

AN ACT

ENTITLED, An Act to correct certain references to certain executive branch agencies.

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

Section 1. That § 1-18-20 be amended to read as follows:

1-18-20. The secretary of tourism and state development shall, subject to the approval of the Governor, appoint the director of the South Dakota State Historical Society to serve at the pleasure of the secretary.

Section 2. That § 1-27-1 be amended to read as follows:

1-27-1. If the keeping of a record, or the preservation of a document or other instrument is required of an officer or public servant under any statute of this state, the officer or public servant shall keep the record, document, or other instrument available and open to inspection by any person during normal business hours. Any employment examination or performance appraisal record maintained by the Bureau of Personnel is excluded from this requirement.

Any subscription or license holder list maintained by the Department of Game, Fish and Parks may be made available to the public for a reasonable fee. State agencies are exempt from payment of this fee for approved state use. The Game, Fish and Parks Commission may promulgate rules pursuant to chapter 1-26 to establish criteria for the sale and to establish the fee for the sale of such lists.

Any automobile liability insurer licensed in the state, or its certified authorized agent, may have access to the name and address of any person licensed or permitted to drive a motor vehicle solely for the purpose of verifying insurance applicant and policyholder information. An insurer requesting any such name and address shall pay a reasonable fee to cover the costs of producing such name and address. The Department of Public Safety shall set such fee by rules promulgated pursuant to chapter 1-26.

Any list released or distributed under this section may not be resold or redistributed. Violation of this section by the resale or redistribution of any such list is a Class 2 misdemeanor.

Section 3. That § 1-35-6.2 be amended to read as follows:

1-35-6.2. The Division of Commercial Inspection and Licensing of the Department of Public Safety shall perform:

- (1) The functions of the former Division of Consumer Protection pursuant to chapters 34-39, 37-2, 37-20, 37-21, 37-22, 37-22A, 39-1, 39-4, and 39-13; and
- (2) The functions of the Department of Agriculture pursuant to chapter 37-21A.

Section 4. That § 1-35-7 be amended to read as follows:

1-35-7. The Division of Commercial Inspection and Licensing shall, under the direction and control of the secretary of public safety, perform all the functions of the former heavy scales division of the Public Utilities Commission, created by chapter 37-22.

Section 5. That § 1-40-10 be amended to read as follows:

1-40-10. The Board of Water and Natural Resources created by this chapter shall perform all quasi-legislative, quasi-judicial, advisory, and special budgetary functions (as defined in § 1-32-1) of the former board of directors of the South Dakota Conservancy District, created by chapter 46A-2.

Section 6. That § 2-6-19 be amended to read as follows:

2-6-19. There is hereby created the Legislative Water Development Oversight Committee. The committee shall consist of four legislators, one each appointed by the majority and minority leaders of the Senate and one each appointed by the majority and minority leaders of the House of Representatives. The committee shall monitor the meetings and actions of the Board of Water and Natural Resources and the Water Management Board. The secretary of the Department of Environment and Natural Resources shall cooperate with the members of the committee and assist them in carrying out their responsibilities. The secretary of the Department of Environment and

Natural Resources shall inform the members of the committee of the time and place of all meetings of the Board of Water and Natural Resources and Water Management Board and shall forward to the members of the committee copies of all materials sent to the members of those boards.

The committee shall select a chairperson from among its members and shall from time to time report to the Executive Board of the Legislative Research Council on its activities. Members of the committee shall receive compensation as would any member of an interim legislative committee authorized by the Executive Board of the Legislative Research Council under chapter 2-9.

Section 7. That § 5-10-34 be amended to read as follows:

5-10-34. The commissioner of school and public lands shall report the status of the common school interest and income fund to the superintendents of the common schools on a quarterly basis.

The commissioner of school and public lands shall report the status of the common school apportionment by October thirty-first to the Governor, the chairs of the house and senate appropriations committees and the secretary of the Department of Education.

Section 8. That § 12-4-6 be amended to read as follows:

12-4-6. An applicant for registration shall answer questions and sign the oath as required on the form prescribed by the State Board of Elections. An applicant for registration at a driver's license station shall also sign a signature card prescribed by the Department of Public Safety. This signature shall be digitized and used to prepare the registration card as provided in § 12-4-5. If an applicant is unable to write his or her name, the applicant shall make a mark, the applicant's name being written near such mark, and written by a person who writes his or her own name as a witness.

Section 9. That § 13-1-23 be amended to read as follows:

13-1-23. The secretary of education shall accept and distribute in accord with law and in a fair and equitable manner any commodities, moneys, goods, and services which may be made available from the state or federal government or from other sources.

Section 10. That § 13-1-31 be amended to read as follows:

13-1-31. The secretary of education shall have supervision over school libraries. The South Dakota Board of Education shall adopt such rules as it deems necessary to govern them. The board may not require minimum library expenditures.

Section 11. That § 13-13-73.1 be amended to read as follows:

13-13-73.1. The Department of Revenue and Regulation shall exclude the real property valuation of manufactured homes, considered as real estate pursuant to § 10-4-2.4, and manufactured homes, converted to real estate after July 1, 1999, when computing local effort pursuant to §§ 13-13-10.1 and 13-37-35.1 for the purpose of the state aid to education formula. The county auditor shall also exclude such real estate value when computing the tax levy for school purposes. However, such manufactured homes shall continue to be subject to each tax levy.

Section 12. That § 13-13-73.3 be amended to read as follows:

13-13-73.3. The secretary of education shall determine the reduction in state aid to education pursuant to § 13-13-73.2. The secretary of education shall distribute the amount of money so determined to school districts that received state aid pursuant to chapter 13-13 on a pro rata basis according to the district's average daily membership compared to the total average daily membership of all districts eligible for this distribution.

Section 13. That § 13-14-1 be amended to read as follows:

13-14-1. The secretary of education is hereby authorized to enter into contracts with any agency of the United States government for the purposes of education, to receive grants of federal funds for those purposes, and to expend such funds under such rules and regulations as the South Dakota Board of Education may establish.

Section 14. That § 13-14-2 be amended to read as follows:

13-14-2. The secretary of education is hereby authorized to enter into contracts with any agency

of the United States government to administer programs for the receipt, allocation, and distribution of surplus commodities to schools, child care centers, summer camps, state institutions, counties, Indian reservations, and related welfare purposes, to receive grants of federal funds for those purposes, and to expend such funds in the manner provided by law.

Section 15. That § 13-15-2 be amended to read as follows:

13-15-2. The secretary of education is hereby authorized to enter into contracts with the United States Department of the Interior for the education of Indian children, to receive grants of federal funds for that purpose, and to expend such funds under such rules as the South Dakota Board of Education may establish.

Section 16. That § 13-16-34 be amended to read as follows:

13-16-34. The Department of Education shall collect from all public school districts and educational cooperatives detailed financial reports containing special education expenditures for the school years ending in 1997 and 1998 on forms prescribed by the secretary of education. The reports shall state special education expenditures by disability category as defined in ARSD 24:05:24:01, which was in effect on July 1, 1997, including staffing levels, specific contracted services, transportation costs, indirect costs, and any other data deemed pertinent by the secretary of education.

Each school district shall file the report containing special education expenditures for the school year ending in June 1997 by July 10, 1998, or sixty days after the Department of Education makes the forms available to the school district, whichever is later. If complete and accurate reports are not filed by this date and an extension has not been granted by the secretary of education, the school district shall forfeit from its foundation aid entitlement one hundred dollars for each day that the data is past due for seven days and two hundred dollars for each day past due thereafter starting with the eighth day.

Each school district shall file the report containing special education expenditures for the school

year ending in June 1998 by October 16, 1998, or sixty days after the Department of Education makes the forms available to the school district, whichever is later. If complete and accurate reports are not filed by this date and an extension has not been granted by the secretary of education, the school district shall forfeit from its foundation aid entitlement one hundred dollars for each day that the data is past due for seven days and two hundred dollars for each day past due thereafter starting with the eighth day.

The secretary of education shall report the findings of both reports to the Governor and the Legislature by January 15, 1999.

Section 17. That § 13-25-3 be amended to read as follows:

13-25-3. The State Fire Marshal may make inspection of all school buildings, auditoriums, gymnasiums, dormitories, shops, or other buildings operated as a part of or in conjunction with school activities of any school, public or nonpublic, whether owned by the school or not.

Section 18. That § 13-25-4 be amended to read as follows:

13-25-4. The State Fire Marshal shall inspect or cause to be inspected all buildings on a periodic basis of not less than two years for the purpose of fire safety and fire prevention. The inspection shall be made upon the conditions set forth in §§ 13-25-5 and 13-25-6.

Section 19. That § 13-25-5 be amended to read as follows:

13-25-5. Representatives of the State Fire Marshal may enter any such building at any reasonable hour to make such inspection. All school boards, school governing bodies, officials, and employees shall afford such representatives free access to every part of the premises, and render all aid and assistance necessary to enable them to make a thorough and complete examination of the premises.

Section 20. That § 13-25-6 be amended to read as follows:

13-25-6. After the completion of such inspection, the person making the same shall reduce the report of his findings to writing, which shall list all violations of fire protection laws discovered by

such inspection, and he shall deliver a copy thereof to the school governing body or its representative of the district or other agency operating such school, and the original shall be filed with the Department of Public Safety.

Section 21. That § 13-25-7 be amended to read as follows:

13-25-7. If after such inspection of any school, or school facility, as provided by this chapter, the inspector finds the building unsafe by reason of conditions existing therein which are suitable for causing or spreading fire, or engendering panic, or that the building has defects which are dangerous to the occupants therein, from a fire and life safety standpoint, he shall give a written order to the school governing body, or other agency operating such school or school facility, specifying these hazards, and the hazards to be eliminated. The school board, or governing body shall comply with such order within such time as may be allowed by the State Fire Marshal, which in no case shall be less than thirty days from and after the service of such order by registered or certified mail.

Section 22. That § 13-25-9 be amended to read as follows:

13-25-9. If any school governing body, or other agency operating a school, fails to comply with the order provided by § 13-25-7, and fails to appeal from the order, as is provided in § 13-25-8, after the time for appeal has expired, or the time to comply with the order has passed, whichever is later, the State Fire Marshal may immediately close the school or school facility to further use or occupancy, and may vacate and place out of service said school or school building, or facility until such time as its requirements are fulfilled.

Section 23. That § 13-25-10 be amended to read as follows:

13-25-10. Each school board shall have evacuation drills in each school under their jurisdiction. There shall be at least two fire exit drills each semester of the school year in schools through grade twelve. During such drills all personnel and all pupils shall completely leave the building and move to a safe distance therefrom. All superintendents, principals, teachers, instructors, and employees

shall be thoroughly instructed in respect to duties under these evacuation drills. Each superintendent of schools or official in charge shall maintain a record of the dates and evacuation times of the evacuation drills conducted on the form provided by the Department of Public Safety. This record shall be available for inspection by a representative of the State Fire Marshal upon request.

The appointed representative of the State Fire Marshal, or the local fire chief or his designee may conduct evacuation drills at any school or institution, both public and private, in order to test the effectiveness of the warning system and the evacuation plan.

Section 24. That § 13-25-13 be amended to read as follows:

13-25-13. The State Fire Marshal may adopt rules, pursuant to chapter 1-26, for the implementation of §§ 13-25-11 to 13-25-13, inclusive.

Section 25. That § 13-25-14 be amended to read as follows:

13-25-14. If the school board or other governing agency finds it is difficult to comply with the requirements due to financial circumstances, application may be made to the State Fire Marshal for an extension of time in which to comply with this chapter. The request shall be made in writing, stating the reasons for such time extension. The State Fire Marshal shall investigate the request and shall grant a time extension if there is deemed a legitimate reason for delay.

Section 26. That § 13-29-6 be amended to read as follows:

13-29-6. Each school bus used for the transportation of school children which is owned by a school district, a nonpublic school or alternative education program or privately owned and operated under a contract with a school board or nonpublic school or alternative instruction program shall be inspected before the beginning of each school year by a representative of the Division of Highway Patrol to certify that the vehicle complies with state law, and rules of the South Dakota Board of Education, the Department of Public Safety, and the Division of Highway Patrol. However, if a school bus is purchased from a licensed motor vehicle dealer during the school year, the dealer may

inspect and certify that the vehicle complies with such law and rules. The owner of any bus certified by a dealer shall have the bus inspected by the Division of Highway Patrol before the beginning of the next school year. The owner of the bus shall display a certificate certifying that the school bus has successfully passed inspection issued by the Division of Highway Patrol or the dealer in a form prescribed by the Division of Highway Patrol in the vehicle above the windshield. Any school board, contractor, or person operating a school bus that has not been certified commits a petty offense. This section does not apply to federally regulated charter bus service operations.

Section 27. That § 13-33B-1 be amended to read as follows:

13-33B-1. The Department of Education may establish a program and policy to be disseminated to all school districts and other local educational agencies which promote the education of deaf and hard-of-hearing children and which recognizes the following:

- (1) That deafness involves the most basic of human needs, the ability to communicate with other human beings. Many deaf and hard-of-hearing children use, as their primary communication mode, American sign language, while others express and receive language through English-based sign language, or orally and aurally, with or without visual signs or cues. Still others, typically young deaf and hard-of-hearing children, lack any significant language skills. Deaf and hard-of-hearing children require educational programs that provide appropriate, ongoing, and communicationally accessible educational opportunities. For the purposes of this chapter, communication mode and language refer to the individual child's communication mode or language, whether oral, manual, or a combination of oral and manual. The purpose of this chapter is to promote understanding of communication needs and not to favor any one particular communication mode or language over another;
- (2) That deaf and hard-of-hearing children shall have an education in which their unique

communication mode is respected, utilized, and developed to an appropriate level of proficiency;

- (3) That deaf and hard-of-hearing children have an education in which special education teachers, psychologists, speech therapists, assessors, administrators, interpreters, and other personnel understand the unique nature of deafness and are specifically trained to work with deaf and hard-of-hearing children and in which their special education teachers and interpreters are proficient in the primary language mode of those children;
- (4) That deaf and hard-of-hearing children have an education with a sufficient number of language mode peers who are of the same or approximately the same age and ability level and with whom the children can communicate directly, or as appropriate through the use of qualified interpreters;
- (5) That parents of deaf and hard-of-hearing children, deaf and hard-of-hearing people, teachers, and professionals trained in the area of education of the deaf assist in determining the extent, content, and purpose of this program;
- (6) That deaf and hard-of-hearing children have direct and appropriate access to all components of the educational process, including recess, lunch, and extracurricular social and athletic activities;
- (7) That deaf and hard-of-hearing children have programs in which their unique vocational needs are provided for, including appropriate research, curricula, programs, staff, and outreach;
- (8) That a determination of the least restrictive environment as used in state and federal law takes into consideration the unique communication needs of deaf and hard-of-hearing children as described in this chapter;
- (9) The Department of Education shall take such steps as are necessary to implement this

section, including, but not limited to, the development of written and other materials, the dissemination of said information, and the provision of workshops, symposia, and other procedures to insure that the local educational agencies understand and implement the policy of this chapter.

Section 28. That § 13-37-40.1 be amended to read as follows:

13-37-40.1. A school district is not eligible for funding from the money set aside in §§ 13-37-38 to 13-37-40, inclusive, unless the school district certifies to the secretary of education that its ending special education fund balance will not exceed five percent of its special education expenditures for the current fiscal year.

Section 29. That § 13-39-8 be amended to read as follows:

13-39-8. Notwithstanding § 13-15-2, the general control and supervision over vocational education as provided in this chapter is the duty of the director under the direction of the secretary of education.

Section 30. That § 13-42-4 be amended to read as follows:

13-42-4. The authority to issue teachers' certificates is vested in the secretary of education, and such certificates shall be issued, renewed, or validated to such persons who have met the rules and requirements for said certificates as determined by the South Dakota Board of Education. All changes in educational rules and requirements prescribed pursuant to § 13-42-3 which an applicant for a teacher's certificate must meet shall be preceded by at least two years' notice before the effective date of said changes, when such changes increase the requirements for the issuance of a certificate.

Section 31. That § 13-43-17.1 be amended to read as follows:

13-43-17.1. The Professional Teachers Practices and Standards Commission shall operate within the Division of Education Services and Resources, and shall retain all its prescribed functions, including administrative functions. The commission shall submit such records, information, and

reports in the form and at such times as required by the secretary of education, except that the commission shall report at least annually.

Section 32. That § 13-55B-7 be amended to read as follows:

13-55B-7. If the recipient of a tuition equalization grant fails to comply with the rules of the Department of Education in respect to the use of the tuition equalization grant or shall fail to attain the minimum level of achievement prescribed for the retention of the tuition equalization grant, or shall fail to observe the rules, regulations, or conditions prescribed or imposed on students by such accredited private institution, or shall for any reason be expelled without leave, the department may, upon evidence, revoke the tuition equalization grant. The person holding the tuition equalization grant may not be entitled to further payments or benefits.

Section 33. That § 13-57-6.1 be amended to read as follows:

13-57-6.1. The museum at the University of South Dakota shall continue within the Cultural Preservation Office of the Division of Cultural Affairs of the Department of Education, and all its functions shall be performed by the cultural preservation office as provided by § 1-45-23.

Section 34. That § 13-59-18 be amended to read as follows:

13-59-18. The museum at Dakota State University, provided for by § 13-59-12, shall continue within the Cultural Preservation Office of the Division of Cultural Affairs of the Department of Education, and all its functions shall be performed by the cultural preservation office as provided by § 1-45-23.

Section 35. That § 14-1-61 be amended to read as follows:

14-1-61. The secretary of the Department of Education shall appoint, subject to the approval of the Governor, the state librarian to serve at the pleasure of the secretary and shall fix the compensation of the state librarian.

Section 36. That § 28-13-32.11 be amended to read as follows:

28-13-32.11. For purposes of subsections 28-13-27(6)(c) and (d), when determining whether the household was financially able to purchase health insurance which would have covered the medical costs the county is being requested to pay, the county shall use the following methodology:

- (1) Determine the household's income and resources according to §§ 28-13-32.7 and 28-13-32.8;
- (2) Determine the household's contributions for taxes, social security, medicare, and payments to other standard retirement programs according to subdivision 28-13-32.9(1);
- (3) Except for the medical expenses for which the household is requesting assistance, determine the household's expenses according to subdivision 28-13-32.9(2);
- (4) Determine the amount of the household's discretionary income by subtracting the sum of the household's contributions and expenses from the household's income. Divide the amount of the household's discretionary income in half. The result added to the household's adjusted resources determined according to § 28-13-32.8 equals the household's discretionary income that was available to purchase health insurance;
- (5) Subtract the amount of the monthly health insurance premium that was available to the household if known or, if unknown, an estimate of the premium the household could be expected to incur. For purposes of this subdivision, the county shall establish such estimate either by obtaining premium estimates from two major medical insurance carriers doing business in the state or by using an estimate based on the rate data provided to the county by the Division of Insurance of the Department of Revenue and Regulation. The policy used shall have a benefit design that equals or exceeds the benefit design of the basic benefit plan as developed by the Health Benefit Plan Committee pursuant to § 58-18B-32. If the result is a negative number, the health insurance was not affordable. If the result is a positive number, health insurance was affordable and the individual is

considered to be indigent by design.

Section 37. That § 31-4-14.4 be amended to read as follows:

31-4-14.4. The secretary of the Department of Transportation, after consultation with the secretary of the Department of Public Safety, may restrict the use of any state trunk highway through a highway work zone by any vehicle or class of vehicle, if the restriction is necessary for the protection and safety of highway workers and the traveling public. Notice to the public of the restriction shall be given as provided in § 31-4-14.2. Any person who fails to observe any sign, marker, warning, notice or direction, or barrier erected pursuant to this section shall be given a warning by the highway patrol or local law enforcement officer. The warning shall direct the person driving the vehicle how to proceed out of and around the highway work zone. Any person who fails to comply with the warning is guilty of a Class 2 misdemeanor. No other penalty may be assessed for a violation of this section.

Section 38. That § 32-2-8 be amended to read as follows:

32-2-8. Agents, patrol officers, motor carrier enforcement officers, and motor carrier inspectors of the Department of Public Safety shall place violators of any of the laws or police regulations of this state, governing operation of motor vehicles or motor carriers, under arrest without warrant for criminal offenses committed in the presence of the agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector, and take the violator and the vehicle which does not conform to such laws or regulations to the nearest convenient circuit court or magistrate court for trial at the earliest opportunity.

Section 39. That § 32-3-1 be amended to read as follows:

32-3-1. Terms used in chapters 32-3 to 32-5B, inclusive, mean:

- (1) "Commercial motor vehicle," any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit, or designed, used, or maintained

- primarily for the transportation of property, and not specifically excluded under § 32-9-3;
- (2) "Component part," any part of a motor vehicle, trailer, or semitrailer other than a tire, having a vehicle identification number;
 - (3) "Dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in part in the business of selling new, or new and used vehicles, whether or not such vehicles are owned by that person;
 - (4) "Department," Department of Revenue and Regulation;
 - (4A) "Gross vehicle weight rating," the value specified by the manufacturer as the loaded weight of a single vehicle;
 - (5) "Junking certificate," a certificate of ownership, which may not be restored to a title document which allows highway use, issued by the department to the owner of a vehicle which is going to be dismantled and sold for parts;
 - (6) "Manufactured home," a structure, transportable in one or more sections, which is eight body feet or more in width or forty body feet or more in length in the traveling mode, or is three hundred twenty or more square feet when erected on a site; which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities; and which contains the plumbing, heating, air conditioning, and electrical systems therein. The term includes any structure which meets all the requirements of this subdivision and any other structure which has been certified by the secretary of housing and urban development;
 - (7) "Manufacturer," any person, firm, corporation, limited liability company, or association engaged in the manufacture of new motor vehicles as a regular business;

- (8) "Mobile home," a movable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels), and designed to be connected to utilities for year-round occupancy. The term includes:
- (a) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity; and
 - (b) Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing;
- (9) "Moped," a motor driven cycle equipped with two or three wheels. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged;
- (10) "Motorcycle," includes motorcycles, motorbikes, mopeds, bicycles with motor attached, and all motor operated vehicles of the bicycle or tricycle type, whether the motive power be a part thereof or attached thereto, and having a saddle or seat with the driver sitting astride or upon it, or a platform on which the driver stands, but excluding a tractor;
- (11) "Motor vehicle," automobiles, motor trucks, motorcycles, house trailers, trailers, and all vehicles propelled by power other than muscular power, except traction engines, road rollers, farm wagons, freight trailers, vehicles that run only on rails or tracks, and off-road vehicles as defined in § 32-20-1;
- (12) "New motor vehicle," any motor vehicle to which a manufacturer's statement of origin has not been transferred, or is a motor vehicle on which title was issued from the manufacturer's statement of origin or manufacturer's certificate of origin and is still in the

- name of the first person who took title to the vehicle;
- (13) "Noncommercial motor vehicle," any motor vehicle not classified as a commercial motor vehicle;
 - (14) "Noncommercial trailer or semitrailer," any trailer or semitrailer not used or maintained for the transportation of persons or property for hire, compensation, or profit;
 - (14A) "Notation," a physical or electronic process of recording a lien on a certificate of title, a manufacturer's statement of origin, or a manufacturer's certificate of origin;
 - (15) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all terrain vehicles, dune buggies, and any vehicle whose manufacturer's statement of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle is not for highway use. Off-road vehicle does not include a farm vehicle as defined in this section;
 - (16) "Owner," any person, firm, association, or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days; as between contract vendor and contract vendee, the term "owner" shall refer to the contract vendee, unless the contrary clearly appears from the context of chapters 32-3 to 32-5B, inclusive, or a person having legal possession or title;
 - (17) "Rebuilt vehicle," any motor vehicle, trailer, or semitrailer that has been rebuilt by the addition or deletion of assemblies, subassemblies, parts, or component parts so that upon gross visual examination it does not appear to be the vehicle described in the certificate of title last issued for the vehicle, or whose title has been marked as "rebuilt" by this state or another state or jurisdiction;
 - (18) "Recreational vehicle," a vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently

- identified as "travel trailer" by the manufacturer of the trailer;
- (19) "Road tractor," any motor vehicle designed and used for drawing other vehicles, except farm or logging tractors used exclusively for farming or logging, and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;
 - (20) "Secretary," secretary of revenue and regulation;
 - (21) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle;
 - (22) "State," includes the territories and the federal districts of the United States;
 - (23) "Trailer," any vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle;
 - (24) "Truck tractor," any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;
 - (25) "Used vehicle," any motor vehicle to which title has been issued to someone other than the first person who took title to the motor vehicle from the manufacturer's statement of origin or manufacturer's certificate of origin; and
 - (26) "Vehicle identification number," the number assigned by the manufacturer or by the department for the purpose of identifying the vehicle. The term includes any number or letters assigned by the manufacturer for the purpose of identifying a component part and any such number stamped on a vehicle or part according to law or the rules promulgated by the department for the purpose of identifying the vehicle or part.

