

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0218

HOUSE ENGROSSED NO. **HB 1019** - 02/05/2001

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to revise certain requirements and fees regarding various
2 agricultural related licenses, certificates, registrations, and inspections and to provide for the
3 disposition of certain fees.

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

5 Section 1. That § 38-12A-11 be amended to read as follows:

6 38-12A-11. No person may sell, distribute, advertise, solicit orders for, offer for sale, expose
7 for sale, or transport seed without first obtaining from the Department of Agriculture a permit
8 to engage in the business. A permit is not required of any person selling or advertising seed of
9 ~~his~~ the person's own production in South Dakota, ~~provided that~~ if the seed is stored or delivered
10 to a purchaser only on or from the farm or premises where grown or the production and sale of
11 seed is not a primary endeavor and primary source of income to such persons. Each permit shall
12 expire on the ~~first~~ thirty-first day of ~~July~~ December of the year following the date of issue. The
13 ~~annual~~ biennial fee for a seed permit is: Seedsman ~~permit~~ -- ~~one~~ two hundred fifty dollars; Seed
14 ~~producers permit~~ producer -- ~~twenty-five~~ fifty dollars; Seed ~~dealers permit~~ dealer -- ~~twenty-five~~
15 fifty dollars. ~~A seed dealer's permit may be issued without fee when all lots of seed are furnished~~

1 ~~to him by seedsman or seed producer with valid South Dakota permits and all of those seedsmen~~
2 ~~and seed producers include application for the seed dealers permit as part of their application.~~
3 ~~All fees collected under the provisions of this chapter shall be paid into the state treasury and~~
4 ~~credited to the general fund.~~

5 Section 2. That chapter 38-12A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 Fees collected pursuant to this chapter shall be deposited with the state treasurer in a special
8 revenue fund known as the seed fund. This fund shall consist of moneys from public and private
9 sources including legislative appropriations, federal grants, gifts, and the fees received pursuant
10 to this chapter. The fund shall be maintained separately and be administered by the department
11 in order to defray the expenses of all activities associated with administering the seed program.
12 Expenditures from the fund shall be appropriated through the normal budget process.
13 Unexpended funds and interest shall remain in the fund until appropriated by the Legislature.

14 Section 3. That § 38-18-3 be amended to read as follows:

15 38-18-3. Any person owning, leasing, or possessing bees shall file an application registering
16 the bees and each apiary with the secretary. The application shall be filed before the first day of
17 ~~June~~ February each year or within ten days of acquiring ownership or possession of any bees or
18 apiary or before moving bees into the state and shall contain each location by legal description,
19 the name of the landowner or lessee of the location, the number of colonies of bees in each
20 apiary, and any other information required by the secretary. The landowner or lessee authorizing
21 the placement of an apiary on a location may revoke the authorization by notifying the owner of
22 the apiary and the secretary in writing. Such revocation of authorization by a landowner or lessee
23 is not sufficient justification for a contested case hearing. If any person fails to register an apiary
24 within the time specified by this section, the landowner authorization for that location is invalid.

1 A registration application shall be approved or rejected by the secretary in compliance with this
2 chapter or rules promulgated pursuant to chapter 1-26. The secretary may deny applications,
3 revoke permits, or conduct contested case hearings in accordance with rules promulgated
4 pursuant to chapter 1-26. Any person failing to register ~~his~~ an apiary or bees pursuant to this
5 section is guilty of a Class 2 misdemeanor. In addition to the criminal penalty imposed by this
6 section, a person is subject to a civil penalty not to exceed five hundred dollars for each location
7 that ~~he~~ the person has failed to register.

8 Section 4. That § 38-18-5 be amended to read as follows:

9 38-18-5. Any person registering an apiary pursuant to § 38-18-3 shall pay a registration fee
10 of ~~ten~~ eleven dollars per permanent location and thirty dollars per temporary location. ~~The~~
11 ~~registration fee shall be deposited in the general fund.~~

12 Section 5. That § 38-18-36 be amended to read as follows:

13 38-18-36. There is hereby imposed upon each bee location within the state, ~~on or before the~~
14 ~~first day of June of each year~~ at the time of registration, a continuing annual assessment of one
15 dollar per location. The Department of Agriculture shall collect and deposit the funds in the
16 honey industry fund.

