insurance
15 policies or subscriber contracts of a nonprofit hospital, medical, or dental service association, no
16 such policy or contract may be delivered or issued for delivery in this state unless the outline of
17 coverage described in section 6 of this Act either accompanies the policy or is delivered to the
18 applicant at the time application is made and an acknowledgment of receipt or certificate of
19 delivery of such outline is provided the insurer. If the policy has been sold through an agent, the
20 outline of coverage shall be delivered at the time of application. If the policy is issued on a basis
21 other than that applied for, the outline of coverage properly describing the policy or contract
22 shall accompany the policy or contract.

23 Section 6. The director shall prescribe the general format and content of the outline of
24 coverage required by section 5 of this Act. The term, format, means style, arrangement, and
25 overall appearance, including such items as the size, color, prominence of type, and the

1 arrangement of text and captions. The term, outline of coverage, includes:

- 2 (1) A statement identifying the applicable category or categories of coverage provided
3 by the policy or contract as prescribed by the director;
- 4 (2) A description of the principal benefits and coverage provided in the policy or contract;
- 5 (3) A statement of the exceptions, reductions, and limitations contained in the policy or
6 contract;
- 7 (4) A statement of the renewal provisions including any reservation by the insurer of
8 nonprofit hospital, medical, or dental service association of a right to change
9 premiums; and
- 10 (5) A statement that the outline is a summary of the policy or contract issued or applied
11 for and that the policy or contract should be consulted to determine governing
12 contractual provisions.

13 Nothing in this section prohibits an insurer from incorporating an outline of coverage into
14 other solicitation and policy information documents if the required information is contained in
15 the documents.

16 Section 7. The director may promulgate rules pursuant to chapter 1-26 to establish specific
17 standards consistent with section 2 this Act. The rules may include standards of full and fair
18 disclosure, that set forth the manner, content and required disclosure. Except for conversion
19 policies issued pursuant to a contractual conversion privilege under a group, the rules may apply
20 to the sale of individual and group health insurance subject to this Act and shall be in addition
21 to and in accordance with applicable laws of this state. The rules may include:

- 22 (1) Terms of renewability;
- 23 (2) Initial and subsequent conditions of eligibility;
- 24 (3) Nonduplication of coverage provisions;
- 25 (4) Coverage of dependents;

- 1 (5) Preexisting conditions;
- 2 (6) Termination of insurance;
- 3 (7) Probationary periods;
- 4 (8) Limitations, exceptions, and reductions;
- 5 (9) Elimination periods;
- 6 (10) Requirements for replacement;
- 7 (11) Recurrent conditions;
- 8 (12) Prohibitions on the use of terms, information, phrases, or implied affiliations in
- 9 advertising;
- 10 (13) Prominence, form, and style of any advertisement;
- 11 (14) Information to be disclosed on advertising or solicitation materials;
- 12 (15) Use of testimonials;
- 13 (16) Special offers or enrollment periods;
- 14 (17) Coverage comparisons;
- 15 (18) Identification of insurers and agents;
- 16 (19) Prearrangements or preneed funeral contracts; and
- 17 (20) The definition of terms including the following: hospital, accident, sickness, injury,
- 18 physician, accidental means, total disability, partial disability, nervous disorder,
- 19 guaranteed renewable and noncancellable.

20 Section 8. Any information required to be disclosed by rules promulgated pursuant to this
21 Act shall be set out conspicuously and in close conjunction with the statements to which the
22 information relates or under appropriate captions of such prominence that it does not minimize,
23 render obscure, present in an ambiguous fashion, or intermingle with the context of the
24 advertisement so as to be confusing or misleading.

25 Section 9. Prior to accepting the applicant's initial premium or premium deposit, the insurer

1 shall provide, to all prospective life insurance purchasers, a buyer's guide, and a policy summary.
2 However, in lieu of a policy summary, an insurer may provide an illustration which complies with
3 applicable rules concerning life insurance illustrations. Insurers may deliver the buyer's guide and
4 policy summary or illustration at other times as specified by the director by rule. The director
5 may also promulgate rules pursuant to chapter 1-26 specifying the type of policy summary
6 required, the form and content of policy summaries, the specific buyer's guide to be used, and
7 if the buyer's guide must be provided.