Section 40. That § 32-3-38.1 be amended to read as follows:

32-3-38.1. Any bank, savings and loan association, or credit union may be provided access to motor vehicle title and lien information maintained on the state's computer system via a modem and terminal owned by the bank, savings and loan association, or credit union. The Department of Revenue and Regulation shall promulgate rules pursuant to chapter 1-26 to specify access availability. The secretary of state shall promulgate rules pursuant to chapter 1-26 to specify cost of access. The Department of Revenue and Regulation may deny or revoke authority previously granted for accessing this information if the information accessed is used for any reason unrelated to the business of the bank, savings and loan association, or credit union.

Section 41. That § 32-3-51.7 be amended to read as follows:

32-3-51.7. Each certificate of title issued by the department shall contain the following phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This information is available upon written request from the Department of Revenue and Regulation, Division of Motor Vehicles. Each certificate of title shall also contain on its front a statement as to whether previous damage disclosure statements indicate the motor vehicle had been damaged at one time in excess of five thousand dollars as provided by § 32-3-51.8.

Section 42. That § 32-3-53 be amended to read as follows:

32-3-53. If any vehicle, trailer, or semitrailer is rebuilt as defined in subdivision 32-3-1(17) and is restored to operation, the owner shall submit an application to the Department of Revenue and Regulation for a rebuilt title. The motor vehicle, trailer, or semitrailer may not be licensed or titled until there is submitted to the department proper affidavits, photo copies of receipts, bills of sale establishing ownership, or titles and the source of all parts and component parts used to rebuild the vehicle. The rebuilt title and registration shall be issued and delivered in accordance with the provisions of this chapter. After the motor vehicle is inspected, the owner shall take his copy of the

certificate of inspection to the county treasurer, purchase his license plates and pay any tax owed. Once the department is notified that the inspection is complete and has verified that the correct amount of tax has been paid, it shall issue a rebuilt title. Each new certificate of title shall have noted thereon that the vehicle has been rebuilt. The highway patrol or an employee of the department may inspect rebuilt titles and rebuilt motor vehicles.

Section 43. That § 32-3-53.2 be amended to read as follows:

32-3-53.2. The motor vehicles, trailers, or semitrailers referred to in § 32-3-53 may be inspected by an employee of the Department of Revenue and Regulation or a highway patrolman. The certificate of inspection shall be of a form prescribed and furnished by the department. Motor vehicles, trailers, or semitrailers of any age which have body and chassis from different vehicles combined to make one vehicle, which have component parts changed, or which lack supporting documents with the application for title may also be inspected.

Section 44. That § 32-3-57 be amended to read as follows:

32-3-57. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 and issue instructions as are necessary to ensure and obtain uniformity in the administration of the provisions of this chapter. Such rules may be adopted in the following areas:

- (1) Application requirements for new vehicles, trailers, snowmobiles, and mobile homes;
- (2) Certificate of title for vehicles previously registered, time limits of making application, duplicate certificates, and transfer of certificate of title;
- (3) Assignment of certificate of title;
- (4) Corrections of titles and procedure when there is a body type change;
- (5) Lien recording, assignment of liens, execution of cancellation of liens, and delivery of certificate of title;
- (6) Transfer of ownership;

- (7) Registration tax dealers guides for used vehicles or mobile homes, older motor vehicles and government vehicles, title and license requirements, nonresident reciprocity, manufacturer's price sticker, wrecked motor vehicles, leased vehicles, and homemade vehicles.

All local officials charged with the administration of the provisions of this chapter are governed in their official acts by the rules promulgated by the secretary.

Section 45. That § 32-3-65 be amended to read as follows:

32-3-65. If any truck tractor is modified to become a motor home, the owner shall submit an application to the Department of Revenue and Regulation for a converted motor home title. To become a motor home, the truck tractor shall be modified to include a vehicular-type unit built on the tractor's chassis and designed primarily as temporary living quarters for recreational, camping, vacation, or travel use. The unit shall be equipped with the following:

- (1) Cooking facilities;
- (2) A heating system or air conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system;
- (3) A self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both;
- (4) Portable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both;
- (5) Sleeping facilities;
- (6) A refrigerator; or
- (7) A one hundred ten or one hundred fifteen volt system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

The systems provided in subdivisions (2), (3), (4), and (7) shall be permanently installed and meet American National Standards Institute and National Fire Protection Association standards in effect on the date of manufacture.

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

Section 46. That § 32-4-3 be amended to read as follows:

32-4-3. Before issuing a certificate of title, as provided in chapter 32-3, the secretary of revenue and regulation shall check the motor and serial number on the motor vehicle, trailer, or semitrailer to be registered against the attorney general's files. The Department of Revenue and Regulation shall examine and determine the genuineness, regularity, and legality of every application for registration of a vehicle or for a certificate of title therefore and may in all cases make investigation considered necessary or require additional information. The department shall reject any such application if it is not satisfied with the regularity, legality, the truthfulness of any statement, or for any other reason if authorized by law.

Section 47. That § 32-4-9 be amended to read as follows:

32-4-9. No person may intentionally remove, deface, alter, destroy, cover, or obscure any vehicle identification number or other distinguishing number of a motor vehicle or trailer or any part thereof in this state, without written authorization from the Department of Revenue and Regulation, nor may any person place or stamp in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned by the department under the provisions of chapter 32-3 or authorized agency of another state. A violation of this section is a Class 6 felony.

Section 48. That § 32-4-10 be amended to read as follows:

32-4-10. No person may knowingly buy, sell, offer for sale, receive, or have in his possession, any titled motor vehicle or trailer or component part thereof, from which the original manufacturer's vehicle identification number or serial number has been removed, defaced, altered, obscured, or destroyed unless the vehicle or component part has an identification number attached to it, assigned or approved by the Department of Revenue and Regulation under the provisions of § 32-3-22 or authorized agency of another state in lieu of the manufacturer's number. A violation of this section is a Class 6 felony.

Section 49. That § 32-4-10.1 be amended to read as follows:

32-4-10.1. Any motor vehicle, trailer, or component part described in § 32-4-10 is deemed contraband and no property right exists in it. If such motor vehicle, trailer, or component part comes into the custody of a law enforcement officer, it shall be forfeited under the procedure established in §§ 34-20B-85 to 34-20B-87, inclusive. Nothing in this section precludes the return of such a motor vehicle, trailer, or component part to its lawful owner following presentation of satisfactory evidence of ownership and assignment of an identification number by the Department of Revenue and Regulation under the provisions of § 32-3-22.

Section 50. That § 32-4-10.2 be amended to read as follows:

32-4-10.2. A forfeiture proceeding as provided in § 32-4-10.1, shall be set for hearing within sixty days from the date of filing the verified answer. At the hearing, the state shall establish by a preponderance of the evidence that the original manufacturer's vehicle identification number or serial number on the motor vehicle, trailer, or component part has been removed, defaced, altered, obscured, or destroyed and that such vehicle or component part had no identification number attached to it as described in § 32-4-10. If the court finds that the state has met this burden, it shall order the motor vehicle, trailer or component part forfeited. If the court finds that the property is not

subject to forfeiture, it shall order the property released to the owner, party in interest or claimant, as his right, title, or interest appears on the condition that such person obtain an identification number from the Department of Revenue and Regulation under the provisions of § 32-3-22.

Section 51. That § 32-4-15 be amended to read as follows:

32-4-15. If property is forfeited under this chapter, the secretary of public safety or the attorney general may retain the property for official use or sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. All moneys seized or proceeds remaining from the sale of forfeited property shall be paid into the general fund.

Section 52. That § 32-5-16.3 be amended to read as follows:

32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a permit, as prescribed by the secretary of revenue and regulation, from the county treasurer where the home is located. The permit fee is valid for a single trip from the point of origin to a point of destination within the state. Before the county treasurer may issue a permit, the owner of the mobile home or manufactured home or regulated lender as defined in § 54-3-14 that is repossessing the mobile home or manufactured home shall obtain an affidavit, as prescribed by the secretary of revenue and regulation, from the county treasurer stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or 10-9-3. The permit fee for mobile homes and manufactured homes for use on the public highways is fifteen dollars. The fees collected shall be credited to the license plate special revenue fund. The fee and permit imposed by this section does not apply to a new or used mobile home or manufactured home transported by or for a dealer licensed under chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

Section 53. That § 32-5-16.4 be amended to read as follows:

32-5-16.4. Any transport of a used mobile home or manufactured home by a transporter shall be accompanied with a notification form, as prescribed by the secretary of revenue and regulation, stating the point of origin and the point of destination. The transporter shall provide a copy of the notification form to the director of equalization in the county of origin and the county of destination. This section does not apply to any transport regulated under chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

Section 54. That § 32-5-16.6 be amended to read as follows:

32-5-16.6. If the owner of the used mobile home or manufactured home, prior to moving the home, fails to obtain an affidavit from the county treasurer of the county in which the used mobile home or manufactured home is registered, stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil penalty on the owner. If a regulated lender, as defined in § 54-3-14, is repossessing a used mobile home or manufactured home and fails to obtain an affidavit, prior to moving the home, from the county treasurer of the county in which the used mobile home or manufactured home is registered, stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil penalty on the lender. The court shall levy a civil penalty of two hundred fifty dollars for the first violation within a one-year period, five hundred dollars for the second violation within a one-year period, and one thousand dollars for each subsequent violation within a one-year period. All civil penalties collected pursuant to this section shall be deposited in the county general fund of the county in which the used mobile home or manufactured home is registered. The county treasurer shall notify the Department of Revenue and Regulation of any violation resulting in a civil penalty assessment for failure to obtain a tax affidavit prior to moving a mobile or manufactured home.

Section 55. That § 32-5-16.7 be amended to read as follows:

32-5-16.7. If a transporter of a used mobile home or manufactured home, prior to transporting,

fails to obtain an affidavit from the county treasurer of the county in which the used mobile home or manufactured home is registered, stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil penalty on the transport owner. If a manufacturer or licensed dealer, as defined in chapter 32-7A, is moving, repossessing, trading, purchasing, or receiving onto the manufacturer's or licensed dealer's lot a used mobile home or manufactured home and fails to obtain an affidavit from the county treasurer of the county in which the used mobile home or manufactured home is registered, stating that the current year's taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the court shall assess a civil penalty on the manufacturer or licensed dealer.

The court shall levy a civil penalty of two hundred fifty dollars for the first violation within a one-year period, five hundred dollars for the second violation within a one-year period, and one thousand dollars for each subsequent violation within a one-year period. All civil penalties collected pursuant to this section shall be deposited in the county general fund of the county in which the used mobile home or manufactured home is registered. The county treasurer shall notify the Department of Revenue and Regulation of any violation resulting in a civil penalty assessment for failure to obtain a tax affidavit prior to moving a mobile or manufactured home.

Section 56. That § 32-5-43 be amended to read as follows:

32-5-43. All state-owned motor vehicles shall have identifying markings printed on both sides thereof. The design size and description of the markings shall be specified by the commissioner of administration. This section does not apply to the vehicles used by the office of the attorney general, the Department of Corrections, the Department of Public Safety, or the unified judicial system. All state-owned motor vehicles registered under § 32-5-42 shall bear state license plates, except the vehicles used by the office of the attorney general.

Section 57. That § 32-5-88 be amended to read as follows:

32-5-88. The number plates authorized by § 32-5-82 may have impressed thereon, in addition to the words and numerals set forth in § 32-5-84, a replica of the Mount Rushmore National Memorial sculptured figures; provided, that such replica can be reproduced on a motor vehicle license plate so as to be easily discernible, and shall be satisfactory as to the cost and feasibility thereof to the Governor, secretary of revenue and regulation, and warden of the state penitentiary.

Section 58. That § 32-5-107 be amended to read as follows:

32-5-107. A person, in possession of either a title in his name or assigned to him or a bill of sale which lists him as the purchaser of the vehicle, may procure from any county treasurer a temporary permit which allows movement of the motor vehicle on the highways of this state. The title or bill of sale shall be available for inspection by any peace officer if the vehicle is being moved. Mobile homes, manufactured housing units, and over-dimensional motor vehicles do not qualify for this permit to use the state's highways. The permit may be purchased for any period of from five to fifteen consecutive days at a fee of one dollar per day for each day the permit is requested. The minimum permit fee is five dollars. The fee is payable to the county treasurer at the time of purchase. All permit fees shall be forwarded monthly by the county treasurer to the Department of Revenue and Regulation. The secretary shall credit the fee to the state license plate special revenue fund for distribution under § 32-11-33. Only one permit shall be issued yearly per motor vehicle.

Section 59. That § 32-5-111 be amended to read as follows:

32-5-111. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 and issue such instructions as are necessary to ensure and obtain uniformity in the administration of the provisions of this chapter. Such rules may be adopted in the following areas:

- (1) License plate issuance;
- (2) Special plate amateur radio licenses;
- (3) Military personnel and domestic volunteers;

- (4) Farm truck special licensing;
- (5) Personalized license plates;
- (6) Registration tax dealers guides for used vehicles or mobile homes, older motor vehicles and government vehicles, title and license requirements, nonresident reciprocity, manufacturer's price sticker, wrecked motor vehicles, leased vehicles, and homemade vehicles.

All local officials charged with the administration of the provisions of this chapter are governed in their official acts by the rules promulgated by the secretary.

Section 60. That § 32-5-113 be amended to read as follows:

32-5-113. Any owner of a motor vehicle, who is a resident of this state, who is a firefighter and who has complied with all of the laws of this state in relation to the registration of a motor vehicle, may receive plates bearing a distinctive number and design, and designating such person as a firefighter. Such number plates shall be designed by the fire marshal and subject to the approval of the Department of Revenue and Regulation. The distinctive plates shall be in addition to the regular number plates issued for the motor vehicle pursuant to § 32-5-98. The distinctive plates shall be displayed as set forth in § 32-5-98 and the regular number plates shall be kept on or in the motor vehicle.

Section 61. That § 32-5-114 be amended to read as follows:

32-5-114. Each person receiving firefighter distinctive number plates shall pay a fee therefor which shall be fixed by the Department of Revenue and Regulation so as to reimburse the State of South Dakota for the cost of producing such special number plates. All fees collected under this section shall be placed in the license plate special revenue fund, as provided under § 32-5-67.

Section 62. That § 32-5-116 be amended to read as follows:

32-5-116. Any firefighter desiring distinctive license plates authorized by § 32-5-113 for use

during the next year shall make application to the Department of Revenue and Regulation specifying the number of vehicles to be licensed, his name, and the county of his residence. The department shall notify the manufacturer of the number of special number plates required in sufficient time that such distinctive plates may be produced and sent to the department.

Section 63. That § 32-5-117 be amended to read as follows:

32-5-117. Each firefighter requesting such special number plates shall be issued a certificate showing his county of residence and the number of vehicles upon which such special plates are to be used. Such certificate shall bear the signature of the secretary of revenue and regulation, and shall be in such form as the Department of Revenue and Regulation provides.

Section 64. That § 32-5-118 be amended to read as follows:

32-5-118. Each firefighter shall apply to the county treasurer of the county of his residence for the issuance of regular number plates for the motor vehicles owned by him. The firefighter, in order to receive the distinctive plates, shall have paid the fee for the regular number plates and submitted the registration slip for the regular number plates to the Department of Revenue and Regulation.

Section 65. That § 32-5-119 be amended to read as follows:

32-5-119. A failure on the part of a firefighter to make application to the Department of Revenue and Regulation for such special number plates as provided in § 32-5-116 will result in such member being required to accept regular number plates for his motor vehicle.

Section 66. That § 32-5-120 be amended to read as follows:

32-5-120. Whenever any firefighter is discharged, separated, or retires he shall surrender the distinctive number plates identifying him as a firefighter. The distinctive plates shall be surrendered to the secretary of revenue and regulation who shall make the necessary changes in his registration file. The firefighter shall retain the regular number plates issued under § 32-5-113.

Section 67. That § 32-5-121 be amended to read as follows:

32-5-121. If at any time a motor vehicle subject to the distinctive number plates issued for the firefighter shall be sold, conveyed, or otherwise transferred by the firefighter to whom such distinctive number plates have been issued, he shall notify the Department of Revenue and Regulation. The Department of Revenue and Regulation shall process a new registration indicating the motor vehicle to which the distinctive plates are to be transferred. The secretary shall make the necessary changes in the file. The department shall notify the applicant of any corrections which need to be made.

The regular number plates shall remain with the motor vehicle to which they were issued. If the motor vehicle to which the distinctive plates are being transferred does not have valid regular number license plates, the firefighter shall obtain regular number license plates.

Section 68. That § 32-5-129 be amended to read as follows:

32-5-129. The secretary of revenue and regulation may license agents to perform the duties of county treasurers, including collecting fees and taxes, registering and titling vehicles or boats, and noting liens on titles, pursuant to this chapter, chapter 32-5A, chapter 32-5B, chapter 32-3, and chapter 42-8.

Section 69. That § 32-5-130 be amended to read as follows:

32-5-130. Prospective licensed agents shall make an application to the secretary of revenue and regulation in a manner prescribed by the secretary of revenue and regulation. Any licensed agent shall obtain a valid sales tax permit issued by the secretary of revenue and regulation pursuant to § 10-45-25. The secretary of revenue and regulation may promulgate rules in accordance with chapter 1-26 to prescribe the standards for bonding of licensed agents and to insure the solvency and integrity of all licensed agents.

Section 70. That § 32-5-131 be amended to read as follows:

32-5-131. The secretary of revenue and regulation shall enter into a contract with each licensed

agent which prescribes the services provided by the licensed agent and the distribution of cost between the secretary of revenue and regulation and the licensed agent. Licensed agents may participate in all or a portion of the activities specified in § 32-5-129. Each contract shall specify the duties to be performed by the licensed agent.

Section 71. That § 32-5-133 be amended to read as follows:

32-5-133. The secretary of revenue and regulation may charge licensed agents for equipment necessary for the licensed agent to carry out the licensed agent's duties as specified in the contract pursuant to § 32-5-131. The secretary of revenue and regulation may authorize the licensed agents to retain up to two percent of the amount collected for distribution pursuant to § 32-11-4.1 to cover the licensed agents' administrative costs. Each contract pursuant to § 32-5-131 shall specify the fiscal responsibilities of the licensed agent.

Section 72. That § 32-5-134 be amended to read as follows:

32-5-134. Licensed agents shall submit all revenue collected for distribution pursuant to § 32-11-4.1, minus any amounts retained pursuant to § 32-5-133, to the secretary of revenue and regulation for distribution. The secretary of revenue and regulation shall reduce any revenue retained by licensed agents from the amount which would otherwise be credited to the state motor vehicle fund.

Section 73. That § 32-5-135 be amended to read as follows:

32-5-135. Licensed agents shall submit all revenue collected pursuant to chapter 32-5A to the secretary of revenue and regulation for distribution to counties. Licensed agents shall submit all revenue collected pursuant to chapter 32-5B to the secretary of revenue and regulation for deposit in the state highway fund.

Section 74. That § 32-5-136 be amended to read as follows:

32-5-136. An owner of a motor vehicle, who is a resident of this state, who has a valid South

Dakota driver's license or South Dakota identification number as assigned by the Department of Public Safety, may upon request receive a set of specialty license plates that allow for the placement of an organization decal on the plates. The specialty plates are in lieu of regular license plates issued by the county treasurer and may only be used on noncommercial vehicles that are licensed according to §§ 32-5-6 and 32-5-6.3. If the specialty plates are requested at the time of initial application for title and registration of the vehicle, no additional fees are charged for the plates above the costs involved in registering the vehicle. If the specialty plates are requested later or if the vehicle has current South Dakota plates, the owner shall surrender the current plates and pay a ten dollar fee for the specialty plates. This fee is in addition to any applicable costs involved in the registration of the vehicle.

Section 75. That § 32-5-143 be amended to read as follows:

32-5-143. Terms used in §§ 32-5-143 to 32-5-151, inclusive, mean:

- (1) "Department," the Department of Revenue and Regulation;
- (2) "Disclose," to knowingly engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person, organization, or entity, by any means of communication;
- (3) "Express consent," consent in writing, and includes consent that is conveyed electronically that bears an electronic signature;
- (4) "Individual record," a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request;
- (5) "Motor vehicle record," any record that pertains to a motor vehicle registration, motor vehicle title, or document issued by the department or any other state or local agency authorized to issue any such forms of credentials;
- (6) "Personal information," information that identifies a person, including a social security

number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, or registration status;

- (7) "Record," includes any book, paper, photograph, photostat, card, film, tape, recording, electronic data, printout, or other documentary material regardless of physical form or characteristics.

Section 76. That § 32-5A-4 be amended to read as follows:

32-5A-4. The Department of Revenue and Regulation shall include on any motor vehicle registration document mailed out to a vehicle owner prior to the annual registration of a motor vehicle, the amount of tax imposed pursuant to § 32-5A-1. A county in which such registration documents are mailed to motor vehicle owners shall reimburse the Department of Revenue and Regulation for the cost of implementing this section for that county.

Section 77. That § 32-5B-3 be amended to read as follows:

32-5B-3. Any used, licensed motor vehicle which is in the inventory of a motor vehicle dealer on May 31, 1985, is exempt from the provisions of § 32-5B-1. However, to qualify for this exemption, each motor vehicle dealer shall file on or before June 3, 1985, with the Department of Revenue and Regulation and the county treasurer, a verified list of used, licensed motor vehicles on inventory.

