

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0220

HOUSE ENGROSSED NO. **HB 1021** - 01/24/2001

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 provisions regarding liability for violations
2 regarding plant quarantines and to establish certain fees for inspections and issuances of
3 certificates for the movement of plants and plant products.

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

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

6 38-24A-17. Any person who violates any of the provisions of this chapter or who alters,
7 forges, counterfeits, or uses without authority any certificate or permit or other document
8 provided for in this chapter or in the rules of the secretary of agriculture provided for in this
9 chapter, is guilty of a Class 1 misdemeanor. In addition, any person is liable in a civil action for
10 all damage that is occasioned or caused by a violation of this chapter.

11 Section 2. That chapter 38-24A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 The Department of Agriculture may grant special phytosanitary certificates on any plants or
14 plant products for individual shipment to other states in compliance with the plant inspection and
15 plant quarantine regulations of the state of destination or to foreign countries in compliance with

1 the plant inspection and plant quarantine regulations of the countries of destination.

2 Section 3. That chapter 38-24A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 Any owner of plants or plant products intending to ship those plants or plant products into
5 another state or country may apply to the Department of Agriculture for an inspection or for
6 obtaining an official sample. The inspection shall determine the presence of pests or the suitability
7 of processing equipment and grades which would prevent the acceptance of the plants or plant
8 products into other states or countries. Upon receipt of the application, the department may
9 comply with the request and may issue a certificate of facts disclosed. The fee for inspection,
10 obtaining samples, or issuing certificates are as follows:

- 11 (1) On-site inspection, thirty dollars;
- 12 (2) Field inspection, one hundred dollars for the first acre and one dollar for each
13 additional acre;
- 14 (3) Equipment or facility inspection, seventy-five dollars;
- 15 (4) State certificate, thirty dollars, unless the owner has paid one or more of the fees
16 specified in subdivision (1), (2), or (3) of this section, in which case the fee for a state
17 certificate is ten dollars; and
- 18 (5) Federal certificate, fifty dollars.

19 Section 4. That § 38-24B-27 be repealed.

20 ~~38-24B-27. The Department of Agriculture may grant special phytosanitary certificates on~~
21 ~~any plants or plant products for individual shipment to other states in compliance with the plant~~
22 ~~inspection and plant quarantine regulations of the state of destination or to foreign countries in~~
23 ~~compliance with the plant inspection and plant quarantine regulations of the countries of~~
24 ~~destination.~~

1 Section 5. That § 38-24B-28 be repealed.

2 ~~38-24B-28. Any owner of plants or plant products intending to ship those plants or products~~
3 ~~into another state or country may apply to the Department of Agriculture for an inspection or~~
4 ~~for obtaining an official sample. The inspection shall determine the presence of pests, or the~~
5 ~~suitability of processing equipment and grades which would prevent the acceptance of the plants~~
6 ~~or plant parts into other states or countries. Upon receipt of the application, the department may~~
7 ~~comply with the request and may issue a certificate of the facts disclosed. The fee for inspection~~
8 ~~or for obtaining samples which require the department to travel to the inspection site is thirty~~
9 ~~dollars, except for fields of growing plants where the fee is thirty dollars for the first acre and~~
10 ~~thirty cents for each additional acre. The fee for inspection of samples sent to the department is~~
11 ~~ten dollars. The department may designate local agents for the purpose of making inspections~~
12 ~~of plant or plant products pursuant to this section.~~

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0329

HOUSE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1046** - 01/24/2001

Introduced by: The Committee on Transportation at the request of the Department of
Revenue

1 FOR AN ACT ENTITLED, An Act to require certain boats documented by the United States
2 Coast Guard to be registered, to revise certain provisions regarding the numbering of boats,
3 and to allow the Game, Fish and Parks Commission to establish a fee for a temporary boat
4 license.

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

6 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any owner whose boat is registered and documented in accordance with United States Coast
9 Guard regulations is not required to display a South Dakota boat number nor obtain a South
10 Dakota certificate of title on the boat. However, if the boat is used on the waters of this state,
11 the boat shall be registered and shall display South Dakota boat license validation decals. The
12 owner shall attach to each side of the bow of the boat a validation decal. At the time of
13 application for the boat license, the owner shall furnish proof of tax paid on the boat. Boat
14 license validation decals expire on December thirty-first of the terminal year for the period

1 issued. The owner can apply for renewal validation decals as early as December first for the
2 following year.