17 Section 6. That chapter 38-18 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Except as provided by § 38-18-36, fees collected pursuant to this chapter shall be deposited
20 with the state treasurer in a special revenue fund known as the apiary fund. This fund shall
21 consist of moneys from public and private sources including legislative appropriations, federal
22 grants, gifts, and the fees received pursuant to this chapter. The fund shall be maintained
23 separately and be administered by the department in order to defray the expenses of all activities
24 associated with administering the apiary program. Expenditures from the fund shall be

1 appropriated through the normal budget process. Unexpended funds and interest shall remain in
2 the fund until appropriated by the Legislature.

3 Section 7. That § 38-19-1 be amended to read as follows:

4 38-19-1. Terms, as used in this chapter, mean:

5 (1) "Available phosphoric acid," the sum of the water-soluble and the citrate-soluble
6 phosphoric acid and reported as phosphorus pentoxide;

7 (2) "Brand," a term, design, or trademark used in connection with one or several grades
8 of commercial fertilizer;

9 (3) "Bulk commercial fertilizer," any volume of a commercial fertilizer which is
10 transported or held for resale in an immediate reusable container in undivided
11 quantities greater than one hundred pounds net dry weight or fifty-five U.S. gallons
12 liquid measure;

13 (4) "Bulk commercial fertilizer storage facility," any area, location, tract of land, building,
14 structure, or premises constructed in accordance with rules promulgated by the
15 secretary for the storage of bulk commercial fertilizer;

16 (5) "Commercial fertilizer," any substance containing any recognized plant nutrient which
17 is used for its plant nutrient content and which is designed for use or claimed to have
18 value in promoting plant growth, except unmanipulated animal and vegetable
19 manures, marl, lime, limestone, lime sludge, sewage sludge, wood ashes, gypsum,
20 compost, and other products excluded by rule;

21 (5A) "Compost," a group of organic residues or a mixture of organic residues and soil that
22 have been piled, moistened, and allowed to undergo aerobic biological decomposition;

23 (6) "Distribute," to import, consign, manufacture, produce, compound, mix, or blend
24 commercial fertilizer, or to offer for sale, sell, barter, or otherwise supply commercial

- 1 fertilizer in this state;
- 2 (7) "Distributor," any person who distributes commercial fertilizer in this state;
- 3 (8) "Fertilizer material," a commercial fertilizer which either:
- 4 (a) Contains important quantities of no more than one of the primary plant
5 nutrients: nitrogen, phosphoric acid, and potash; or
- 6 (b) Has approximately eighty-five percent of its plant nutrient content present in
7 the form of a single chemical compound; or
- 8 (c) Is derived from a plant or animal residue or by-product or a natural material
9 deposit which has been processed in such a way that its content of primary
10 plant nutrients has not been materially changed except by purification and
11 concentration;
- 12 (9) "Grade," the percentage of total nitrogen, available phosphoric acid, and soluble
13 potash stated in whole numbers in the same terms, order, and percentages as in the
14 guaranteed analysis. However, speciality fertilizers may be guaranteed in fractional
15 units of less than one percent of total nitrogen, available phosphoric acid, and soluble
16 potash. Fertilizer materials, bone meal, manures, and similar raw materials may be
17 guaranteed in fractional units;
- 18 (10) "Investigational allowance," allowance for variations inherent in the taking,
19 preparation, and analysis of an official sample of commercial fertilizer;
- 20 (11) "Label," a display of written, printed, or graphic matter on or attached to the
21 immediate container of any article and the outside container or wrapper of the retail
22 package, or a statement or document accompanying a commercial fertilizer;
- 23 (12) "Labeling," all written, printed, or graphic matter, upon or accompanying any
24 commercial fertilizer or advertisements, brochures, posters, television, and radio