8 Section 10. Any advertisements shall be truthful and not materially misleading in fact or by
9 implication. The form and content of an advertisement of a policy shall be sufficiently complete
10 and clear so as to avoid deception. No advertisement may have the capacity and tendency to
11 materially mislead or deceive. In determining whether an advertisement has the capacity and
12 tendency to materially mislead or deceive, the director shall make the determination from the
13 overall impression that the advertisement may be reasonably expected to create upon a person
14 of average education or intelligence within the segment of the public to which it is directed.

15 Section 11. Each insurer shall maintain at its home or principal office a complete file
16 containing a specimen copy of every printed, published, or prepared advertisement of its policies
17 and specimen copies of typical printed, published, or prepared advertisements of its blanket,
18 franchise, and group policies where the content of advertisements vary dependent upon coverage
19 options, hereafter disseminated in this state, with a notation indicating the manner and extent of
20 distribution and the form number of any policy advertised. The file may be kept electronically.
21 The division may inspect the file. All advertisements shall be maintained in the file for a period
22 of either five years or until the filing of the next regular report on the examination of the insurer
23 pursuant to chapter 58-3, whichever is the longer period of time.

24 Section 12. If the director has reason to believe that an advertisement has the capacity and
25 tendency to mislead or deceive the public or otherwise does not comply with this Act or the rules

1 promulgated pursuant to this Act, the director may require an insurer or insurance producer to
2 submit all or any part of the advertising material for review or approval prior to use, in addition
3 to any other remedies allowed by law.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Commerce. S.J. 24

3 1/14/99 Scheduled for Committee hearing on this date.

4 1/19/99 Scheduled for Committee hearing on this date.

5 1/21/99 Scheduled for Committee hearing on this date.

6 1/21/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 140

7 1/25/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 183

8 1/26/99 First read in House and referred to Commerce. H.J. 201

9 2/9/99 Scheduled for Committee hearing on this date.

10 2/9/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 429

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

943C0596

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB93** - 2/8/99

Introduced by: Senators Staggers, Frederick, Hutmacher, Lange, Madden, Moore, and Vitter
and Representatives Kooistra, Lockner, Lucas, and McIntyre

1 FOR AN ACT ENTITLED, An Act to revise certain exemptions relating to the hauling of
2 agricultural products or livestock from farms.

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

4 Section 1. That § 32-22-16.3 be amended to read as follows:

5 32-22-16.3. No vehicle hauling agricultural products from farm storage or livestock from a
6 farm is subject to enforcement action for violations not exceeding the legal limits imposed
7 pursuant to § 32-22-16 or 32-22-21 by more than five percent. However, such vehicle may not
8 exceed the speed of ~~forty~~ fifty miles per hour and is only exempt pursuant to this section within
9 a range of fifty miles of the farm. Such vehicle may not exceed the posted weight of any bridge
10 or road. The weight tolerance authorized in this section is not applicable during spring load
11 restrictions as set forth in § 32-22-24. If enforcement action is taken pursuant to this section, the
12 fine or penalty shall apply to that portion of the load that is above the legal limit. The weight
13 tolerance authorized in this section is not permitted on the interstate highway system. A violation
14 of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 159

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Agriculture and Natural Resources Do Pass, Passed, AYES 8, NAYS 1. S.J. 188

5 1/27/99 Senate Deferred to another day. S.J. 222

6 1/28/99 Motion to Amend, Passed. S.J. 239

7 1/28/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 4. S.J. 240

8 1/29/99 First read in House and referred to Transportation. H.J. 272

9 2/8/99 Scheduled for Committee hearing on this date.

10 2/8/99 Transportation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 410