



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

970M0301

## SENATE ENGROSSED NO. **HB 1134** - 02/10/2006

Introduced by: Representatives Hanks, Brunner, Buckingham, Davis, Frost, Fryslie, Garnos, Hackl, Klautt, Krebs, McCoy, Rave, and Rhoden and Senators Lintz, Bogue, and Duenwald

1 FOR AN ACT ENTITLED, An Act to to revise certain provisions regarding the justifiable use  
2 of force.

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

4 Section 1. That § 22-5-9 be amended to read as follows:

5 22-5-9. Any person may lawfully resist, by force or violence, the commission of any public  
6 offense as follows:

7 (1) Any person, ~~about to be injured~~ upon reasonable apprehension of threat of bodily  
8 injury, may make sufficient resistance to prevent an offense against his or her person  
9 or the person of any family or household member thereof, or to prevent an illegal  
10 attempt by force to take or injure property in his or her lawful possession; and

11 (2) Any person may make sufficient resistance in aid or defense of a any other person,  
12 ~~about to be injured~~ threatened with bodily injury, to prevent such offense.

13 Section 2. That § 22-18-4 be amended to read as follows:

14 22-18-4. ~~To use or attempt to use or offer to use force or violence upon or toward the person~~  
15 ~~of another is not unlawful if committed either by any person about to be injured, or by any other~~



1 ~~person in the aid or defense of a person about to be injured, in preventing or attempting to~~  
2 ~~prevent an offense against his or her own person, or in preventing any trespass or other unlawful~~  
3 ~~interference with real or personal property in his or her lawful possession. However, the force~~  
4 ~~or violence used cannot be more than that sufficient to prevent such offense. Any person is~~  
5 justified in the use of force or violence against another person when the person reasonably  
6 believes that such conduct is necessary to prevent or terminate the other person's trespass on or  
7 other criminal interference with real property or personal property lawfully in his or her  
8 possession or in the possession of another who is a member of his or her immediate family or  
9 household or of a person whose property he or she has a legal right to protect. However, the  
10 person is justified in the use of deadly force only as provided in §§ 22-16-34 and 22-16-35. A  
11 person does not have a duty to retreat if the person is in a place where he or she has a right to  
12 be.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

589M0129

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 2** - 01/27/2006

Introduced by: Senators Schoenbeck, Bogue, and Moore and Representatives Michels,  
Hargens, and Rhoden

1 FOR AN ACT ENTITLED, An Act to appropriate money for the creation of a circuit court  
2 judgeship in the second judicial circuit.

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

4 Section 1. There is hereby appropriated from the state general fund the sum of one hundred  
5 ninety-one thousand two dollars (\$191,002), or so much thereof as may be necessary, to the  
6 Unified Judicial System for the creation of a circuit court judgeship in the second judicial  
7 circuit. The sum of one hundred seventy-five thousand four hundred seventy-three dollars  
8 (\$175,473) appropriated by this section may be used for personal services and benefits. The sum  
9 of fifteen thousand five hundred twenty-nine dollars (\$15,529) appropriated by this section may  
10 be used for operational expenses.

11 Section 2. There is hereby approved 2.0 FTE for a circuit court judge position and support  
12 staff in the second judicial circuit.

13 Section 3. The state court administrator shall approve vouchers and the state auditor shall  
14 draw warrants to pay expenditures authorized by this Act.

15 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2007, shall revert in accordance with § 4-8-21.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

527M0311

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 20** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new dairy  
2 manufacturing plant at South Dakota State University and to make an appropriation therefor.

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

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
5 equipping, and maintaining of, including heating air conditioning, plumbing, water, sewer,  
6 electric facilities, architectural and engineering services, asbestos abatement, and such other  
7 services as may be required to construct, a new dairy manufacturing plant at South Dakota State  
8 University in Brookings, in Brookings County, at an estimated cost of four million dollars.

9 Section 2. There is hereby appropriated to the Board of Regents four million dollars  
10 (\$4,000,000), or so much thereof as may be necessary, from private donations and grants  
11 received by South Dakota State University to construct the facility described in section 1 of this  
12 Act.

13 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for  
14 these purposes from federal sources, gifts, contributions, or any other source, all of which shall  
15 be deemed appropriated to the project authorized by this Act.



1       Section 4. The design and construction of the facility approved by this Act shall be under  
2 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
3 commissioner of the Bureau of Administration and the executive director of the Board of  
4 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
5 authorized by this Act.

6       Section 5. No general fund dollars may be used for the maintenance and repair of the facility  
7 authorized by this Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

527M0314

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 21** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a manure  
2 separator for the South Dakota Agricultural Experiment Station and to make an  
3 appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, and such other  
8 services as may be required to construct, a manure separator for the South Dakota Agricultural  
9 Experiment Station, located at Brookings, in Brookings County, at an estimated cost of one  
10 hundred fourteen thousand dollars.

11 Section 2. There is hereby appropriated to the Board of Regents one hundred fourteen  
12 thousand dollars (\$114,000), or so much thereof as may be necessary, from federal and grant  
13 funds awarded to the South Dakota Agricultural Experiment Station to construct the facility  
14 described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer , and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall  
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facility approved by this Act shall be under  
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
5 commissioner of the Bureau of Administration and the executive director of the Board of  
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
7 authorized by this Act.

8 Section 5. No general fund dollars may be used for the maintenance and repair of the facility  
9 authorized by this Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

527M0312

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 23** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a livestock  
2 feed storage room as an addition to the livestock feed facility at the South Dakota  
3 Agricultural Experiment Station Southeast Research Farm and to make an appropriation  
4 therefor.

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

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
8 electric facilities, architectural and engineering services, asbestos abatement, and such other  
9 services as may be required to construct, a livestock feed storage room as an addition to the  
10 livestock feed facility at the South Dakota Agricultural Experiment Station Southeast Research  
11 Farm, in Union County, at an estimated cost of seventeen thousand dollars.

12 Section 2. There is hereby appropriated to the Board of Regents seventeen thousand dollars  
13 (\$17,000), or so much thereof as may be necessary, from the South Dakota Agricultural  
14 Experiment Station activity funds to construct the facility described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall  
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under  
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
5 commissioner of the Bureau of Administration and the executive director of the Board of  
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
7 authorized by this Act.

8 Section 5. Notwithstanding the provisions of § 13-51-2, no money from the state general  
9 fund, student tuition fees, nor the educational facilities fund may be used to finance the  
10 maintenance and repair of the facilities specified in this Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0350

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 39** - 01/17/2006

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding petroleum and motor  
2 fuels testing, quality, and labeling.