- 1 announcements used in promoting the sale of commercial fertilizer;
- 2 (13) "Licensee," any person who receives a license to distribute a commercial fertilizer
- 3 under the provisions of this chapter;
- 4 (14) "Metric ton," a net weight of one thousand kilograms;
- 5 (15) "Mixed fertilizer," a commercial fertilizer containing any combination or mixture of
- 6 fertilizer materials;
- 7 (16) "Nitrogen," the element of nitrogen;
- 8 (17) "Official sample," any sample of commercial fertilizer taken by the secretary of
- 9 agriculture or ~~his~~ department agent according to methods prescribed by this chapter;
- 10 (18) "Percent" or "percentage," the percentage by weight;
- 11 (19) "Primary nutrients," nitrogen, available phosphoric acid, and soluble potash;
- 12 (20) "Recognized plant nutrients," primary nutrients, secondary nutrients, and micro
- 13 nutrients;
- 14 (21) ~~"Registrant," any person who registers specialty fertilizers for distribution under the~~
- 15 ~~provisions of this chapter to nonregistrants;~~
- 16 (22) "Secondary and micro nutrients," those nutrients other than primary nutrients that are
- 17 essential for the normal growth of plants and that may need to be added to the growth
- 18 medium. Secondary plant nutrients include calcium, magnesium, and sulfur; micro
- 19 plant nutrients include boron, chlorine, cobalt, copper, iron, manganese, molybdenum,
- 20 sodium, and zinc;
- 21 (23) "Secretary," the secretary of the Department of Agriculture;
- 22 (24) "Sell:"
- 23 (a) The act of selling, transferring ownership;
- 24 (b) The offering and exposing for sale, exchange, or distribution;

1 (c) Giving away; or

2 (d) Receiving, accepting, holding or possession for sale, exchange, or distribution;

3 (24A) "Sewage sludge," "sludge," "biosolids," any solid, semisolid, or liquid residue
4 removed during the treatment of municipal or domestic sewage by publicly-owned
5 treatment works regulated under 40 CFR Part 503, as amended to January 1, 1995,
6 and the Clean Water Act as amended to January 1, 1995;

7 (25) "Soluble potash," that portion of the potash contained in fertilizers or fertilizer
8 materials which is soluble in an aqueous ammoniacal solution of 0.8% ammonium
9 oxalate, after boiling in a 1.14% solution of ammonium oxalate and reported as
10 potassium oxide;

11 (26) "Speciality fertilizer," a commercial fertilizer, lime, lime sludge, compost, sewage
12 sludge, or products containing sewage sludge distributed for nonfarm use;

13 (27) "Ton," a net weight of two thousand pounds avoirdupois.

14 Section 8. That § 38-19-2.1 be amended to read as follows:

15 38-19-2.1. No person whose name appears on the label of a commercial fertilizer or who
16 manufactures or mixes a commercial fertilizer in this state may distribute that fertilizer until he
17 the person has obtained a distribution license from the secretary of agriculture. A distribution
18 license is required for each location where commercial fertilizer is manufactured or mixed. The
19 license may be granted only after payment of a fee of twenty-five dollars by the licensee. Each
20 license expires on the thirty-first day of December of ~~each~~ the year. ~~This section does not apply~~
21 ~~to specialty fertilizers, which registration requirements appear in § 38-19-3.1~~ after the date of
22 issuance. Any distribution license application for renewal received after the thirty-first day of
23 January of any year shall be assessed a late payment fee equal to the original license fee, which
24 shall be added to the original fee and shall be paid by the applicant before the renewal license is

1 issued. Any person who fails to obtain the proper license is subject to a civil penalty not to
2 exceed one thousand dollars per violation. Notice ~~must~~ shall be given by registered mail prior
3 to the imposition of any civil penalty ~~being imposed~~.

4 Section 9. That § 38-19-2.2 be amended to read as follows:

5 38-19-2.2. An application for a commercial fertilizer distribution license shall include the
6 name and address of the licensee ~~and the name and address of each distribution point operated~~
7 ~~by the licensee in the state~~. The licensee's name and address as it appears on the license shall
8 appear on all labels and pertinent invoices used by the licensee and on all bulk storage units
9 operated by the licensee in this state.

