

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0391

HOUSE BILL NO. 1056

Introduced by: The Committee on Judiciary at the request of the Department of Game, Fish
and Parks

1 FOR AN ACT ENTITLED, An Act to implement an interstate wildlife violator compact.

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

3 Section 1. An interstate wildlife violator compact is entered with all states legally joining
4 the compact in the form substantially as contained in this Act.

5 Section 2. The Legislature of the State of South Dakota and the participating compact states
6 find that:

7 (1) Wildlife resources are managed in trust by the respective compact states for the
8 benefit of all residents and visitors;

9 (2) The protection of the wildlife resources of the compact state is materially affected by
10 the degree of compliance with state statutes, laws, ordinances, regulations, and
11 administrative rules relating to the management of such resources;

12 (3) The preservation, protection, management, and restoration of wildlife contributes
13 immeasurably to the aesthetic, recreational, and economic aspects of such natural
14 resources;

15 (4) Wildlife resources are valuable without regard to political boundaries; therefore,



1 every person should be required to comply with wildlife preservation, protection,
2 management and restoration laws, ordinances, regulations, and administrative rules
3 of the participating compact states as a condition precedent to the continuance or
4 issuance of any license to hunt, fish, trap, or possess wildlife;

5 (5) Violation of wildlife laws interferes with the management of wildlife resources and
6 may endanger the safety of persons and property;

7 (6) The mobility of many wildlife law violators necessitates the maintenance of channels
8 of communication among the various states;

9 (7) In most instances, a person who is cited for a wildlife violation in a state other than
10 that person's own state:

11 (a) Is required to post collateral or a bond to secure appearance for a trial at a later
12 date;

13 (b) Is taken into custody until the collateral or bond is posted; or

14 (c) Is taken directly to court for an immediate appearance;

15 (8) The purpose of the enforcement practices set forth in subdivision (7) is to ensure
16 compliance with the terms of a wildlife citation by the cited person who, if permitted
17 to proceed after receiving the citation, could return to the person's home state and
18 disregard the person's duty under the terms of the citation;

19 (9) In most instances, a person receiving a wildlife citation in that person's home state
20 is permitted to accept the citation from the officer at the scene of the violation and
21 immediately proceed after agreeing or being instructed to comply with the terms of
22 the citation;

23 (10) The practices described in subdivision (7) cause unnecessary inconvenience and, at
24 times, a hardship for the person who is unable at the time to post collateral, furnish

1 a bond, stand trial, or pay a fine and is thus compelled to remain in custody until
2 some alternative arrangement is made; and

3 (11) The enforcement practices described in subdivision g consume an undue amount of
4 law enforcement time.

5 Section 3. It is the policy of the State of South Dakota and the participating compact states
6 to:

7 (1) Promote compliance with the statutes, laws, ordinances, regulations, and
8 administrative rules relating to management of wildlife resources in their respective
9 states;

10 (2) Recognize the suspension of wildlife license privileges of any person whose license
11 privileges have been suspended by a participating state and may treat such suspension
12 as if it had occurred in their state;

13 (3) Allow a violator, except as provided in section 7 of this Act, to accept a wildlife
14 citation and proceed without delay, whether or not a resident of the state in which the
15 citation was issued, if the violator's home state is party to this compact;

16 (4) Report to the appropriate participating state, as provided in a compact manual
17 adopted by the participating compact states, any conviction recorded against any
18 person whose home state was not the issuing state;

19 (5) Allow the home state to recognize and treat convictions recorded against its
20 residents, which convictions occurred in a participating state, as though they occurred
21 in the home state;

22 (6) Extend cooperation to its fullest extent among the participating states for enforcing
23 compliance with the terms of a wildlife citation issued in one participating state to
24 a resident of another participating state;

1 (7) Maximize effective use of law enforcement personnel and information; and

2 (8) Assist court systems in the efficient disposition of wildlife violations.

3 Section 4. The purpose of this Act and compact is to provide a means through which
4 participating states may join in a reciprocal program to effectuate the policies enumerated in
5 section 3 of this Act in a uniform and orderly manner and to provide for the fair and impartial
6 treatment of wildlife violators operating within participating states in recognition of the
7 violator's right to due process and the sovereign status of a participating state.