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

4 Section 1. That § 37-2-5 be amended to read as follows:

5 37-2-5. Terms used throughout §§ 37-2-5 to 37-2-24, inclusive, mean:

6 (1) "Alcohol," a colorless volatile flammable liquid containing no more than 1.25 percent  
7 of water used for the purpose of blending or mixing with gasoline for use in motor  
8 vehicles and commonly known as alcohol, ethanol or methanol;

9 (2) "ASTM," the American Society for Testing and Materials;

10 (3) "Aviation gasoline," a volatile hydrocarbon fuel free from suspended water and  
11 sediment matter and that is suitable for use as a fuel in an aviation spark ignition  
12 internal combustion engine designed for use in an aircraft;

13 (3A) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived  
14 from vegetable oils or animal fats, designated B100, and meeting the requirements  
15 of the American Society of Testing and Materials D 6751 as of January 1, 2005, and



1 is registered with the United States Environmental Protection Agency as a fuel and  
2 fuel additive under section 211(b) of the Clean Air Act in effect on January 1, 2006;

3 (3B) "Biodiesel blend," a special blended fuel comprised of at least two percent by volume  
4 of biodiesel blended with petroleum-based diesel fuel, designated BXX. In the  
5 abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the  
6 blend;

7 (4) "Department," the Department of Public Safety;

8 (5) "Diesel fuel," a refined middle distillate hydrocarbon fuel free from suspended water  
9 and sediment matter that is suitable for use as a fuel in a ~~diesel~~ compression-ignition  
10 (diesel) internal combustion engine;

11 (5A) "Ether," methyl tertiary butyl ether;

12 (6) "Flash test" and "flash point," the flash point as determined by the method of the  
13 American Society for Testing Materials, using the instrument known as the Tagliabue  
14 closed cup tester;

15 (7) "Gasoline," a volatile hydrocarbon fuel free from suspended water and sediment  
16 matter that is practicable and suitable used as fuel in a spark ignition internal  
17 combustion engine;

18 (8) "Inspector," the secretary of the Department of Public Safety or any deputy or  
19 assistant appointed by the secretary for the purpose of enforcing the provisions of this  
20 chapter;

21 (9) "Kerosene," a hydrocarbon fuel intended for use in heating and illumination and  
22 having an American Petroleum Institute gravity of not less than forty degrees.  
23 Kerosene shall also include coal oil and burner oil;

24 (9A) "NIST," the National Institute of Standards and Technology;

1 (10) "Petroleum products," gasoline, alcohol blended fuels, kerosene, diesel fuel, aviation  
2 gasoline, burner oil, naphtha and lubricating oils.

3

4 Section 2. That § 37-2-6 be amended to read as follows:

5 37-2-6. The secretary of the Department of Public Safety may, pursuant to chapter 1-26, and  
6 in general conformity with ASTM and NIST standards in effect on January 1, 2005, promulgate  
7 rules:

8 (1) Establishing standards for the maximum volume percentages of ethanol, methanol,  
9 ether, and cosolvents in alcohol blended fuels;

10 (2) Establishing a program for and prescribing the methods to be used for the inspection  
11 and testing of alcohol blended fuels ~~and~~, petroleum products, biodiesel, and biodiesel  
12 blends;

13 (3) Requiring labeling of devices dispensing alcohol blended fuels, biodiesel, and  
14 biodiesel blends;

15 (4) Establishing standards setting the specifications and tolerance requirements for  
16 petroleum products, biodiesel, and biodiesel blends; and

17 (5) Regulating the filtering system to be used on devices dispensing alcohol blended  
18 fuels.

19 Section 3. That § 37-2-7 be amended to read as follows:

20 37-2-7. Specifications and methods for the examination and test of petroleum products shall  
21 be jointly determined by the Division of Commercial Inspection and Licensing and the director  
22 of ~~laboratories~~ the State Health Laboratory and shall be based upon ~~nationally recognized~~  
23 standards from the American Society for Testing and Materials and the National Institute for  
24 Standards and Technology as of January 1, 2005. ~~When so determined, and If adopted and~~

1 ~~published~~ as rules ~~and regulations~~ of the division in accordance with the provisions of chapter  
2 1-26, ~~such~~ the specifications shall be the specifications for such petroleum products sold in this  
3 state and official tests of ~~such~~ the petroleum products shall be based upon test specifications so  
4 determined, adopted, and promulgated.

5 Section 4. That § 37-2-8 be amended to read as follows:

6 37-2-8. The director of ~~laboratories~~ the State Health Laboratory, or other qualified  
7 laboratory, shall make ~~such~~ an analysis as may be requested by the secretary of the Department  
8 of Public Safety. Distillation tests shall be made in accordance with the methods for ~~such~~ the  
9 tests adopted by the American Society for Testing and Materials.

10 Section 5. That § 37-2-23 be repealed.

11 ~~— 37-2-23. Any inspector having knowledge of a violation of any of the provisions of §§ 37-2-~~  
12 ~~5 to 37-2-24, inclusive, must immediately enter complaint before a court of competent~~  
13 ~~jurisdiction against the person so offending, and in case of neglect to enter such complaint, such~~  
14 ~~inspector shall be punished as provided in § 37-2-16.~~

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

716M0294

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 57** - 01/19/2006

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney  
General

1 FOR AN ACT ENTITLED, An Act to revise the definition of deceptive acts and practices and  
2 to increase the statute of limitations regarding deceptive trade practices.

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

4 Section 1. That § 37-24-6 be amended to read as follows:

5 37-24-6. It is a deceptive or unfair act or practice for any person to:

6 (1) Knowingly ~~and intentionally act,~~ use, or employ any deceptive or unfair act or  
7 practice, fraud, false pretense, false promises, or misrepresentation or to conceal,  
8 suppress, or omit any material fact in connection with the sale or advertisement of  
9 any merchandise, regardless of whether any person has in fact been misled,  
10 deceived, or damaged thereby. Such a deceptive or unfair act or practice violates this  
11 section whether it occurs before, during, or after a transaction or advertisement;

12 (2) Advertise price reductions without ~~satisfying one of the following:~~

13 ~~—————(a) Including either including~~ in the advertisement the specific basis for the claim  
14 of a price reduction; ~~or~~

15 ~~—————(b) Offering or offering~~ the merchandise for sale at the higher price from which



1           the reduction is taken for at least seven consecutive business days during the  
2           sixty-day period prior to the advertisement.

3           Any person advertising consumer property or services in this state, which  
4           advertisements contain representations or statements as to any type of savings claim,  
5           including reduced price claims and price comparison value claims, shall maintain  
6           reasonable records for a period of two years from the date of sale and advertisement,  
7           which records shall disclose the factual basis for such representations or statements  
8           and from which the validity of any such claim be established. However, these  
9           reasonable record provisions do not apply to the sale of any merchandise which:

10          (a)    Is of a class of merchandise that is routinely advertised on at least a weekly  
11                basis in newspapers, shopping tabloids, or similar publications; and

12          (b)    Has a sales price before price reduction that is less than fifteen dollars per  
13                item;

14          (3)    Represent a sale of merchandise at reduced rates due to the cessation of business  
15                operations and after the date of the first advertisement remain in business under the  
16                same, or substantially the same, ownership or trade name, or continue to offer for sale  
17                the same type of merchandise at the same location for more than one hundred twenty  
18                days;

19          (4)    Give or offer a rebate, discount, or anything of value to ~~an individual~~ any person as  
20                an inducement for selling consumer property or services in consideration of the  
21                person giving the names of prospective purchasers or otherwise aiding in making a  
22                sale to another person, if the earning of the rebate, discount, or other thing of value  
23                is contingent upon the occurrence of an event subsequent to the time the ~~individual~~  
24                person agrees to the sale;

- 1       (5) Engage in any scheme or plan for disposal or distribution of merchandise whereby  
2             a participant pays a valuable consideration for the chance to receive compensation  
3             primarily for introducing one or more additional persons into participation in the  
4             planner's scheme or for the chance to receive compensation when the person  
5             introduced by the participant introduces a new participant;
- 6       (6) Send, deliver, provide, mail, or cause to be sent, delivered, provided, or mailed any  
7             unordered consumer property or service, or any bill or invoice for unordered  
8             consumer property or service provided;
- 9       (7) Advertise a rate, price, or fee for a hotel, motel, campsite, or other lodging  
10            accommodation which is not in fact available to the public under the terms  
11            advertised. It is not a violation of this subdivision to establish contract rates which  
12            are different than public rates;
- 13       (8) Charge a rate, price, or fee for a hotel, motel, campsite, or other lodging  
14            accommodation which is different than the rate, price, or fee charged on the first  
15            night of the guest's stay unless, at the initial registration of the guest, a written  
16            notification of each price, rate, or fee to be charged during the guest's reserved  
17            continuous stay is delivered to the guest and an acknowledgment of receipt of the  
18            notice is signed by the guest and kept by the innkeeper for the same period of time  
19            as is required by § 34-18-21;
- 20       (9) Knowingly and intentionally fail to mail to a future guest a written confirmation of  
21            the date and rates of reservations made for any accommodation at a hotel, motel,  
22            campsite, or other lodging accommodation when a written request for confirmation  
23            is received from the future guest;
- 24       (10) Refuse to return or reverse the charge for a deposit upon any hotel, motel, campsite,