10 Section 10. That § 38-19-3.1 be repealed.

11 ~~— 38-19-3.1. No person may distribute in this state a specialty fertilizer to a nonregistrant until~~
12 ~~it is registered with the secretary of agriculture by the manufacturer or distributor whose name~~
13 ~~appears on the label. An application in duplicate for each brand and product name of each grade~~
14 ~~of specialty fertilizer shall be made on a form furnished by the secretary and shall be accompanied~~
15 ~~with a registration and inspection fee of twenty-five dollars for each brand and product name of~~
16 ~~each grade. Two labels for each brand and product name of each grade shall accompany the~~
17 ~~application. Upon the approval of an application by the secretary, a copy of the registration shall~~
18 ~~be furnished the applicant. All registrations expire on the thirty-first day of December of each~~
19 ~~year.~~

20 Section 11. That § 38-19-3.2 be repealed.

21 ~~— 38-19-3.2. Any specialty fertilizer containing pesticides and meeting the requirements of~~
22 ~~chapter 38-20A is exempt from annual registration as required by § 38-20A-4.~~

23 Section 12. That § 38-19-4.1 be repealed.

24 ~~— 38-19-4.1. An application for registration shall include the following:~~

1 ~~—(1)— Name and address of the manufacturer or distributor;~~

2 ~~—(2)— The brand and product name;~~

3 ~~—(3)— The grade;~~

4 ~~—(4)— The guaranteed analysis;~~

5 ~~—(5)— The net weight.~~

6 Section 13. That § 38-19-10 be amended to read as follows:

7 38-19-10. There is paid to the secretary of agriculture for all commercial fertilizer distributed
8 ~~to nonlicensees in this state an inspection fee of twenty up to twenty-five cents per ton. This fee~~
9 ~~is increased by thirty cents per ton which increase shall be deposited annually into the~~
10 ~~groundwater protection fund to fund the groundwater research and education program~~
11 ~~established pursuant to § 46A-1-85 for five years, at which point the fertilizer inspection fee for~~
12 ~~each ton of fertilizer shall be twenty cents per ton. The secretary of agriculture may promulgate~~
13 ~~rules pursuant to chapter 1-26 to provide for an increase in the tonnage inspection fee of up to~~
14 ~~five cents per ton. Such increase shall be commensurate with the overall cost of conducting~~
15 ~~commercial fertilizer inspections, investigations, monitoring, providing information and~~
16 ~~education, and taking enforcement action against violators. The secretary of agriculture shall~~
17 ~~promulgate rules pursuant to chapter 1-26 to establish the inspection fee.~~

18 ~~— However, sales or exchanges between importers, manufacturers, or licensees are exempt~~
19 ~~from the inspection fee. Also, the inspection fee does not apply to specialty fertilizer.~~

20 Section 14. That § 38-19-18 be amended to read as follows:

21 38-19-18. For the purposes of this chapter, a commercial fertilizer is deemed to be
22 adulterated:

23 (1) If it contains any deleterious or harmful ingredient in sufficient amount to render it
24 injurious to beneficial plant life when applied in accordance with directions for use on

1 the label, or if adequate warning statements or directions for use, which may be
2 necessary to protect plant life, are not shown on the label;

3 (2) If its composition falls below or differs from that which it is purported to possess by
4 its labeling; ~~or~~

5 (3) If it contains unwanted crop seed or weed seed; or

6 (4) If it contains any deleterious or harmful ingredient in sufficient amount that, if the
7 product is used in accordance with label instructions, it renders the commodity that
8 is derived from the treated crop injurious to humans, wildlife, livestock, or the
9 environment or renders the commodity unsaleable.

10 Section 15. That § 38-19-20 be repealed.

11 ~~38-19-20. The secretary of agriculture, pursuant to rules promulgated pursuant to the~~
12 ~~provisions of chapter 1-26, may cancel the license of any person or registration of any~~
13 ~~commercial fertilizer, or refuse to issue a license or registration as herein provided, upon~~
14 ~~satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in~~
15 ~~evasions or attempted evasions of the provisions of this chapter or any rules promulgated~~
16 ~~hereunder. However, no license or registration may be revoked or refused until the licensee or~~
17 ~~registrant has been given an opportunity to appear for a hearing by the secretary, such notice and~~
18 ~~hearing to follow rules promulgated therefore pursuant to the provisions of chapter 1-26.~~

19 Section 16. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 Each license applicant or licensee shall, upon request of the secretary, furnish copies of labels
22 and labeling in order to permit the secretary to determine compliance with the provisions of this
23 chapter.

24 Section 17. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The secretary of agriculture may reject the commercial fertilizer distribution license
3 application of any firm not in compliance with the provisions of this chapter and may cancel the
4 commercial fertilizer license of any firm subsequently found not to be in compliance with any
5 provision of this chapter. However, no commercial fertilizer distribution license may be refused
6 or canceled unless the licensee has been given an opportunity to be heard before the secretary
7 and to amend the application in order to comply with the requirements of this chapter.