3 Section 2. That § 32-3A-11 be amended to read as follows:

4 32-3A-11. A boat is not required to be numbered under this chapter if it is:

- 5 (1) A boat covered by a number still in effect which was awarded pursuant to federal law
6 or a federally approved numbering system of another state ~~and the~~, a boat that has not
7 been in this state for more than sixty ~~consecutive~~ days ~~and, or a boat that~~ has not been
8 berthed for a contract period of more than sixty days in marina facilities controlled by
9 this state;
- 10 (2) A boat from a country other than the United States temporarily using the waters of
11 this state;
- 12 (3) A boat whose owner is the United States, a state, or subdivision thereof;
- 13 (4) A racing boat competing in a regatta or boat race approved by the Game, Fish and
14 Parks Commission or operating during a period not to exceed forty-eight hours
15 immediately preceding the race and the remainder of the race day; or
- 16 (5) A boat owned or operated by a person who is participating in a fishing tournament
17 permitted by the Department of Game, Fish and Parks, provided the boat has been
18 issued a temporary boat license valid in South Dakota for a period of ten consecutive
19 days at a fee set by rules promulgated by the Game, Fish and Parks Commission
20 pursuant to chapter 1-26.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

247E0029

HOUSE ENGROSSED NO. **SB 2** - 02/05/2001

Introduced by: Senators Madden and Ham and Representatives McCoy and Slaughter at
the request of Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to prohibit employers from obtaining, seeking, or using
2 genetic information.

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

4 Section 1. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 It is an unlawful employment practice for an employer to seek to obtain, to obtain, or to use
7 genetic information, as defined in section 2 of this Act, of an employee or a prospective
8 employee to distinguish between or discriminate against employees or prospective employees or
9 restrict any right or benefit otherwise due or available to an employee or a prospective employee.
10 However, it is not an unlawful employment practice for an employer to seek to obtain, to obtain,
11 or to use genetic information if:

- 12 (1) The employer is a law enforcement agency conducting a criminal investigation; or
13 (2) The employer relies on the test results from genetic information obtained by law
14 enforcement through a criminal investigation, the employer legally acquires the test
15 results, the employer keeps the test results confidential except as otherwise required

1 by law, and the employer uses the test results for the limited purpose of taking
2 disciplinary action against the employee.

3 Any employee or prospective employee claiming to be aggrieved by this unlawful employment
4 practice may bring a civil suit for damages in circuit court. The court may award reasonable
5 attorney fees and costs in addition to any judgment awarded to the employee or prospective
6 employee.

7 Section 2. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 For the purposes of this Act, genetic information is information about genes, gene products,
10 and inherited characteristics that may derive from the individual or a family member. This includes
11 information regarding carrier status and information derived from laboratory tests that identify
12 mutations in specific genes or chromosomes, physical medical examinations, family histories, and
13 direct analysis of genes or chromosomes.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0345

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 25** - 02/05/2001

Introduced by: The Committee on State Affairs at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to require the use of safety seat belts by passenger vehicle
2 occupants under eighteen years of age.

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

4 Section 1. That chapter 32-37 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any operator of a passenger vehicle operated on a public street or highway in this state
7 transporting a passenger who is at least five and under eighteen years of age shall assure that the
8 passenger is wearing a properly adjusted and fastened safety seat belt system, required to be
9 installed in the passenger vehicle if manufactured pursuant to Federal Motor Vehicle Safety
10 Standard Number 208 (49 C.F.R. 571.208) in effect January 1, 1989, at all times when the vehicle
11 is in motion. A violation of this section is a petty offense.

12 Section 2. That chapter 32-37 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any operator of any passenger vehicle operated on a public street or highway in this state,
15 who is at least fourteen years of age and under eighteen years of age, shall wear a properly

1 adjusted and fastened safety seat belt system, required to be installed in the passenger vehicle if
2 manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F.R.
3 571.208) in effect January 1, 1989, at all times when the vehicle is in motion. A violation of this
4 section is a petty offense.

5 Section 3. That chapter 32-37 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any passenger of any passenger vehicle operated on a public street or highway in this state,
8 who is at least fourteen years of age and under eighteen years of age, shall wear a properly
9 adjusted and fastened safety seat belt system, required to be installed in the passenger vehicle if
10 manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F.R.
11 571.208) in effect January 1, 1989, at all times when the vehicle is in motion. A violation of this
12 section is a petty offense.

13 Section 4. That § 32-37-2 be amended to read as follows:

14 32-37-2. The provisions of ~~§ 32-37-1~~ this chapter do not apply:

15 ~~(1) If all seating positions equipped with seat belts are occupied, or~~

16 ~~(2) In in~~ passenger cars manufactured before 1966 that have not been equipped with seat
17 belts.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

169E0486

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 154 - 02/05/2001

Introduced by: Senators Bogue, Daugaard, de Hueck, Koetzle, Moore, and Whiting and
Representatives Madsen, Brown (Jarvis), Gillespie, McCaulley, and
Michels

1 FOR AN ACT ENTITLED, An Act to define the practice of law and to increase the penalty for
2 practicing without a license.

