

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

517I0506

SENATE EDUCATION COMMITTEE ENGROSSED NO.

HB 1068 - 02/13/2003

Introduced by: Representatives McCaulley, Begalka, Christensen, Deadrick (Thomas),
Garnos, Hennies, Koistinen, McCoy, Weems, Wick, and Williamson and
Senators Schoenbeck, Abdallah, Dempster, and Napoli

1 FOR AN ACT ENTITLED, An Act to permit home school students to participate in high school
2 interscholastic activities.

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

4 Section 1. That § 13-36-4 be amended to read as follows:

5 13-36-4. The school board of a public or the governing body of a nonpublic school, approved
6 and accredited by the secretary of the Department of Education and Cultural Affairs, may
7 delegate, on a year to year basis, the control, supervision, and regulation of any ~~and all~~ high
8 school interscholastic activities to any association which is voluntary and nonprofit; ~~provided that~~
9 if membership in such association is open to all high schools approved and accredited by the
10 secretary of the Department of Education and Cultural Affairs, including any school that allows
11 participation by students receiving alternative education as set forth in § 13-27-3, pursuant to
12 the provisions of this title, and ~~that~~ if the constitution, bylaws, and rules of the association are
13 subject to ratification by the school boards of the member public school districts and the
14 governing boards of the member nonpublic schools and include a provision for a proper review



1 procedure and review board.

2 Any association which complies with this section ~~is hereby authorized and empowered to~~
3 may exercise the control, supervision, and regulation of interscholastic activities, including
4 interscholastic athletic events of member schools. Such association ~~is hereby further authorized~~
5 ~~and empowered to~~ may promulgate reasonable uniform rules, to make decisions and to provide
6 and enforce reasonable penalties for the violation of such rules.

7 Section 2. That § 13-36-7 be amended to read as follows:

8 13-36-7. Any student enrolling in a South Dakota district pursuant to § 13-15-21 is eligible
9 to participate in any interscholastic activity sponsored by the South Dakota High School
10 Activities Association. If the school board or governing body of an accredited school approves,
11 a student receiving alternative instruction pursuant to § 13-27-3 is eligible to participate in any
12 interscholastic activity sponsored by the South Dakota High School Activities Association.
13 Nothing in this section confers any vested right in any student wishing to participate in any
14 interscholastic activity to be selected for competition in such activity. However, any accredited
15 school student who leaves an accredited program during the course of the school year for any
16 reason and enters an alternative education program is ineligible for participation in interscholastic
17 activities for one year beginning on the date in which the student enters the alternative program.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

544I0334

SENATE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1072** - 02/11/2003

Introduced by: Representatives Madsen, Elliott, Gillespie, Hennies, Konold, Lintz, and Rave
and Senators Duniphan, Abdallah, Duenwald, Kelly, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the operation of
2 vehicles upon the approach of authorized emergency vehicles.

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

4 Section 1. That § 32-31-6.1 be amended to read as follows:

5 32-31-6.1. Upon approaching from any direction any stopped authorized emergency vehicle
6 making use of red visual signals meeting the requirements of this ~~chapter title~~, the driver of every
7 other vehicle shall come to a complete stop before ~~he reaches~~ reaching the stopped emergency
8 vehicle and may, unless otherwise directed, proceed with caution only after ~~he has ascertained~~
9 ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle
10 making use of amber or yellow warning lights, the driver of every other vehicle shall:

11 (1) If driving on an interstate highway or other highway with two or more lanes traveling
12 in the same direction as the vehicle, merge into the lane farthest from the vehicle and
13 proceed with caution, unless otherwise directed; or

14 (2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour
15 less than the posted speed limit or five miles per hour when the speed limit is posted



- 1 at twenty miles per hour or less and proceed with caution, unless otherwise directed.
- 2 A violation of this section is a Class 2 misdemeanor.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

128I0246

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1077 - 01/30/2003

Introduced by: Representatives Buckingham, Adelstein, Craddock, Elliott, Haverly, Hennies, Kroger, LaRue, Madsen, McCoy, McLaughlin, Murschel, Peterson (Jim), Rhoden, and Schafer and Senators Duniphan, Dempster, Earley, Koetzle, Napoli, Olson (Ed), Reedy, Sutton (Dan), and Symens