8 Section 18. That § 38-19A-4 be amended to read as follows:

9 38-19A-4. Each separately identified soil conditioner product shall be registered before being
10 distributed in this state. The application for registration shall be submitted to the secretary of
11 agriculture on the form furnished or approved by the secretary and shall be accompanied by a
12 fee of twenty-five dollars per product. Upon approval by the secretary, a copy of the registration
13 shall be furnished to the applicant. Each registration shall expire on December thirty-first of the
14 year following the date of issuance. Each registrant shall submit to the secretary a copy of labels
15 and advertising literature with the registration request for each soil amendment.

16 Section 19. That § 38-19A-11 be amended to read as follows:

17 38-19A-11. Every distributor shall file with the secretary, on forms furnished by the secretary
18 of agriculture, ~~semiannual statements~~ an annual statement for ~~periods~~ the period ending
19 December thirty-first ~~and June thirtieth~~ of each year setting forth the number of net tons of each
20 soil amendment distributed in the state during that period. The report shall be due within thirty
21 days following each ~~semiannual~~ annual reporting period. If the report is not filed and the payment
22 of the inspection fee is not made within the time period specified, a collection fee amounting to
23 ten percent of the amount shall be assessed against the registrant. However, the minimum
24 collection fee is ten dollars. The secretary ~~shall have the authority to~~ may examine such records

1 to verify statements of tonnage. Such statement shall be accompanied by payment of an
2 inspection fee of twenty cents per ton for all soil amendments distributed in this state. The
3 secretary may allow payment of inspection fees on a calculated equivalent of volume to tons.

4 Section 20. That § 38-21-17 be amended to read as follows:

5 38-21-17. No person may engage in the business of applying pesticides to the lands of
6 another, advertise as being in the business of applying pesticides to the lands of another at any
7 time, apply pesticides while in the performance of his duties as a governmental employee or
8 otherwise act as a commercial applicator without an applicator's license issued by the secretary
9 of agriculture, unless exempted under the provisions of this chapter. The secretary shall require
10 ~~an annual~~ a fee of twenty-five dollars for each applicator license issued. The secretary of
11 agriculture shall issue an applicator license to government employees without a license fee. The
12 fee exempt license is valid only when the applicator is applying pesticides in the course of his
13 employment for the governmental entity. Any person who violates this section is subject to a civil
14 penalty not to exceed five thousand dollars per violation.

15 Section 21. That § 38-21-26 be amended to read as follows:

16 38-21-26. A licensed applicator's license shall expire on the last day of February of the
17 second year following the year of issue unless it has been revoked or suspended prior thereto by
18 the secretary of agriculture for cause, as provided for in § 38-21-44.

19 Section 22. That § 38-21-33.1 be amended to read as follows:

20 38-21-33.1. It is a Class 2 misdemeanor for any person to act in the capacity of a licensed
21 pesticide dealer or advertise as a licensed pesticide dealer at any time without first having
22 obtained ~~an annual~~ a license from the Department of Agriculture ~~which that~~ shall expire on the
23 last day of February of the second year following the year of issue. In addition to any criminal
24 penalty, any person who violates this section is subject to a civil penalty not to exceed five

1 thousand dollars per violation.

2 Section 23. That § 38-21-33.5 be amended to read as follows:

3 38-21-33.5. Application for a license shall be accompanied by a fifty dollar ~~annual~~ license fee
4 and shall be on a form prescribed by the secretary of agriculture. ~~The annual license fee for any~~
5 ~~applicant who also holds a licensed applicator license shall be twenty-five dollars.~~

6 Section 24. That § 38-21-42 be amended to read as follows:

7 38-21-42. Any person holding a current valid license or certification may renew such license
8 or certification for the next ~~year~~ biennium without taking another examination unless the
9 secretary of agriculture determines that additional knowledge related to classifications for which
10 the applicant has applied makes a new examination necessary or if additional demonstration of
11 qualifications is determined necessary for a person who has had a license suspended or revoked
12 or has had one or more previous violations of this chapter.

13 Section 25. That § 38-21-43 be amended to read as follows:

14 38-21-43. If the application for renewal of any license provided for in this chapter is not filed
15 prior to March first in any year of expiration, a penalty of fifty dollars shall be assessed and added
16 to the original fee and shall be paid by the applicant before the renewal license is issued.