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

4 Section 1. That § 16-16-1 be amended to read as follows:

5 16-16-1. No person, ~~excepting~~ except as provided in § 16-18-2, ~~shall be permitted to~~ may
6 practice as an attorney and counselor at law in any court of record within this state, either by
7 using or subscribing his or her own name or the name of any other person ~~or persons~~, without
8 having previously obtained a license for that purpose from the Supreme Court of this state and
9 having become an active member in good standing of the State Bar of South Dakota. A violation
10 of this section is a ~~Class 2~~ Class 1 misdemeanor.

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

13 The term, practice of law, means the performance for another person or entity, of any of the
14 following services:

- 1 (1) Representation before a judicial, legislative, or executive, administrative, or other
2 governmental official or body, or before a government-owned body, or before an
3 arbitrator or similar body;
- 4 (2) Preparation or review of documents involving liberty, property, or other rights or
5 interests; or
- 6 (3) Any other service including, but not limited to, advice or negotiation, which in view
7 of the facts and circumstances requires the knowledge, skill, and judgment of a person
8 trained in law.

9 Section 3. That chapter 16-16 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Whether or not they constitute the practice of law, the following services are permitted:

- 12 (1) Practicing law in accordance with §§ 16-16-7.1, 16-16-7.6, 16-16-17.1, 16-18-2, 16-
13 18-2.1 to 16-18-2.10, inclusive, and 16-18-34 to 16-18-34.6, inclusive;
- 14 (2) Acting as a lay representative before administrative agencies or tribunals, if statutorily
15 authorized;
- 16 (3) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator;
- 17 (4) Participating in labor negotiations, arbitrations, or conciliations arising under collective
18 bargaining rights or agreements;
- 19 (5) Providing assistance to another to complete a form provided by a court for protection
20 under chapters 22-19A and 25-10 unless a fee is charged to do so;
- 21 (6) Acting as a registered legislative lobbyist under chapter 2-12;
- 22 (7) Preparing a federal, state, or local tax return or an appearance before a federal, state,
23 or local taxing authority in connection with an audit or administrative appeal of an
24 audit or return by a person with respect to their own tax returns, or tax returns of

1 entities of which they are a substantial (ten percent or more) owner. The preparation
2 of federal, state, or local tax returns for third parties or the appearance before agents
3 of taxing authorities in connection with audits on behalf of third parties or appearances
4 before nonevidentiary administrative appeal bodies are also permitted;

5 (8) Performing other activities that the South Dakota Supreme Court has determined do
6 not constitute the unauthorized practice of law;

7 (9) Preparing documents authorized by subdivision 36-21A-71(24) or completing forms
8 or providing assistance to another to complete forms associated with real estate
9 transactions approved by the South Dakota Real Estate Commission pursuant to
10 chapter 36-21A, including agency agreements, management agreements, and purchase
11 agreements, if done by a licensee in good standing under chapter 36-21A.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

664E0476

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 155 - 02/05/2001

Introduced by: Senators Bogue, Daugaard, de Hueck, Koetzle, Moore, and Whiting and
Representatives Brown (Jarvis), Gillespie, Madsen, McCaulley, and
Michels

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the termination of life
2 estates and joint tenancies.

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

4 Section 1. That § 21-44-2 be amended to read as follows:

5 21-44-2. In all cases of joint tenancy in lands or personal property, and in all cases where any
6 estate, title or interest in, or lien upon, lands or personal property has been or may be created,
7 which estate, title, interest, or lien was or is to continue only during the life of any person named
8 or described in the instrument by which such estate, title, interest or lien was created, a copy of
9 the record of the death of any such joint tenant or of the person upon whose life such estate, title,
10 interest, or lien was or is limited, duly certified by any officer who is required by the laws of the
11 state or county in which such record is made, to keep a record of the death of persons occurring
12 within the jurisdiction of such officer, may be recorded in the office of the register of deeds of the
13 county in which such lands are situated or in the proper office for filing as to such personal
14 property. The record of such certified copy shall be prima facie evidence of the death of such

1 person and the termination of such joint tenancy and of all such estate, title, interest, and lien as
2 was or is limited upon the life of such person. ~~There~~ In the case of any person dying prior to
3 July 1, 2001, there shall also be recorded at the same time, a certified copy of an order made by
4 the circuit court having jurisdiction determining that there is no inheritance tax due on the estate
5 of the deceased person or an order made by ~~said~~ the court reciting that the tax due on the estate
6 of ~~said~~ the deceased person or on a particular transfer has been determined and proof of the
7 payment of the tax has been filed in the office of the clerk of the court. In order to identify the
8 property affected by the death of such person, the person causing ~~said~~ the certificate to be
9 recorded shall attach thereon an affidavit setting out the legal descriptions of the property
10 involved.