Section 78. That § 32-5B-4 be amended to read as follows:

32-5B-4. For the purposes of this chapter, the purchase price is:

- (1) For a new motor vehicle sale or lease, the total consideration whether received in money or otherwise. However, when a motor vehicle is taken in trade as a credit or part payment on a new motor vehicle, the credit or trade-in value allowed by the seller shall be deducted from the total consideration for the new motor vehicle to establish the purchase price;

- (2) For a used motor vehicle sold or leased by a licensed motor vehicle dealer, the total consideration for the used motor vehicle whether received in money or otherwise. However, when a motor vehicle is taken in trade by the dealer as a credit or part payment on a used motor vehicle, the credit or trade-in value allowed by the dealer shall be deducted from the consideration so that the net consideration is established;
- (3) For a used motor vehicle sold, leased, or transferred by any person other than a licensed motor vehicle dealer, the total consideration received in money or otherwise. However, when a motor vehicle is taken in trade as a credit or part payment on a used motor vehicle, the credit or trade-in value shall be deducted from the total consideration so that the net consideration is established. The purchaser and seller of the motor vehicle shall submit to the county treasurer a bill of sale, approved and supplied by the secretary. If a bill of sale is not submitted, the excise tax will be assessed on the retail value as stated in a nationally recognized dealers' guide as approved by the secretary of revenue and regulation. If the excise tax is assessed on the retail value, the value of the motor vehicle taken in as credit on trade-in shall be the retail value as stated in the nationally recognized dealers' guide;
- (4) For a new or used motor vehicle acquired by gift or other transfer for no or nominal consideration, the manufacturers' suggested dealer list price for new motor vehicles and for used motor vehicles the retail value stated in a nationally recognized dealers' guide approved and furnished by the secretary of revenue and regulation;
- (5) For a motor vehicle manufactured by a person who registers it under the laws of this state, the amount expended for materials, labor, and other properly allocable costs of manufacture or in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, the reasonable value of the completed motor vehicle;

- (6) For a rebuilt motor vehicle, upon its initial registration and titling, the total consideration for the salvage vehicle, whether received in money or otherwise;
- (7) For either a new or used motor vehicle, as defined by § 32-5B-21, which is a closed lease, the total consideration whether received in money or otherwise. Total consideration is all lease payments including cash, rebates, the net trade-in, extended warranties, administrative fees, acquisition fees, or any other fees assessed on the purchase of the vehicle. Total consideration does not include title fees, registration fees, vehicle excise tax paid pursuant to §§ 32-5B-1, 32-5B-1.1, and 32-5B-21 to 32-5B-24, inclusive, federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner, insurance, and refundable deposits;
- (8) For either a new or used motor vehicle, as defined by § 32-5B-21, which is leased, and the terms of the lease are either not certain at the time the lease contract is executed or the lease is open ended, the purchase price shall be the total consideration whether received in money or otherwise. Total consideration includes the purchase price of the vehicle, plus cash, rebates, the net trade-in, extended warranties, administrative fees, acquisition fees, or any other fees assessed on the purchase of the vehicle. Total consideration does not include title fees, registration fees, vehicle excise tax paid pursuant to §§ 32-5B-1, 32-5B-1.1, and 32-5B-21 to 32-5B-24, inclusive, federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner, insurance, and refundable deposits.

Section 79. That § 32-5B-5 be amended to read as follows:

32-5B-5. Every manufacturer or importer of a motor vehicle sold or offered for sale within this state shall within thirty days after the change or introduction of new models of motor vehicles, or revision of prices, in each year, file with the Department of Revenue and Regulation a statement

showing the various models manufactured by him, the suggested manufacturer's list price for the complete vehicle with accessories or optional equipment in excess of one hundred twenty-five dollars stated separately, rated carrying capacity, and the manufacturer's shipping weight of each model being manufactured. Upon a change in such prices, carrying capacity, or weight, and upon the manufacture of each new model, such manufacturer shall thereafter in like manner file a new statement setting forth such change. A model is deemed similar if substantially alike and the same make. For the purpose of taxation under this chapter, models shall be deemed to be corresponding models if they are of the same make and have approximately the same weight, type of body and chassis, and the same style and size of motor.

Section 80. That § 32-5B-6 be amended to read as follows:

32-5B-6. On used motor vehicles, the county treasurer shall, for the purpose of this chapter, use the most generally used and approved nationally recognized dealers' guide provided by the secretary of revenue and regulation. For those cases of vehicles not covered by the provided dealer guides the county treasurer will seek assistance from the Department of Revenue and Regulation.

The secretary of revenue and regulation shall file notice of approved national dealer or appraisal guides with the secretary of state indicating the effective date of such approval. Such filing is not subject to chapter 1-26.

Section 81. That § 32-5B-9 be amended to read as follows:

32-5B-9. The new owner of a motor vehicle, or with written authorization, any other person as defined by subdivision 2-14-2(18) on behalf of and as the agent for the new owner, shall present to the county treasurer in the county of the new owner's residence the manufacturer's or importer's statement or certificate of origin or the assigned certificate of title and a properly endorsed motor vehicle purchaser's certificate. The motor vehicle purchaser's certificate shall be on a form to be furnished by the Department of Revenue and Regulation through the county treasurer's office. The

certificate shall contain a complete description of the motor vehicle, the owner's name and address, the previous owner's name and address, the full purchase price as defined by § 32-5B-4 and how computed, the trade-in allowance and description of the trade, if any, and any other relevant information the Department of Revenue and Regulation may require. However, for a motor vehicle licensed and registered pursuant to chapter 32-10, the manufacturer's or importer's statement or certificate of origin or an assigned certificate of title and a properly endorsed motor vehicle purchaser's certificate shall be presented to the Department of Revenue and Regulation. Any person who intentionally falsifies information on the certificate is guilty of a Class 6 felony.

Section 82. That § 32-5B-10 be amended to read as follows:

32-5B-10. The tax levied by § 32-5B-1 shall be paid to the county treasurer in the county of the new owner's residence. However, for a motor vehicle licensed and registered pursuant to chapter 32-10, the tax shall be paid to the Department of Revenue and Regulation.

Section 83. That § 32-5B-15 be amended to read as follows:

32-5B-15. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 concerning:

- (1) Which motor vehicles are subject to tax;
- (2) The actual value and purchase price of motor vehicles subject to tax;
- (3) The supporting documents required to be furnished to verify actual value or purchase price; and
- (4) The application of the tax and exemptions.

Section 84. That § 32-5B-16 be amended to read as follows:

32-5B-16. Any seller of a motor vehicle or snowmobile shall, on demand by the secretary of revenue and regulation, make available all books, records, and memoranda which relate to the sale of a motor vehicle or snowmobile. The secretary, in the event of any failure or refusal to produce the

records, may conduct an audit of the books and records of any licensed motor vehicle or snowmobile dealer failing or refusing to produce the records. All books, records, and memoranda which relate to the sale of a motor vehicle or snowmobile shall be retained by the seller for five years.

Section 85. That § 32-6B-1 be amended to read as follows:

32-6B-1. Terms as used in this chapter, unless the context otherwise requires, mean:

- (1) "Administrator," the administrator of the dealer licensing and inspection program of the Department of Revenue and Regulation;
- (2) "Auctioneer," a person who presides over a public auction where following an initial starting price, bids are taken from two or more people until a final bid or price is established for a motor vehicle;
- (2A) "Authorized emergency vehicle," any vehicle of a fire department and any ambulance and emergency vehicle of a municipal department or public service corporation that are designated or authorized by the Department of Public Safety;
- (3) "Broker," a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale or exchange of vehicles, and who is not:
 - (a) A dealer or a bona fide agent or employee of a dealer;
 - (b) A representative or a bona fide agent or employee of a manufacturer; or
 - (c) At any point in the transaction the bona fide owner of the vehicle involved in the transactions;
- (4) "Community," the franchisee's area of responsibility as stipulated in the franchise. A community has a minimum radius of ten miles around an existing dealership;
- (5) "Converter," a person who modifies or installs on previously assembled chassis special bodies or equipment which, when completed, form an integral part of the vehicle and

which constitutes a major manufacturing alteration and who may issue a supplemental or secondary statement of origin;

- (6) "Department," the Department of Revenue and Regulation;
- (6A) "Emergency vehicle dealer," any person who converts or manufacturers authorized emergency vehicles and who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of new, or new and used authorized emergency vehicles, or who is engaged wholly or in part in the business of selling new, or new and used authorized emergency vehicles;
- (7) "Franchise," a written agreement or contract between a franchisor and franchisee which fixes the legal rights and liabilities of the parties to such agreement or contract;
- (8) "Franchisee," person who receives vehicles from a franchisor under a franchise and who offers and sells the vehicles to the general public;
- (9) "Franchisor," any person engaged in the manufacturing or distribution of vehicles including any person who acts for the franchisor;
- (10) "Manufacturer," a person who manufactures or assembles vehicles, including motor homes, and who issues the original or first manufacturer's statement of origin. The term, manufacturer, includes a central or principal sales corporation through which it distributes its products to franchised dealers;
- (11) "Motor home," a motor vehicle designed as an integral unit to be used as a conveyance upon the public highways and for use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
 - (a) Cooking facilities;
 - (b) Ice box or mechanical refrigerator;

- (c) Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both;
 - (d) Self-contained toilet connected to a plumbing system with connection for external water disposal;
 - (e) Heating or air conditioning system, or both, separate from the vehicle engine or the vehicle electrical system;
 - (f) A one hundred ten -- one hundred fifteen volt (110-115) alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquified petroleum system and supply;
- (12) "Public auction," a business that is open to the public where South Dakota titled motor vehicles are consigned, displayed, and auctioned to the highest bidder by an auctioneer;
- (13) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's boat or vehicle for sale.
- (14) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle;
- (15) "Supplemental lot," a physically separate location owned and maintained by a licensed dealer within the same county as the principal place of business;
- (16) "Temporary special events lot," a location other than the principal place of business, supplemental lot, or temporary supplemental lot where a licensed trailer dealer, a licensed used car dealer selling only truck tractors, travel trailers, or motor homes, or any combination thereof, or a licensed vehicle dealer selling only truck tractors, travel trailers,

or motor homes, or any combination thereof, may conduct business for a period of time not to exceed ten consecutive days for a specific purpose such as fairs, auctions, shopping center sales, or tent sales. A temporary special events lot shall meet all local zoning and building codes for the type of business being conducted;

- (17) "Temporary supplemental lot," a location other than the principal place of business or supplemental lot but within the same county as the principal place of business, or in an adjoining county, if the adjoining county has no licensed vehicle dealer selling automobiles, pick-ups, or passenger vans and the temporary supplemental lot is no more than ten miles from the principal place of business, where a licensed vehicle dealer or a licensed used vehicle dealer may conduct business for a period of time not to exceed ten consecutive days for a specific purpose such as fairs, auto shows, auctions, shopping center promotions, or tent sales. A temporary supplemental lot shall meet all local zoning and building codes for the type of business being conducted. If a licensed vehicle dealer establishes a temporary supplemental lot in a county with a licensed used vehicle dealer, a licensed used vehicle dealer may establish a temporary supplemental lot in a county with a licensed vehicle dealer;
- (18) "Trailer," any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle;
- (19) "Trailer dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of new or used trailers, semitrailers or travel trailers or who is engaged in the business of selling new or used trailers, semitrailers or travel trailers whether or not such vehicles are owned by such person;

- (20) "Travel trailer," any trailer or semitrailer which provides as its primary purpose adequate, comfortable, temporary living quarters while on pleasure excursions or while touring for business, professional, educational or recreational purposes;
- (21) "Used vehicle dealer," any person who, for commission or with intent to make a profit or gain sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of used vehicles or who is engaged in the business of selling used vehicles; or any person who sells five or more used vehicles or offers for sale five or more used vehicles at the same address or telephone number in any one calendar year;
- (22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, motor home, trailer, semitrailer or travel trailer of the type and kind required to be titled and registered under chapters 32-3 and 32-5, except manufactured homes, mobile homes, mopeds or snowmobiles;
- (23) "Vehicle dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in part in the business of selling new, or new and used vehicles.

Section 86. That § 32-6B-5 be amended to read as follows:

32-6B-5. The following persons are exempt from the provisions of this chapter:

- (1) Any employee of any person licensed as a vehicle dealer if engaged in the specific performance of the employee's duties;
- (2) Any financial institution chartered or licensed in any other jurisdiction that acquires vehicles as an incident to its regular business and sells such vehicles to dealers licensed under this chapter;
- (3) Any nonprofit automobile club if selling automobiles twenty years old or older under the

provisions of chapter 32-3;

- (4) Any person acting as an auctioneer if auctioning South Dakota titled vehicles for a licensed dealer or a person who is exempt from the provisions of this chapter;
- (5) Any person engaged in the business of manufacturing or converting new vehicles if selling such vehicles to a licensed dealer holding a franchise from the original manufacturer of the vehicle;
- (6) Any person engaged in the business of manufacturing or customizing motor vehicles may display but may not sell any motor vehicle at an event, if the event lasts three or more days and if the person registers with and purchases a permit from the Department of Revenue and Regulation at least five days before the event. The person shall pay a fee of one hundred fifty dollars for a ten-day temporary permit. However, if the permit is purchased at least five days before the event, the person shall pay a fee of one hundred dollars for the ten-day temporary permit;
- (7) Any person engaged in the business of manufacturing trailers may display but may not sell any trailers at an event, if the event lasts three or more days and if the person registers with and purchases a permit from the Department of Revenue and Regulation at least five days before the event. The person shall pay a fee of seventy-five dollars for a ten-day temporary permit. However, if the permit is purchased at least five days before the event, the person shall pay a fee of fifty dollars for the ten-day temporary permit;
- (8) Any person may sell motorcycles at an event, if the event lasts three or more days and if the person registers and purchases a permit from the Department of Revenue and Regulation at least five days before the event. Before issuance of a permit, the applicant must provide proof they are a licensed dealer in their own state and have no outstanding dealer violations. The permit will only be issued if the motorcycles being sold are not

franchised in this state. The person shall pay a fee of three hundred dollars for a ten-day temporary permit. However, if the permit is purchased at least five days before the event, the person shall pay a fee of two hundred dollars for the ten-day temporary permit;

- (9) Any person may sell trailers at an event, if the event lasts three or more days and if the person registers and purchases a permit from the Department of Revenue and Regulation at least five days before the event. Before issuance of a permit, the applicant must provide proof they are a licensed dealer in their own state and have no outstanding dealer violations. The permit will only be issued if the trailers being sold are not franchised in this state. The person shall pay a fee of two hundred and twenty-five dollars for a ten-day temporary permit. However, regardless of whether or not there is a franchise in this state, any person may display a trailer at such an event. However, if the permit is purchased at least five days before the event, the person shall pay a fee of one hundred fifty dollars for the ten-day temporary permit;
- (10) Any person not engaged in the sale of vehicles as a business and is disposing of vehicles used solely for personal use if the vehicles were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;
- (11) Any person not engaged in the sale of vehicles as a business who operates fleets of vehicles and is disposing of vehicles used in the person's business if the same were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;
- (12) Any person who sells less than five vehicles in a twelve-month period, unless the person is licensed as a dealer in another state or holds himself or herself out as being in the business of selling vehicles. However, if the vehicles are travel trailers, any person who sells less than three travel trailers in a twelve-month period;

- (13) Any public officer while performing the officer's official duties;
- (14) Any receiver, trustee, administrator, executor, guardian, or other person appointed by or acting under the judgment or order of any court;
- (15) Any regulated lenders as that term is defined in § 54-3-14, any insurance company authorized to do business in this state, or any financing institution as defined in and licensed pursuant to chapter 54-4 that acquires vehicles as an incident to its regular business;
- (16) Any towing agency that acquires and sells a vehicle which has been towed at the request of a private landowner under the provision of chapter 32-36 or at the request of a law enforcement officer, if no vehicle is sold for an amount over two hundred dollars; and
- (17) Any vehicle rental and leasing company that sells its used vehicles to dealers licensed under this chapter.

Section 87. That § 32-6B-9 be amended to read as follows:

32-6B-9. No application may be granted nor a license issued to an applicant for the purpose of selling new vehicles under this chapter until the applicant executes a bond with a corporate surety which has been authorized to do business in this state. The surety shall be in the amount of fifty thousand dollars, payable to the Department of Revenue and Regulation for the use and benefit of any new vehicle purchaser to pay all damages and expenses that may be occasioned from the applicant's failure to fulfill warranty obligations. In no event may the liability of the surety in the aggregate exceed the amount of the bond. However, an applicant is exempt from this bond requirement if he has within the county a repair facility and qualified personnel for the purpose of fulfilling new vehicle warranties.

Section 88. That § 32-6B-33 be amended to read as follows:

32-6B-33. The Department of Revenue and Regulation shall provide for the publication, sale,

and delivery of books containing single trip permits authorized by § 32-6B-32. The department, pursuant to chapter 1-26, may promulgate rules to provide for the issuance of such permits and to set the fee for those permits.

Section 89. That § 32-6B-60 be amended to read as follows:

32-6B-60. The secretary of revenue and regulation may adopt rules pursuant to chapter 1-26 as may be necessary to ensure and obtain uniformity in the administration of this chapter. All local officials charged with the administration of the provisions of this chapter are governed in their official acts by the rules promulgated by the secretary.

Section 90. That § 32-6B-63 be amended to read as follows:

32-6B-63. The Department of Revenue and Regulation may promulgate rules, pursuant to chapter 1-26, to regulate the advertising of vehicles offered for sale by vehicle dealers. The department may promulgate rules concerning the following:

- (1) Price advertising;
- (2) Availability of vehicles; and
- (3) General advertising practices.

Section 91. That § 32-6B-65 be amended to read as follows:

32-6B-65. Any vehicle dealer or used vehicle dealer licensed pursuant to this chapter may be provided access to title information maintained on the state's computer system via a modem and terminal owned by the dealer. The Department of Revenue and Regulation shall promulgate rules pursuant to chapter 1-26 to specify access availability, cost of access, and permitted uses of the title information.

Section 92. That § 32-6B-69 be amended to read as follows:

32-6B-69. A franchisor may not modify a franchise during the terms of the franchise or upon its renewal if the modification would substantially and adversely affect the dealer's rights, obligations,

investment, or return on investment without giving at least thirty days notice of the proposed modification to the dealer unless the change is required by law. Within the thirty-day period, the dealer may file an objection requesting a determination of whether good cause exists for permitting the proposed modification with the Department of Revenue and Regulation and serve notice on the franchisor. The department shall promptly schedule a hearing to be held under the provisions of chapter 1-26 and decide the matter within sixty days from the date the protest is filed. Multiple protests pertaining to the same proposed modification shall be consolidated for hearing. The proposed modification may not take effect with respect to the protesting dealer's franchise pending the determination of the matter. The written notice shall contain on the first page thereof a conspicuous statement which reads substantially as follows: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE SOUTH DAKOTA DEPARTMENT OF REVENUE AND REGULATION IN PIERRE, SOUTH DAKOTA, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE WITH A SUCCEEDING FRANCHISE UNDER THE TERMS OF SOUTH DAKOTA LAW IF YOU OPPOSE THIS ACTION."

This section does not apply to franchise agreements involving travel trailers or motor homes.

Section 93. That § 32-6C-3 be amended to read as follows:

32-6C-3. Any person selling snowmobiles pursuant to the requirements of this chapter shall file with the Department of Revenue and Regulation, upon forms provided by the department, an application including the following information:

- (1) The name and address of the applicant;
- (2) The name of the partnership, with the names and addresses of all partners;
- (3) The name of the corporation, with the names and addresses of the principal officers;
- (4) The exact location of the place of business and, if owned by the applicant, when acquired.

- If the place of business is leased, a copy of the lease shall accompany the application;
- (5) A certification that the location is the place where the applicant keeps and maintain books, records, and files necessary to conduct business, which shall be available at all reasonable hours to inspection by the department;
 - (6) A statement that the applicant is either franchised by a manufacturer of snowmobiles, in which case the name of each snowmobile that the applicant is franchised to sell shall be included, or is a used snowmobile dealer, or both;
 - (7) A certification that neither the applicant, nor any other partner or officer has been convicted of a crime involving vehicle theft or fraud in the last five years;
 - (8) Such other information as the department may require.

Section 94. That § 32-6C-17 be amended to read as follows:

32-6C-17. The secretary of revenue and regulation may adopt rules pursuant to chapter 1-26 as may be necessary to ensure and obtain uniformity in the issuance of dealers' licenses, the inspection of dealers, and the use of dealer plates, demonstration permits, and temporary licenses as provided by this chapter. All local officials charged with the administration of the provisions of this chapter are governed in their official acts by the rules promulgated by the secretary.

Section 95. That § 32-6D-9 be amended to read as follows:

32-6D-9. If a motor vehicle has been returned to the manufacturer under the provisions of this chapter or a similar statute of another state, whether as the result of a legal action or as the result of an informal dispute settlement proceeding, it may not be resold in this state unless:

- (1) The manufacturer discloses in writing to the subsequent purchaser the fact that the motor vehicle was returned under the provisions of this chapter and the nature of the nonconformity to the vehicle warranty; and
- (2) The manufacturer returns the title of the motor vehicle to the Department of Revenue and

Regulation advising of the return of the motor vehicle under provisions of this chapter with an application for title in the name of the manufacturer. The department shall brand the title issued to the manufacturer and all subsequent titles to the motor vehicle with the following statement: "This vehicle was returned to the manufacturer because it did not conform to its warranty."

Section 96. That § 32-6E-1 be amended to read as follows:

32-6E-1. Terms used in this chapter mean:

- (1) "Community," the franchisee's area of responsibility as stipulated in the franchise. A community has a minimum radius of ten miles around an existing dealership;
- (2) "Department," the Department of Revenue and Regulation;
- (3) "Franchise," a written agreement or contract between a franchisor and a franchisee which fixes the legal rights and liabilities of the parties to such agreement or contract;
- (4) "Franchisee," any person who receives snowmobiles from a franchisor under a franchise and who offers and sells the snowmobiles to the general public;
- (5) "Franchisor," any person engaged in the manufacturing or distribution of snowmobiles including any person who acts for the franchisor;
- (6) "Manufacturer," any person who manufactures or assembles snowmobiles and who issues the original or first manufacturer's statement of origin. The term, manufacturer, includes a central or principal sales corporation through which it distributes its products to franchised dealers;
- (7) "Snowmobile dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of new or used snowmobiles, or who is engaged wholly or in part in the business of selling new or used snowmobiles.

Section 97. That § 32-7A-1 be amended to read as follows:

32-7A-1. Unless the context otherwise plainly requires, terms used in this chapter mean:

- (1) "Auxiliary lot," a physically separate location, such as a mobile home park, manufactured housing rental community, manufactured housing subdivision, or any residential lot, where a licensed dealer displays manufactured homes or mobile homes.
- (2) "Dealer," any person, other than a manufacturer of a mobile home or a manufactured home, who sells three or more mobile homes or manufactured homes in any consecutive twelve-month period;
- (3) "Department," the Department of Revenue and Regulation;
- (4) "Manufactured home," a structure, transportable in one or more sections, which is eight feet or more in width or forty feet or more in length in the traveling mode, or is three hundred twenty or more square feet when erected on a site; which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities; and which contains in it the plumbing, heating, air conditioning and electrical systems. The term includes any structure which has been certified by the secretary of housing and urban development as having complied with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended and in effect on January 1, 1984;
- (5) "Mobile home," a movable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels), and designed to be connected to utilities for year-round occupancy. The term includes:
 - (a) Units containing parts that may be folded, collapsed or telescoped when being towed and that may be expanded to provide additional cubic capacity; and
 - (b) Units composed of two or more separately towable components designed to be

joined into one integral unit capable of being separated again into the components for repeated towing;

- (6) "Supplemental lot," a physically separate location owned and maintained by a licensed dealer within the same county as the principal place of business;
- (7) "Temporary supplemental lot," a location other than the principal place of business or supplemental lot where a licensed dealer may conduct business for a period of time not to exceed ten consecutive days for a specific purpose such as fairs, auctions, shopping center promotions or tent sales. Such temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted.