1 or other lodging accommodation which is canceled by the guest more than thirty days  
2 before the date of the reservation. The innkeeper may establish a policy requiring a  
3 longer time for notice of cancellation or a handling fee in the event of cancellation,  
4 which may not exceed twenty-five dollars, if the policy is in writing and is delivered  
5 or mailed to the guest at or near the making of the reservation;

6 (11) Knowingly advertise or cause to be listed through the internet or in a telephone  
7 directory a business address that misrepresents where the business is actually located  
8 or that falsely states that the business is located in the same area covered by the  
9 telephone directory. This subdivision does not apply to a telephone service provider,  
10 an internet service provider, or a publisher or distributor of a telephone directory,  
11 unless the conduct proscribed in this subdivision is on behalf of the provider,  
12 publisher, or distributor;

13 (12) Sell, market, promote, advertise, or otherwise distribute any card or other purchasing  
14 mechanism or device that is not insurance that purports to offer discounts or access  
15 to discounts from pharmacies for prescription drug purchases if:

16 (a) The card or other purchasing mechanism or device does not expressly state in  
17 bold and prominent type, prevalently placed, that discounts are not insurance;

18 (b) The discounts are not specifically authorized by a separate contract with each  
19 pharmacy listed in conjunction with the card or other purchasing mechanism  
20 or device; or

21 (c) The discount or access to discounts offered, or the range of discounts or access  
22 to the range of discounts, is misleading, deceptive, or fraudulent, regardless  
23 of the literal wording.

24 The provisions of this subdivision do not apply to a customer discount or

1 membership card issued by a store or buying club for use in that store or buying  
2 club; or

3 (13) Send or cause to be sent an unsolicited commercial electronic mail message that does  
4 not include in the subject line of such message "ADV:" as the first four characters.  
5 If the message contains information that consists of explicit sexual material that may  
6 only be viewed, purchased, rented, leased, or held in possession by an individual  
7 eighteen years of age and older, the subject line of each message shall include  
8 "ADV:ADLT" as the first eight characters. An unsolicited commercial electronic  
9 mail message does not include a message sent to a person with whom the initiator has  
10 an existing personal or business relationship or a message sent at the request or  
11 express consent of the recipient.

12 Each act in violation of this section is a Class 2 misdemeanor. Any subsequent conviction  
13 ~~of an act in~~ for a violation of this statute, which occurs within two years is a Class 1  
14 misdemeanor. Any subsequent conviction ~~of an act in~~ for a violation of this statute, which  
15 occurs within two years of a conviction of a Class 1 misdemeanor pursuant to this statute, is a  
16 Class 6 felony.

17 Section 2. That § 37-24-33 be amended to read as follows:

18 37-24-33. No action under this chapter may be brought more than ~~two~~ four years after the  
19 occurrence or discovery of the conduct which is the subject of the action.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

119M0387

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 65** - 02/03/2006

Introduced by: Senators McCracken, Adelstein, Duniphan, Lintz, Napoli, and Sutton (Dan)  
and Representatives Haverly, Brunner, Buckingham, Faehn, Hennies, Klaudt,  
McCoy, Peters, and Thompson

1 FOR AN ACT ENTITLED, An Act to appropriate money for roof repairs at Western Dakota  
2 Technical Institute and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the state general fund the sum of two hundred  
5 eighty-six thousand dollars (\$286,000), or so much thereof as may be necessary, to the  
6 Department of Education for expenses of roof repairs at Western Dakota Technical Institute.

7 Section 2. The secretary of the Department of Education shall approve vouchers and the  
8 state auditor shall draw warrants to pay expenditures authorized by this Act.

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
10 June 30, 2007, shall revert in accordance with § 4-8-21.

11 Section 4. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
13 full force and effect from and after its passage and approval.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

445M0253

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 90** - 02/07/2006

Introduced by: Senators Bogue, Kelly, Knudson, and Schoenbeck and Representatives  
Deadrick and Gillespie

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the approval of plats  
2 and the format standards for certain real estate documents recorded with the register of  
3 deeds.

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

5 Section 1. That § 11-3-6 be amended to read as follows:

6 11-3-6. The provisions of this chapter apply to every addition to, or subdivision within, any  
7 county, municipality, or unincorporated town. If the land or any part of the land included in any  
8 addition or subdivision is within, adjoining, or contiguous to the boundaries of any municipality,  
9 the plat, before being recorded, shall be submitted to the governing body or, if applicable, the  
10 planning director of the municipality. If it appears that the system of streets set forth therein  
11 conforms to the system of streets of the existing plats of the municipality, that all provisions of  
12 any subdivision regulations have been complied with, that all taxes and special assessments  
13 upon the tract or subdivision have been fully paid, and that such plat and the survey thereof have  
14 been executed according to law, the governing body shall, by resolution, approve the plat. The  
15 governing body may by resolution designate an administrative official of the municipality to



1 approve plats in lieu of approval by the governing body. The auditor or finance officer shall  
2 endorse on the face of the plat a copy of the resolution or the designated administrative official's  
3 approval and certify to the same. No plat of any such addition or subdivision so situated ~~is~~  
4 ~~entitled to record~~ or may be recorded unless the plat bears on its face a copy of the resolution  
5 or approval and certificate of the auditor or finance officer. If the designated administrative  
6 official denies the plat request, the person requesting the plat may appeal to the governing body.

7 Section 2. That § 43-28-23 be amended to read as follows:

8 43-28-23. Any real estate document recorded with the register of deeds, except for plats,  
9 shall:

- 10 (1) Consist of one or more individual sheets measuring no larger than 8.5 inches by 14  
11 inches and no smaller than 8.5 inches by 11 inches. No sheet may be attached or  
12 affixed to a page that covers up any information or printed material on the document.  
13 Any continuous document or any document sheets that are stapled, glued, or bound  
14 together are subject to the additional fee established pursuant to subdivision 7-9-  
15 15(1);
- 16 (2) Be printed, typewritten, or computer generated ~~in black ink~~ and the print type of the  
17 document may not be smaller than 10-point type;
- 18 (3) Be on white paper of not less than twenty pound weight;
- 19 (4) Contain a blank space at the top measuring no less than three inches as measured  
20 from the top of the first page. The right half shall be used by the register of deeds for  
21 recording information and the left half shall be used by the document preparer as  
22 required pursuant to § 7-9-1 and may include a return designation and address. All  
23 other margins shall be a minimum of one inch;
- 24 (5) Have a title prominently displayed at the top of the first page below the blank space

1 referred to in subdivision (4) of this section;

2 (6) Be sufficiently legible to reproduce a readable copy using the register of deed's  
3 current method of reproduction; and

4 (7) Conform to the standards provided in this section or be subject to the increased fees  
5 as provided in § 7-9-15.