17 Section 26. That § 38-24B-1 be amended to read as follows:

18 38-24B-1. Terms, as used in this chapter, ~~unless the context otherwise requires~~, mean:

- 19 (1) "Annual plants," ornamental or vegetable plants which are commonly grown in
20 movable containers and transplanted to out of doors locations and which do not live
21 for more than one growing season;
- 22 (2) "Dealer," any person who is not a resident nurseryman:
- 23 (a) Who buys nursery stock for the purpose of reselling or reshipping;
- 24 (b) Who makes landscape plans using nursery stock and negotiates in the purchase

1 of nursery stock for his clients; or

2 (c) Who contracts to furnish and plant nursery stock;

3 (3) "Decorative plants," indoor plants which are commonly grown and sold in movable
4 containers, and which are not adapted for cultivation out of doors because of climatic
5 conditions and natural peculiarities of habit or growth and because of the purpose of
6 their cultivation;

7 (4) "Department," the State Department of Agriculture;

8 (5) "Nursery," any grounds or premises on which nursery stock is being grown,
9 fumigated, packed, displayed, or stored, if such stock is or will either be sold or
10 offered for sale or distribution;

11 (6) "Nurseryman," any person who owns, leases, manages, or is in charge of a nursery;

12 (7) "Nursery stock," trees, shrubs, or other plants having a persistent woody stem; all
13 herbaceous perennials; and parts of either of those which are capable of propagation,
14 except for seeds, true bulbs, rhizomes, corms, and tubers while in a dormant
15 condition;

16 (8) "Pest," any animal, plant, insect, or infectious transmissible or contagious disease, or
17 other organism which is or may be dangerous or detrimental to the plant industry of
18 the state;

19 (9) "Regulated pest," any pest which the secretary determines is sufficiently detrimental
20 to the plant industry of the state to warrant control or eradication measures;

21 (10) "Related plant products," seed, true bulbs, rhizomes, corms, roots, and tubers of
22 nursery stock while in a dormant condition and nonviable plant to include forced
23 blooming plants and Christmas trees;

24 (11) "Resident nurseryman," any nurseryman in this state who grows all or a portion of the

1 nursery stock that ~~he~~ the nurseryman sells or distributes;

2 (12) ~~"Restricted dealer," a dealer who limits his nursery stock to only roses or herbaceous~~
3 ~~perennials;~~

4 (13) "Secretary," the state secretary of agriculture;

5 (14) "Sod," grassy surface soil held together by matted roots of grass cultivors, mixtures,
6 or blends of grass cultivors and used in residential and commercial landscape;

7 (15) ~~"Special nurseryman," a resident nurseryman who grows only one species of nursery~~
8 ~~stock and does less than five hundred dollars in sales each year;~~

9 (16) "Viable," capable of germination or living and developing under normal growing
10 conditions into a plant which would be typical in height, spread, caliper, dimension,
11 condition, quality, and age for a plant of that species.

12 Section 27. That § 38-24B-7 be amended to read as follows:

13 38-24B-7. The Department of Agriculture may issue a certificate of inspection to any
14 nurseryman, operating as a resident nurseryman or dealer, whose nursery stock has been
15 officially inspected and found to be viable and free from pests. The ~~annual~~ biennial fee for the
16 inspection and certification is: one hundred fifty dollars plus four dollars for each acre over one
17 acre of inspected plants. A conservation district that plants less than thirty acres of nursery stock
18 in a year or a dealer who is in business for less than three months in a year and only sells plants
19 obtained from an inspected in-state nursery may obtain a certificate of inspection at the reduced
20 fee of one hundred dollars.

21 ~~—(1)— Resident nurseryman: thirty dollars plus thirty cents for each acre of growing field;~~

22 ~~—(2)— Special nurseryman: ten dollars;~~

23 ~~—(3)— Dealer: thirty dollars; and~~

24 ~~—(4)— Restricted dealer: twenty dollars.~~

1 ~~All fees collected pursuant to this section shall be placed in the general fund.~~

2 Section 28. That § 38-24B-9 be amended to read as follows:

3 38-24B-9. Any nurseryman whose location is outside the state may obtain a certificate of
4 inspection to sell nursery stock within the state by filing a certified copy of ~~his~~ the official
5 inspection certificate and paying a ~~thirty~~ one hundred fifty dollar fee to the secretary of
6 agriculture. The secretary may waive the payment of the fee if the applicant's state does not
7 require a fee by South Dakota applicants for a like certificate in that state.