1 FOR AN ACT ENTITLED, An Act to repeal the limit on credit hours for certain students.

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

3 Section 1. That § 13-28-37 be amended to read as follows:

4 13-28-37. Any student in grades ten, eleven and, or twelve ~~who is admitted~~ may apply to an
5 institution of higher education or a postsecondary vocational education institution as a special
6 student ~~may enroll in not more than two~~ in a course or courses ~~per fall or spring semester, which~~
7 ~~are~~ offered at the institution of higher education or postsecondary vocational education
8 institution. The student shall obtain the school district's approval of the postsecondary course or
9 courses prior to enrolling ~~in the course~~. If approved, the student shall receive full credit toward
10 high school graduation as well as postsecondary credit for ~~the~~ each postsecondary course. The
11 resident school district may pay all or part of the tuition and fees for a course approved for credit
12 toward high school graduation in accordance with this section. The student is responsible for any
13 tuition and fees not paid by the resident school district and for any other costs involved with
14 attending a postsecondary institution.



1 If a failing final course grade is received in a postsecondary course under this section, the
2 student receiving the failure is no longer eligible to enroll for postsecondary courses under this
3 section.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

769I0268

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1080** - 02/04/2003

Introduced by: Representatives Klaudt, Lintz, McCaulley, and Rhoden and Senators de Hueck, Duniphan, and Jaspers

1 FOR AN ACT ENTITLED, An Act to revise the publication of advertisements for bids.

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

3 Section 1. That § 5-18-3 be amended to read as follows:

4 5-18-3. If the governing body of any public corporation intends to enter into a contract for
5 the construction of a new building or the remodeling or addition to an existing building which
6 involves the expenditure of fifty thousand dollars or more, a contract for any other public
7 improvement which involves the expenditure of twenty-five thousand dollars or more, or a
8 contract for the purchase of materials, supplies, or equipment which involves the expenditure of
9 fifteen thousand dollars or more, the governing body of the public corporation shall advertise for
10 bids for the project. The advertisement shall appear as a legal notice in the appointed legal
11 newspaper. The advertisement shall be printed at least twice, with the first publication at least
12 ten days before opening of bids. The first publication shall be in the official newspaper or
13 newspapers of the contracting corporation, and the second publication may be in any legal
14 newspaper of the state chosen by the contracting corporation. If the contracting corporation has
15 no official newspaper, the first publication shall be made in a legal newspaper with general



1 circulation in the district, to be selected by the contracting corporation. The advertisement shall
2 state the time and place where the bids will be opened and passed upon by the board. In all
3 notices, the board shall reserve the right to reject any or all bids. If a public corporation lists a
4 bid on the centralized bid exchange pursuant to § 5-18-1.1, the public corporation need not make
5 the second publication required by this section.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

517I0453

HOUSE ENGROSSED NO. **HB 1087** - 02/04/2003

Introduced by: Representatives Murschel, Bartling, Burg, Hargens, Heineman, Hunhoff, Klaudt, Madsen, McCoy, Miles, Nesselhuf, Peterson (Bill), Putnam, Smidt, Van Gerpen, and Van Norman and Senators Albers, Abdallah, Kloucek, Koetzle, McCracken, Moore, Reedy, and Symens

1 FOR AN ACT ENTITLED, An Act to revise the definition of qualified mental health
2 professionals and to clarify when reimbursement is required for the services of qualified
3 mental health professionals.