8 Section 5. Terms used in this Act and compact mean:

9 (1) "Citation," any summons, complaint, summons and complaint, ticket, penalty
10 assessment, or other official document that is issued to a person by a wildlife officer
11 or other peace officer for a wildlife violation and that contains an order requiring the
12 person to respond;

13 (2) "Collateral," any cash or other security deposited to secure an appearance for trial in
14 connection with the issuance by a wildlife officer or other peace officer of a citation
15 for a wildlife violation;

16 (3) "Compliance," with respect to a citation, the act of answering a citation through an
17 appearance in a court or tribunal, or through the payment of fines, costs, and
18 surcharges, if any;

19 (4) "Conviction," a conviction, including any court conviction, for any offense that is
20 related to the preservation, protection, management, or restoration of wildlife and that
21 is prohibited by state statute, law, regulation, ordinance, or administrative rule. The
22 term also includes the forfeiture of any bail, bond, or other security deposited to
23 secure appearance by a person charged with having committed any such offense, the
24 payment of a penalty assessment, a plea of nolo contendere, and the imposition of a

- 1 deferred or suspended sentence by the court.
- 2 (5) "Court," a court of law, including magistrate's court and the justice of the peace court,
3 if any;
- 4 (6) "Home state," the state of primary residence of a person;
- 5 (7) "Issuing state," the participating state which issues a wildlife citation to the violator;
- 6 (8) "License," any license, permit, or other public document that conveys to the person
7 to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
8 regulated by statute, law, regulation, ordinance, or administrative rule of a
9 participating state;
- 10 (9) "Licensing authority," the department or division within each participating state that
11 is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or
12 possess wildlife;
- 13 (10) "Participating state," any state that enacts legislation to become a member of this
14 wildlife compact;
- 15 (11) "Personal recognizance," an agreement by a person made at the time of issuance of
16 the wildlife citation that such person will comply with the terms of the citation;
- 17 (12) "State," any state, territory, or possession of the United States, the District of
18 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
19 countries;
- 20 (13) "Suspension," any revocation, denial, or withdrawal of any or all license privileges,
21 including the privilege to apply for, purchase, or exercise the benefits conferred by
22 any license;
- 23 (14) "Terms of the citation," those conditions and options expressly stated in the citation;
- 24 (15) "Wildlife," all species of animals including mammals, birds, fish, reptiles,

1 amphibians, mollusks, and crustaceans, which are defined as wildlife and are
2 protected or otherwise regulated by statute, law, regulation, ordinance, or
3 administrative rule in a participating state. Species included in the definition of
4 wildlife for purposes of this compact are based on state or local law;

5 (16) "Wildlife law," any statute, law, regulation, ordinance, or administrative rule
6 developed and enacted for the management of wildlife resources and the uses thereof;

7 (17) "Wildlife officer," any individual authorized by a participating state to issue a citation
8 for a wildlife violation;

9 (18) "Wildlife violation," any cited violation of a statute, law, regulation, ordinance, or
10 administrative rule developed and enacted for the management of wildlife resources
11 and the uses thereof.

12 Section 6. When issuing a citation for a wildlife violation, a wildlife officer shall issue a
13 citation to any person whose primary residence is in a participating state in the same manner as
14 though the person were a resident of the issuing state and may not require such person to post
15 collateral to secure appearance, subject to the exceptions noted in section 7 of this Act if the
16 officer receives the recognizance of such person that the person will comply with the terms of
17 the citation.

18 Section 7. Personal recognizance is acceptable:

19 (1) If not prohibited by state or local law or the compact manual; and

20 (2) If the violator provides adequate proof of identification to the wildlife officer.

21 Section 8. Upon conviction or failure of a person to comply with the terms of a wildlife
22 citation, the appropriate official shall report the conviction or failure to comply to the licensing
23 authority of the participating state in which the wildlife citation was issued. The report shall be
24 made in accordance with procedures specified by the issuing state and shall contain information

1 as specified in the compact manual as minimum requirements for effective processing by the
2 home state.

3 Section 9. Upon receipt of the report of conviction or noncompliance pursuant to section 8
4 of this Act, the licensing authority of the issuing state shall transmit to the licensing authority
5 of the home state of the violator the information in form and content as prescribed in the
6 compact manual.

7 Section 10. Upon receipt of a report from the licensing authority of the issuing state
8 reporting the failure of a violator to comply with the terms of a citation, the licensing authority
9 of the home state shall notify the violator and may initiate a suspension action in accordance
10 with the home state's suspension procedures and may suspend the violator's license privileges
11 until satisfactory evidence of compliance with the terms of the wildlife citation has been
12 furnished by the issuing state to the home state licensing authority. Due process safeguards shall
13 be accorded.