6 However, the register of deeds may not charge an increased fee for any document that has  
7 a seal or stamp in a margin. Any affidavit of publication, corner record, survey, certified court  
8 or governmental document, and UCC form recorded against real estate is exempt from the  
9 provisions of this section. Any plat or survey and certified vital record attached to documents  
10 is also exempt from the provisions of this section.

11 The provisions of this section do not apply to any real estate document prepared and  
12 executed prior to July 1, 2002.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

771M0088

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 107** - 01/24/2006

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Hansen (Tom), Knudson, and Sutton (Duane) and Representatives Sebert, Buckingham, Cutler, Hennies, Kroger, Michels, Putnam, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the definition of manufacturer as it relates to the  
2 ownership of certain motor vehicle dealerships and to declare an emergency.

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

4 Section 1. That § 32-6B-79 be amended to read as follows:

5 32-6B-79. In §§ 32-6B-79 to 32-6B-83, inclusive, the term, manufacturer, includes a  
6 representative or a person or entity who is directly or indirectly controlled by, or is under  
7 common control with, the manufacturer. For purposes of this section, a person or entity is  
8 controlled by a manufacturer if the manufacturer has the authority directly or indirectly, by law  
9 or by agreement of the parties, to direct or influence the management and policies of the person  
10 or entity. However, the term, manufacturer, does not include any person or entity who  
11 manufactures or assembles less than two hundred fifty motorcycles a year or who manufactures  
12 or assembles trailers.

13 Section 2. Whereas, this Act is necessary for the support of the state government and its  
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



1 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

329M0213

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 118** - 02/07/2006

Introduced by: Senators Gant, Broderick, Duniphan, Earley, Gray, McCracken, and McNenny and Representatives Buckingham, Elliott, McCoy, Nelson, O'Brien, Peters, Rausch, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the type of personal  
2 identification required when voting.

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

4 Section 1. That § 12-18-6.1 be amended to read as follows:

5 12-18-6.1. When a the voter is requesting a ballot, the voter shall present a valid form of  
6 personal identification. The personal identification that may be presented shall be either:

- 7 (1) A South Dakota driver's license or nondriver identification card;
- 8 (2) A passport or an identification card, including a picture, issued by an agency of the  
9 United States government;
- 10 (3) A tribal identification card, including a picture; or
- 11 (4) ~~An~~ A current student identification card, including a picture, issued by a high school  
12 or an accredited institution of higher education, including a university, college, or  
13 technical school, ~~located within the State of South Dakota.~~



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

772M0264

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 148** - 02/10/2006

Introduced by: Senators Abdallah, Dempster, Duniphan, Earley, Gant, Gray, Hansen (Tom), Kelly, Koskan, McCracken, Schoenbeck, Smidt, Sutton (Dan), and Sutton (Duane) and Representatives Cutler, Bradford, Brunner, Davis, Deadrick, Dennert, Dykstra, Faehn, Frost, Garnos, Gassman, Glenski, Hackl, Halverson, Hanks, Hargens, Haverly, Heineman, Hennies, Hills, Howie, Hunhoff, Hunt, Jerke, Klaudt, Kraus, Krebs, Kroger, McCoy, Michels, Miles, Murschel, Nelson, Novstrup, O'Brien, Pederson (Gordon), Rave, Rhoden, Rounds, Schafer, Street, Tornow, Turbiville, Valandra, Van Etten, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the sex offender  
2 registry and the supervision of sex offenders.

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

4 Section 1. That § 22-24B-1 be amended to read as follows:

5 22-24B-1. For the purposes of §§ 22-24B-2 to 22-24B-14, inclusive, a sex crime is any of  
6 the following crimes regardless of the date of the commission of the offense or the date of  
7 conviction:

8 (1) Rape as set forth in § 22-22-1;

9 (2) ~~Sexual~~ Felony sexual contact with a minor under sixteen as set forth in § 22-22-7 if  
10 committed by an adult ~~and the adult is convicted of a felony;~~

11 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2 ~~if~~



- 1 committed by an adult;
- 2 (4) Incest as set forth in ~~§ 22-22-19.1~~ if committed by an adult;
- 3 (5) Possessing, manufacturing, or distributing child pornography as set forth in § 22-  
4 24A-3;
- 5 (6) Sale of child pornography as set forth in § 22-24A-1;
- 6 (7) Sexual exploitation of a minor as set forth in § 22-22-24.3;
- 7 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;
- 8 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);
- 9 (10) Criminal pedophilia as previously set forth in § 22-22-30.1;
- 10 (11) Felony indecent exposure as previously set forth in former § 22-24-1 or indecent  
11 exposure as set forth in § 22-24-1.2;
- 12 (12) Solicitation of a minor as set forth in § 22-24A-5;
- 13 (13) Felony ~~aggravated~~ indecent exposure as set forth in § 22-24-1.3;
- 14 (14) Bestiality as set forth in § 22-22-42;
- 15 (15) An attempt to commit any of the crimes listed in this section;
- 16 (16) Any crime committed in a place other than this state which would constitute a sex  
17 crime under this section if committed in this state;
- 18 (17) Any federal crime or court martial offense that would constitute a sex crime under  
19 federal law;
- 20 (18) Any crime committed in another state if that state also requires that anyone convicted  
21 of that crime register as a sex offender in that state; or
- 22 (19) If the victim is a minor:
- 23 (a) Any sexual acts between a jail employee and a detainee as set forth in § 22-22-  
24 7.6;

1 (b) Any sexual contact by a psychotherapist as set forth in § 22-22-28; or

2 (c) Any sexual penetration by a psychotherapist as set forth in § 22-22-29.

3 Section 2. That § 22-24B-2 be amended to read as follows:

4 22-24B-2. Any person who has been convicted for commission of a sex crime, as defined  
5 in § 22-24B-1, shall register as a sex offender. The term, convicted, includes a verdict or plea  
6 of guilty, a plea of nolo contendere, and a suspended imposition of sentence which has not been  
7 discharged pursuant to 23A-27-14 prior to July 1, 1995. Any juvenile fifteen years or older shall  
8 register as a sex offender if that juvenile has been adjudicated of a sex crime as defined in ~~§ 22-~~  
9 ~~22-20(9), 22-22-7.2, or 22-24B-1~~ § 22-22-7.2, 22-24B-1(1), or 22-24B-1(9), or of an out-of-  
10 state or federal offense that is comparable to the elements of these three sex crimes or any crime  
11 committed in another state if the state also requires a juvenile adjudicated of that crime to  
12 register as a sex offender in that state. The sex offender shall register within ~~ten~~ five days of  
13 coming into any county to reside, temporarily domicile, attend school, attend postsecondary  
14 education classes, or work. Registration shall be with the chief of police of the municipality in  
15 which the sex offender resides, domiciles, attends school, attends classes, or works, or, if no  
16 chief of police exists, then with the sheriff of the county. A violation of this section is a ~~Class~~  
17 ~~1 misdemeanor. However, any subsequent violation is a~~ Class 6 felony. Any person whose  
18 sentence is discharged under § 23A-27-14 after July 1, 1995, shall forward a certified copy of  
19 such formal discharge or release from probation by certified mail to the Division of Criminal  
20 Investigation and to local law enforcement where the person is then registered under this  
21 section. Upon receipt of such notice, the person shall be removed from the sex offender registry  
22 open to public inspection and shall be relieved of further registration requirements under this  
23 section.