11 This section shall not be treated or construed as exclusive of any other remedy authorized by
12 law or rule of court but shall be cumulative to such other remedy.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

644E0640

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 245** - 02/05/2001

Introduced by: Senators Brown (Arnold), Brosz, Daugaard, Drake, Ham, Hutmacher, McCracken, Olson (Ed), and Sutton (Dan) and Representatives Heineman, Pitts, and Smidt

1 FOR AN ACT ENTITLED, An Act to create a health care access and preservation trust fund and
2 to provide that earnings from the fund be used for certain health care purposes.

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

4 Section 1. That § 28-6-33 be amended to read as follows:

5 28-6-33. There is hereby established in the state treasury a fund known as the
6 ~~intergovernmental transfer~~ health care access and preservation trust fund. The fund shall include
7 revenue received from publicly owned and operated nursing facilities for remittance to the fund
8 under § 28-6-31. The department shall administer the fund and shall adopt procedures for
9 participation by publicly owned and operated nursing facilities. All moneys designated for the fund
10 from whatever source derived shall be deposited with the state treasurer in the ~~intergovernmental~~
11 ~~transfer~~ health care access and preservation trust fund, except for dollars appropriated by the
12 Legislature for the neuromuscular program and the diabetes screening program. The principal in
13 the trust fund may not be expended except by a three-fifths majority vote of each house of the
14 Legislature. The ~~amounts in the intergovernmental transfer~~ fund shall be invested pursuant to

1 §§ 4-5-23 and 4-5-26 and the earnings shall be deposited in the ~~intergovernmental transfer~~ health
2 care access and preservation interest fund.

3 Section 2. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The health care access and preservation interest fund is established in the state treasury. The
6 fund shall be invested according to §§ 4-5-23 and 4-5-26. The investment earnings of the fund
7 shall be credited to the fund. The money in the fund shall be appropriated by the Legislature to
8 fund health care related uses.

9 Section 3. That § 28-6-31 be amended to read as follows:

10 28-6-31. Each publicly owned and operated nursing facility participating under the provisions
11 of §§ 28-6-28 to 28-6-36, inclusive, immediately upon receiving a payment under § 28-6-30, shall
12 remit the amount of that payment, less a transaction fee, to the department for credit to:

13 (1) The ~~intergovernmental transfer~~ health care access and preservation trust fund in an
14 amount equal to the applicable federal medical assistance percentage times the total
15 remittance to the department, less the transaction fee; and

16 (2) The department's other funds for all remaining amounts.

17 Section 4. That § 28-6-35 be amended to read as follows:

18 28-6-35. The department may promulgate rules pursuant to chapter 1-26 for the
19 administration of §§ 28-6-28 to 28-6-36, inclusive. The rules may include criteria for establishing,
20 funding, and administering the pool, criteria for participation in the intergovernmental transfer,
21 penalties for failing to immediately remit the funds to the department, criteria for the transfer of
22 funds, the establishment of transaction fees, and other policies to facilitate the administration of
23 the ~~intergovernmental transfer~~ health care access and preservation trust fund ~~or~~, the funding pool,
24 and the health care access and preservation interest fund.

1 Section 5. That § 28-6-36 be amended to read as follows:

2 28-6-36. Sections 28-6-28 to ~~28-6-36~~ 28-6-35, inclusive, and section 2 of this Act do not
3 create an entitlement to any funds. The department may disburse funds to the extent funds are
4 available and, within its discretion, to the extent such appropriations are approved.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0755

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 250 - 02/05/2001

Introduced by: Senators Bogue, Duxbury, Greenfield, and Moore and Representatives
Jaspers, Broderick, Brown (Jarvis), Brown (Richard), Flowers, Michels,
and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to provide that taking money or property from patients or
2 inmates by certain institution employees constitutes theft.

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

4 Section 1. Any employee of the Department of Corrections or Department of Human Services
5 who, for personal benefit, takes, borrows, accepts, or steals anything with a value of five dollars
6 or more in property or money, from a patient, juvenile, or inmate who is under the care or
7 supervision of the Department of Corrections or the Department of Human Services, is guilty of
8 a Class 6 felony theft.

9 Section 2. For purposes of this Act, an employee of the Department of Corrections or the
10 Department of Human Services means any person employed by the department, full or part time,
11 including an individual under contract assigned to the department, an employee of another state
12 agency assigned to the department, or a volunteer working in a department facility or for a
13 department agency or program.