

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0223 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 64 - 01/17/2001

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 authorize the Department of Agriculture and the
2 Department of Game, Fish and Parks to designate certain species as needing both control and
3 protection.

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

5 Section 1. Terms used in this chapter mean:

6 (1) "Departments," the Department of Game, Fish, and Parks and the Department of
7 Agriculture;

8 (2) "Species of management concern," a species designated by the secretary of the
9 Department of Agriculture and the Game, Fish and Parks Commission as a species
10 which shares the dual status of requiring both control and protection.

11 Section 2. The secretary of the Department of Agriculture and the Game, Fish and Parks
12 Commission shall establish, by rules promulgated pursuant to chapter 1-26, a list of species of
13 management concern. In determining whether a species should be listed, the following factors
14 are to be considered:

- 1 (1) Whether the species or its habitat, or both are of value ecologically and aesthetically
2 and at the same time burdensome for property owners; and
- 3 (2) Whether the species may warrant protection at times and control at others depending
4 on the rate of reproduction, climate, disease, population viability, and other factors.

5 Section 3. Rules promulgated pursuant to section 2 of this Act shall be conducted jointly by
6 both the Department of Agriculture and the Game, Fish and Parks Commission, including joint
7 notice, publication, hearings, and decision-making.

8 Section 4. If so requested, the departments may render assistance and advice regarding
9 species of management concern including:

- 10 (1) Providing information to the public and property owners regarding the species of
11 management concern and its characteristics, ecosystem values, and habitat; and
- 12 (2) Providing assistance in the development of conservation plans or control projects
13 regarding the species of management concern.

14 Section 5. The following acts or omissions constitute nuisances:

- 15 (1) Engaging in practices which allow or cause a species of management concern to
16 encroach upon the property of another or injure or endanger the property of another;
17 or
- 18 (2) Failure to control the species of management concern thereby causing encroachment
19 on the property of another or causing injury to or endangering the property of
20 another.

21 Section 6. In addition to any other remedies at law, the remedies set forth in chapter 21-10
22 apply to the nuisances described in section 5 of this Act. These remedies include civil action,
23 including injunctive relief and recovery of damages, and abatement. Abatement, if ordered by the
24 court, shall include reimbursement for any reasonable and necessary costs incurred in abating the

1 nuisance.

2 Section 7. Designation as a species of management concern abrogates any previous

3 designation as a weed or pest.