24 Section 3. That § 22-24B-5 be amended to read as follows:

1       22-24B-5. The Division of Criminal Investigation shall mail a nonforwardable verification  
2 form at least once annually to the last reported address of each person registered under § 22-  
3 24B-2. The person shall return the verification form to the Division of Criminal Investigation  
4 within ten days after receipt of any such form. The verification form shall be signed by the  
5 person required to register and shall state that the person still resides at the address last reported  
6 to the Division of Criminal Investigation. If the person fails to return the verification form to  
7 the Division of Criminal Investigation within ten days after receipt of the form, the person is in  
8 violation of this section. Nonreceipt of a registration verification does not constitute a defense  
9 to failure to comply with this section. A violation of this section is a ~~Class 1 misdemeanor. Any~~  
10 ~~subsequent violation~~ is a Class 6 felony.

11       Section 4. That chapter 22-24B be amended by adding thereto a NEW SECTION to read as  
12 follows:

13       The chief of police in the municipality in which the sex offender resides, or if no chief of  
14 police exists, the sheriff of the county, shall annually confirm that the address listed on the sex  
15 offender registry matches the residence of each registered sex offender. Such confirmation shall  
16 be submitted to the Division of Criminal Investigation.

17       Section 5. That § 22-24B-6 be amended to read as follows:

18       22-24B-6. Any person who is registered as required by § 22-24B-2 and who is employed,  
19 carries on a vocation, or attends postsecondary classes at an institution of higher education,  
20 institution of higher learning, or technical institute in this state shall, within ~~ten~~ five days of any  
21 commencement and within ~~ten~~ five days of termination of such enrollment or employment or  
22 change in employer, report to the chief of police or county sheriff where the institution is located  
23 and complete a registration update form. A violation of this section is a ~~Class 1 misdemeanor.~~  
24 ~~Any subsequent violation~~ is a Class 6 felony.

1 Section 6. That § 22-24B-7 be amended to read as follows:

2 22-24B-7. Any person who is subject to the provisions of § 22-24B-2 shall annually  
3 reregister every six months in the same manner as may be provided by law for initial  
4 registration. Such person shall reregister during the calendar month during which the registrant  
5 was born. ~~However, if such person has previously registered pursuant to the provisions of § 22-~~  
6 ~~24B-2 within ninety days immediately prior to the date of such person's birth, no subsequent~~  
7 ~~reregistration is required pursuant to this section during the current annual reregistration cycle~~  
8 and six months following the person's birth month.

9 A violation of this section is a ~~Class 1 misdemeanor. However, any subsequent violation is~~  
10 ~~a~~ Class 6 felony.

11 Section 7. That § 22-24B-8 be amended to read as follows:

12 22-24B-8. The registration shall include the following information which, unless otherwise  
13 indicated, shall be provided by the offender:

- 14 (1) Name and all aliases used;
- 15 (2) Complete description, photographs, ~~and~~ fingerprints and palm prints collected and  
16 provided by the registering agency;
- 17 (3) Residence, length of time at that residence including the date the residence was  
18 established, and length of time expected to remain at that residence;
- 19 (4) The type of sex crime convicted of; ~~and~~
- 20 (5) The date of commission and the date of conviction of any sex crime committed;
- 21 (6) Social Security number on a separate confidential form;
- 22 (7) Driver license number and state of issuance;
- 23 (8) Whether or not the registrant is receiving or has received any sex offender treatment;
- 24 (9) Employer name, address, and phone number or school name, address, and phone

- 1           number;
- 2       (10) Length of employment or length of attendance at school; ~~and~~
- 3       (11) Occupation or vocation;
- 4       (12) Vehicle license plate number of any vehicle owned by the offender;
- 5       (13) Information identifying any internet accounts of the offender as well as any user
- 6           names, screen names, and aliases that the offender uses on the internet;
- 7       (14) A listing of all felony convictions, in any jurisdiction, for crimes committed as an
- 8           adult and sex offense convictions and adjudications subject to sex offender registry
- 9           provided by the offender and confirmed by the registering agency;
- 10      (15) A description of the offense, provided by the prosecuting attorney;
- 11      (16) Acknowledgment whether the offender is currently an inmate, parolee, juvenile in
- 12           department of corrections placement or under aftercare supervision, county or city
- 13           jail inmate or detainee in a juvenile detention center, provided by the offender and
- 14           confirmed by the administering body of the correctional facility;
- 15      (17) Acknowledgment whether the offender is subject to community safety zone
- 16           restrictions, provided by the registering agency; and
- 17      (18) The name, address and phone number of two local contacts, who have regular
- 18           interaction with the offender and the name, address and phone number of the
- 19           offender's next of kin.

20       In addition, at the time of the offender's registration, the registering agency will collect a

21       DNA sample and submit the sample to the South Dakota State Forensic Laboratory in

22       accordance with procedures established by the South Dakota State Forensic Laboratory. The

23       collection of DNA at the time of the registration is not required if the registering agency can

24       confirm that DNA collection and submission to the South Dakota State Forensic Laboratory has

1 already occurred.

2 Any failure by the offender to accurately provide the information required by this section  
3 is a ~~Class 1 misdemeanor~~ Class 6 felony.

4 Section 8. That § 22-24B-10 be amended to read as follows:

5 22-24B-10. Within three days of registering a person pursuant to §§ 22-24B-1 to 22-24B-14,  
6 inclusive, the registering law enforcement agency shall forward the information to the Division  
7 of Criminal Investigation. The Division of Criminal Investigation shall maintain a file of all the  
8 registrations and shall make them available to state, county, and municipal law enforcement  
9 agencies on a twenty-four hour basis. An offender's registration compliance status and  
10 registration information, other than the registrant's social security number, victim name, DNA  
11 sample, and the names, addresses, and phone numbers for local contacts and next of kin are  
12 public information. The provisions of §§ 23-5-11 and 23-6-14 do not apply to providing files  
13 pursuant to §§ 22-24B-1 to 22-24B-14, inclusive. ~~The Division of Criminal Investigation file~~  
14 ~~is not open to inspection by the public or any other person other than a law enforcement officer~~  
15 ~~except as specifically provided in § 22-24B-11.~~

16 Section 9. That § 22-24B-12 be amended to read as follows:

17 22-24B-12. Any person required to register pursuant to §§ 22-24B-1 to 22-24B-14,  
18 inclusive, who moves to a different residence address shall inform the law enforcement agency  
19 with whom the person last registered of the new address, in writing, within ~~ten~~ five days. The  
20 law enforcement agency shall, within three days of receipt, forward the information to the  
21 Division of Criminal Investigation and to the law enforcement agency having jurisdiction of the  
22 new residence. A failure to register pursuant to this section is a ~~Class 1 misdemeanor~~. ~~Any~~  
23 ~~second or subsequent failure to register pursuant to this section is a Class 6 felony.~~

24 Section 10. That chapter 22-24B be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Any person who has been convicted of, or entered a plea of guilty to, one or more violations  
3 of §§ 22-24B-2, 22-24B-5, 22-24B-6, 22-24B-7, 22-24B-8 or 22-24B-12 is guilty of a Class 5  
4 felony for any second or subsequent conviction of §§ 22-24B-2, 22-24B-5, 22-24B-6, 22-24B-7,  
5 22-24B-8 or 22-24B-12.

6 Section 11. That chapter 23-5A be amended by adding thereto a NEW SECTION to read  
7 as follows:

8 Any person who is required to register as a sex offender pursuant to §§ 22-24B-1 to 22-24B-  
9 14, inclusive, shall provide a DNA sample as required in chapter 23-5A.

10 Section 12. That § 23A-27-12.1 be amended to read as follows:

11 23A-27-12.1. Upon receipt of an order that a defendant has been placed on probation to the  
12 court service department, the chief court services officer shall immediately assign the defendant  
13 to a court services officer for probation supervision.