8 Section 29. That § 38-24B-12 be amended to read as follows:

9 38-24B-12. Any grower or dealer of decorative plants, annual plants, sod, or related plant
10 products may apply to the department for a certificate of inspection. The Department of
11 Agriculture may issue a certificate of inspection to the person whose decorative plants, annual
12 plants, sod, or related plant products have been officially inspected and found free from pests.
13 The fee for inspection and certification is ~~thirty cents~~ two
14 dollars for each acre of growing field and ~~thirty cents~~ two dollars for each one thousand square
15 feet of growing greenhouse.

16 Section 30. That chapter 38-24B be amended by adding thereto a NEW SECTION to read
17 as follows:

18 Fees collected pursuant to this chapter shall be deposited with the state treasurer in a special
19 revenue fund known as the nursery fund. This fund shall consist of moneys from public and
20 private sources including legislative appropriations, federal grants, gifts, and the fees received
21 pursuant to this chapter. The fund shall be maintained separately and be administered by the
22 department in order to defray the expenses of all activities associated with administering the
23 nursery program. Expenditures from the fund shall be appropriated through the normal budget
24 process. Unexpended funds and interest shall remain in the fund until appropriated by the

1 Legislature.

2 Section 31. That § 39-14-40.1 be amended to read as follows:

3 39-14-40.1. No person who manufactures a commercial feed within the state, or whose name
4 appears on the label of a commercial feed as guarantor, may distribute a commercial feed in the
5 state without first obtaining a commercial feed license from the secretary on forms provided by
6 the secretary that identify the manufacturer's or guarantor's name, place of business, and location
7 of each manufacturing facility in the state and such other appropriate information necessary for
8 enforcement of this chapter. The fee for a new or renewal license is fifty dollars per in-state
9 location or manufacturer name and location listed on a commercial feed label, except that in the
10 case of in-state manufacturers who manufacture only customer formula feeds, no fee may be
11 collected. Each license expires on the thirty-first of December of ~~each~~ the year after the date of
12 issuance. Commercial feed license applications for renewal received after the thirty-first of
13 January of each year shall be assessed a late payment fee equal to the original license fee, which
14 shall be added to the original fee and shall be paid by the applicant before the renewal license is
15 issued.

16 Section 32. That § 39-14-43 be amended to read as follows:

17 39-14-43. An inspection fee established in rules promulgated by the secretary of agriculture
18 pursuant to chapter 1-26, but not to exceed twenty-four cents per ton, shall be paid on
19 commercial feeds distributed in this state by the person who distributes the commercial feed to
20 the consumer subject to the following:

- 21 (1) No fee need be paid on a commercial feed if the payment has been made by a previous
22 distributor;
- 23 (2) No fee need be paid on customer-formula feeds;
- 24 (3) No fee need be paid on commercial feeds used as ingredients for the manufacture of

1 commercial feeds provided the fee has been paid by a previous distributor. If the fee
2 has been paid, credit is given for the payment;

3 (4) In the case of a pet food which is distributed in the state only in packages of ten
4 pounds or less, ~~an annual~~ a biennial fee of fifty dollars per product shall be paid in lieu
5 of the inspection fee specified above;

6 (5) In the case of a specialty pet food which is distributed in the state only in packages of
7 ten pounds or less, ~~an annual~~ a biennial fee of twenty-five dollars per product shall be
8 paid in lieu of the inspection fee specified above; and

9 (6) The minimum inspection fee shall be ~~ten~~ twenty dollars per ~~six-month~~ twelve-month
10 period.

