

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0223

## SENATE BILL NO. 64

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 secretaries of the  
9 departments as a species which shares the dual status of requiring both control and  
10 protection.

11 Section 2. The secretaries of the departments shall establish, by rules promulgated pursuant  
12 to chapter 1-26, a list of species of management concern. In determining whether a species  
13 should be listed, the following factors are to be considered:

14 (1) Whether the species or its habitat, or both are of value ecologically and aesthetically  
15 and at the same time burdensome for property owners; and

1 (2) Whether the species may warrant protection at times and control at others depending  
2 on the rate of reproduction, climate, disease, population viability, and other factors.

3 Section 3. Rules promulgated pursuant to section 2 of this Act shall be conducted jointly by  
4 both departments, including joint notice, publication, hearings, and decision-making.

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

7 (1) Providing information to the public and property owners regarding the species of  
8 management concern and its characteristics, ecosystem values, and habitat; and

9 (2) Providing assistance in the development of conservation plans or control projects  
10 regarding the species of management concern.

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

12 (1) Engaging in practices which allow or cause a species of management concern to  
13 encroach upon the property of another or injure or endanger the property of another;

14 or

15 (2) Failure to control the species of management concern thereby causing encroachment  
16 on the property of another or causing injury to or endangering the property of  
17 another.

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

23 Section 7. Designation as a species of management concern abrogates any previous  
24 designation as a weed or pest.