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

5 Section 1. That § 27A-1-3 be amended to read as follows:

6 27A-1-3. As used in this title, the term, "qualified mental health professional", means a
7 physician licensed pursuant to chapter 36-4 or a member of one of the professions listed in this
8 section who has received a competency-based endorsement as a qualified mental health
9 professional from the Department of Human Services. The following persons are eligible to apply
10 for the endorsement:

- 11 (1) A psychologist who is licensed to practice psychology in South Dakota;
- 12 (2) A psychiatric nurse with a master's degree from an accredited education program and
13 two years of supervised clinical experience in a mental health setting;
- 14 (3) A certified social worker with a master's degree from an accredited training program



1 and two years of supervised clinical experience in a mental health setting;

2 (4) A person who has a master's degree in psychology from an accredited program and
3 two years of supervised clinical mental health experience and who meets the provision
4 of subdivision 36-27A-2 (2); ~~or~~

5 (5) A counselor who is certified under chapter 36-32 as a licensed professional counselor
6 -- mental health; or

7 (6) A therapist who is licensed under chapter 36-33 as a marriage and family therapist
8 with two years of supervised clinical experience in a mental health setting.

9 Except as provided in § 36-4-20, each qualified mental health professional shall meet all
10 licensing and certification requirements promulgated by the State of South Dakota for persons
11 engaged in private practice of the same profession in South Dakota. However, the private
12 practice licensure requirement for persons referred to in subdivision (4) does not apply to those
13 employed by the State of South Dakota or mental health centers.

14 Section 2. That § 58-17-56 be amended to read as follows:

15 58-17-56. Notwithstanding any provision of any policy of insurance subject to the general
16 provisions of this title, whenever such policy or contract provides for reimbursement for any
17 service rendered by or directly supervised by a qualified mental health professional as defined in
18 § 27A-1-3, which may be legally performed by a mental health center as defined by § 27A-1-1,
19 reimbursement for coverage provided under such policy or contracts may not be denied.
20 However, the provisions of this section only apply to the services defined in § 58-17-98.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

455I0254

HOUSE ENGROSSED NO. **HB 1101** - 02/05/2003

Introduced by: Representatives Putnam, Bartling, Deadrick (Thomas), Hargens, Lintz, Olson (Ryan), Pederson (Gordon), and Van Gerpen and Senators Jaspers, de Hueck, Diedrich (Larry), Duxbury, Kloucek, Koskan, Nachtigal, and Symens

1 FOR AN ACT ENTITLED, An Act to revise the time period certain oversized motor vehicles
2 may operate each day under a permit.

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

4 Section 1. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a commercial operator of a vehicle on which is mounted hay grinding equipment is issued
7 an oversize permit pursuant to §§ 32-22-41 and 32-22-42, the operator may move the vehicle
8 from November first to March thirty-first, inclusive, upon any public highway during any time
9 of the day or night if the vehicle is operated within one hundred miles of the business location
10 of the commercial operator. However, no operator may move hay grinding equipment on the
11 interstate highway between one-half hour after sunset and one-half hour before sunrise on the
12 following day. The vehicle or the load may not exceed twelve feet in width. If the vehicle is
13 operated during the period of day between one-half hour after sunset and one-half hour before
14 sunrise, the vehicle shall display flashing or rotating white or amber lights at each side of the
15 vehicle's widest extremity. The warning lights shall be clearly visible to any motorist approaching



- 1 from the front or the rear. The annual fee for any oversized permit issued to a commercial
- 2 operator of a vehicle on which is mounted hay grinding equipment is fifty dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

742I0550

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1117 - 02/12/2003

Introduced by: Representatives Michels, Adelstein, Craddock, Cutler, Gillespie, Hunhoff, Kraus, LaRue, Madsen, Murschel, O'Brien, Olson (Mel), and Schafer and Senators Schoenbeck, Albers, de Hueck, Knudson, McCracken, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the enforcement of foreign domestic violence
2 protection orders.

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

4 Section 1. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any domestic violence protection order issued by a court of competent jurisdiction of
7 another state, Indian tribe, the District of Columbia, or a commonwealth, territory, or possession
8 of the United States is enforceable as if the order was issued by a court in this state if all of the
9 following requirements are satisfied:

- 10 (1) The respondent received notice of the order in compliance with requirements of the
11 issuing jurisdiction;
- 12 (2) The order is in effect in the issuing jurisdiction;
- 13 (3) The issuing court had jurisdiction over the parties and the subject matter;
- 14 (4) The respondent was afforded reasonable notice and opportunity to be heard sufficient



1 to protect that person's right to due process. In the case of ex parte orders, notice and
2 opportunity to be heard must have been provided within the time required by the law
3 of the issuing jurisdiction; and, in any event, within a reasonable time after the order
4 was issued, sufficient to protect the respondent's due process rights;

5 (5) If the order also provides protection for the respondent, a petition, application, or
6 other written pleading was filed with the issuing court seeking such an order and the
7 issuing court made specific findings that the respondent was entitled to the order; and

8 (6) The prohibited conduct violative of the foreign protection order could be prohibited
9 by a protection order if issued in this state.