14 Section 11. Upon receipt of a report of conviction from the licensing authority of the issuing
15 state, the licensing authority of the home state may enter such conviction in its records and may
16 treat such conviction as though it occurred in the home state for the purposes of the suspension
17 of license privileges if the violation resulting in a suspension could have been the basis for
18 suspension of license privileges in the home state.

19 Section 12. The licensing authority of the home state shall maintain a record of actions taken
20 and shall make reports to issuing states as provided in the compact manual.

21 Section 13. All participating states may recognize the suspension of license privileges of any
22 person by any participating state as though the violation resulting in the suspension had occurred
23 in their state and could have been the basis for suspension of license privileges in their state.

24 Section 14. Each participating state shall communicate suspension information to other

1 participating states in form and content as contained in the compact manual.

2 Section 15. Except as expressly required by this compact, nothing in this compact may be
3 construed to affect the right of any participating state to apply any of its laws relating to license
4 privileges to any person or circumstance or to invalidate or prevent any agreement or other
5 cooperative arrangement between a participating state and a nonparticipating state concerning
6 wildlife law enforcement.

7 Section 16. For the purposes of administering this Act and compact and to serve as a
8 governing body for the resolution of all matters relating to the operation of this compact, a board
9 of compact administrators is established. The board is composed of one representative from
10 each of the participating states to be known as the compact administrator. The compact
11 administrator shall be appointed by the head of the licensing authority of each participating state
12 and serves and is subject to removal in accordance with the laws of the state that the compact
13 administrator represents. A compact administrator may provide for the discharge of duties and
14 the performance of functions as a board member by an alternate. An alternate is not entitled to
15 serve unless written notification of the identity of the alternate has been given to the board.

16 Section 17. Each member of the board of compact administrators is entitled to one vote. No
17 action of the board is binding unless taken at a meeting at which a majority of the total number
18 of the board's votes are cast in favor of the action. Action by the board may be only at a meeting
19 at which a majority of the participating states is represented.

20 Section 18. The board shall elect annually from its membership a presiding officer and a
21 vice presiding officer.

22 Section 19. The board shall adopt bylaws not inconsistent with the provisions of this Act and
23 compact or the laws of a participating state for the conduct of its business and may amend and
24 rescind its bylaws.

1 Section 20. The board may accept for any of its purposes and functions under this compact
2 any and all donations and grants of money, equipment, supplies, materials, and services,
3 conditional or otherwise, from any state, the United States, or any governmental agency, and
4 receive, utilize, and dispose of the same.

5 Section 21. The board may contract with, or accept services or personnel from, any
6 governmental or intergovernmental agency, individual, firm, or corporation, or any private
7 nonprofit organization or institution.

8 Section 22. The board shall formulate all necessary procedures and develop uniform forms
9 and documents for administering the provisions of this compact. All procedures and forms
10 adopted pursuant to board action must be contained in a compact manual.

11 Section 23. This compact becomes effective at such time as it is adopted in a substantially
12 similar form by two or more states.

13 Section 24. Entry into the compact shall be made by resolution of ratification approved by
14 the South Dakota Department of Game, Fish and Parks Commission and submitted to the
15 presiding officer of the board.

16 Section 25. The resolution shall substantially be in the form and content as provided in the
17 compact manual and shall include the following:

- 18 (1) A citation of the authority from which the state is empowered to become a party to
19 this compact;
- 20 (2) An agreement of compliance with the terms and provisions of this compact; and
- 21 (3) An agreement that compact entry is with all states participating in the compact and
22 with all additional states legally becoming a party to the compact.

23 Section 26. The effective date of entry shall be specified by the applying state but may not
24 be less than sixty days after notice has been given by the presiding officer of the board of the

1 compact administrators or by the secretariat of the board to each participating state that the
2 resolution from the applying state has been received.

3 Section 27. A participating state may withdraw from participation in this compact by official
4 written notice to each participating state. Withdrawal does not become effective until ninety
5 days after the notice of withdrawal is given. The notice shall be directed to the compact
6 administrator of each member state. Withdrawal of any state does not affect the validity of this
7 compact as to the remaining participating states.

8 Section 28. This compact may be amended from time to time. Amendments shall be
9 presented in resolution form to the presiding officer of the board of the compact administrators
10 and shall be initiated by one or more participating states.

11 Section 29. Adoption of an amendment requires endorsement by all participating states and
12 becomes effective thirty days after the date of the last endorsement.

