

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

580J0409

HOUSE BILL NO. 1166

Introduced by: Representatives Glenski, Craddock, Gassman, McCoy, McLaughlin,
Murschel, Rounds, Smidt, and Van Gerpen and Senators Earley and Abdallah

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large
2 boats.

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

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

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or
8 person wishing to register in South Dakota a large boat which is titled in another state or
9 jurisdiction shall submit an accurately completed damage disclosure statement when applying
10 for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure statement
11 may be on the back of the certificate of title or on a separate document that has been approved
12 for use by the department. No certificate of title may be issued by the department unless the
13 damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to
14 intentionally falsify any information on the damage disclosure statement. No person is liable to
15 a subsequent owner of a large boat because a prior owner of the large boat failed to disclose that



1 the large boat had previously been damaged and repaired. This section applies to any large boat
2 with damage in excess of twenty-five percent of the retail value as determined by the Anderson
3 Bugg Outboard Services Blue Book or the National Automobile Dealers Association Marine
4 Guide, in effect at the time of the damage. If the large boat has incurred damages more than
5 once, only those damages which occurred at one time would be considered in determining
6 whether the damages exceeded twenty-five percent of the retail value as determined by the
7 Anderson Bugg Outboard Services Blue Book or the National Automobile Dealers Association
8 Marine Guide, in effect at the time of the damage.

9 Section 2. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For the purposes of the damage disclosure statement provided by section 1 of this Act, the
12 term, damage, means damage to the large boat caused by fire, vandalism, collision, weather,
13 submersion in water, or flood, and does not include normal wear and tear, glass damage,
14 mechanical repairs, or electrical repairs that have not been caused by fire, vandalism, collision,
15 weather, submersion in water, or flood.

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

18 The department shall retain each damage disclosure statement received. The statement shall
19 become part of the title history available to the public pursuant to § 32-3A-38.

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

22 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for
23 the damage disclosure statement provided by section 1 of this Act. An area for a damage
24 disclosure statement shall appear on the back of each certificate of title issued by the

1 department. The department may also approve separate documents on which a damage
2 disclosure statement may be submitted. The damage disclosure statement form shall indicate
3 whether the large boat has been damaged such that it cost more than twenty-five percent of the
4 retail value as determined by the Anderson Bugg Outboard Services Blue Book or the National
5 Automobile Dealers Association Marine Guide, in effect at the time of the damages to repair
6 to its predamaged condition and any other damage information the department deems
7 appropriate. If a separate document from the certificate of title contains the damage disclosure
8 statement, the document shall also require the following information: year, make, model, and
9 hull identification number of the large boat.

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

12 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1
13 of this Act shall include the costs necessary to return the damaged large boat to its predamaged
14 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

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

17 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for
18 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that
19 discloses damage to the large boat in accordance with the provisions of this Act, as determined
20 by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe
21 the format and construction of the sticker, decal, or notice.

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

24 Each certificate of title issued by the department shall contain the following phrase: South

1 Dakota state law requires the disclosure of damage on large boats. This information is available
2 upon written request from the Department of Revenue and Regulation. Each certificate of title
3 shall also contain on its front a statement as to whether previous damage disclosure statements
4 indicate the large boat had been damaged at one time in excess of twenty-five percent of the
5 retail value as determined by the Anderson Bugg Outboard Services Blue Book or the National
6 Automobile Dealers Association Marine Guide, in effect at the time of the damages as provided
7 by section 1 of this Act.

8 Section 8. That § 32-3A-38 be amended to read as follows:

9 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish
10 a person a certified abstract of the title history which shall include any damage disclosure
11 statement of any boat registered under the provisions of this chapter. The abstract may include
12 all documents filed with the department to establish the title history of the boat. The fee shall
13 be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are
14 exempt from this fee requirement.