10 Any protection order meeting the requirements of this section is a foreign domestic violence
11 protection order.

12 Section 2. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any person entitled to protection under a foreign domestic violence protection order may
15 file the foreign order in the office of any clerk of a circuit court in this state. The person filing
16 the foreign order shall also file with the clerk of a circuit court an affidavit certifying the validity
17 and status of the order and attesting to the person's belief that the order has not been amended,
18 rescinded, or superseded by any orders from a court of competent jurisdiction. If a foreign order
19 is filed under this section, the clerk of a circuit court shall enter the order in the law enforcement
20 protection order database. Filing of a foreign order under this section is not a prerequisite to the
21 order's enforcement in this state. No fee may be assessed for filing the foreign order.

22 Section 3. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 A law enforcement officer may rely upon any foreign domestic violence protection order that

1 has been provided to the officer by any source. The officer may make an arrest pursuant to § 25-
2 10-13 for any violation of the foreign order in the same manner as for violation of a protection
3 order issued in this state. A law enforcement officer may rely on the statement of the person
4 protected by the foreign order that the order is in effect and that the respondent was personally
5 served with a copy of the order. A law enforcement officer acting in good faith and without
6 malice in enforcing a foreign order under this section is immune from civil or criminal liability
7 for any action arising in connection with the enforcement of the foreign domestic violence
8 protection order.

9 Section 4. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any person who intentionally provides a law enforcement officer with a copy of a foreign
12 domestic violence protection order known by that person to be false, invalid, or not in
13 compliance with the requirements of section 1 of this Act, or who, if served with such a
14 protection order, denies having been served with the protection order, is guilty of a Class 1
15 misdemeanor.

16 Section 5. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Failure to satisfy any of the requirements of section 1 of this Act is an affirmative defense to
19 any prosecution for a violation of the foreign domestic violence protection order or any process
20 filed seeking enforcement of the order in this state.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

490I0555

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1150 - 02/12/2003

Introduced by: Representatives O'Brien and Deadrick (Thomas) and Senators Diedrich (Larry), Brown, Knudson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the amendment and cancellation of certain
2 limited liability partnerships.

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

4 Section 1. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A statement of qualification of a limited liability partnership is amended by filing a statement
7 of amendment in the Office of the Secretary of State. The statement of amendment shall set
8 forth:

- 9 (1) The name of the limited liability partnership;
- 10 (2) The date of filing the statement of qualification of limited liability partnership; and
- 11 (3) The amendment to the statement of qualification.

12 Section 2. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 A statement of qualification of limited liability partnership shall be cancelled upon the filing
15 of a statement of cancellation of the limited liability partnership. The statement of cancellation



1 shall be filed in the Office of the Secretary of State and shall set forth:

- 2 (1) The name of the limited liability partnership;
- 3 (2) The date of filing the statement of qualification of limited liability partnership; and
- 4 (3) The reason for filing the statement of cancellation.

5 Section 3. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A statement of foreign qualification of a limited liability partnership is amended by filing a
8 statement of amendment in the Office of the Secretary of State. The statement of amendment
9 shall set forth:

- 10 (1) The name of the limited liability partnership;
- 11 (2) The date of filing the statement of foreign qualification of limited liability partnership;
- 12 and
- 13 (3) The amendment to the statement of qualification.

14 Section 4. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
15 follows:

16 A statement of foreign qualification of limited liability partnership shall be cancelled by filing
17 a statement of cancellation. The statement of cancellation shall be filed in the Office of the
18 Secretary of State and shall set forth:

- 19 (1) The name of the limited liability partnership;
- 20 (2) The date of filing the statement of foreign qualification of limited liability partnership;
- 21 and
- 22 (3) The reason for filing the statement of cancellation.