11 Section 33. That § 39-14-44 be amended to read as follows:

12 39-14-44. Any person who is liable for payment of an inspection fee shall:

13 (1) File, not later than the last day of January ~~and July~~ of each year, ~~a semi-annual~~ an
14 annual statement, setting forth the number of net tons of commercial feeds distributed
15 in this state during the preceding ~~six~~ twelve months. Upon filing such statement, the
16 person shall pay the inspection fee at the rate stated in § 39-14-43. Inspection fees
17 that are due and have not been remitted to the Department of Agriculture ~~within thirty~~
18 ~~days following the due date~~ by January thirty-first of each year shall have a late
19 payment fee of ten percent or ~~ten~~ twenty dollars, whichever is greater, added to the
20 amount due when payment is finally made. The assessment of this late payment fee
21 does not prevent the department from taking other actions as provided in this chapter;
22 and

23 (2) Keep such records as may be necessary or required by the secretary of agriculture,
24 pursuant to rules promulgated pursuant to chapter 1-26, to indicate accurately the

1 tonnage of commercial feed distributed in this state. The secretary may examine such
2 records to verify statements of tonnage.

3 Failure to make an accurate statement of tonnage or to pay the inspection fee or comply with
4 this section constitutes sufficient cause for cancellation of a commercial feed license or rejection
5 of a commercial feed license application.

6 Section 34. That § 39-18-8 be amended to read as follows:

7 39-18-8. Upon approval by the secretary of agriculture, a copy of the registration of an
8 animal remedy shall be forwarded to the applicant. All registrations are on ~~an annual~~ a biennial
9 basis, expiring the thirty-first day of December of the year after the date of registration. ~~An~~
10 ~~annual~~ A biennial registration fee of twenty-five dollars for each product shall be paid to the
11 secretary upon application for registration.

12 Section 35. That § 38-18-27 be amended to read as follows:

13 38-18-27. Any person may request to enter into a compliance agreement with the secretary
14 or that the secretary make additional inspections of bees, bee equipment, or honey houses. The
15 person requesting the agreement ~~or the~~ shall pay a fee of fifty dollars per compliance agreement.
16 If an inspection is conducted, the person requesting the inspection shall pay the secretary any
17 extra expense incidental to such inspection plus mileage and per diem for inspectors' expenses.

18 Section 36. That § 38-19-12 be amended to read as follows:

19 38-19-12. Each licensed distributor of commercial fertilizer shall file with the secretary of
20 agriculture on forms furnished by the secretary an annual statement for the period ending
21 December thirty-first setting forth the number of net tons of each grade of commercial fertilizer
22 distributed in this state during the reporting period. The report is due on or before the thirtieth
23 of January following the close of the reporting period and on the basis of ~~his~~ the statement each
24 licensed distributor of commercial fertilizer shall pay the inspection fee at the rate ~~stated in~~

1 pursuant to § 38-19-10. If more than one person is involved in the distribution of a commercial
2 fertilizer, the distributor who imports, manufactures, or produces the commercial fertilizer is
3 responsible for the inspection fee on products produced or brought into this state. The distributor
4 shall separately list the inspection fee on the invoice to the licensee. The last licensee shall retain
5 the invoices showing proof of inspection fees paid for three years and shall pay the inspection
6 fee on commercial fertilizer brought into this state or produced before July 1, 2001, unless the
7 distributor has reported and paid the fees. If the tonnage report is not filed and the payment of
8 inspection fee is not made within thirty days after the end of the period, a collection fee
9 amounting to ten percent (minimum ten dollars) of the amount shall be assessed against the
10 licensee and the amount of fees due constitutes a debt and becomes the basis of a judgment
11 against the licensee. The secretary may verify the records on which statements of tonnage are
12 based and each licensed distributor of commercial fertilizer shall grant the secretary permission
13 to verify the records on ~~his~~ the licensee's application for license and on each tonnage report. ~~If~~
14 ~~more than one licensee is involved in a commercial fertilizer distribution chain, the last licensee~~
15 ~~who distributes commercial fertilizer to a nonlicensee is responsible for filing the tonnage report~~
16 ~~and paying the inspection fee.~~ The secretary may, ~~at his discretion,~~ revoke or refuse to renew the
17 license of any licensee failing to comply with this section. No information furnished under this
18 section may be disclosed by the secretary ~~or his agents~~ or anyone having access to tonnage
19 reports if the disclosure will in any way divulge any part of the operations of a licensee.

20 Section 37. That § 38-24B-14 be amended to read as follows:

21 38-24B-14. A certificate issued pursuant to the provisions of this chapter is in effect for a
22 period not to exceed ~~one year~~ two years and expires on December thirty-first of the year
23 following the date of issue.