Section 98. That § 32-7A-5 be amended to read as follows:

32-7A-5. No license as provided in § 32-7A-3 may be issued to anyone, until the applicant executes a bond issued by a company licensed to do business in this state, as surety in the amount of ten thousand dollars. The bond shall be payable to the Department of Revenue and Regulation for the use and benefit of any purchaser or holder of lien to pay any loss, damages, and expenses resulting from the failure of any title for any fraudulent misrepresentation or breach of warranty as to freedom from a lien. If any claim is made to the department against such bond and the claim is based upon a final judgment of a court of record of this state, the dealer shall execute an additional bond for the amount not to exceed thirty thousand dollars.

Section 99. That § 32-7A-6 be amended to read as follows:

32-7A-6. If the applicant for a license under this chapter desires to set up a place of business, as defined in § 32-7A-2, in more than one county in this state, the applicant shall secure a separate license for each county. No license for an additional county may be issued until the Department of Revenue and Regulation has been furnished proof that the applicant has a place of business as defined in § 32-7A-2, in the additional county and has such a license in the initial county. This

section does not prohibit a licensed dealer from setting up any auxiliary lot as defined in § 32-7A-1.

Section 100. That § 32-7A-8 be amended to read as follows:

32-7A-8. The county treasurer shall report and forward the fees collected under the provisions of this chapter to the Department of Revenue and Regulation. The department shall deposit the fees in the state motor vehicle fund.

Section 101. That § 32-7A-9 be amended to read as follows:

32-7A-9. The Department of Revenue and Regulation shall grant or deny the application for a license under this chapter within thirty days after the filing of the application. If the application is granted, the department shall license the applicant as a mobile home and manufactured home dealer or manufacturer for the remainder of the calendar year. Moreover, the department shall design and issue a certificate of license containing a distinguishing number of identification for the dealer or manufacturer.

Section 102. That § 32-7A-10 be amended to read as follows:

32-7A-10. The Department of Revenue and Regulation shall issue to any mobile home and manufactured home dealer or manufacturer licensed as provided in this chapter, metal number plates displaying a general distinguishing number. The dealer or manufacturer shall make application to the department for the plates and pay a fee of ten dollars for each plate. One such plate shall be displayed on the rear of each mobile home or manufactured home while being transported on a public highway.

Section 103. That § 32-7A-12 be amended to read as follows:

32-7A-12. Every dealer or manufacturer licensed under the provisions of this chapter, shall keep a record, in such form as may be prescribed by the Department of Revenue and Regulation. The licensee shall keep a record of the purchase, sale or exchange, or receipt for the purpose of sale, of any mobile home or manufactured home. The licensee shall also keep a record of a description of

the home together with the name and address of the seller, the purchaser, or other person from whom it was received or to whom it was delivered.

Section 104. That § 32-7A-14.1 be amended to read as follows:

32-7A-14.1. The secretary of revenue and regulation may adopt rules and issue such instructions as may be necessary to ensure and obtain uniformity in the administration of this chapter.

All local officials charged with the administration of the provisions of such chapter are governed in their official acts by the rules promulgated by the secretary.

Section 105. That § 32-7B-4 be amended to read as follows:

32-7B-4. Any person selling boats pursuant to the requirements of this chapter shall file with the Department of Revenue and Regulation, upon forms provided by the department, an application including the following information:

- (1) The name and address of the applicant;
- (2) The name of the partnership, with the names and addresses of all partners;
- (3) The name of the corporation, with the names and addresses of the principal officers;
- (4) The exact location of the place of business and, if owned by the applicant, when acquired.
If the place of business is leased, a copy of the lease shall accompany the application;
- (5) A certification that the location is the place where the applicant keeps and maintains books, records, and files necessary to conduct business, which shall be available at all reasonable hours to inspection by the department;
- (6) A statement that the applicant is either franchised by a manufacturer of boats, in which case the name of each boat that the applicant is franchised to sell shall be included, or is a used boat dealer, or both;
- (7) A certification that neither the applicant, nor any other partner or officer has been convicted of a crime involving theft or fraud in the last five years; and

(8) Such other information as the department may require.

Section 106. That § 32-7B-20 be amended to read as follows:

32-7B-20. The secretary of revenue and regulation may adopt rules pursuant to chapter 1-26 as may be necessary to ensure and obtain uniformity in the issuance, design, and use of dealer licenses, the inspection of dealers, and the use of dealer plates, demonstration permits, and temporary licenses as provided by this chapter. All local officials charged with the administration of the provisions of this chapter are governed in their official acts by the rules promulgated by the secretary.

Section 107. That § 32-7B-25 be amended to read as follows:

32-7B-25. Any out-of-state boat dealer may display or sell boats and trailers at an event, if the event lasts two or more days and if the person registers with and purchases a permit from the Department of Revenue and Regulation at least five days before the event. The person shall pay a fee of two hundred dollars for a ten-day temporary permit. In order to qualify as an event, the event shall be an organized, sponsored event with no less than three licensed boat dealers displaying boats.

Section 108. That § 32-9-1 be amended to read as follows:

32-9-1. Terms used in this chapter mean:

- (1) "Compensation," the charge imposed upon motor carriers in consideration of the unusual use of the public highways in this state by such motor carriers;
- (2) "Compensation certificate," the certificate issued upon application by a motor carrier, as defined in §§ 32-9-2 and 32-9-3, showing authority to use and payment of compensation for the unusual use of the highways by the one to whom issued;
- (3) "Commercial motor vehicle," any motor vehicle used or maintained for the transportation of persons or property for hire, compensation or profit or designed, used or maintained primarily for the transportation of property, and not specifically excluded under § 32-9-3;
- (4) "Department," Department of Revenue and Regulation;

- (5) "For hire," for remuneration of any kind, paid or promised, either directly or indirectly, for the transportation of persons or property. An occasional accommodative transportation service by a person not in the transportation business while on an errand for himself, is not a service for hire, even though the person transported shares in the cost or pays for the service;
- (6) "Gross weight," the total weight of the chassis, body, equipment, and maximum load of each motor vehicle, trailer, or semitrailer as fixed by the applicant for a compensation certificate;
- (7) "Motor vehicle," all vehicles or machines propelled by any power other than muscular used upon the public highways for the transportation of persons or property or both;
- (8) "Private business use," the transportation of persons or property for hire, compensation, profit, or remuneration of any kind, or the transportation of any property of a business venture not specifically excluded under § 32-9-3;
- (9) "Public highway," every street, alley, public road, public thoroughfare, or highway in this state;
- (10) "Secretary," secretary of revenue and regulation;
- (11) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle;
- (12) "Trailer," every vehicle without motive power designed to carry property or persons wholly on its own structure and to be drawn by a motor vehicle.

Section 109. That § 32-9-3.1 be amended to read as follows:

32-9-3.1. Any motor vehicle or trailer owned and operated by a resident or a nonresident engaged

in the harvest of agricultural products may be operated upon the highways, roads, and streets of this state upon payment of a seventy-five dollar fee. Payment of the fee shall be evidenced by a sticker provided by the department affixed in a conspicuous place on the vehicle as the department may require.

The stickers, which are valid for a calendar year, shall be purchased from the county treasurer of any county through which the owner or operator may travel or from an agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector of the Department of Public Safety. All fees collected shall be handled, accounted for, and distributed in the same manner as the other fees provided for in this chapter. A violation of this section is a Class 2 misdemeanor.

Section 110. That § 32-9-6 be amended to read as follows:

32-9-6. Any person or corporation desiring to operate a motor vehicle, trailer, semitrailer as a motor carrier of persons or property on the public highways of this state shall, before beginning such operations, cause to be presented to the county treasurer of the county of which such applicant is a resident, if such applicant be a resident of this state, and if a nonresident, then to the county treasurer of any county through which such applicant may travel, except as provided for interstate carriers, an application upon forms to be furnished and provided by the Department of Revenue and Regulation. The application shall set forth the name of the manufacturer of such vehicle, the factory number, and engine number thereof, the model thereof, the desired gross weight classification or rated maximum seating capacity thereof, together with such other and additional information as the Department of Revenue and Regulation may deem necessary. A violation of this section is a Class 2 misdemeanor.

Section 111. That § 32-9-8.1 be amended to read as follows:

32-9-8.1. All fees for a commercial vehicle apply to the power unit or tractor only. In the case of individual power units pulling interchangeable trailers or semitrailers, the commercial motor vehicle shall be licensed according to the largest gross maximum weight the power unit will haul.

Each trailer or semitrailer shall have an identification plate displayed in a conspicuous manner as may be prescribed by the Department of Revenue and Regulation.

The fee for the identification plate is ten dollars. The identification plate when issued is valid for the useful life of the trailer or semitrailer. However, if the title to the trailer or semitrailer is transferred the new owner shall within thirty days of the date of transfer make application to the Department of Revenue and Regulation for a new identification plate. All revenue raised by the fees shall be placed in the license plate special revenue fund. A trailer licensed with an identification plate pursuant to this section may be pulled by a commercially licensed power unit or by a noncommercial power unit licensed for the gross weight of the motor vehicle. A violation of this section is a Class 2 misdemeanor.

Section 112. That § 32-9-9 be amended to read as follows:

32-9-9. Upon loss or destruction of any commercial motor vehicle plate the Department of Revenue and Regulation shall furnish to the carrier a duplicate plate or plates upon the payment of the sum of ten dollars per plate at the time of the application for the duplicate plate; any funds derived from the issuance of a duplicate plate shall be deposited in the state license plate special revenue fund. If the plates are lost or stolen the department may not issue a duplicate set of plates until the loss or theft is reported to a law enforcement agency.

Section 113. That § 32-9-15 be amended to read as follows:

32-9-15. In consideration of the unusual use of the public highways, each person, except as otherwise provided in this chapter, desiring to operate a motor vehicle, trailer, or semitrailer, upon the public highways of this state as a motor carrier, shall annually pay the commercial motor vehicle fee as follows, to the county treasurer of the county of which he is a resident, if a carrier of property; or to the Department of Revenue and Regulation, if he is not a resident of this state:

- (1) Gross weight under 4000 pounds, eighty-five dollars;

- (2) Gross weight of 4001 to 6000 pounds, one hundred dollars;
- (3) Gross weight of 6001 to 8000 pounds, one hundred fifteen dollars;
- (4) Gross weight of 8001 to 10,000 pounds, one hundred thirty dollars;
- (5) Gross weight of 10,001 to 12,000 pounds, one hundred fifty dollars;
- (6) Gross weight of 12,001 to 14,000 pounds, one hundred seventy-five dollars;
- (7) Gross weight of 14,001 to 16,000 pounds, two hundred dollars;
- (8) Gross weight of 16,001 to 18,000 pounds, two hundred twenty-five dollars;
- (9) Gross weight of 18,001 to 20,000 pounds, two hundred fifty dollars;
- (10) For each additional 2000 pounds or major fraction thereof in excess of 20,000 pounds, forty dollars.
- (11) For each vehicle or combination of vehicles as defined in § 32-22-10 with a gross weight in excess of 78,000 pounds, seven dollars in addition to the fee schedule above.

If any commercial motor vehicle, according to the manufacturer's model year designation, is five years old or more on January first of the year for which a license fee is required, that fee is ninety percent of the fee ordinarily prescribed.

Section 114. That § 32-9-22.1 be amended to read as follows:

32-9-22.1. The owner of a commercial motor vehicle may obtain from the office of any county treasurer a temporary nonhire permit to operate on the highways of this state. This permit shall be issued by the county treasurer upon payment of the fee prescribed under § 32-5-107. The permit conditions and restrictions contained by that section apply to this permit. This permit may be issued to the owner of a commercial motor vehicle who has returned the commercial plates pursuant to § 32-9-21 and has shown a need to operate this motor vehicle on the highway. The fee shall be reported and forwarded monthly by the county treasurer to the Department of Revenue and Regulation. These remittances shall be credited to the revolving license plate fund pursuant to

chapter 32-11. Only one permit shall be issued yearly per motor vehicle.

Section 115. That § 32-9-23.2 be amended to read as follows:

32-9-23.2. If a motor carrier in intrastate commerce elects to pay the commercial motor vehicle fee pursuant to § 32-9-23.1, the carrier shall make application to an agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector of the Department of Public Safety.

Section 116. That § 32-9-23.5 be amended to read as follows:

32-9-23.5. Upon payment of the permit fee set forth in § 32-9-23.1, the carrier shall be issued a receipt which shall be the permit to move such vehicle pursuant to the permit. The carrier shall retain the receipt or permit in the carrier's possession for display upon demand of any agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector of the Department of Public Safety.

A violation of this section is a Class 2 misdemeanor.

Section 117. That § 32-9-44.1 be amended to read as follows:

32-9-44.1. It is a Class 1 misdemeanor for any carrier to fail or refuse to surrender to the Department of Revenue and Regulation upon its lawful demand any commercial motor vehicle license plate or certificate which has been suspended, revoked or canceled. If any person shall fail to return the commercial motor vehicle certificate or license to the secretary of revenue and regulation after lawful demand, the secretary shall forthwith direct any peace officer to secure possession thereof and return it to the secretary.

Section 118. That § 32-9-57 be amended to read as follows:

32-9-57. Any commercial motor carrier located in the state hauling a new trailer or a new or used manufactured or mobile home with a manufacturer's statement of origin or certificate of title and who has registered with the Department of Revenue and Regulation as a transporter may use a transporter plate upon the streets and highways for in-transit purposes. The fee for a transporter plate

is fifty dollars and the fee shall be deposited in the license plate special revenue fund. Any new trailer with a transporter plate may be used to haul other new trailers. No transporter may use a transporter plate for any other purpose. A violation of this section is a Class 1 misdemeanor.

Section 119. That § 32-9-58 be amended to read as follows:

32-9-58. Before any motor vehicle, trailer, semitrailer, motor propelled, or trailed vehicle chassis defined in subdivision 32-9-3(7) is moved between job sites or from one job site to a central location, the owner shall register the unit pursuant to § 32-9-3.3 and purchase a five dollar permit for the movement of the vehicle or equipment on the roads and highways or register the vehicle or equipment pursuant to § 32-5-6.3, 32-5-8, or 32-5-8.1. The owner shall purchase the permit from an agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector of the Department of Public Safety. The permit shall be prescribed by the secretary of revenue and regulation and the permit fees shall be deposited credited to the local government highway and bridge fund created pursuant to § 32-11-34.

Section 120. That § 32-10-1 be amended to read as follows:

32-10-1. Terms used in this chapter mean:

- (1) "Administrator," the secretary of revenue and regulation;
- (2) "Commercial vehicle," any vehicle which is operated in interstate commerce in furtherance of any commercial enterprise;
- (3) "Department," the Department of Revenue and Regulation;
- (4) "Interstate commerce," the movement of a vehicle between jurisdictions but does not include the movement of any vehicle which transports or is being used to transport persons or property, the transportation of which originates in one jurisdiction and passes into or through another jurisdiction or jurisdictions, for delivery in the jurisdiction in which the transportation originated;

- (5) "Jurisdiction," a state, district, territory, or possession of the United States, a foreign country, and a state or province of a foreign country;
- (6) "Motor vehicle," shall have the meaning ascribed to it by § 32-9-1;
- (7) "Owner," as defined in subdivision 32-3-1(16), except that for the purposes of proportional registration of vehicles as authorized and provided in §§ 32-10-10 and 32-10-15 to 32-10-28, inclusive, "owner" means a person who holds a legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event while a vehicle is subject to a lease with an immediate right of possession vested in the lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee or mortgagee is considered to be the owner;
- (8) "Person" shall have the meaning ascribed to it by § 32-9-1;
- (9) "Preceding year," a period of twelve consecutive months fixed by the administrator which period shall be within the sixteen months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the administrator in fixing such period shall make it conform to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles;
- (10) "Properly registered," as applied to place of registration:
 - (a) The jurisdiction where the person registering the vehicle has his legal residence;
or
 - (b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein,

and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from such place of business, and, the owner has assigned the vehicle to such place of business; or

- (c) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by said jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the administrator shall make final determination, but in making such determination, may confer with administrators of the other states or jurisdictions affected;

- (11) "Vehicle" shall have the meaning ascribed to it by § 32-9-1.

Section 121. That § 32-10-3 be amended to read as follows:

32-10-3. The Department of Revenue and Regulation may execute agreements, arrangements, or declarations to carry out the provisions of this chapter. The department may specify, by rules passed pursuant to chapter 1-26, the requirements such agreements, arrangements, or declarations must conform to, before they will be executed. The secretary of revenue and regulation may adopt reasonable and necessary rules to provide for registration of commercial vehicles involved in multi-jurisdiction commerce as follows:

- (1) Cab card fees;
- (2) Transfer of credits or refunds;
- (3) Revocation of license;
- (4) Collection and distribution of fees for other jurisdictions;
- (5) Reciprocal agreements with other jurisdictions affecting interstate movement of vehicles.

Section 122. That § 32-10-3.1 be amended to read as follows:

32-10-3.1. The motor vehicle reciprocity commission is abolished, and all its functions shall be

administered by the Department of Revenue and Regulation as provided by § 1-35-30. The reciprocity and proration administrator shall be the secretary of revenue and regulation and all fees collected under the provisions of this chapter shall be forwarded by the secretary to the state treasurer.

Section 123. That § 32-10-4 be amended to read as follows:

32-10-4. The Department of Revenue and Regulation may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners or operators of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied, benefits, privileges, and exemptions from the payment, wholly or partially, of any taxes, fees, or other charges imposed upon such vehicles, owners, or operators with respect to the operation or ownership of such vehicles under the laws of this state. Each such agreement or arrangement shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce.

Section 124. That § 32-10-12 be amended to read as follows:

32-10-12. A person, firm, or corporation described in § 32-10-11 shall, on or before the first day of January of each year, file with the Department of Revenue and Regulation a verified statement showing for the preceding year:

- (1) Total amount paid to the State of South Dakota for commercial motor vehicle licenses on any such vehicles;
- (2) Total amount which would have been paid to the State of South Dakota if all such vehicles had been licensed in South Dakota;
- (3) Total miles traveled in South Dakota by all motor vehicles owned or leased by such

operator;

- (4) Total miles traveled by all motor vehicles owned or leased by such operator.

If such statement shall establish that the ratio of (1) to (2) is at least as great as the ratio of (3) to (4), the secretary of revenue and regulation may certify that such operator is eligible for the reciprocity provisions granted in §§ 32-10-5 to 32-10-11, inclusive.

Section 125. That § 32-10-29.1 be amended to read as follows:

32-10-29.1. It is a Class 1 misdemeanor for any person to fail or refuse to surrender to the Department of Revenue and Regulation upon its lawful demand any proportional license plates and registration card which has been suspended, revoked, or canceled. If any person shall fail to return the proportional license plate or registration card to the secretary of revenue and regulation after lawful demand, the secretary shall forthwith direct any peace officer to secure possession thereof and return the same to the secretary.

Section 126. That § 32-10-35 be amended to read as follows:

32-10-35. Fees collected by the secretary of revenue and regulation and not otherwise provided for shall be distributed as provided by this section. Fees collected under chapter 32-10 by the secretary of revenue and regulation pursuant to § 32-5B-1 shall be deposited in the state highway fund. Fees collected under chapter 32-10 by the secretary of revenue and regulation pursuant to chapter 32-9 shall be distributed with fifty-seven percent to the local government highway and bridge fund, forty-one and one-half percent to counties, one-half percent to the state motor vehicle fund, and one percent to the state license plate special revenue fund. The counties' portion shall be distributed among the counties, pro rata, twenty-five percent according to truck registrations, twenty-five percent according to population, and fifty percent according to total road mileage. Each county shall distribute fifty-four percent of its portion to the county road and bridge fund, thirty-four percent of its portion to the special highway fund as provided by subdivision 32-11-4.1(2), and twelve percent

of its portion to the municipalities of the county pursuant to subdivision 32-11-4.1(3).

Section 127. That § 32-11-19 be amended to read as follows:

32-11-19. The county treasurer shall forward to the Department of Revenue and Regulation all applications for registration, reregistration, transfer, license, permit, and duplicate number plates, at such time as required by law.

Section 128. That § 32-11-25 be amended to read as follows:

32-11-25. The Department of Revenue and Regulation shall provide all necessary supplies required under the provisions of §§ 32-11-18 and 32-11-19.

Section 129. That § 32-12-3.2 be amended to read as follows:

32-12-3.2. The Department of Public Safety may promulgate rules pursuant to chapter 1- 26 to implement the provisions of §§ 32-12-3.1 and 32-12-42.

Section 130. That § 32-12-17.7 be amended to read as follows:

32-12-17.7. If a bar code, or other means by which information may be retrieved electronically, is placed on a license pursuant to § 32-12-17.10, the secretary of the Department of Public Safety may encrypt information in the bar code identifying that the licensee is a convicted felon who has a firearm restriction or the licensee is a sex offender who is required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive.

Section 131. That § 32-12-17.8 be amended to read as follows:

32-12-17.8. If a bar code, or other means by which information may be retrieved electronically, is placed on a license pursuant to § 32-12-17.10, the secretary of the Department of Public Safety may include information identifying the licensee's blood type, medical condition, allergies, medications, or other medical alert data, if the licensee requests such information to be included. Before such information may be included, the licensee shall submit a document clearly identifying this information to the department and the document shall be signed by the licensee and the licensee's

physician.

Section 132. That § 32-12-17.12 be amended to read as follows:

32-12-17.12. No male United States citizen or immigrant who is at least eighteen years of age but less than twenty-six years of age and who is required to register with the United States Selective Service System may apply for or be issued a driver license, renewal, or duplicate pursuant to this chapter unless the applicant is registered, or consents to be registered as provided in this section, in compliance with the Military Selective Service Act, 50 U.S.C. App. 453, as amended to January 1, 2002.

The Department of Public Safety shall forward in an electronic format the necessary personal information required for registration of any applicant identified in this section to the United States Selective Service System. The applicant's submission of the application indicates that the applicant has already registered with the Selective Service System or that he is authorizing the department to forward to the Selective Service System the necessary information for such registration. The department shall notify the applicant on the application that his submission of the application serves as his consent to be registered with the Selective Service System if so required by federal law.

Section 133. That § 32-12-61 be amended to read as follows:

32-12-61. The Department of Public Safety shall file all abstracts of court records of convictions received by it under the laws of this state and all accident reports received from the Office of Accident Records. The Office of Accident Records shall submit a copy of all accident reports to the Department of Public Safety. The Department of Public Safety shall maintain records or make suitable notations on the individual record of each licensee showing the convictions of such licensee and the traffic accidents in which the licensee has been involved. Such information shall be readily ascertainable and available for the consideration of the department upon any application for renewal of a license. However, with the exception of convictions resulting from operation of a commercial

motor vehicle, no conviction for speeding which is ten miles per hour or less over the posted speed limit and no speeding conviction received from another state may be entered on the licensee's driving record but may be recorded separately. The separate record may not be made available to the public.