23 Section 5. That § 48-7A-1208 be amended to read as follows:

24 48-7A-1208. The provisions of § 1-8-10 notwithstanding, the fee for filing the statements

1 and reports provided for in the following sections with the secretary of state is as follows:

2 (1) Section 48-7A-303, Statement of Authority, ninety dollars;

3 (2) Section 48-7A-304, Statement of Denial, ten dollars;

4 (3) Section 48-7A-704, Statement of Dissociation, ten dollars;

5 (4) Section 48-7A-805, Statement of Dissolution, ten dollars;

6 (5) Section 48-7A-907, Statement of Merger, ten dollars;

7 (6) Section 48-7A-1001, Statement of Qualification, ninety dollars;

8 (7) Section 48-7A-1003, Annual Report, twenty-five dollars; ~~and~~

9 (8) Section 1 of this Act, Statement of Amendment, ten dollars;

10 (9) Section 2 of this Act, Statement of Cancellation, ten dollars;

11 (10) Section 48-7A-1102, Statement of Foreign Qualification, ninety dollars;

12 (11) Section 3 of this Act, Statement of Amendment, ten dollars; and

13 (12) Section 4 of this Act, Statement of Cancellation, ten dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

662I0487

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 115** - 02/13/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Napoli, Apa, Bogue, Brown, Jaspers, Koskan, McCracken, and Sutton (Duane) and Representatives Rhoden, Garnos, Lintz, Olson (Mel), Putnam, and Teupel

1 FOR AN ACT ENTITLED, An Act to provide for a converted motor home title for certain
2 motor vehicles.

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

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

6 If any truck tractor is modified to become a motor home, the owner shall submit an
7 application to the Department of Revenue for a converted motor home title. To become a motor
8 home, the truck tractor shall be modified to include a vehicular-type unit built on the tractor's
9 chassis and designed primarily as temporary living quarters for recreational, camping, vacation,
10 or travel use. The unit shall be equipped with at least five of the following:

- 11 (1) Cooking facilities;
- 12 (2) A heating system or air conditioning system, or both, separate from the vehicle engine
13 or the vehicle engine electrical system;
- 14 (3) A self-contained toilet or a toilet connected to a plumbing system with connection for



1 external water disposal, or both;

2 (4) Portable water supply including plumbing and a sink with faucet either self-contained
3 or with connections for an external source, or both;

4 (5) Sleeping facilities;

5 (6) A refrigerator; or

6 (7) A one hundred ten or one hundred fifteen volt system separate from the vehicle engine
7 electrical system either with its own power supply or with a connection for an external
8 source, or both, or a liquefied petroleum system and supply.

9 The systems provided in subdivisions (2), (3), and (4) shall be permanently installed and
10 meet American National Standards Institute and National Fire Protection Association standards
11 in effect on the date of manufacture.

12 The application shall include a picture of the vehicle and an affidavit signed by the truck
13 tractor owner stating that the vehicle will not be used for private business use and that the vehicle
14 meets the requirements of this section. The department shall provide the form for the affidavit.
15 If the department is satisfied that the conditions of this section are met, the department shall issue
16 a converted motor home title.

17 Section 2. For the purposes of this Act, if a motor home is used to transport a motor vehicle,
18 boat, or animal to a race, tournament, show, or similar event, the motor home is not deemed to
19 be engaged in a private business use if:

20 (1) Any prize money received from participating in such an activity is declared as ordinary
21 income for tax purposes;

22 (2) The cost of participating in such an activity is not deducted as a business expense for
23 tax purposes; and

24 (3) No corporate sponsorship exceeding two thousand dollars in any one calendar year

1 is involved in participating in such an activity.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

464I0592

SENATE TRANSPORTATION COMMITTEE ENGROSSED NO. **SB 120** - 02/13/2003

Introduced by: Senators Moore and Duniphan and Representatives Smidt and Michels

1 FOR AN ACT ENTITLED, An Act to revise the amount of time allowed for holders of title or
2 lienholders to reclaim certain abandoned, impounded, or junk motor vehicles.