14 All such probationers shall cooperate fully with the court services officer and comply with  
15 all directives thereby issued in their regard. If the sentencing judge has provided special  
16 conditions, including limited areas of residence or community access, required participation in  
17 treatment, enhanced reporting requirements, and use of electronic monitoring or global  
18 positioning units, for either a probationer or one released on a suspended sentence, then such  
19 person shall comply with such special conditions, and the court services officer is hereby  
20 charged with the responsibility for effecting compliance with such conditions.

21 Whenever the sentencing judge assesses probation costs as a condition of probation, the  
22 costs shall be paid to the clerk of the court who shall forward such costs on a monthly basis to  
23 the county treasurer for deposit in the county general fund.

24 Section 13. That § 24-15A-24 be amended to read as follows:

1       24-15A-24. The board and the department may place reasonable restrictions upon a parolee  
2       which are designed to continue the parolee's rehabilitation, including limited areas of residence  
3       or community access, required participation in treatment, enhanced reporting requirements, and  
4       use of electronic monitoring or global positioning units. The board and the department shall  
5       require the implementation of a restitution plan and payment of supervision fees, if reasonably  
6       possible. The prior obligations of child support and restitution payments take precedence over  
7       collection of supervision fees. All restrictions shall be in writing and shall be agreed to and  
8       signed by the parolee.

9       Section 14. No law enforcement agency, employee of any law enforcement agency,  
10      employee or official of any state and county agency and person contracting or appointed to  
11      perform services under this Act is civilly or criminally liable for good faith conduct under this  
12      Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

772M0263

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 149** - 02/10/2006

Introduced by: Senators Abdallah, Dempster, Duniphan, Earley, Gant, Gray, Hansen (Tom), Kelly, Knudson, Koskan, Lintz, McCracken, Schoenbeck, Smidt, Sutton (Dan), and Sutton (Duane) and Representatives Cutler, Bradford, Brunner, Davis, Deadrick, Dennert, Dykstra, Faehn, Frost, Garnos, Glenski, Hackl, Hanks, Haverly, Heineman, Hennies, Hills, Howie, Hunhoff, Hunt, Jerke, Klaudt, Kraus, Krebs, Kroger, McCoy, Michels, Miles, Murschel, Nelson, Novstrup, O'Brien, Pederson (Gordon), Rhoden, Rounds, Schafer, Turbiville, Valandra, Van Etten, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to create community safety zones, to prohibit certain  
2 persons from residing or loitering in community safety zones, to provide penalties for  
3 violations thereof, and to declare an emergency.

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

5 Section 1. Terms used in this Act mean:

6 (1) "Community safety zone," the area that lies within five hundred feet from the  
7 facilities and grounds of any school, public park, public playground, or public pool,  
8 including the facilities and grounds itself;

9 (2) "Loiter," to remain for a period of time and under circumstances that a reasonable  
10 person would determine is for the primary purpose of observing or contacting  
11 minors;

12 (3) "School," any public, private, denominational, or parochial school offering preschool,



1 kindergarten, or any grade from one through twelve;

2 (4) "Residence," the address an offender lists for purposes of the sex offender registry  
3 as provided for in subdivision § 22-24B-8(3).

4 Section 2. No person who is required to register as a sex offender pursuant to chapter 22-  
5 24B may establish a residence or reside within a community safety zone unless:

6 (1) The person is incarcerated in a jail or prison or other correctional placement which  
7 is located within a community safety zone;

8 (2) The person is placed in a health care facility licensed pursuant to chapter 34-12, or  
9 certified under Title XVIII or XIX of the Social Security Act as amended to  
10 December 31, 2001, or receiving services from a community service provider  
11 accredited or certified by the Department of Human Services, which is located within  
12 a community safety zone;

13 (3) The person was under age eighteen at the time of the offense and the offender was  
14 not tried and convicted of the offense as an adult;

15 (4) The person established the residence prior to the effective date of this Act;

16 (5) The school, public park, public pool, or public playground was built or established  
17 subsequent to the person's establishing residence at the location; or

18 (6) The circuit court has entered an order pursuant to section 7 of this Act exempting the  
19 offender from the provisions of this Act.

20 A violation of this section is a Class 6 felony. Any subsequent violation is a Class 5 felony.

21 Section 3. No person who is required to register as a sex offender as defined in chapter 22-  
22 24B may loiter within a community safety zone unless the person was under age eighteen at the  
23 time of the offense and the offender was not tried and convicted of the offense as an adult or the  
24 circuit court has entered an order pursuant to section 7 of this Act exempting the offender from

1 the provisions of this Act.

2 A violation of this section is a Class 6 felony. Any subsequent violation is a Class 5 felony.

3 Section 4. No city, county, municipality, or township may, by local ordinance, restrict or  
4 mitigate residence or community access for convicted sex offenders inconsistent with the  
5 provisions of this Act.

6 Section 5. An offender subject to community safety zone restrictions pursuant to this Act  
7 who is eligible to seek exemption from these restrictions as provided for in section 6 of this Act  
8 may petition the circuit court in the county where the person resides for an order to terminate  
9 the person's obligation to comply with the community safety zone restrictions. The offender  
10 shall serve the petition and all supporting documentation on the state's attorney in the county  
11 where the offender currently resides, the office of the prosecutor in the jurisdiction where the  
12 offense occurred, and the Office of the Attorney General. The state's attorney in the county  
13 where the offender currently resides shall respond to each petition to request exemption from  
14 the community safety zone restrictions.

15 No person petitioning the court under this section for an order terminating the persons's  
16 obligation to comply with community safety zone restrictions is entitled to court appointed  
17 counsel, publicly funded experts, or publicly funded witnesses.

18 The petition and documentation to support the request for exemption from the community  
19 safety zone restrictions shall include:

- 20 (1) All information required for registration of convicted sex offenders in § 22-24B-8;
- 21 (2) A detailed description of the sex crime that was the basis for the offender to be  
22 subject to community safety zone restrictions;
- 23 (3) A certified copy of judgment of conviction or other sentencing document; and
- 24 (4) The offender's criminal record.

1       The court may request that the petitioner provide additional information if the information  
2 provided is incomplete or if the court desires more information relative to the request for  
3 exemption.

4       Section 6. To be eligible for exemption from the community safety zone restrictions, the  
5 petitioner shall show, by clear and convincing evidence, the following:

6       (1) That at least ten years have elapsed since the date the petitioner was convicted of the  
7 offense that subjected the petitioner to community safety zone restrictions pursuant  
8 to this Act. For purposes of this subdivision, any period of time during which the  
9 petitioner was incarcerated or during which the petitioner was confined in a mental  
10 health facility or during which the petitioner was on probation or parole supervision  
11 does not count toward the ten-year calculation, regardless of whether such  
12 incarceration, confinement or community supervision was for the sex offense  
13 requiring registration or for some other offense;

14       (2) That the petitioner is not a recidivist sex offender. A recidivist sex offender is a  
15 person who has been convicted or adjudicated for more than one sex crime listed in  
16 subdivisions 22-24B-1(1) to (19), inclusive, regardless of when those convictions or  
17 adjudications occurred. For purposes of this subdivision and subdivision (1) of this  
18 section, a conviction or adjudication includes a verdict or plea of guilty; a verdict or  
19 plea of guilty but mentally ill; a plea of nolo contendere; a suspended imposition of  
20 sentence granted under § 23A-27-13, regardless of whether it has been discharged;  
21 a deferred prosecution agreement entered by a prosecutor; and a determination made  
22 in another state, federal jurisdiction, or courts martial that is comparable to any of  
23 these events;

24       (3) That the petitioner has completely and truthfully complied with the registration and

1 reregistration requirements imposed under chapter 22-24B;

2 (4) That the petitioner has actually resided in South Dakota at least ten consecutive years  
3 immediately prior to the filing of the petition. Residence as used in this subdivision  
4 does not mean the registration address of an incarcerated sex offender; and

5 (5) The circumstances of the crime subjecting the offender to community safety zone  
6 restrictions did not involve a child under age thirteen.