Section 134. That § 32-12A-1 be amended to read as follows:

32-12A-1. Terms used in §§ 32-12A-1 to 32-12A-50, inclusive, 32-12A-51, and 32-12A-52 to 32-12A-58, inclusive, mean:

- (1) "Alcohol," any substance containing any form of alcohol;
- (2) "Commercial driver license," or "CDL," a license issued in accordance with the requirements of §§ 32-12A-1 to 32-12A-50, inclusive, 32-12A-51, and 32-12A-52 to 32-12A-58, inclusive, to an individual that authorizes the individual to drive a class of commercial motor vehicle;
- (3) "Commercial driver license information system," or "CDLIS," the information system established pursuant to the Commercial Motor Vehicle Safety Act (CMVSA) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;
- (4) "Commercial driver instruction permit," a permit issued pursuant to § 32-12A-12;
- (5) "Commercial motor vehicle," a motor vehicle designed or used to transport passengers or property;
 - (a) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulation;
 - (b) If the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - (c) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F, as amended through January 1,

1993;

- (6) "Controlled substance," any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. § 802(6)), and includes all substances listed on Schedules I through V, of 21 C.F.R. Part 1308, inclusive, as amended through January 1, 1993;
- (7) "Conviction," an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated;
- (8) "Department," the Department of Public Safety;
- (9) "Disqualification," any withdrawal of the privilege to drive a commercial motor vehicle;
- (10) "Drive," to drive, operate, or be in actual physical control of a motor vehicle;
- (11) "Driver," any person who drives, operates, or is in actual physical control of a commercial motor vehicle, or who is required to hold a commercial driver license;
- (12) "Employer," any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle;
- (13) "Felony," any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;
- (14) "Foreign jurisdiction," any jurisdiction other than a state of the United States;
- (15) "Gross vehicle weight rating," or "GVWR," the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The GVWR of a combination (articulated) vehicle (commonly referred to as the "Gross Combination

Weight Rating" or GCWR) is the GVWR of the power unit plus the GVWR of the towed unit or units;

- (16) "Hazardous materials," the same as that found in Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. § 1801 et seq.), as amended through January 1, 1993;
- (17) "Motor vehicle," a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power, used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail, or any custom harvesting farm machinery;
- (18) "Nonresident CDL," a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction;
- (19) "Notice of final administrative decision," a determination rendered by an agency of competent jurisdiction when all avenues of appeal have been exhausted or time to appeal has elapsed;
- (20) "Operator's license," any license issued by a state to an individual which authorizes the individual full privileges to drive a motor vehicle;
- (21) "Out-of-service order," an out-of-service order as defined by 49 C.F.R. part 390.5, as of January 1, 1996;
- (22) "Recreational vehicle," a vehicle which is self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use;
- (23) "School bus," any motor vehicle that complies with the color and identification requirements as provided in the laws of this state and is used to transport sixteen or more passengers, including the driver, to or from school or in connection with school activities;
- (24) "Serious traffic violation," a conviction when operating a commercial motor vehicle of:

- (a) Excessive speeding, involving a single charge of any speed fifteen miles per hour or more, above the posted speed limit, in violation of chapter 32-25;
 - (b) Reckless driving, in violation of § 32-24-1;
 - (c) Careless driving, in violation of § 32-24-8;
 - (d) Improper or erratic traffic lane changes, in violation of § 32-26-6;
 - (e) Following the vehicle ahead too closely, in violation of § 32-26-40;
 - (f) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - (g) Failure to stop or yield, in violation of §§ 32-29-2.1, 32-29-2.2, 32-29-3, and 32-29-4;
 - (h) Failure to stop or slow vehicle for a school bus, in violation of § 32-32-6;
 - (i) Eluding a police vehicle, in violation of § 32-33-18; or
 - (j) Overtaking or passing another vehicle, in violation of §§ 32-26-26, 32-26-27, 32-26-28, 32-26-34, 32-26-35, 32-26-36, and 32-26-37;
- (25) "State," a state of the United States and the District of Columbia;
- (26) "United States," the fifty states and the District of Columbia.

Section 135. That § 32-12A-7.1 be amended to read as follows:

32-12A-7.1. No male United States citizen or immigrant who is at least eighteen years of age but less than twenty-six years of age and who is required to register with the United States Selective Service System may apply for or be issued a commercial driver license, renewal, or duplicate pursuant to this chapter unless the applicant is registered, or consents to be registered as provided in this section, in compliance with the Military Selective Service Act, 50 U.S.C. App. 453, as amended to January 1, 2002.

The Department of Public Safety shall forward in an electronic format the necessary personal

information required for registration of any applicant identified in this section to the United States Selective Service System. The applicant's submission of the application indicates that the applicant has already registered with the Selective Service System or that he is authorizing the department to forward to the Selective Service System the necessary information for such registration. The department shall notify the applicant on the application that his submission of the application serves as his consent to be registered with the Selective Service System if so required by federal law.

Section 136. That § 32-14-1 be amended to read as follows:

32-14-1. Terms used in chapters 32-14 to 32-19, inclusive, 32-12 and 32-22 to 32-34, inclusive, mean:

- (1) "Alcoholic beverage," as that term is defined by subdivision 35-1-1(1);
- (2) "Authorized emergency vehicle," vehicles of a fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the department;
- (3) "Automobile transporter," a vehicle combination designed or modified to be used specifically for the transport of assembled highway vehicles;
- (4) "Boat transporter," a vehicle combination designed or modified to be used specifically for the transport of assembled or partially disassembled boats and boat hulls;
- (5) "Business district," the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business;
- (6) "Commission," the Public Utilities Commission;
- (7) "Controlled drug or substance," as that term is defined in § 34-20B-3;
- (8) "Crosswalk," that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the

curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

- (9) "Department," the Department of Public Safety of this state acting directly or through its duly authorized officers and agents;
- (10) "Farm tractor," every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;
- (11) "Highway," the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel;
- (12) "Intersection," the area embraced within the prolongation of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses the other. However, such area, in the case of the point where an alley and a street meet within a municipality, is not an intersection;
- (13) "Law enforcement officer," as that term is defined in § 23-3-27;
- (14) "Local authorities," every county, municipal, township, road district, and other local board or body having authority to adopt local police regulations under the Constitution and laws of this state;
- (15) "Metal tires," all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;
- (16) "Motorcycle," every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined;

- (17) "Motor vehicle," every vehicle, as herein defined, which is self-propelled;
- (18) "Official traffic control device," all signs, signals, markings, and devices not inconsistent with the law placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic. The term also includes a flagman or a sign, signal, marking, or other device temporarily placed or erected by a person working upon, along, above, or under a highway installing or maintaining a public service facility and which is necessary or required to warn, direct, or otherwise control traffic during the time of work or when a hazard exists;
- (19) "Owner," a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor is the owner for the purpose of said chapters;
- (20) "Park or parking," the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- (21) "Pneumatic tires," all tires inflated with compressed air;
- (22) "Private road or driveway," every road or driveway not open to the use of the public for purposes of vehicular travel;
- (23) "Residence district," the territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business;
- (24) "Right-of-way," the right of one vehicle or pedestrian to proceed in a lawful manner in

preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other;

- (25) "Road tractor," every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;
- (26) "Roadway," that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively;
- (27) "Safety zone," the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone;
- (28) "Semitrailer," any vehicle of the trailer type equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle;
- (29) "Sidewalk," that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use of pedestrians;
- (30) "Single axle" or "One axle," one or more consecutive axles whose centers may be included between two transverse vertical planes spaced forty inches or less apart, extending across the full width of the vehicle;
- (31) "Solid rubber tire," every tire made of rubber other than a pneumatic tire;
- (31A) "Steering axle," any axle on the front of a motor vehicle that is activated by the operator

to directly accomplish guidance or steering of the motor vehicle or combination of vehicles;

- (32) "Stinger-steered transporter combination," a truck tractor semitrailer combination with a fifth wheel located on a drop frame which is located behind and below the rearmost axle of the power unit;
- (33) "Tandem axle," two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than forty inches and not more than ninety-six inches apart, extending across the full width of the vehicle;
- (34) "Trailer," every vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle;
- (35) "Truck tractor," every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;
- (36) "Urban district," the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more; and
- (37) "Vehicle," every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals.

Section 137. That § 32-15-1 be amended to read as follows:

32-15-1. It is a petty offense to register in this state a motor vehicle, except motorcycles, manufactured on or after July 1, 1953, unless it is equipped with safety glass or safety glazing material in all partitions, doors, windows, windshields, or wind deflectors. The Department of Revenue and Regulation shall suspend the registration of a vehicle which does not conform to the

requirements of this section until the defect is corrected.

Section 138. That § 32-15-2.7 be amended to read as follows:

32-15-2.7. Each manufacturer of film, glaze, or other application for a motor vehicle windshield or window shall certify to the Department of Public Safety that the film, glaze, or application the manufacturer makes or installs complies with the light transmission specifications of §§ 32-15-2.4 and 32-15-2.5.

Section 139. That § 32-15-2.8 be amended to read as follows:

32-15-2.8. Any film, glaze, or application applied to a motor vehicle windshield or window shall have a label containing information regarding the levels of light transmission of the film, glaze, or application. The label shall be permanently installed between the material and the surface to which the material is applied or affixed and shall be legible. The Department of Public Safety shall promulgate rules, pursuant to chapter 1-26, to specify how the information shall be displayed by the label to ensure visual verification of compliance with the provisions of §§ 32-15-2.4 and 32-15-2.5. Failure to label any film, glaze, or application as provided by this section is a Class 2 misdemeanor. The provisions of this section do not apply to glazing material originally installed in conformance with federal standards or to window or windshield replacements that comply with Federal Motor Vehicle Safety Standard 205.

Section 140. That § 32-22-31.1 be amended to read as follows:

32-22-31.1. The Department of Transportation may inspect any scale tickets issued by any weigh scale operator for a vehicle being used in connection with the construction, repair, or maintenance of a public highway pursuant to a contract administered by the Department of Transportation for compliance with the weight limitations imposed by this chapter. The Department of Transportation shall report any offender to the Department of Public Safety.

Section 141. That § 32-22-31.2 be amended to read as follows:

32-22-31.2. Any county highway superintendent or municipal street superintendent may inspect any scale ticket issued by any weight scale operator for a vehicle being used in connection with removal of construction aggregate from a county-permitted gravel pit or for the construction, repair, or maintenance of a public highway pursuant to a contract administered by a county, township, or municipality for compliance with the weight limitations imposed by this chapter. Any violation shall be reported to the Department of Public Safety.

Section 142. That § 32-25-19.1 be amended to read as follows:

32-25-19.1. Notwithstanding § 32-25-7 or chapter 1-26, the secretary of transportation may establish limited speed zones through highway work areas on the state trunk highways if the secretary of public safety and the secretary of transportation, after consultation with the director of the highway patrol, agree the limited speed zones are necessary for the protection of life and property. The beginning and end of the immediate work area in each limited speed zone established under this section shall be conspicuously posted with signs showing the maximum speed permissible. Such signs shall be posted only during the hours when work is actually being performed. The location and duration of this posting shall be filed with the secretary of transportation. A violation of the speed limit established under the provisions of this section is a Class 2 misdemeanor. Any fine for a violation of this section shall be double the usual fine for speeding but may not exceed the maximum fine for a Class 2 misdemeanor as provided by § 22-6-2. Signs showing that any fine will be double the usual speeding fine shall be erected in advance of the regulatory speed limit signs.

Section 143. That § 32-26-23 be amended to read as follows:

32-26-23. The signal required in § 32-26-22 shall be given either by means of the hand and arm in the manner specified in § 32-26-24, or by an approved mechanical or electrical signal device. However, a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear, the signal shall be given by device of a type which has been

approved by the Department of Public Safety. A violation of this section is a Class 2 misdemeanor.

Section 144. That § 32-30-2.4 be amended to read as follows:

32-30-2.4. The Department of Transportation with respect to highways under its jurisdiction may promulgate rules pursuant to chapter 1-26 to prohibit or restrict the stopping, standing, or parking of vehicles on any highway if such stopping, standing, or parking is dangerous to those using the highway or if the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. If such a rule is promulgated, the highway shall be signed to indicate where such stopping, standing, or parking is prohibited. The secretary of transportation may establish a temporary no parking zone, not to exceed ninety days, if the secretary of public safety and the secretary of transportation, after consultation with the director of the highway patrol, agree that a no parking zone is necessary for the protection of life and property. Such signs are official signs and no person may stop, stand, or park any vehicle in violation of the restrictions stated on such signs. A violation of this section is a Class 2 misdemeanor.

Section 145. That § 32-34-10 be amended to read as follows:

32-34-10. Every law enforcement officer or other person assigned by a law enforcement agency to investigate traffic accidents shall, after receiving notice that an accident described in § 32-34-7 occurred, cause a notice to be affixed in a manner prescribed by the secretary of public safety to the vehicle damaged, indicating that the accident has been reported and the circumstances surrounding the accident are being investigated. The law enforcement officer or other person assigned by a law enforcement agency to investigate traffic accidents shall forward to the Department of Public Safety, within three days after completion of the investigation of the accident, an investigator's report of the accident so reported.

Section 146. That § 32-34-11 be amended to read as follows:

32-34-11. The secretary of public safety may require drivers involved in accidents or peace

officers to file supplemental reports of the accidents upon forms furnished by the Department of Public Safety whenever the original report is insufficient in the opinion of the secretary.

Section 147. That § 32-34-12 be amended to read as follows:

32-34-12. The secretary of public safety shall have authority to adopt and provide a uniform accident report form to be used in the making of accident reports and shall adopt and provide a uniform notice as required by § 32-34-10.

Section 148. That § 32-34-13 be amended to read as follows:

32-34-13. Reports pursuant to §§ 32-34-7 to 32-34-12, inclusive, and the information contained in such reports is not privileged and may not be held confidential. The secretary of public safety shall collect four dollars for each request to locate a report on file. The secretary shall furnish to any person requesting a search, at no additional cost, any report located by the search. All sums collected shall be deposited in the state highway fund.

Section 149. That § 32-34-13.1 be amended to read as follows:

32-34-13.1. County or municipal law enforcement personnel may collect four dollars for each copy of an accident report furnished to any person by their office. Accident reports furnished to the Department of Public Safety pursuant to § 32-34-10 shall be provided at no cost to the state. For reports supplied by county law enforcement personnel, collected funds shall be accounted for pursuant to chapter 7-11. For reports supplied by municipal law enforcement personnel, collected funds shall be accounted for pursuant to chapter 9-22.

Section 150. That § 32-35-1 be amended to read as follows:

32-35-1. Terms used in this chapter, unless the context otherwise plainly requires, shall mean:

- (1) "Chauffeur," every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for

compensation;

- (2) "Department," the Department of Public Safety;
- (3) "Driver," every person who drives or is in actual physical control of a vehicle;
- (4) "Judgment," any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of any vehicle of a type subject to registration under the laws of this state, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;
- (5) "License," any operator's or chauffeur's license or any other license or permit to operate a motor vehicle issued under the laws of this state including:
 - (a) Any temporary license or instruction permit;
 - (b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;
 - (c) Any nonresident's operating privilege as defined herein;
- (6) "Motor vehicle," every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;
- (7) "Nonresident," every person who is not a resident of this state;
- (8) "Nonresident's operating privilege," the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state;

- (9) "Operator," every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;
- (10) "Owner," a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter;
- (11) "Person," every natural person, firm, copartnership, association, or corporation;
- (12) "Registration," the registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles;
- (13) "State," any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada;
- (14) "Vehicle," every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 151. That § 32-35-43.1 be amended to read as follows:

32-35-43.1. The suspension or revocation of driving privileges required for a violation of §§ 22-16-41, 32-23-1, 32-24-3, 32-35-113, and 32-35-120 shall remain in effect and the Department of Public Safety may not issue to the person any renewal of driving privileges until the person gives and thereafter maintains proof of financial responsibility for the future.

Section 152. That § 32-35-44 be amended to read as follows:

32-35-44. Whenever, under any law of this state, the license of any person is suspended or

revoked by reason of a conviction or a forfeiture of bail, the Department of Revenue and Regulation shall suspend the registration of all vehicles registered in the name of such person as owner, except as provided by §§ 32-35-45 and 32-35-46.

Section 153. That § 32-35-45 be amended to read as follows:

32-35-45. If an owner whose license is suspended or revoked by reason of a conviction or a forfeiture of bail has previously given or shall immediately give and thereafter maintains proof of financial responsibility for the future with respect to all vehicles registered by such person as the owner, the Department of Revenue and Regulation shall not suspend such registration unless otherwise required by law.

Section 154. That § 32-35-46 be amended to read as follows:

32-35-46. If a conviction arose out of the operation, with permission, of a vehicle owned by or leased to the United States, this state, or any political subdivision of this state or a municipality thereof, the Department of Public Safety shall suspend or revoke such license only with respect to the operation of vehicles not so owned or leased and the Department of Revenue and Regulation shall not suspend the registration of any vehicle so owned or leased.

Section 155. That § 32-35-47 be amended to read as follows:

32-35-47. The suspension or revocation required in § 32-35-44 shall remain in effect and the Department of Public Safety shall not issue to such person any new or renewal of license and the Department of Revenue and Regulation shall not register or reregister in the name of such person as owner any such vehicle until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future.

Section 156. That § 32-35-50 be amended to read as follows:

32-35-50. Whenever any person fails within thirty days to satisfy any judgment, then upon the

written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the magistrate of a court which has no clerk, in which any such judgment is rendered within this state to forward to the Department of Public Safety immediately upon such request a certified copy of such judgment.

Section 157. That § 32-35-51 be amended to read as follows:

32-35-51. If the defendant named in any certified copy of a judgment reported to the Department of Public safety is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

Section 158. That § 32-35-52 be amended to read as follows:

32-35-52. The Department of Public Safety upon receipt of a certified copy of a judgment shall forthwith suspend the license and any nonresident's operating privilege and the Department of Revenue and Regulation shall forthwith suspend the registration of any person against whom such judgment was rendered except as provided in §§ 32-35-53 to 32-35-56, inclusive.

Section 159. That § 32-35-54 be amended to read as follows:

32-35-54. If the creditor in a judgment reported pursuant to § 32-35-52 consents in writing, in such form as the Department of Public Safety may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same may be allowed by the department, in its discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in § 32-35-60, provided the judgment debtor furnishes proof of financial responsibility.

Section 160. That § 32-35-55 be amended to read as follows:

32-35-55. No license, registration, or nonresident's operating privilege of any person shall be

suspended under the provisions of this chapter if the Department of Public Safety shall find that an insurer was obligated to pay the judgment upon which suspension is based, at least to the extent and for the amounts required in this chapter, but has not paid such judgment for any reason. A finding by the department that an insurer is obligated to pay a judgment shall not be binding upon such insurer and shall have no legal effect whatever except for the purpose of administering this section.

Section 161. That § 32-35-56 be amended to read as follows:

32-35-56. Whenever in any judicial proceedings it shall be determined by any final judgment, decree, or order that an insurer is not obligated to pay any judgment referred to in § 32-35-55, the Department of Public Safety, notwithstanding any contrary finding theretofore made by it, shall forthwith suspend the license and any nonresident's operating privilege and the Department of Revenue and Regulation shall forthwith suspend the registration of any person against whom such judgment was rendered, as provided in § 32-35-52.

Section 162. That § 32-35-61 be amended to read as follows:

32-35-61. The Department of Public Safety shall not suspend a license or nonresident's operating privilege, and shall restore any license or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains an order under § 32-35-60 permitting the payment of such judgment in installments, and while the payment of any said installments is not in default. The Department of Revenue and Regulation shall not suspend a registration, and shall restore any registration suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains an order under § 32-35-60 permitting the payment of such judgment in installments, and while the payment of any said installments is not in default.

Section 163. That § 32-35-62 be amended to read as follows:

32-35-62. In the event the judgment debtor referred to in § 32-35-61 fails to pay any installment

as specified by such order, then upon notice of such default, the Department of Public Safety shall forthwith suspend the license or nonresident's operating privilege and the Department of Revenue and Regulation shall forthwith suspend the registration of the judgment debtor until such judgment is satisfied, as provided in this chapter.

Section 164. That § 32-35-65 be amended to read as follows:

32-35-65. Proof of financial responsibility for the future may be furnished by filing with the Department of Public Safety the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

Section 165. That § 32-35-66 be amended to read as follows:

32-35-66. A nonresident may give proof of financial responsibility by filing with the Department of Public Safety a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the vehicle, or vehicles, owned by such nonresident is registered, or in the state in which such nonresident resides, if he does not own a vehicle, provided such certificate otherwise conforms with the provisions of this chapter, and the department shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

- (1) Said insurance carrier shall execute a power of attorney authorizing the Division of Insurance to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;
- (2) Said insurance carrier shall agree in writing that such policies shall be deemed to conform

with the laws of this state relating to the terms of motor vehicle liability policies issued therein.

Section 166. That § 32-35-67 be amended to read as follows:

32-35-67. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any of the undertakings or agreements required by § 32-35-66, the Department of Public Safety shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

Section 167. That § 32-35-80 be amended to read as follows:

32-35-80. If an insurance carrier has certified a motor vehicle liability policy under § 32-35-65 or 32-35-66, a written notice indicating the date of cancellation or termination of the insurance so certified shall be filed with the Department of Public Safety within fifteen days of the date the policy has been cancelled or terminated. A violation of this provision is a Class 2 misdemeanor. However, a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any vehicle designated in both certificates.

Section 168. That § 32-35-83 be amended to read as follows:

32-35-83. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate within this state, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of a court of record, which said bond shall be conditioned for payment of the amounts specified in § 32-35-2. Such bond shall be filed with the Department of Public Safety and shall not be cancelable except after ten days' written notice to the department.

Section 169. That § 32-35-84 be amended to read as follows:

32-35-84. A bond filed pursuant to § 32-35-83 shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a vehicle subject to registration under the laws of this state after such bond was filed, upon the recording of a notice signed by the Department of Public Safety to that effect in the Office of the Register of Deeds of the county in which the real estate so scheduled shall be located.

Section 170. That § 32-35-85 be amended to read as follows:

32-35-85. The provisions of chapter 43-28 shall apply to the recording of a notice pursuant to § 32-35-84 except that such notice may be recorded without acknowledgment or further proof of execution. Such notices shall be recorded in the set of books in which mortgages are required to be recorded. The fee for such recording shall be paid to the Department of Public Safety before such bond shall be accepted by the department for filing with it, and the department shall transmit such fee to the register of deeds who shall record such notice.

Section 171. That § 32-35-87 be amended to read as follows:

32-35-87. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him twenty-five thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of thirty thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the Department of Public Safety shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

Section 172. That § 32-35-90 be amended to read as follows:

32-35-90. Any person in whose name more than twenty-five vehicles are registered in this state may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Department of Public Safety as provided in § 32-35-91.

Section 173. That § 32-35-91 be amended to read as follows:

32-35-91. The Department of Public Safety may, in its discretion, upon the application of a person described in § 32-35-90, issue a certificate of self-insurance when the department is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person. Such certificate may be issued authorizing a person to act as a self-insurer for either property damage or bodily injury, or both.