13 Section 30. Failure of a participating state to respond to the compact presiding officer within
14 one hundred twenty days after receipt of a proposed amendment constitutes endorsement of the
15 amendment.

16 Section 31. This compact shall be liberally construed so as to effectuate the purposes. The
17 provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this
18 compact is declared to be contrary to the constitution of any participating state or the United
19 States, or the applicability thereof to any government, agency, individual, or circumstance is
20 held invalid, the validity of the remainder of the compact is not affected thereby. If this compact
21 is held contrary to the constitution of any participating state, the compact remains in full force
22 and effect as to the remaining states and in full force and effect as to the participating state
23 affected as to all severable matters.

24 Section 32. The Department of Game, Fish and Parks shall enforce the interstate wildlife

1 violator compact and shall do all things within the department's jurisdiction that are appropriate
2 in order to effectuate the purposes and the intent of the compact.

3 Section 33. The South Dakota Department of Game, Fish and Parks Commission is
4 authorized on behalf of the state to enter or withdraw from the interstate wildlife violator
5 compact pursuant to the terms of sections 23, 24, and 25 of this Act.

6 Section 34. The South Dakota Department of Game, Fish and Parks Commission is
7 authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms
8 of sections 28, 29, and 30 of this Act.

9 Section 35. If the department receives notice of the suspension of a person's hunting,
10 trapping, or fishing privileges by a participating state, the department shall determine whether
11 the violation leading to the suspension could have led to the forfeiture of privileges under this
12 state's law. If the department determines that the person's privileges could have been forfeited,
13 the department may suspend the person's privileges to hunt, trap, or fish in this state for the
14 same period as imposed by the participating state not to exceed the maximum limits allowed by
15 state law.

16 Section 36. If the department receives notice of a conviction of a state resident from the
17 licensing authority of the issuing state, the department may treat the conviction as if it had
18 occurred in this state and shall determine whether the conviction could have led to the forfeiture
19 of the resident's hunting, trapping, or fishing privileges under state law. If the department
20 determines that the resident's privileges could have been forfeited, the department may suspend
21 the resident's privileges to hunt, trap, or fish in this state for the same period as the issuing state,
22 not to exceed the limit that could have been imposed under state law.

23 Section 37. Notice of the suspension shall be sent to the person, who shall surrender any
24 current South Dakota hunting, trapping, or fishing licenses to the department within ten days.

1 Section 38. A person whose privileges have been suspended and who hunts, traps, or fishes
2 in this state, who applies for or purchases any licenses or permits to hunt, trap, or fish in this
3 state, or who refuses to surrender any current hunting, trapping, or fishing licenses as required
4 is guilty of a Class 1 misdemeanor.

5 Section 39. The department may suspend the hunting, trapping, or fishing privileges of any
6 resident of this state upon notification from the licensing authority of an issuing state that the
7 resident has failed to comply with the terms of a citation issued for a wildlife violation. The
8 suspension remains in effect until the department receives satisfactory evidence of compliance
9 from the issuing state.

10 Section 40. Notice of the suspension shall be sent to the resident, who shall surrender all
11 current South Dakota hunting, trapping, or fishing licenses to the department within ten days.

12 Section 41. Upon suspending the hunting, trapping, or fishing privileges of any person
13 pursuant to sections 35 to 40, inclusive, of this Act, the department shall immediately notify the
14 person in writing. The person may, within twenty days of the notice, request a hearing before
15 the South Dakota Game, Fish and Parks Commission on whether the requirements for
16 suspension have been met. Upon request, the commission shall set a hearing as early as
17 practicable. The requesting person may present evidence and arguments at the hearing
18 contesting whether:

- 19 (1) A participating state suspended the person's privileges;
- 20 (2) There was a conviction in the participating state;
- 21 (3) The person failed to comply with the terms of a citation issued for a wildlife violation
22 in a participating state; or
- 23 (4) A conviction in a participating state could have led to the forfeiture of privileges
24 under South Dakota law.

1 Grounds other than those listed in this section may not be used to contest the department's
2 decision to suspend the person's privileges.

3 Section 42. At the hearing, the commission, through its authorized agent, may:

4 (1) Administer oaths;

5 (2) Issue subpoenas for the attendance of witnesses; and

6 (3) Admit all relevant evidence and documents, including notifications from
7 participating states.

8 Following the hearing, the commission, through its authorized agent, may, based on the
9 evidence, affirm, modify, or rescind the suspension of privileges.