7 Section 7. If the court finds that all of the criteria provided for in section 6 of this Act have  
8 been met and that the petitioner is not likely to offend again, then the court may, in its  
9 discretion, enter an order terminating the petitioner's obligation to comply with the community  
10 safety zone restrictions of this state. However, if the court finds that the offender has provided  
11 false or misleading information in support of the petition, or failed to serve the petition and  
12 supporting documentation upon the parties provided for in section 5 of this Act, then the petition  
13 shall be denied. If the petition is denied, the petitioner may not file a subsequent petition for at  
14 least two years from the date the previous petition was denied. The court shall forward any order  
15 terminating the petitioner's obligation to comply with community safety zone restrictions to the  
16 Division of Criminal Investigation.

17 Section 8. That § 22-22-38 be amended to read as follows:

18 22-22-38. Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive,  
19 who is discharged or paroled or temporarily released from an institution of the Department of  
20 Corrections or the Department of Human Services or from any jail or other facility in this state  
21 where the person was confined because of a conviction of an offense as described in § 22-22-30  
22 shall, prior to discharge, parole, furlough, work release, or similar program outside the facility,  
23 or release, be informed of the duty to register under §§ 22-22-30 to 22-22-39, inclusive, and  
24 informed of community safety zone restrictions, by the institution in which the person was

1 confined. The institution shall require the person to read and sign any forms as may be required  
2 by the Division of Criminal Investigation stating that the duty to register, community safety zone  
3 restrictions, and the procedure for registration ~~has~~ have been explained. The institution shall  
4 obtain the address where the person plans to reside upon discharge, parole, furlough, work  
5 release, or similar program outside the facility, or release and shall report the address to the  
6 Division of Criminal Investigation. The institution shall give one copy of the form to the person  
7 and shall send one copy to the Division of Criminal Investigation and one copy to the law  
8 enforcement agency having jurisdiction where the person plans to reside upon discharge, parole,  
9 furlough, work release, or similar program outside the facility, or release, and one copy to the  
10 office of the state's attorney in the county in which the person was convicted.

11 Section 9. That § 22-22-39 be amended to read as follows:

12 22-22-39. Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive,  
13 who is released on probation because of the commission or attempt to commit one of the  
14 offenses as described in § 22-22-30 shall, prior to release be informed of the duty to register  
15 under §§ 22-22-30 to 22-22-39, inclusive, and informed of community safety zone restrictions,  
16 by the court in which the person was convicted. The court shall require the person to read and  
17 sign any forms as may be required by the Division of Criminal Investigation stating that the duty  
18 to register, community safety zone restrictions, and the procedure for registration ~~has~~ have been  
19 explained. The court shall obtain the address where the person plans to reside upon release and  
20 shall report the address to the Division of Criminal Investigation. The court shall give one copy  
21 of the form to the person and shall send one copy to the Division of Criminal Investigation and  
22 one copy to the law enforcement agency having jurisdiction where the person plans to reside  
23 upon release.

24 Section 10. Whereas, this Act is necessary for the immediate preservation of the public

- 1 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full
- 2 force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

589M0401      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. SB 151 - 02/10/2006**

Introduced by: Senators Schoenbeck, Abdallah, Apa, Bogue, Duenwald, Duniphan, Greenfield, Hansen (Tom), Hanson (Gary), Koskan, McCracken, and Moore and Representatives Michels, Cutler, Davis, Dennert, Faehn, Fryslie, Garnos, Hackl, Halverson, Hanks, Haverly, Hennies, Jerke, Koistinen, Nelson, Pederson (Gordon), Peters, Putnam, Rausch, Rave, and Tidemann

1    FOR AN ACT ENTITLED, An Act to define the local government contribution for the  
2        construction of an armory.

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

4        Section 1. That § 33-11-6 be amended to read as follows:

5        33-11-6. The Department of Military and Veterans Affairs shall also have the power to  
6    receive from counties, school districts, municipalities, or other sources, donations of land or  
7    contributions of money, buildings, or other property, to aid in providing or erecting armories and  
8    other facilities throughout the state for the use of the national guard and which shall be held as  
9    other property for the use of the state.

10       Section 2. That § 33-11-7 be amended to read as follows:

11       33-11-7. Counties, school districts, or municipalities are hereby authorized to make  
12    contributions of land, money, buildings, or other property for the purposes of this chapter; ~~and,~~  
13    Also, each first or second class municipality of the state is hereby authorized and empowered



1 to levy a tax upon all property therein subject to taxation to raise the necessary money for such  
2 armory building or other facility and site; provided that no money raised by such tax shall be  
3 donated or tax levied until the same is authorized by a vote of a majority of the electors in such  
4 municipality at an election called for that purpose. Any contribution of money from a county,  
5 school district, or municipality for the construction of an armory shall be matched with a sum  
6 appropriated from the state treasury that is not greater than fifty percent of the total local effort  
7 required by the Department of Military and Veterans Affairs or the United States Department  
8 of Defense.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

958M0428

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 152** - 01/25/2006

Introduced by: Senators Schoenbeck, Abdallah, Apa, Bogue, Duenwald, Duniphan, Greenfield, Hansen (Tom), Hanson (Gary), Koskan, McCracken, and Moore and Representatives Hackl, Cutler, Davis, Dennert, Faehn, Fryslie, Garnos, Halverson, Hennies, Jerke, Klaudt, Koistinen, Michels, Nelson, Pederson (Gordon), Putnam, Rausch, Rave, and Tidemann

1 FOR AN ACT ENTITLED, An Act to appropriate money for the design and construction of  
2 National Guard armories and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one million seven  
5 hundred eighty-nine thousand dollars (\$1,789,000), or so much thereof as may be necessary, and  
6 twenty-one million one hundred twenty thousand dollars (\$21,120,000), or so much thereof as  
7 may be necessary, of federal funds authority available to the Department of Military and  
8 Veterans Affairs for the design and construction of an armory in Watertown.

9 Section 2. The amounts appropriated in section 1 of this Act are for the following purposes:

10 (1) Armory design, one hundred seventy-eight thousand nine hundred dollars (\$178,900)  
11 from the general fund and one million nine hundred twenty thousand dollars  
12 (\$1,920,000) from federal funds available to the Department of Military and Veterans  
13 Affairs;



1       (2)    Armory construction, one million six hundred ten thousand one hundred dollars  
2           (\$1,610,100) from the general fund and nineteen million two hundred thousand  
3           dollars (\$19,200,000) from federal funds available to the Department of Military and  
4           Veterans Affairs.

5       Section 3. There is hereby appropriated from the general fund the sum of five hundred fifty  
6   thousand dollars (\$550,000), or so much thereof as may be necessary, and three million three  
7   hundred thousand dollars (\$3,300,000), or so much thereof as may be necessary, of federal funds  
8   authority available to the Department of Military and Veterans Affairs for the design and  
9   construction of an armory in Mobridge.

10      Section 4. The amounts appropriated in section 3 of this Act are for the following purposes:

11      (1)    Armory design, fifty-five thousand dollars (\$55,000) from the general fund and three  
12           hundred thousand dollars (\$300,000) from federal funds available to the Department  
13           of Military and Veterans Affairs;

14      (2)    Armory construction, four hundred ninety-five thousand dollars (\$495,000) from the  
15           general fund and three million dollars (\$3,000,000) from federal funds available to  
16           the Department of Military and Veterans Affairs.

