

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0286

SENATE BILL NO. 41

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

1 FOR AN ACT ENTITLED, An Act to revise and update certain provisions pertaining to motor
2 carrier safety and transportation of hazardous materials.

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

4 Section 1. That § 49-28A-3 be amended to read as follows:

5 49-28A-3. The state hereby adopts Title 49 of the Code of Federal Regulations, subtitle B,
6 chapter I, subchapter C, parts 107 (subparts F and G only) and 171 to 180, inclusive, as amended
7 through January 1, ~~2005~~ 2006, and Title 49 of the Code of Federal Regulations, subtitle B,
8 chapter III, subchapter B, parts 390 to 397, inclusive, as amended through January 1, ~~2005~~ 2006,
9 with the following modifications:

10 (1) All references to interstate operations shall also include intrastate operations except
11 that drivers and motor carriers operating intrastate vehicles and combinations of
12 vehicles with three axles or less or with a gross vehicle weight rating of not more
13 than twenty-six thousand pounds which are not used to transport hazardous materials
14 requiring placarding under part 177, or designed to transport more than fifteen
15 passengers, including the driver, are not subject to parts 390-397;



1 (2) For the purposes of part 391.11(b)(1), a driver shall be at least twenty-one years old
2 if engaged in interstate commerce, or transporting hazardous material of a type or
3 quantity requiring placarding under part 177, or operating a vehicle designed to
4 transport more than fifteen passengers, including the driver. All other drivers shall
5 be at least sixteen years of age;

6 (3) Intrastate drivers are exempt from the physical requirements of part 391.41.

7 Any violation of parts 390 to 396, inclusive, the motor carrier safety requirements governing
8 the qualifications of drivers, driving of motor vehicles, parts and accessories necessary for safe
9 operation, notification and reporting of accidents, assistance with investigations and special
10 studies, hours of service of drivers, inspection, repair, and maintenance is a Class 2
11 misdemeanor. Any violation of the hazardous materials regulations pertaining to registration of
12 cargo tank motor vehicles, registration of persons who offer or transport hazardous materials,
13 general information, regulations and definitions, hazardous materials tables, hazardous materials
14 communication regulations, and test and inspection marking requirements found in parts 107
15 (subparts F and G only), 171, 172, and 178 to 180, inclusive, is a Class 2 misdemeanor. Any
16 violation of the hazardous materials regulations pertaining to packaging, prohibited shipments,
17 loading and unloading, segregation and separation, retesting and inspection of cargo tanks, and
18 other carriage by regulations found in parts 173 to 180, inclusive, or violation of the driving and
19 parking rules in part 397, is a Class 1 misdemeanor.

20 Section 2. That § 49-28A-7 be amended to read as follows:

21 49-28A-7. In the event of an accident resulting in a spill or leakage of a hazardous material,
22 the motor carrier or the first law enforcement officer to arrive at the scene of the accident shall
23 immediately contact the ~~Department of Military and Veterans Affairs~~ Department of Public
24 Safety. The ~~Department of Military and Veterans Affairs~~ Department of Public Safety shall

- 1 coordinate all actions in response to a spill or leakage of a hazardous material.