Section 174. That § 32-35-92 be amended to read as follows:

32-35-92. Upon not less than five days' notice and a hearing pursuant to such notice, the Department of Public Safety may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

Section 175. That § 32-35-93 be amended to read as follows:

32-35-93. The Department of Public Safety shall consent to the cancellation of any bond or certificate of insurance or the department shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

Section 176. That § 32-35-95 be amended to read as follows:

32-35-95. The Department of Public Safety shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this

chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after three years from the date such proof was required when during the three-year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license or registration of the person by or for whom such proof was furnished; or
- (2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or
- (3) In the event the person who has given proof surrenders his license and registration to the department; or
- (4) Upon satisfying a judgment in full if the judgment debtor has received his license and registration or nonresident's operating privilege pursuant to § 32-35-54 and has furnished proof of financial responsibility continuously for the last three years.

Section 177. That § 32-35-96 be amended to read as follows:

32-35-96. Notwithstanding § 32-35-95, the Department of Public Safety shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within one year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

Section 178. That § 32-35-98 be amended to read as follows:

32-35-98. The Department of Public Safety shall administer and enforce the provisions of this chapter relating to driver licensing and financial responsibility and may promulgate rules pursuant to chapter 1-26 necessary to administer the functions relating to driver licensing and financial responsibility. The Department of Revenue and Regulation shall administer and enforce the provisions of this chapter relating to motor vehicle registration and license plates and may promulgate rules pursuant to chapter 1-26 necessary to administer the functions relating to motor vehicle registration and license plates.

Section 179. That § 32-35-99 be amended to read as follows:

32-35-99. The Department of Public Safety shall receive and consider any pertinent information upon request of persons aggrieved by its orders or acts under any of the provisions of this chapter relating to driver licensing or financial responsibility. The Department of Revenue and Regulation shall receive and consider any pertinent information upon the request of any person aggrieved by its orders and acts under any of the provisions of this chapter relating to motor vehicle registration or license plates.

Section 180. That § 32-35-100 be amended to read as follows:

32-35-100. The Department of Public Safety shall prescribe and provide suitable forms that are required or deemed necessary to administer the driver licensing and financial responsibility functions of this chapter. The Department of Revenue and Regulation shall prescribe and provide suitable forms that are required or deemed necessary to administer the vehicle registration and license plate functions of this chapter.

Section 181. That § 32-35-101.1 be amended to read as follows:

32-35-101.1. The Department of Public Safety may contract with an insurance company or its authorized information vendor to provide the entries made on the operating records of the insurance

company's policyholders. The department may determine the periodic basis and the media on which the information will be provided. The cost of the service shall be determined by the parties. The information provided shall only be used by the insurance company receiving the information for purposes of dealing with its policyholders.

Section 182. That § 32-35-102 be amended to read as follows:

32-35-102. Any order of the Department of Public Safety under the provisions of this chapter relating to driver licensing or financial responsibility is subject to the contested case provisions in §§ 1-26-16 to 1-26-37, inclusive. Any order of the Department of Revenue and Regulation under the provisions of this chapter relating to motor vehicle registration or license plates is subject to the contested case provisions in §§ 1-26-16 to 1-26-37, inclusive.

Section 183. That § 32-35-111 be amended to read as follows:

32-35-111. If an owner's registration has been suspended under this chapter, the Department of Revenue and Regulation shall allow an owner to transfer a vehicle's registration to another person in the ordinary course of business or to a co-owner, as evidenced by the title, if the co-owner can provide written evidence of financial responsibility in the form provided by §§ 32-35-113 and 32-35-119.

Nothing in this section affects the rights of any conditional vendor, chattel mortgagee, or lessor of such a vehicle registered in the name of another as owner who becomes subject to the provisions of this chapter.

The Department of Revenue and Regulation shall suspend the registration of any vehicle transferred in violation of the provisions of this section.

Section 184. That § 33-1-5 be repealed.

Section 185. That § 33-15-1 be amended to read as follows:

33-15-1. Terms used in this chapter mean:

- (1) "Secretary," the secretary of the Department of Public Safety;
- (2) "Disaster," any natural, nuclear, man-made, war-related, or other catastrophe producing phenomena in any part of the state which, in the determination of the Governor, causes damage of sufficient severity and magnitude to warrant all state assistance that is reasonably available, above and beyond emergency resource commitments;
- (3) "Emergency," any natural, nuclear, man-made, war-related, or other catastrophe producing phenomena in any part of the state which in the determination of the Governor requires the commitment of less than all available state resources to supplement local efforts of political subdivisions of the state to save lives and to protect property, public health, and safety or to avert or lessen the threat of a disaster;
- (4) "Emergency management," the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action, fire, flood, snowstorm, windstorm, tornado, cyclone, drought, earthquake, or other natural causes and provide for the relief of distressed humans and livestock in areas where such conditions prevail whether affecting all or only a portion of the state. These functions include, without limitation, fire fighting services, police services, medical and health services, hazardous materials, search and rescue, engineering, warning, communications, radiological, chemical, and other special weapons of defense, evacuation of persons or livestock, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian or livestock protection, together with other activities necessary or incidental to the preparation for any carrying out of the foregoing functions including cooperation with the

federal government, county and tribal governments, national relief organizations, public or private organizations, and persons;

- (5) "Emergency management worker," any full or part-time paid, volunteer or auxiliary employee of this state, or other state, territory, possession, or the District of Columbia, of the federal government, or any neighboring county, or of any political subdivision thereof, or of any agency or organization, performing services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof;
- (6) "Hazardous material," any material, including but not limited to, explosives, flammable liquids, flammable compressed gas, flammable solids, oxidizing materials, poisons, corrosive materials, and radiological materials, the loss of control or mishandling of which could cause personal injury or death to humans or damage to property or the environment;
- (7) "Local effort," the expenditure for emergency or disaster purposes within the twelve-month period preceding the date of the request, of an amount equal to two mills of the assessed valuation, exclusive of capital asset purchases, in each county for the assessment date preceding the date of the request under an emergency or disaster declaration by the Governor;
- (8) "Local organization for emergency management," an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions;
- (9) "Political subdivision," counties, townships, Indian tribes, and municipalities; and
- (10) "Search and rescue," the preparation and carrying out of search for and rescue of persons.

Section 186. That § 33-15-2 be amended to read as follows:

33-15-2. In order to ensure that preparation of this state will be adequate to deal with an emergency or disaster, and to provide for the common defense and to protect the public peace, health, and safety and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

- (1) To create a Division of Emergency Management, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;
- (2) To confer upon the Governor, the secretary and upon the executive heads or governing bodies of the political subdivision of the state the emergency powers provided by this chapter;
- (3) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government for the carrying out of emergency management functions; and
- (4) To cooperate with each association, authority, board, commission, committee, council, department, division, office officer, task force, or other agent of the state vested with the authority to exercise any portion of the state's sovereignty. This subdivision does not include the legislative or judicial branch of the state, of its units of local government, or of Indian tribes.

Section 187. That § 33-15-10 be amended to read as follows:

33-15-10. The secretary is directed to prepare a comprehensive plan and program for the emergency management of this state. The plan and program shall be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and shall coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, which shall be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

Section 188. That § 33-15-11 be amended to read as follows:

33-15-11. The secretary may with the approval of the Governor and in accordance with the plan and program for emergency management of this state:

- (1) Procure supplies and equipment;
- (2) Cooperate with the federal government, or any agency thereof, and to enter into agreements with any state of the United States or subdivision thereof or with any private agency therein for the procurement of food, fuel, supplies, and equipment necessary for civilian use;
- (3) Provide for the distribution and allocation thereof to the inhabitants of this state in a manner consistent with the needs and requirements of the civil population thereof; and
- (4) Institute training programs and public information programs, and take all other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

Section 189. That § 33-15-11.1 be amended to read as follows:

33-15-11.1. No later than July first of each year, each municipal governing body as defined by subdivision 9-1-1(4), shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach the members of the municipal governing board and the mayor at any time, day or night. The information necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; home, business, and other personal addresses; employer's name and telephone number; and home, business, and other personal email or internet addresses.

Section 190. That § 33-15-11.2 be amended to read as follows:

33-15-11.2. In addition to the information required in § 33-15-11.1, each municipal governing body shall provide to the Department of Public Safety, Division of Emergency Management contact information for the municipal employees responsible for the following functions if the municipality employs a person in such a capacity:

- (1) City administrator or city manager;
- (2) Building inspection;
- (3) Engineering;
- (4) Electrical;
- (5) Fire;
- (6) Police and law enforcement;
- (7) Public works;
- (8) Streets and highways;
- (9) Sewer and waste water;
- (10) Water;
- (11) Telephone;
- (12) Utilities;
- (13) Emergency services or civil defense;
- (14) Coroner; and
- (15) 911 coordinator.

Section 191. That § 33-15-11.3 be amended to read as follows:

33-15-11.3. No later than January thirty-first of each year, each county commission shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach the members of the county commission, the county auditor, the county sheriff, the county coroner, and the state's attorney at any time, day or night. The information

necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; home, business, and other personal addresses; employer's name and telephone number; and home, business, and other personal email or internet addresses.

The county commission shall also provide information on any employee of the county responsible for any of the functions listed in § 33-15-11.2.

Section 192. That § 33-15-11.4 be amended to read as follows:

33-15-11.4. No later than March thirty-first of each year, each township board of supervisors shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach each member of the board of supervisors, the township constable, and the township clerk at any time, day or night. The information necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; and home, business, and other personal addresses; employer's name and telephone number; home, business, and other personal email or internet addresses.

The board of township supervisors shall also provide information on any employee of the township responsible for any of the functions listed in § 33-15-11.2.

Any township with fewer than ten registered voters in the township is exempted from the provisions of §§ 33-15-11.1 to 33-15-11.6, inclusive.

Section 193. That § 33-15-13 be amended to read as follows:

33-15-13. The secretary with the approval of the Governor may enter into mutual aid arrangements with other states and coordinate mutual aid plans between political subdivisions of this state.

Section 194. That § 33-15-16 be amended to read as follows:

33-15-16. The Governor and secretary may cooperate with the President and other appropriate federal officers and agencies and with the officers and agencies of other states and political subdivisions, in matters pertaining to the emergency management of the state and nation, including the direction or control of:

- (1) Mobilization of emergency management forces;
- (2) The use of warning signals for tests, exercise, or attacks;
- (3) The maintenance of utility systems;
- (4) Public meetings or gatherings; and
- (5) The evacuation and reception of the civilian population.

Section 195. That § 33-15-17 be amended to read as follows:

33-15-17. The secretary may assign emergency management workers, to be controlled by the secretary, as may be necessary to reinforce emergency management organizations in stricken areas. Emergency management workers shall be called to duty by orders of the secretary and shall perform their functions in any part of the state or without the state in compliance with mutual aid agreements.

Section 196. That § 33-15-18 be amended to read as follows:

33-15-18. An emergency management worker while on duty, whether within or without the state, shall:

- (1) If the worker is an employee of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to the worker's employment;
- (2) If the worker is an employee of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to the worker's employment;
- (3) If the worker is not an employee of the state or a political subdivision thereof, be compensated by the state at a rate set by rules promulgated pursuant to chapter 1-26 by

the secretary, and have the same rights and immunities as are provided by law for the employees of this state; and

- (4) Be subject to the operational control of the authority in charge of emergency management activities in the area in which the worker is now serving.

Section 197. That § 33-15-21 be amended to read as follows:

33-15-21. The Governor, the secretary, and the executive officers or governing bodies of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies. Such departments, offices, and agencies shall cooperate with and extend such services and facilities to the Governor, the secretary and to the emergency management organizations of the state upon request. A local political subdivision must exhaust its available resources prior to obtaining assistance from another political subdivision. The state must exhaust all available governmental resources prior to obtaining private resources.

Section 198. That § 33-15-24.5 be amended to read as follows:

33-15-24.5. The state financial assistance provided by § 33-15-24.4 may be paid and advanced from the funds appropriated to the special emergency and disaster special revenue fund upon vouchers executed by the county treasurer and approved by the secretary.

Section 199. That § 34-11-2 be amended to read as follows:

34-11-2. Terms used in §§ 34-11-2 to 34-11-10, inclusive, mean:

- (1) "Air ambulance," an aircraft, fixed wing, or helicopter, that is designated or can be quickly modified to provide transportation of wounded, injured, sick, invalid, or incapacitated human beings or expectant mothers;
- (2) "Ambulance," a vehicle for emergency care with a driver compartment and a patient

compartment, carrying all equipment and supplies needed to provide emergency medical technician-basic level emergency care at the scene and enroute to an appropriate medical facility;

- (3) "Ambulance service," any person or organization licensed to provide emergency medical services and patient transport;
- (4) "License," the permit to provide ambulance service;
- (5) "Licensing agency," the Department of Public Safety;
- (6) "Operator," any person or entity who has a license from the licensing agency to provide ambulance service.

Section 200. That § 34-11-5 be amended to read as follows:

34-11-5. The Department of Public Safety may adopt rules pursuant to chapter 1-26 relating to the operation of ambulance services including patient care, personnel, medical and maintenance equipment, sanitary conditions, and necessary supplies. Each operator shall comply with all rules established pursuant to this section by the licensing agency unless exempted due to extreme hardship as determined by departmental rule.

Section 201. That § 34-11-6 be amended to read as follows:

34-11-6. No operator may provide ambulance service unless both the driver of the ambulance and the attendant on duty in the ambulance possess certification of completing an emergency care course approved by the Department of Public Safety.

Section 202. That § 34-11-6.1 be amended to read as follows:

34-11-6.1. The Department of Public Safety may deny the issuance or renewal of a certification or suspend or revoke the certification of any driver or attendant certified pursuant to § 34-11-6 upon satisfactory proof of such person's gross incompetence, or unprofessional or dishonorable conduct. For the purposes of this section, the Department of Public Safety shall define, in rules pursuant to

chapter 1-26, the terms, gross incompetence, unprofessional conduct, and dishonorable conduct.

Section 203. That § 34-11-6.2 be amended to read as follows:

34-11-6.2. Any party feeling aggrieved by any act, ruling, or decision of the Department of Public Safety acting pursuant to § 34-11-6.1 may appeal such act, ruling, or decision under the provisions of chapter 1-26.

Section 204. That § 34-11-6.3 be amended to read as follows:

34-11-6.3. If a person holding a certification pursuant to § 34-11-6 is adjudged to be mentally incompetent by final order or adjudication of a court of competent jurisdiction, the Department of Public Safety shall suspend such person's certification pursuant to chapter 1-26. The suspension shall continue until the person holding the certification is found or adjudged by such court to be restored to reason. The Department of Public Safety may establish, by rules promulgated pursuant to chapter 1-26, probationary conditions that it deems necessary for the best interest of the person holding the certification.

Section 205. That § 34-11-6.4 be amended to read as follows:

34-11-6.4. Upon application, the Department of Public Safety may reissue a certification issued pursuant to § 34-11-6 that has been cancelled, suspended, or revoked. A reissuance of a certification that has been cancelled, suspended, or revoked may not be made prior to one year after the cancellation, suspension, or revocation. The Department of Public Safety may, by rules promulgated pursuant to chapter 1-26, provide for the manner, form, and condition for the reissuance of any certification pursuant to this section.

Section 206. That § 34-11-8 be amended to read as follows:

34-11-8. No provision of §§ 34-11-2 to 34-11-10, inclusive, nor any regulation adopted pursuant to said sections shall be construed as limiting any other provision of law delegating to the Department of Public Safety the authority to regulate and inspect the warning lights, siren, brakes,

and mechanical adequacy and safety of ambulances.

Section 207. That § 34-11-11 be amended to read as follows:

34-11-11. Any ambulance service that provides advanced life support shall conduct a quality assurance program. The quality assurance program shall include, at a minimum, a review of the appropriate use of oxygen therapy, the appropriate use of intravenous therapy, medication administration, and the appropriate use of cardiac monitors. The Department of Public Safety shall develop a quality assurance program that meets the requirements of this section. The ambulance service may use the program developed by the department or the ambulance service may develop its own quality assurance program. The ambulance service shall compile the quality assurance reviews into an annual report, which shall be kept on file for at least three years and made available to the Department of Public Safety upon request.

Section 208. That § 34-11A-23 be amended to read as follows:

34-11A-23. Any club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within an ambulance district and outside the boundaries of any municipality, shall pay to the board of directors of the district annually for ambulance service such amount as may be agreed upon, but not less than twenty-five percent of the amount which would be levied against such property under the provisions of this chapter if such property were subject to such levy. For the purposes of this section, such property shall be assessed by the director of equalization of the county in which such property lies, or by his deputies.

The board of directors shall file an annual statement with the Department of Public Safety showing the names of persons or organizations making payments and the amounts of payments made under this section.

Section 209. That § 34-29B-1 be amended to read as follows:

34-29B-1. Terms as used in this chapter mean:

- (1) "Alternative," a system, condition, arrangement, material, or equipment submitted to the fire marshal as a substitute for a code requirement;
- (2) "Approval," to sanction officially by signature or certificate;
- (3) "Approved," acceptable to the authority having jurisdiction;
- (4) "Certificate," a written document issued by authority of the fire marshal to any person for the purpose of granting permission to that person to conduct or engage in any operation or act for which certification is required;
- (5) "Department," Department of Public Safety;
- (6)
- (7) "Fire hazard," any situation, process, material, or condition that, on the basis of applicable data, may cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or property;
- (8) "Fire official," any authorized person serving as an employee, representative, or agent, of a certified fire department or state fire marshal;
- (9) "Inspection," a close and critical examination;
- (10) "Inspector," a person who examines buildings, equipment, and processes for the purpose of affecting proper conditions with reference to fire and life safety;
- (11) "Investigation," the act of investigating fires to determine the cause and circumstances of the origin of the fire;
- (12) "Premises," a tract of land with structures or other appurtenances thereon;
- (13) "Standard," substantially uniform, well established and widely recognized as acceptable and authoritative procedure or procedure as adopted in rule by the division;
- (14) "State fire marshal," the individual designated in this chapter, who is responsible for the administration and enforcement of this chapter. For the purpose of enforcement of this

- chapter, this term also applies to any person who is a representative of the fire marshal;
- (15) "Structure," is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner;
 - (16) "Summarily abate," to immediately judge a condition to be a fire hazard to life or property and to order immediate correction of such condition;
 - (17) "Vehicle," every device in, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals;
 - (18) "Vessel," every type of water craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
 - (19) "Written notice," a notification in writing delivered in person to the individual or parties intended, or delivered at, or sent by first class, certified or registered mail to, the last residential or business address of legal record.

Section 210. That § 34-29B-2 be amended to read as follows:

34-29B-2. The State Fire Marshal shall establish a program of fire prevention, fire investigation, fire training, and public fire education. The secretary may promulgate rules, pursuant to chapter 1-26, to protect the health or safety of persons from fire and like emergencies, based on codes and standards set forth by the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, American Camping Association, and referenced standards except such portions as are deleted, modified, or amended, unless the secretary finds that the strict application of the code is impractical and that the modification is in conformity with the intent and purpose of the code or standards. The rules may be adopted in the following areas:

- (1) The prevention of fires including:

- (a) Fire safety regulations governing buildings used by the general public with the exception of health care facilities inspected by the Department of Health;
 - (b) Fire safety regulations governing lodging and eating establishments;
 - (c) Fire safety regulations governing multifamily residences housing six or more families. However, if a municipality has adopted regulations regarding multifamily residences that are in conformity with this chapter, they are the applicable regulations;
 - (d) Fire safety regulations governing publicly owned buildings;
 - (e) Fire safety regulations governing detention or correctional facilities, regardless of ownership; and
 - (f) Fire safety regulations governing day care facilities;
- (2) The manufacture, transportation, storage, sale, and use of combustible or flammable liquids or liquefied petroleum gases;
 - (3) The means and adequacy of exit in case of fire;
 - (4) The investigation of the cause, origin, and circumstances of fires and explosions;
 - (5) The maintenance of fire cause and loss records;
 - (6) The maintenance of a record of fire prevention inspections;
 - (7) A program of fire service training and public fire education;
 - (8) The review and approval of plans and specifications to determine compliance with applicable fire codes and statutes as it pertains to facilities dealing with combustible or flammable liquids and or liquid petroleum gases; and
 - (9) The abatement of unsafe buildings or structures regulated by this chapter which constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, or abandonment.

Section 211. That § 34-29B-22 be amended to read as follows:

34-29B-22. The board shall advise, aid, and assist the State Fire Marshal in the performance of the duties and functions described in the chapter as directed by the secretary.

Section 212. That § 34-29B-25 be amended to read as follows:

34-29B-25. Regulations adopted by municipalities under the provisions of chapter 9-33 shall be at least equal to the standards adopted by the State Fire Marshal. Any municipality may by reference adopt such standards from time to time and enforce such regulations as their own. Nothing in this chapter or rules adopted pursuant to this chapter prohibits any political subdivision of the state from making and enforcing more stringent requirements than those set forth in this chapter or rules adopted pursuant to this chapter.

Section 213. That § 34-34A-1 be amended to read as follows:

34-34A-1. Terms used in this chapter mean:

- (1) "Dealer," any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;
- (2) "Department," the Department of Public Safety;
- (3) "Distributor," any person engaged in the sale and distribution of manufactured homes for resale;
- (4)
- (5) "Federal manufactured home construction and safety standard," any reasonable standard established by the federal government for the construction, design, and performance of a manufactured home that meets the needs of the public, including the needs for quality, durability and safety;
- (6) "Manufactured home construction," all activities relating to the assembly and manufacture

of a manufactured home, including those relating to durability, quality and safety;

- (7) "Manufactured home safety," through the performance of a manufactured home, the protection of the public against any unreasonable risk of the occurrence of accidents due to the design or construction of the manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;
- (8) "Manufacturer," any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale;
- (9) "Purchaser," the first person purchasing a manufactured home in good faith for purposes other than resale;
- (10) "Secretary," the secretary of the Department of Public Safety;
- (11) "State administrative agency," a state agency that has been approved or conditionally approved by the federal government to carry out the state plan for enforcement of the federal standards.

Section 214. That § 34-34A-9.3 be amended to read as follows:

34-34A-9.3. The State Fire Marshal is the state administrative agency charged with the adoption, administration, and enforcement of manufactured home construction and safety standards. The division shall promulgate the standards pursuant to chapter 1-26 and any rules necessary to administer and enforce the standards. The standards promulgated shall be identical to the standards promulgated pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq. and set forth in 24 C.F.R. § 3280 as of April 1, 1990. The division shall discharge this duty consistent with the rules promulgated by the United States Department of Housing and Urban Development and set forth in 24 C.F.R. § 3282 as of April 1, 1990.

Section 215. That § 34-34A-9.6 be amended to read as follows:

34-34A-9.6. A person who violates any of the provisions of § 34-34A-9.4 relating to

manufactured homes or any rule promulgated by the State Fire Marshal to administer the provisions of this chapter is liable for a civil penalty not exceeding one thousand dollars for each violation. Each violation is a separate offense with respect to each manufactured home, except that the maximum penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

Section 216. That § 34-34A-10.1 be amended to read as follows:

34-34A-10.1. A representative of the State Fire Marshal may enter, at reasonable times and without advance notice, a factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale, to inspect, at reasonable times, in a reasonable manner and within reasonable limits, such place, and to inspect the books, papers, records, and documents relating to the construction of manufactured homes or the failure of a manufactured home to comply with applicable manufactured home construction and safety standards.