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

4 Section 1. That § 32-36-9 be amended to read as follows:

5 32-36-9. Notwithstanding any statutes to the contrary, title to any abandoned, unclaimed,
6 or junk motor vehicle, any impounded vehicle, or other scrap metal shall vest in the removal
7 agency after a period of ~~thirty~~ twenty days from the date on which notice was sent under
8 § 32-36-8. The record holder of title or the lienholder may reclaim the motor vehicle or other
9 scrap metal. The lienholder and record holder of title shall notify the department in writing within
10 ~~thirty~~ twenty days of their intent to reclaim and remove the motor vehicle. However, if the
11 record holder of title fails to claim and remove the motor vehicle or other scrap metal within
12 ~~thirty~~ twenty days after mailing of notice, title to the vehicle is irrevocably vested in the removal
13 agency.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

715I0655

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 156 - 02/11/2003

Introduced by: Senators McCracken, Bogue, and Symens and Representatives Kraus,
McLaughlin, and Miles

1 FOR AN ACT ENTITLED, An Act to revise certain provisions to provide workers'
2 compensation benefits to children of deceased employees.

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

4 Section 1. That § 62-4-12 be amended to read as follows:

5 62-4-12. The amount of compensation which shall be paid for an injury to the employee
6 resulting in death, if the employee leaves a spouse, ~~child or~~ and any children, shall be paid at the
7 rate provided by § 62-4-3 for life or until remarriage in the case of a spouse, ~~and in the event of~~
8 remarriage. If the spouse remarries, two years' benefits shall be paid to the spouse in a lump sum;
9 ~~and in the case of a child or.~~ The amount of compensation which shall be paid for an injury to
10 the employee resulting in death, if the employee leaves any children and no spouse, shall be paid
11 at the rate provided by § 62-4-3 until the child is age eighteen or for life in the case of a any child
12 ~~or children who are~~ is physically or mentally incapable of ~~supporting themselves~~ self-support or
13 until age twenty-two ~~if the~~ for any child ~~or children are~~ enrolled as a full-time student in any
14 accredited educational institution. ~~If the child or children are~~ any child is not in the custody of
15 the surviving spouse, the compensation shall be divided pursuant to the provisions of § ~~29-1-5~~



1 section 2 of this Act.

2 Section 2. That chapter 62-4 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The amount of compensation which shall be paid for an injury to the employee resulting in
5 death, if the employee leaves any child who is not in the custody of the surviving spouse, shall
6 be paid at the rate provided by § 62-4-3, with half of the amount being paid to the surviving
7 spouse. The other half shall be paid to the surviving child or in equal shares to the surviving
8 children, until age eighteen, or for life in the case of a child who is physically or mentally
9 incapable of self-support, or until age twenty-two for any child enrolled as a full-time student in
10 any accredited educational institution. When a child is no longer eligible for benefits, his or her
11 share shall be paid to the surviving spouse.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

74110658

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 163** - 02/13/2003

Introduced by: Senators Symens and Diedrich (Larry) and Representatives Peterson (Jim),
Pederson (Gordon), and Putnam

1 FOR AN ACT ENTITLED, An Act to require that certain biodiesel fuel blends be available for
2 sale.

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

4 Section 1. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Biodiesel blend," a blended special fuel containing a minimum of two percent by volume of
7 biodiesel. Biodiesel means a renewable, biodegradable, mono alkyl ester combustible liquid fuel
8 that is derived from agricultural plant oils or animal fats and that meets American Society For
9 Testing and Materials Specification D 6751-02 for Biodiesel Fuel (B100) Blend Stock for
10 Distillate Fuels.

11 Section 2. Beginning on July 1, 2005, the end seller in this state shall also offer a biodiesel
12 blend containing at least two percent by volume of biodiesel.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

607I0654

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 168 - 02/13/2003

Introduced by: Senators Dempster and Sutton (Dan) and Representatives Williamson, Engels,
and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding variable life insurance
2 policies.