Section 217. That § 34-34A-10.2 be amended to read as follows:

34-34A-10.2. Each manufacturer, distributor, and dealer of manufactured homes shall establish and maintain records, make reports and provide information as the State Fire Marshal or the secretary of the United States Department of Housing and Urban Development may reasonably require for the State Fire Marshal or the United States secretary to determine whether the manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter or with the National Manufactured Housing Construction and Safety Standards Act of 1974; and, upon request of a person designated by the State Fire Marshal or the United States secretary, shall permit that person to inspect appropriate books, papers, records, and documents relevant to determining whether a manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter or with the National Manufactured Housing Construction and Safety Standards Act of 1974.

Section 218. That § 34-34A-10.3 be amended to read as follows:

34-34A-10.3. The State Fire Marshal shall establish a monitoring inspection fee in an amount determined by the secretary of the United States Department of Housing and Urban Development. The monitoring inspection fee is an amount paid by the manufacturer for each manufactured home produced in South Dakota to the secretary of the United States Department of Housing and Urban Development. The United States secretary distributes the fees collected from all manufactured home manufacturers among the approved and conditionally approved states, based on the number of new manufactured homes whose first location, after leaving the manufacturing plant, is on the premises of a distributor, dealer, or purchaser in that state.

Section 219. That § 34-34A-12.1 be amended to read as follows:

34-34A-12.1. The State Fire Marshal may conduct hearings on matters relating to violations or consumer complaints, including the holding of formal and informal presentation of views, of this chapter consistent with the regulations adopted by the Department of Housing and Urban Development. The division shall hold hearings in accordance with chapter 1-26.

Section 220. That § 34-34A-16 be amended to read as follows:

34-34A-16. If a manufactured home complies with the standards, neither this state nor any political subdivision thereof may require such manufactured home to comply with any additional building, plumbing, heating, or electrical requirements. However, the State Fire Marshal may promulgate rules for fire safety pursuant to §§ 13-25-1 and 13-25-2. The provisions of this section do not apply to zoning or taxation.

Section 221. That § 34-34A-19 be amended to read as follows:

34-34A-19. The State Fire Marshal shall establish standards for the installation of manufactured homes and may adopt rules pursuant to chapter 1-26 in the following areas:

- (1) Definitions;
- (2) Siting and foundation systems;

- (3) Exterior plumbing;
- (4) Exterior mechanical equipment (heating and cooling);
- (5) Exterior fuel supply;
- (6) Exterior electrical;
- (7) Life and fire safety;
- (8) Anchoring for wind upset and sliding;
- (9) Other rules necessary to implement the provisions of 24 C.F.R. § 3283, as of April 1, 1990.

Section 222. That § 34-36-3 be amended to read as follows:

34-36-3. The State Fire Marshal may make inspections of the records and reports required of licensees and permittees and all buildings, areas, or vehicles where the manufacture, storage, transportation, or use of explosives is involved, in the interest of public safety.

Section 223. That § 34-36-5 be amended to read as follows:

34-36-5. If the State Fire Marshal finds by inspection that any statute or rule has been violated, or defects of installation exist, it shall issue an order in writing requiring immediate and full compliance with the provisions of the state law and the rules adopted pursuant thereto.

Section 224. That § 34-36-9 be amended to read as follows:

34-36-9. Any person aggrieved by an order issued pursuant to § 34-36-5 may, within ten days after receipt thereof, demand a hearing by serving the secretary of public safety with a copy of such demand. The State Fire Marshal shall set a hearing date which shall be within twenty days of receiving the demand. The State Fire Marshal shall notify the aggrieved party at least ten days prior to the hearing. The proceedings shall be conducted as in contested cases and appeal may be made as provided by chapter 1-26.

Section 225. That § 34-38-23 be amended to read as follows:

34-38-23. Terms used in this chapter mean:

- (1) "Aboveground storage tank," a horizontal or vertical tank that is listed and intended for fixed installation at or above grade and is used within the scope of its listing. This includes a tank inside a building;
- (2) "Authority having jurisdiction," the local or state governing organization, office, or individual responsible for approving equipment, installation, or procedure;
- (3) "Combustible liquid," a liquid having a flash point at or above 100 degrees Fahrenheit, (37.8 degrees Celsius);
- (4) "Department," the Department of Public Safety;
- (5) "Division," the Division of Commercial Inspection and Licensing;
- (6) "Flammable liquid," a liquid having a flash point below 100 degrees Fahrenheit (37.8 degrees Celsius) and having a vapor pressure not exceeding forty psia (2,068 mm hg) at 100 degrees Fahrenheit (37.8 degrees Celsius) shall be known as a class I liquid;
- (7) "Listed," equipment or materials included in a list published by an organization acceptable to the authority having jurisdiction and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner; and
- (8) "Retail sale," the sale of flammable and combustible liquids for any purpose other than for resale.

Section 226. That § 34-39-2 be amended to read as follows:

34-39-2. It is a Class 2 misdemeanor to sell or offer for sale, either at wholesale or retail, any liquefied petroleum gas, either in liquid or vapor form, except by weights and measures that are approved by the Division of Commercial Inspection and Licensing.

Section 227. That § 34-39-3.1 be amended to read as follows:

34-39-3.1. The Division of Commercial Inspection and Licensing of the Department of Public Safety shall perform the functions previously performed by the state inspector and sealer of weights and measures pursuant to this chapter.

Section 228. That § 34-39-4 be amended to read as follows:

34-39-4. The Division of Commercial Inspection and Licensing shall conspicuously mark all condemned devices. It is a Class 1 misdemeanor to remove or deface such a mark except upon authorization of the division.

Section 229. That § 34-39-5 be amended to read as follows:

34-39-5. It is a Class 1 misdemeanor to use a weighing or measuring device for determining quantities of liquefied petroleum gas, either in liquid or vapor form, which has been condemned by the Division of Commercial Inspection and Licensing.

Section 230. That § 34-39-7 be amended to read as follows:

34-39-7. The Division of Commercial Inspection and Licensing is hereby authorized to promulgate and adopt, in compliance with chapter 1-26, such rules and regulations and establish tolerances within a maximum of two percent plus or minus, which may be necessary for the enforcement of §§ 34-39-1 to 34-39-6, inclusive.

Section 231. That § 34A-6-89 be amended to read as follows:

34A-6-89. Any solid waste facility permitted to dispose of solid waste in excess of one hundred thousand tons per year shall be equipped with a scale device, approved by the Department of Public Safety, and shall weigh and maintain records of the total amount of solid waste disposed of at the facility. On or before the fifteenth of each month, the facility shall submit to the department a report upon such forms as may be prescribed by the department in rules promulgated pursuant to chapter 1-26. The report shall state the total amount of solid waste disposed of at the facility in the preceding

month. The forms shall contain a sworn certification by the owner or operator that the information contained in the monthly report is true and correct based upon his own best information, knowledge, and belief. No facility may dispose of solid waste in excess of one hundred fifty thousand tons per year without a permit authorizing the capacity of the facility to dispose of solid waste in such quantities as provided in § 34A-6-1.16.

Section 232. That § 36-4B-1 be amended to read as follows:

36-4B-1. Terms used in this chapter mean:

- (1) "Advanced life support," a level of prehospital and interhospital emergency care consisting of basic life support procedures and definitive therapy including the use of invasive procedures and may include the use of drugs and manual defibrillation;
- (2) "Advanced life support personnel," any person other than a physician who has completed a department and board approved program and is licensed as an emergency medical technician-intermediate/85; emergency medical technician-intermediate/99; or emergency medical technician-paramedic as set forth in this chapter, or its equivalent;
- (3) "Board," the South Dakota Board of Medical and Osteopathic Examiners;
- (4) "Department," the South Dakota State Department of Public Safety;
- (5) "Direct medical control," communications between field personnel and a physician during an emergency run;
- (6) "Emergency medical services," health care provided to the patient at the scene, during transportation to a medical facility, between medical facilities and upon entry at the medical facility;
- (7) "Emergency medical technician-basic," any person trained in emergency medical care in accordance with standards prescribed by rules and regulations promulgated pursuant to § 34-11-6, who provides emergency medical services, including automated external

defibrillation under indirect medical control, in accordance with the person's level of training;

- (8) "Emergency medical technician-intermediate/85," any person who has successfully completed a department and board approved program of instruction in basic life support and advanced life support skills in shock and fluid therapy, placement of esophageal airways, and other advanced life support skills approved by board action, and who is licensed by the board to perform such skills, including automated external defibrillation;
- (9) "Emergency medical technician-paramedic," any person who has successfully completed a program of study approved by the department and the board and is licensed as an emergency medical technician-paramedic, which includes all training and skills set forth herein for emergency medical technician-intermediate ac₇/85 and emergency medical technician-intermediate/99, and other advanced skills programs approved by board action, and who is licensed by the board to perform such intermediate, special, and advanced skills;
- (10) "Emergency medical technician-intermediate/99," any person who has successfully completed a department and board approved program of instruction in all areas of emergency medical technician-intermediate/85 curriculum plus other specific areas of emergency medical care in the following areas: manual and automated external defibrillation, telemetered electrocardiography, administration of cardiac drugs, administration of specific medications and solutions, use of adjunctive breathing devices, advanced trauma care, tracheotomy suction, esophageal airways and endotracheal intubation, intraosseous infusion, or other special skills programs approved by board action, and who is licensed by the board to perform intermediate skills plus such special skills;

- (11) "Emergency medical technician-student status," any person who has received authorization for student status by the board and who has been accepted into an advanced life support training program to perform, under direct supervision, those activities and services currently being studied;
- (12) "Good faith," honesty, in fact, in the conduct, or transaction concerned;
- (13) "Gross negligence," the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or health of another;
- (14) "Hour of advanced life support studies," fifty minutes of training;
- (15) "Indirect medical control," the establishment and implementation of system policies and procedures, such as medical treatment protocols, quality assurance programs and case reviews by a physician licensed in South Dakota;
- (16) "Local government," any county, municipality, township, or village in this state;
- (17) "Medical community," the physicians and medical resources located and available within a geographic area;
- (18) "Medical emergency," an event affecting an individual in such a manner that a need for immediate medical care is created;
- (19) "Patient," an individual who, as a result of illness or injury needs immediate medical attention, whose physical or mental condition is such that the individual is in imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition; and
- (20) "Prehospital care," those emergency medical services rendered to emergency patients in an out-of-hospital setting, administered for analytic, stabilizing, or preventive purposes, precedent to and during transportation of such patients to emergency treatment facilities.

Section 233. That § 36-4B-10 be amended to read as follows:

36-4B-10. Educational programs for instruction of advanced life support personnel shall be implemented by the Department of Public Safety and approved by the board. Schools or institutions offering such programs shall submit applications for approval on forms provided by the board.

Section 234. That § 36-4B-35 be amended to read as follows:

36-4B-35. The board may adopt rules:

- (1) To establish the educational and training curriculum requirements and the examination requirements for applicants to become licensed as advanced life support personnel;
- (2) To establish the procedure to be followed for the administration of the advanced life support program designating the responsibilities of the Department of Public Safety and the board;
- (3) To regulate the professional conduct of licensees.

Section 235. That § 36-16-4 be amended to read as follows:

36-16-4. The Governor shall appoint one member of the State Electrical Commission from the Department of Labor and one member shall be involved in the education of electrical engineers. Each of these two members shall serve without compensation and appointments shall be made biennially.

Section 236. That § 36-21B-1 be amended to read as follows:

36-21B-1. Any person who performs a real estate appraisal or advertises or holds himself or herself out to the general public as a real estate appraiser in this state shall be certified, licensed, or registered by the Department of Revenue and Regulation unless exempt under another provision of this chapter or another provision of statute.

Section 237. That § 36-21B-3 be amended to read as follows:

36-21B-3. The secretary of the Department of Revenue and Regulation may promulgate rules pursuant to chapter 1-26 relating to appraisers and appraisals and to enable the secretary to

promulgate rules in the following areas:

- (1) Certification, licensing, and registration of appraisers;
- (2) Definition of terms;
- (3) Uniform standards of professional appraisal practice;
- (4) Application for and issuance of certificates;
- (5) Examinations and examination procedures;
- (6) Pre-certification education criteria and continuing education;
- (7) Qualifications for and upgrading of a certificate;
- (8) Transactions requiring certified, licensed, or registered appraisers;
- (9) Renewal and late renewal procedures;
- (10) Certificate by reciprocity;
- (11) Temporary practice and permits;
- (12) Complaints and grounds for disciplinary actions including denial, revocation, suspension, censure, and reprimand;
- (13) Conflict of interest and investigation;
- (14) Advertising by certified, licensed, or registered appraisers;
- (15) Retention and inspection of records, and rosters of appraisers;
- (16) Appraiser membership, competency, and independence;
- (17) Review of appraisals and contracting for investigations;
- (18) Inspection, examination, and photocopy of appraisal records for audit purposes; and
- (19) Inactive status.

Section 238. That § 36-21B-5 be amended to read as follows:

36-21B-5. All moneys coming into the custody of the Department of Revenue and Regulation including certificate fees, renewal fees, reciprocity fees, penalty fees, and any other payments, shall

be deposited by the department to the state treasurer weekly, or as prescribed by the state treasurer. The state treasurer shall credit the moneys to the South Dakota Real Estate Appraiser Fund. Expenditures from this fund shall only be paid on warrants drawn by the state auditor and approved by the department.

Section 239. That § 36-21B-7 be amended to read as follows:

36-21B-7. The secretary of the Department of Revenue and Regulation may impose a monetary penalty not to exceed one thousand dollars or require additional educational course requirements, or both, of a person licensed pursuant to this chapter upon proof of unprofessional conduct, as provided in the Uniform Standards of Professional Appraisal Practice as adopted by the department pursuant to chapter 1-26.

Section 240. That § 37-2-7 be amended to read as follows:

37-2-7. Specifications and methods for the examination and test of petroleum products shall be jointly determined by the Division of Commercial Inspection and Licensing and the director of laboratories and shall be based upon nationally recognized standards. When so determined, and adopted and published as rules and regulations of the division in accordance with the provisions of chapter 1-26, such specifications shall be the specifications for such petroleum products sold in this state and official tests of such petroleum products shall be based upon test specifications so determined, adopted, and promulgated.

Section 241. That § 37-2-24 be amended to read as follows:

37-2-24. The expense of all inspections, collections, and refunds in connection with the safety and taxation of all petroleum products shall be paid out of the collection of taxes or licenses therefrom by the state treasurer, upon bills, vouchers, and payrolls approved by the Division of Commercial Inspection and Licensing and the commissioner of finance and management.

The allocation of funds from the net collections of taxes and licenses on all petroleum products

shall be made by the state treasurer in the manner and in the amounts prescribed by law.

Section 242. That § 37-20-3 be amended to read as follows:

37-20-3. In addition to the state standards of weights and measures provided for by law, the state shall supply at least one complete set of duplicate standards, kept at all times in the Division of Commercial Inspection and Licensing and known as the office standards; and such other weights, measures, and apparatus which are necessary to carry out the provisions of chapters 37-20 to 37-22, inclusive, to be known as working standards.

Section 243. That § 37-20-5 be amended to read as follows:

37-20-5. The office standards shall be used in making all comparisons of weights and measures and weighing and measuring devices submitted for testing in the Division of Commercial Inspection and Licensing.

Section 244. That § 37-21-1 be amended to read as follows:

37-21-1. The Division of Commercial Inspection and Licensing shall have and keep a general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state.

Section 245. That § 37-21-1.1 be amended to read as follows:

37-21-1.1. The Division of Commercial Inspection and Licensing of the Department of Public Safety shall perform the functions previously performed by the Department of Agriculture pursuant to this chapter and chapter 37-20.

Section 246. That § 37-21-3 be amended to read as follows:

37-21-3. It is hereby made the duty of the department of physics of the University of South Dakota, upon request of the director of commercial inspection and licensing, to assist him or his assistants in all such matters as may require the facilities of the laboratory of that department or technical knowledge relating to physical measurements.

Section 247. That § 37-21-8 be amended to read as follows:

37-21-8. The director of commercial inspection and licensing may from time to time, make, and he is hereby authorized to make reports, in printed bulletins, of the work undertaken and accomplished under this chapter, together with other information relative to weights and measures as may be deemed suitable.

Section 248. That § 37-21-9 be amended to read as follows:

37-21-9. When not otherwise provided for by law the director of commercial inspection and licensing shall have the power, and it shall be his duty to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing and measuring devices kept, offered, or exposed for sale, sold or used or employed by any proprietor, agent, lessee, or employee in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of distribution or consumption purchased or offered or submitted by such person or persons for sale, hire, or award.

Section 249. That § 37-21-9.1 be amended to read as follows:

37-21-9.1. The Division of Commercial Inspection and Licensing shall charge and collect a maximum ten dollar fee for each inspection and testing of any weight, measure, and weighing and measuring device. The fee shall be paid upon demand of the division by the person, firm, or corporation owning or operating the weight, measure, or weighing or measuring device inspected or tested. A maximum fee of five dollars shall be charged and collected for each inspection and testing of gasoline and diesel stationary fuel pump meters. A maximum fee of fifteen dollars shall be charged and collected for each inspection and testing of gasoline and diesel high speed stationary fuel pump meters. A maximum fee of fifteen dollars shall be collected for refined fuel truck meters. If a special or emergency inspection is requested, a charge, not to exceed the actual cost of such inspection, including costs for personnel, equipment, and mileage, shall be made and assessed

against the requesting individual or device owner. All fees, except those for special or emergency inspection, shall be promulgated by the secretary of the Department of Public Safety pursuant to chapter 1-26.

Section 250. That § 37-21-10 be amended to read as follows:

37-21-10. Whenever complaint shall be made to the director of commercial inspection and licensing that any false or incorrect scales, weights, or measures are being made use of by any person, firm, or corporation in the purchase or sale of merchandise or other commodities or in weighing any article or commodity, the piece price for which is determined by weight or measure, it shall be his duty to cause the same to be inspected as soon as the duties of his office will permit, and he shall make such other inspections of the weights and measures as in his judgment are necessary or proper to be made, except where inspection is provided for by chapter 37-22 or chapter 37-22A.

Section 251. That § 37-21-11 be amended to read as follows:

37-21-11. The director of commercial inspection and licensing, or his assistants at his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts and disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the Legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned, and, at the request of such board or executive officer, he shall appoint in writing one or more employees then in the actual service of the institution who shall act as special deputies for the purposes of checking the receipts or disbursements of supplies.

Section 252. That § 37-21-13 be amended to read as follows:

37-21-13. Whenever the director of commercial inspection and licensing compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, or subject to his use, he shall seal or mark such

weights, measures, or weighing or measuring devices with appropriate seals or marks.

Section 253. That § 37-21-14 be amended to read as follows:

37-21-14. The director of commercial inspection and licensing shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which in his best judgment are not susceptible to satisfactory repair; but such as are incorrect and yet may be repaired, he shall mark or tag as "condemned for repairs." The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired or corrected within sixty days, and they may neither use nor dispose of the same in any way, nor remove or deface any such "condemned for repairs" tag or other mark or tag affixed by the director until they shall have received from the director written permission to do so. Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, shall be confiscated by the director.

Section 254. That § 37-21-15 be amended to read as follows:

37-21-15. The director of commercial inspection and licensing shall have the power to, and shall, from time to time, weigh or measure and inspect packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered or exposed for sale, sold, or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in a manner in accordance with law.

Section 255. That § 37-21-16 be amended to read as follows:

37-21-16. The director of commercial inspection and licensing may for the purposes mentioned in § 37-21-15, and in the general performance of his official duties, enter and go into or upon, without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the director may specify, for the purpose of making proper

tests.

Section 256. That § 37-21-18 be amended to read as follows:

37-21-18. Any person who:

- (1) Offers or exposes for sale, sells, uses in buying or selling of any commodity or thing, or for hire or award, or retains in possession a false weight or measure or measuring or weighing device, or any weight or measure or weighing or measuring device that has not been sealed by the Division of Commercial Inspection and Licensing within two years;
- (2) Disposes of any condemned weight, measure, or weighing or measuring device contrary to law;
- (3) Removes any tag placed thereon by the Division of Commercial Inspection and Licensing;
- (4) Sells, offers, or exposes for sale less than the quantity the person represents;
- (5) Takes or attempts to take more than the quantity the person represents, when as the buyer, the person furnished the weight, measure, or weighing or measuring device by means of which the amount of the commodity is determined;
- (6) Keeps for the purpose of sale, offers or exposes for sale, or sells any commodity in a manner contrary to law;
- (7) Violates any provision of chapters 37-20 to 37-22, inclusive, for which a specific penalty has not been provided; or
- (8) Sells, offers to sell, uses, or has in possession for the purpose of selling or using any device or instrument to be used, or calculated to falsify any weight or measure;

is guilty of a Class 2 misdemeanor.

Section 257. That § 37-21-20 be amended to read as follows:

37-21-20. Whenever the director of commercial inspection and licensing finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

Section 258. That § 37-21-21 be amended to read as follows:

37-21-21. The director of commercial inspection and licensing, his deputy, assistants, and inspectors are hereby made special policemen, and are authorized and empowered to arrest any violator of the statutes in relation to weights and measures, to enter complaint before any court of competent jurisdiction, and to seize and use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodities found to be used, retained, or offered or exposed for sale or sold in violation of law.

Section 259. That § 37-21-23 be amended to read as follows:

37-21-23. The state's attorney of each county in the state is hereby authorized and required upon complaint on oath of the director of commercial inspection and licensing or other person to prosecute before any court of competent jurisdiction in the name of the State of South Dakota proper action or proceeding against any person or persons violating the provisions of chapters 37-20 to 37-22, inclusive.

Section 260. That § 37-21A-5 be amended to read as follows:

37-21A-5. A bearer of a certificate of registration shall have the authority to:

- (1) Remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Division of Commercial Inspection and Licensing;
- (2) Place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected or is otherwise inoperative and in need of repair; and
- (3) Place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

Section 261. That § 37-22-1 be amended to read as follows:

37-22-1. All track scales and all other scales in this state used by common carriers or by shippers

for the purpose of weighing cars or freight offered for shipment in car lots and all scales and weighing devices in public warehouses and grain elevators and all stock scales at stockyards and all private, farm, and town and city scales used in weighing hay, grain, wood, coal, and like subjects of commerce shall be under the supervision and control of the Division of Commercial Inspection and Licensing and be subject to inspection by it. Farm scales shall be inspected only at the request of the owner.

Section 262. That § 37-22-1.1 be amended to read as follows:

37-22-1.1. The heavy scales division of the Public Utilities Commission is abolished, and all its functions shall be administered by the Division of Commercial Inspection and Licensing as provided by § 1-35-7.

Section 263. That § 37-22-3 be amended to read as follows:

37-22-3. The Division of Commercial Inspection and Licensing shall promulgate rules pursuant to chapter 1-26 for the installation, including specifications therefor, inspection, testing, and correcting of such scales.

Section 264. That § 37-22-4 be amended to read as follows:

37-22-4. The jurisdiction of the Division of Commercial Inspection and Licensing over the scales designated in §§ 37-22-1 and 37-22-3 shall be exclusive and inspection thereof shall be made only by and under the direction of the division.

Section 265. That § 37-22-5 be amended to read as follows:

37-22-5. The Division of Commercial Inspection and Licensing may appoint suitable and competent inspectors to aid the division in making inspections and repairs of scales under its jurisdiction. The division shall designate the length of any appointment. Each inspector shall report to the division at the time or times and in the manner as the division may require.

Section 266. That § 37-22-6 be amended to read as follows:

37-22-6. An inspector appointed pursuant to § 37-22-5 shall receive a salary to be fixed by the Division of Commercial Inspection and Licensing pursuant to chapter 3-6A, and his traveling expenses allowed by law and incurred in the performance of his duties, the said salary and expenses to be paid upon vouchers itemized and accompanied by receipts as provided by law, to be approved by the division.

Section 267. That § 37-22-7 be amended to read as follows:

37-22-7. The Division of Commercial Inspection and Licensing may acquire such standard weights and measures and such additional facilities and equipment including motor vehicles or other means of conveyance it deems necessary and suitable in carrying on the work of inspecting, testing, and correcting scales and performing generally the duties entailed upon it by this chapter.

Section 268. That § 37-22-8 be amended to read as follows:

37-22-8. Whenever directed so to do by the Division of Commercial Inspection and Licensing, any common carrier or shipper or other person owning or operating a scale under the jurisdiction of the division shall equip such scale with any sealing device considered by the division to be a proper and safe device to be used in sealing of scales.

Section 269. That § 37-22-9 be amended to read as follows:

37-22-9. The Division of Commercial Inspection and Licensing or any agent, employee, or scale inspector of the division may at any time, without notice, enter any place maintaining a scale subject to the provisions of this chapter and test and seal all weighing scales and measures used in conducting such business.

Section 270. That § 37-22-10 be amended to read as follows:

37-22-10. The Division of Commercial Inspection and Licensing shall charge and collect a fee for each inspection or testing of scales. The fee shall be paid upon demand of the division by the person, firm, or corporation owning or operating the scale inspected or tested. The maximum

schedule of fees is as follows:

- (1) Up to and including 2,000 pounds capacity -- fifteen dollars;
- (2) 2,001 to 5,000 pounds capacity, inclusive -- twenty-five dollars;
- (3) 5,001 to 40,000 pounds capacity, inclusive -- sixty dollars;
- (4) Over 40,000 pounds capacity -- seventy-five dollars;
- (5) All livestock scales -- one hundred dollars.

If a special or emergency inspection is requested, a charge, not to exceed the actual cost of such inspection, including costs for personnel, equipment, and mileage, shall be made and assessed against the requesting individual or device owner.

Section 271. That § 37-22-12 be amended to read as follows:

37-22-12. Whenever a request is made by the owner to test a scale outside of the regular route or regular tour of inspection of any scale inspector or inspectors and it is found necessary by the Division of Commercial Inspection and Licensing to send and dispatch a scale inspector or inspectors with the scale inspection truck and its scale testing equipment, a charge, based upon the number of hours it takes for such travel from the point of departure to the place where such scale inspection and testing is to be made and return to the point of departure, shall be made and assessed against the owner of such scale and collection made as provided in § 37-22-10. Such per hour charge shall be fixed and collected by the division.

Section 272. That § 37-22-13 be amended to read as follows:

37-22-13. If the person making an inspection pursuant to § 37-22-9 shall find any scales in use in such place inaccurate, he shall condemn the same and attach thereto a card, notice, or other device, indicating that the scales are condemned. It shall thereafter be a Class 2 misdemeanor for any person to remove, deface, or destroy such card, notice, or other device placed upon condemned scales, or to use again, or permit the use of such scales for any purpose, until they have been repaired, retested,

and found to be correct, and until the Division of Commercial Inspection and Licensing, or the person making the inspection, shall consent to the further use of such scales.

Section 273. That § 37-22-16 be amended to read as follows:

37-22-16. All fees and funds of any kind collected under the provisions of this chapter shall be by the Division of Commercial Inspection and Licensing deposited with the state treasurer and by him credited to the general fund.

Section 274. That § 37-22-17 be amended to read as follows:

37-22-17. Except as otherwise provided in this chapter, any person:

- (1) Neglecting to install a seal for the preservation of adjustment as required by this chapter, upon any scale under the jurisdiction of the Division of Commercial Inspection and Licensing, after thirty days' notice so to do;
- (2) Removing, defacing, or destroying any seal placed upon any scale by any agent, employee, or scale inspector of the division for the purpose of fixing or preserving the adjustment of the scale in order to ensure its accuracy;
- (3) Removing, defacing, or destroying any seal, tag, card, notice, or other device placed upon any scale by any agent, employee, or scale inspector of the division for the purpose of indicating that the scale has been condemned, and must not be used;
- (4) Using or permitting the use of any scale that has been tested and found to be incorrect, before it is again tested and found to be correct and the further use thereof is authorized or consented to by the division;
- (5) Preventing or attempting to prevent or in any way interfering with any member, inspector, agent, or employee of the division from entering the premises where such scales may be kept, or inspecting or testing such scales; or
- (6) Neglecting to observe any rule or regulation of the division relating to scales;

is guilty of a Class 2 misdemeanor.

Section 275. That § 37-22A-3 be amended to read as follows:

37-22A-3. Each scale ticket issued by vehicle scales used in commercial trade shall show the name of the agency performing the weighing service, the date of the weighing, the number of the scale or other information identifying the scale upon which the weighing is performed, the name of the person or firm having a vehicle weighed, and the name of the weighmaster, or understandable abbreviations of such names. Scale tickets issued under this chapter shall be in duplicate form, serially numbered, and if such tickets are used on a type-registering weighbeam they shall conform to specifications set by the Division of Commercial Inspection and Licensing. One copy of such scale ticket shall be retained by the agency performing the weighing service, and one copy of such scale ticket shall be furnished to the person or firm having the vehicle weighed. No change of weight shall be made on any such ticket.

Section 276. That § 37-22A-5 be amended to read as follows:

37-22A-5. The provisions of chapter 37-22, relating to heavy scales and defining the duties and powers of the Division of Commercial Inspection and Licensing shall apply to and govern the administration and enforcement of this chapter.

Section 277. That § 38-1-1.1 be amended to read as follows:

38-1-1.1. The Department of Agriculture shall continue as such and shall continue to perform its functions as provided in § 1-41-4, except for the inspection functions vested in the Department of Public Safety by §§ 34-39-3.1, 37-21-1.1 and 39-1-1.1.

Section 278. That § 39-1-1.1 be amended to read as follows:

39-1-1.1. The Division of Commercial Inspection and Licensing of the Department of Public Safety shall perform the functions previously performed by the Department of Agriculture pursuant to chapters 39-4 and 39-13.

Section 279. That § 39-1-2 be amended to read as follows:

39-1-2. All fees received by the secretary of agriculture or the Division of Commercial Inspection and Licensing pursuant to the provisions of this title shall be paid into the state treasury, as provided in this code, to the credit of the general fund.

Section 280. That § 39-1-3 be amended to read as follows:

39-1-3. All salaries and expenses necessary to the enforcement of this title by the Department of Agriculture or the Division of Commercial Inspection and Licensing shall be paid out of funds appropriated for the maintenance of the Department of Agriculture.

Section 281. That § 39-1-5 be amended to read as follows:

39-1-5. The secretary of agriculture, or the secretary of public safety when performing the functions described in § 39-1-1.1, may, when in his judgment such action will promote honesty and fair dealing in the interest of consumers, adopt rules establishing for any food, under its common or usual name so far as practicable, a reasonable standard of identity and purity. If a standard for a food has been established by the administrator of the Federal Food, Drug, and Cosmetic Act of 1938, the secretary of agriculture or the secretary of public safety shall adopt that standard for this state. The standards shall become effective in conformity with chapter 1-26. An article of food which does not conform to the such standards is adulterated or misbranded as the case may be.

Section 282. That § 39-1-6 be amended to read as follows:

39-1-6. Bulletins containing standards, definitions, rules, and regulations promulgated pursuant to §§ 39-1-4 and 39-1-5 together with such information relating to the products regulated by the provisions of this title as shall be calculated to promote the public health and safety may be distributed from time to time by the Department of Agriculture or the Division of Commercial Inspection and Licensing to the newspapers of the state, to all persons dealing in the products to which they relate, and to any citizen of this state, upon application therefor, the cost of which shall

be paid out of funds appropriated for maintenance of the department or the division.

Section 283. That § 39-1-10 be amended to read as follows:

39-1-10. The secretary of agriculture, the secretary of public safety, and their assistants, for the purpose of obtaining information regarding suspected violations of the law and in order to enforce the provisions of this title, shall have access to all buildings and premises where any product governed by this title is or may be manufactured, stored, held, prepared, served, sold, or delivered, and to all cars, carriages, wagons, trucks, or other vehicles used in the transportation or delivery of any such product. They shall also have authority to inspect any barrel, case, package, bottle, box, can, carton, or other container and to open the same and take samples therefrom for analysis, upon payment of the market price thereof, and have the same analyzed to ascertain whether or not the contents of such container comply with the requirements of this title.

Section 284. That § 39-1-11 be amended to read as follows:

39-1-11. All proprietors, clerks, bookkeepers, or other persons in any way dealing in any product governed by this title and all express agents and all employees of railroads or other common carriers shall render to the secretary of agriculture, the secretary of public safety, and their authorized assistants all aid within their power in discovering any such products which may be suspected of being in violation of this title, and all records appertaining thereto. Any refusal or neglect on the part of such proprietors, clerks, bookkeepers, or other persons in any way dealing in any such product, or any express agent or employee of a railroad or other common carrier, to render such friendly aid shall be a violation of this title and shall be punishable as provided in § 39-1-8.

Section 285. That § 39-1-12 be amended to read as follows:

39-1-12. Any person who in any manner hinders, obstructs, or interferes with the secretary of agriculture, the secretary of public safety, or any one of their deputies, inspectors, or employees, in the performance of any duty under the provisions of this title, is guilty of a Class 2 misdemeanor.

Section 286. That § 39-1-13 be amended to read as follows:

39-1-13. The secretary of agriculture, the secretary of public safety, or their agents or assistants by written or oral notice may require any police officer to inspect any place or product subject to the supervision of such secretary of agriculture or secretary of public safety under the provisions of this title, to determine whether its provisions are being complied with and to report the result of such inspection in accordance with the rules of the Department of Agriculture or of the division. All actual and necessary expenses, if any, incurred in connection with such inspection shall be paid by the civil township, county, or municipality in which it is made.

Section 287. That § 39-1-15 be amended to read as follows:

39-1-15. The secretary of agriculture, the secretary of public safety, and their agents and inspectors, with or without the assistance of the officers specified in § 39-1-13, have power and authority to seize or quarantine by tagging or otherwise suitably marking any food or drug which is, or which is suspected of being, contraband material as defined in § 39-1-14; and for this purpose they and their agents and inspectors shall be vested with police powers. Such tag or marking shall be notice to all persons not to remove or otherwise molest marked or tagged material until given permission by the secretary of agriculture, the secretary of public safety, or a court. Any person who removes or otherwise molests any article of food or drug tagged or marked as provided by this section without the permission or consent of the secretary of agriculture, the secretary of public safety, or a court, commits a petty offense.

Section 288. That § 39-4-12 be amended to read as follows:

39-4-12. In the case of beverages that are manufactured, distributed, and sold under a franchise or trademark name indicated thereon, whereby the person, firm, or corporation owning the franchise or trademark has control over the distribution, such beverages may be exempt from § 39-4-11, if a certified statement is filed with the Division of Commercial Inspection and Licensing, on forms

provided for that purpose, stating the name and address of the manufacturer or distributor, the list of each ingredient, and a statement signed by the manufacturer or distributor that they assume all responsibility and liability for the product named, which is being sold, or offered for sale, under such name within the area of the state designated, designating the area by municipalities and communities, in compliance with this chapter.

Section 289. That § 39-4-16 be amended to read as follows:

39-4-16. Nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome ingredients, to disclose their trade formulas, except insofar as the provisions of this chapter, or the rules and regulations of the Division of Commercial Inspection and Licensing may require to secure freedom from adulteration or misbranding.

Section 290. That § 39-13-13 be amended to read as follows:

39-13-13. The secretary of revenue and regulation with respect to alcoholic beverages, and the Division of Commercial Inspection and Licensing with respect to nonalcoholic beverages, concentrates, and flavors, are charged with administration and enforcement of this chapter. The secretary of agriculture and the secretary of public safety and their deputies, assistants, agents, and employees, have all of the rights of visitation, inspection, examination, and access to places, property, containers, records, rule-making authority, and prosecution, as are provided in Title 38 or in this title.

Section 291. That § 39-13-14 be amended to read as follows:

39-13-14. All samples collected shall be sealed and marked with identifying marks in the presence of the dealer or person from whom taken, and shall be promptly forwarded to the director of laboratories for examination. It shall be the duty of the director of laboratories to examine all samples submitted under the provisions of this chapter and to report results promptly to the secretary

of revenue and regulation in the case of alcoholic beverages or to the Division of Commercial Inspection and Licensing in other cases.

Section 292. That § 39-13-15 be amended to read as follows:

39-13-15. The secretary of revenue and regulation with respect to alcoholic beverages, and the Division of Commercial Inspection and Licensing with respect to other products within the purview of this chapter, shall have authority to publish analyses and to gather and disseminate useful information for the benefit of the public.

Section 293. That § 40-15-13.1 be amended to read as follows:

40-15-13.1. No livestock subject to this chapter may be weighed on any scale, except a livestock scale certified by the Division of Commercial Inspection and Licensing approved for purposes of this chapter.

Section 294. That § 42-1-11 be amended to read as follows:

42-1-11. Before a community house is constructed, plans and specifications for the same must be submitted to the Department of Public Safety for approval.

Section 295. That § 45-6B-75 be amended to read as follows:

45-6B-75. The Department of Agriculture, the Department of Environment and Natural Resources, the Department of Game, Fish and Parks, the Department of Education, the commissioner of school and public lands, and soil conservation boards shall furnish the Board of Minerals and Environment and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of total reclamation and enforcement duties.

Section 296. That § 49-43-27 be amended to read as follows:

49-43-27. A representative of the Division of Commercial Inspection and Licensing may at any time without notice enter any public warehouse in this state and test and seal any weighing scale and measure used in conducting the warehouse business. The division may acquire standard weights and

measures and such additional facilities and equipment, including motor vehicles or such other means of conveyance it deems necessary and suitable in carrying on the work of inspecting, testing, and correcting scales in this state.

Section 297. That § 49-43-28 be amended to read as follows:

49-43-28. If the person making an inspection pursuant to § 49-43-27 finds any scales in use in the public warehouse inaccurate, he shall condemn the scales and attach thereto a card, notice, or other device indicating that the scales are condemned. It is thereafter a Class 2 misdemeanor for any person to remove, deface or destroy such card, notice or other device placed upon the condemned scales, or to again use, or permit the use of such scales for any purpose, until they have been repaired, retested, and found to be correct, and until the Division of Commercial Inspection Licensing, or the person making the inspection, consents to the further use of such scales.

Section 298. That § 51A-1-2 be amended to read as follows:

51A-1-2. Terms used in this title mean:

- (1) "Bank," any corporation authorized under this title to engage in the business of banking or in the combined business of a bank and trust company or in the combined business of a bank with trust powers;
- (2) "Bank holding company," a bank holding company as defined in 12 U.S.C. 1841, as amended as of January 1, 1988;
- (3) "Banking," the business of receiving deposits, discounting commercial paper, or buying and selling exchange, and any other activity authorized by this title;
- (4) "Banking day," that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;
- (5) "Branch bank," a branch place of business maintained by a bank to conduct its banking business;

- (6) "Commission," the State Banking Commission;
- (7) "Deputy director," the deputy director of the Division of Banking;
- (8) "Director," the director of the Division of Banking;
- (9) "Division," the Division of Banking of the Department of Revenue and Regulation;
- (10) "Executive officer," every officer who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of the bank, regardless of whether the officer has an official title or whether the officer's title contains a designation of assistant and regardless of whether the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, secretary, and treasurer of a bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, any such officer is excluded from participation in major policy-making functions, otherwise than in the capacity of a director of the bank, and the officer does not actually participate therein;
- (11) "Fully defeased bonds or notes," obligations issued by any state, or municipal or school district subdivision the repayment of which has been irrevocably guaranteed by other securities which securities are issued by or are fully guaranteed by the United States Government;
- (12) "National bank," any corporation organized pursuant to 12 U.S.C. § 21, as amended as of January 1, 1990;
- (13) "Loan production office," an office in this state which is apart from its main bank or branch which is staffed or controlled by a bank and is where loans are solicited but are not approved or disbursed.

Section 299. That § 51A-2-1 be amended to read as follows:

51A-2-1. The Division of Banking is established and shall be administered under the direction

and supervision of the Department of Revenue and Regulation. The division is charged with supervision and control over the activities set forth in this title, and it shall exercise such other jurisdiction over such other activities as shall be conferred upon it by the Legislature.

Section 300. That § 51A-16-1 be amended to read as follows:

51A-16-1. Terms as used in this chapter mean:

- (1) "Director," the director of the Division of Banking of the Department of Revenue and Regulation; and
- (2) "Person," any individual, partnership, limited liability company, association, joint stock association, trust, corporation, or any other form of business enterprise.

Section 301. That § 52-1-1 be amended to read as follows:

52-1-1. Terms used in this title mean:

- (1) "Association," a savings association or a savings and loan association subject to the provisions of this title;
- (2) "Board," the State Banking Commission;
- (3) "Director," the duly appointed, qualified and acting director of the Division of Banking of the Department of Revenue and Regulation;
- (4) "Dividends on permanent stock," the balance of net earnings after the payment of the dividend on savings accounts credited to surplus which may be paid in cash or additional stock subject to the provisions of the South Dakota Business Corporation Act;
- (5) "Dividends on savings accounts" or "earnings on savings accounts," that part of the net earnings of an association which is declared payable on savings accounts;
- (6) "Federal savings and loan association," a savings and loan association organized pursuant to the Home Owner's Loan Act of 1933, as amended to January 1, 1994;
- (7) "Foreign association," any building and loan association or any savings and loan

association organized under the laws of any other state, including any person, firm, company, association, fiduciary, partnership, or corporation, by whatever name called, actually engaged in the business of a savings and loan association, which is not organized under the provisions of this title, or the Home Owner's Loan Act of 1933, as amended to January 1, 1994;

- (8) "Insured association," any association whose members' savings accounts are insured by the federal savings and loan insurance corporation or other approved insurance corporation as provided in this title;
- (9) "Insured loan," any loan insured by either the National Housing Act or the Serviceman's Readjustment Act of 1944, or chapter 37 of title 38, United States Code, as amended to January 1, 1994;
- (10) "Member," any person owning a savings account in an association; any person owning a share of permanent stock of an association; any person borrowing from or assuming or obligated upon a loan held by an association; any contract for deed purchaser from the association;
- (11) "Permanent stock," any stock which cannot be withdrawn or the value paid to the holder of the stock until all liabilities of an association have been paid in full;
- (12) "Savings account," that part of the savings liability of the association which is credited to a member; and
- (13) "Savings liability," the total amount of savings accounts of members.

Section 302. That § 52-3-3 be amended to read as follows:

52-3-3. All fees to be paid by a savings and loan association shall be by check payable to the state treasurer and deposited in the examination special revenue fund. Associations shall pay the following fees:

- (1) Filing with the director of the Division of Banking of the Department of Revenue and Regulation an application for certificate of authority, three thousand dollars;
- (2) Filing an application with the director to change the location of the principal office, or change the name of an association, five hundred dollars;
- (3) Filing its annual report with the director, one hundred fifty dollars;
- (4) Filing an application for authority to merge or consolidate with the director, five hundred dollars;
- (5) Filing an application to convert from a state association to a federal savings and loan association or vice versa, as from a stock association to a mutual, one hundred fifty dollars.

If any application fees do not cover the actual costs to the Division of Banking for processing the application, the director may assess the excess of the costs over the fees against the filing association.

Section 303. That § 52-4-12 be amended to read as follows:

52-4-12. Within ten days after receipt of the application, the director of the Division of Banking of the Department of Revenue and Regulation shall give written notice to banks and savings and loan associations doing business within a radius of fifty miles of the proposed location of the new association. At least ten days prior to the hearing date, the applicants shall publish the notice of hearing on application in a legal newspaper in the first or second class municipality where the principal office of the association is to be located. If no legal newspaper is published in said municipality, then in the nearest legal newspaper. Proof of publication shall be filed with the director of the Division of Banking of the Department of Revenue and Regulation.

Section 304. That § 54-3A-24 be amended to read as follows:

54-3A-24. The Department of Revenue and Regulation may promulgate rules and regulations to carry out the provisions of this chapter. Such rules and regulations shall be promulgated in

accordance with chapter 1-26.

Section 305. That § 54-4-36 be amended to read as follows:

54-4-36. Terms used in §§ 54-4-36 to 54-4-63, inclusive, mean:

- (1) "Advertisement," a commercial message in any medium that aids, promotes, or assists, directly or indirectly, the sale of products or services;
- (1A) "Commission," the State Banking Commission;
- (1B) "Director," the director of the Division of Banking of the Department of Revenue and Regulation;
- (1C) "Division," the Division of Banking;
- (3) "Finance charge," the amount, however denominated, which is paid or payable for the privilege of paying for goods or services in one or more installments at the beginning of the transaction;
- (4) "Financing institutions," any person engaged in the business of creating and holding or purchasing or acquiring retail installment contracts;
- (6) "Installment loan," a loan made to be repaid in specified amounts over a certain number of months;
- (7) "License," a license provided by §§ 54-4-36 to 54-4-63, inclusive;
- (8) "Installment loan contract" or "contract," an agreement evidencing a installment loan transaction;
- (9) "Licensee," any person holding a license;
- (10) "Loan," any installment loan, single pay loan, or open-end loan which may be unsecured or secured by real or personal property.

Section 306. That § 54-14-11 be amended to read as follows:

54-14-11. The regulation of mortgage brokers is transferred from the Real Estate Commission

to the Division of Banking of the Department of Revenue and Regulation. Upon application, the Division of Banking shall renew a mortgage broker's license at the end of its term. Any license fees shall be prorated on a per month basis to the end of the next licensing term.

Section 307. That § 58-22-47 be amended to read as follows:

58-22-47. The director may administer and enforce the provisions of this chapter. The Department of Revenue and Regulation may employ and discharge such employees, examiners, counsel, and such other assistants as shall be deemed necessary, and it shall prescribe their duties, and their compensation shall be the same as other state employees receive for similar services.

Section 308. That § 58-33-75 be amended to read as follows:

58-33-75. Terms used in §§ 58-33-76 to 58-33-82, inclusive, mean:

- (1) "Authorized agency," the Department of Revenue and Regulation, the attorney general, any state's attorney, any duly constituted criminal investigative department or agency of the United States, and any county or municipal law enforcement agency having investigative jurisdiction; and
- (2) "False or fraudulent claim, statement, or representation," any act of insurance fraud as defined by § 58-33-37.

An Act to correct certain references to certain executive branch agencies.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1234

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1234
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor

=====
The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State