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

4 Section 1. That § 58-28-30 be amended to read as follows:

5 58-28-30. Except for §§ 58-15-13, 58-15-14, 58-15-15, 58-15-17, 58-15-18, 58-15-19,
6 58-15-21, 58-15-22, 58-15-29, 58-15-31, 58-15-32, 58-15-33, 58-15-34, 58-15-35, 58-15-36,
7 58-15-38, 58-15-39, and 58-27-108, as in the case of a variable life insurance policy,
8 §§ 58-15-57, 58-15-62, 58-15-64, 58-15-65, 58-15-66, 58-15-72 to 58-15-81, inclusive, and
9 58-27-108, as in the case of a variable annuity contract and except as is otherwise provided in
10 this chapter, all pertinent provisions of the insurance code ~~shall~~ apply to separate accounts and
11 contracts relating thereto.

12 Section 2. That chapter 58-28 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Except if variable death benefits are used to pay premiums, the payment of variable death
15 benefits in excess of any minimum death benefits, cash values, policy loans, or partial



1 withdrawals, or the payment of variable death benefits in excess of any partial surrenders, may
2 be deferred either:

- 3 (1) For up to six months from the date of the request, if the payments are based on policy
4 values that do not depend on the investment performance of the separate account; or
5 (2) For any period during which the New York stock exchange is closed for trading,
6 except for normal holiday closing, or for any period during which the securities and
7 exchange commission determines that a state of emergency exists which may make
8 such payment impractical.

9 Section 3. That chapter 58-28 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The director may promulgate rules pursuant to chapter 1-26 relating to variable life insurance
12 policies. In promulgating the rules, the director shall give substantial consideration to the
13 standards contained in the National Association of Insurance Commissioners (NAIC) Variable
14 Life Insurance Model Regulation and otherwise design the rules to achieve uniformity, to the
15 degree reasonably possible, in the standards for variable life insurance. The rules shall be limited
16 to the following:

- 17 (1) Standards for suitability of sales and sales materials;
18 (2) Policy benefit and design requirements;
19 (3) Establishment and administration of separate accounts;
20 (4) Disclosure requirements; and
21 (5) Definition of terms.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

78110577

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 179** - 02/12/2003

Introduced by: Senators Symens, Abdallah, Bogue, Duenwald, McCracken, and Moore and
Representatives Hanson, Burg, Olson (Mel), and Peterson (Bill)

1 FOR AN ACT ENTITLED, An Act to revise and expand certain provisions relating to wind
2 energy development.

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

4 Section 1. That § 43-13-19 be amended to read as follows:

5 43-13-19. No interest in any resource located on a tract of land and associated with the
6 production or potential production of energy from wind power on the tract of land may be
7 severed from the surface estate as defined in § 45-5A-3, ~~except that~~ in fee, remainder, or
8 permanent easement. However, such rights may be leased as a wind easement for a period not
9 to exceed fifty years. Any such wind easement lease is void if no development of the potential
10 to produce energy from wind power has occurred on the land within five years after the lease
11 began. The payment of any such wind easement lease shall be on an annual basis.

12 Section 2. That § 43-13-18 be amended to read as follows:

13 43-13-18. Any deed, will, or other instrument that creates a wind easement shall include:

14 (1) A description of the real property subject to the easement and a description of the real
15 property benefiting from the wind easement;



1 (2) A description of the vertical and horizontal angles, expressed in degrees, and distances
2 from the site of the wind power system in which an obstruction to the wind is
3 prohibited or limited;

4 (3) Any terms or conditions under which the easement is granted or may be terminated;

5 (4) Any provisions for compensation of the owner of the real property benefiting from the
6 easement in the event of interference with the enjoyment of the easement, or
7 compensation of the owner of the real property subject to the easement for
8 maintaining the easement; and

9 (5) Any other provisions necessary or desirable to execute the instrument.

10 No instrument creating a wind easement may bind any of the parties to confidentiality
11 concerning the terms of the easement. Any such confidentiality provision is void.

12 Section 3. That chapter 43-13 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 No wind power turbine may be erected within a distance to an adjoining property of less than
15 three times the total swept rotorblade diameter of the installed turbine unless the adjoining
16 landowner has consented in writing for compensation received.