17      Section 5. In addition to the amounts appropriated in sections 1 and 3 of this Act, the  
18   Department of Military and Veterans Affairs may accept and expend for the purpose of this Act  
19   any funds obtained from gifts, contributions, or any other source if the acceptance and  
20   expenditure is approved in accordance with § 4-8B-10.

21      Section 6. The design and construction of this project shall be under the general charge and  
22   supervision of the Department of Military and Veterans Affairs. The money appropriated in  
23   sections 1 and 3 of this Act shall be paid on warrants drawn by the state auditor on vouchers  
24   approved by the adjutant general of the Department of Military and Veterans Affairs or the state

1 engineer.

2 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated shall  
3 revert in accordance with § 4-8-21.

4 Section 8. Whereas, this Act is necessary for the support of the state government and its  
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
6 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

661M0199

## SENATE ENGROSSED NO. **SB 185** - 01/31/2006

Introduced by: Senators Duenwald, Abdallah, Apa, Bartling, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, McNenny, Napoli, Olson (Ed), Schoenbeck, Smidt, Sutton (Dan), and Two Bulls and Representatives McCoy, Davis, Frost, Fryslie, Hackl, Hunt, Jerke, Kraus, Lange, Rausch, Rave, Schafer, Tornow, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to require inspections of certain facilities by the Department  
2 of Health.

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

4 Section 1. That § 34-23A-1 be amended by adding thereto NEW SUBDIVISIONS to read  
5 as follows:

6 "Abortion facility," a place where abortions are performed;

7 "Department," the South Dakota Department of Health;

8 Section 2. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
9 as follows:

10 Except as provided by section 3 of this Act, no person may establish or operate an abortion  
11 facility in this state without an appropriate license issued under this Act. Each abortion facility  
12 shall have a separate license. No abortion facility license is transferrable or assignable.

13 Section 3. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
14 as follows:



1 The following facilities need not be licensed under this Act:

2 (1) A health care facility licensed pursuant to chapter 34-12; or

3 (2) The office of a physician licensed pursuant to chapter 36-4 unless the office is used  
4 for performing abortions.

5 Section 4. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
6 as follows:

7 An applicant for an abortion facility license shall submit an application to the department  
8 on a form prescribed by the department. The application shall be accompanied by a  
9 nonrefundable license fee in an amount set by the department by rules promulgated pursuant to  
10 chapter 1-26. The license fee may not exceed two thousand dollars. The application shall  
11 contain evidence that there are one or more physicians on the staff of the facility who are  
12 licensed by the State Board of Medical and Osteopathic Examiners. The department shall issue  
13 a license if, after inspection and investigation, it finds that the applicant and the abortion facility  
14 meet the requirements of this Act and the standards promulgated in rules adopted pursuant to  
15 this Act. As a condition for renewal of a license, the licensee shall submit to the department the  
16 annual license renewal fee set by rules promulgated pursuant to chapter 1-26.

17 Section 5. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
18 as follows:

19 The department may inspect an abortion facility at reasonable times as necessary to ensure  
20 compliance with this Act. The department shall inspect an abortion facility before renewing the  
21 facility's license.

22 Section 6. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
23 as follows:

24 Any fees collected under this Act shall be deposited in the abortion facility licensing fund

1 and are continuously appropriated to administer and enforce this Act.

2 Section 7. That chapter 34-23A be amended by adding thereto a NEW SECTION to read  
3 as follows:

4 The department shall adopt rules pursuant to chapter 1-26 for the issuance, renewal, denial,  
5 suspension, and revocation of a license to operate an abortion facility. The department shall  
6 adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health  
7 and safety of a patient of an abortion facility. The rules shall establish minimum standards  
8 regarding:

- 9 (1) Facility safety and sanitation;
- 10 (2) Qualifications and supervision of professional and nonprofessional personnel;
- 11 (3) Emergency equipment and procedures to provide emergency care;
- 12 (4) Medical records and reports;
- 13 (5) Procedure and recovery rooms;
- 14 (6) Infection control;
- 15 (7) Medication control;
- 16 (8) Quality assurance;
- 17 (9) Facility and laboratory equipment requirements, sanitation, testing, and maintenance;
- 18 (10) Information on and access to patient follow-up care; and
- 19 (11) Patient screening, assessment, and monitoring.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0646

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED NO. **SB 203** - 02/03/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to the statewide  
2 sex offender registry and to declare an emergency.

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

4 Section 1. There is hereby appropriated ten thousand dollars (\$10,000), or so much thereof  
5 as may be necessary, from other funds to the Office of the Attorney General for costs related to  
6 the statewide sex offender registry. The Office of the Attorney General may accept and expend  
7 funds obtained from gifts and contributions. Such funds may be expended for computer  
8 programming, for the collection of information and in the entry of information required for a  
9 statewide sex offender registry.

10 Section 2. The attorney general shall approve vouchers and the state auditor shall draw  
11 warrants to pay expenditures authorized by section 1 of this Act.

12 Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace,  
13 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
14 effect from and after its passage and approval.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0673

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 207** - 02/08/2006

Introduced by: The Committee on Health and Human Services at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the sale,  
2 purchasing, and possession of products containing pseudoephedrine or ephedrine.

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

4 Section 1. That § 34-20D-1 be amended to read as follows:

5 34-20D-1. No retailer may sell, in a single transaction, more than two packages containing  
6 pseudoephedrine or ephedrine as an active ingredient. For purposes of this chapter, the term,  
7 retailer, means any person who sells merchandise at retail and from whom original packages of  
8 nonprescription drugs are sold or taken to be sold at retail and who is licensed by the Board of  
9 Pharmacy to sell nonprescription drugs. This restriction does not apply to any sale made  
10 pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2  
11 with appropriate authority. Any retailer or any employee of a retailer who sells packages  
12 containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1  
13 misdemeanor.

14 Section 2. That § 34-20D-2 be amended to read as follows:

15 34-20D-2. No person may purchase, in a single transaction, more than two packages



1 containing pseudoephedrine or ephedrine as an active ingredient. This restriction does not apply  
2 to purchases made with a valid prescription drug order prescribed by a practitioner as defined  
3 in § 36-11-2 with appropriate authority. Any person who purchases packages containing  
4 pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

5 Section 3. That § 34-20D-3 be amended to read as follows:

6 34-20D-3. Any retailer who offers for sale a product containing pseudoephedrine ~~as the~~  
7 ~~product's sole~~ or ephedrine as an active ingredient shall display and offer the product for sale,  
8 except as otherwise provided, behind a counter where the public is not permitted or in a locked  
9 case so that a customer wanting access to the package must ask a store employee for assistance.  
10 The retailer may display or offer for sale without restriction a product containing  
11 pseudoephedrine ~~as the sole~~ or ephedrine as an active ingredient if the product is displayed using  
12 any type of anti-theft device system including an electronic anti-theft device system that utilizes  
13 a product tag and detection alarm which prevents the theft of the product. ~~This section does not~~  
14 ~~apply to any package of a product containing pseudoephedrine as the product's sole active~~  
15 ~~ingredient which is in liquid, liquid cap, or gel cap form or any package of a product containing~~  
16 ~~pseudoephedrine as the product's sole active ingredient which is primarily intended for~~  
17 ~~administration to children under twelve years of age, according to the product's label, regardless~~  
18 ~~of whether the product is in liquid or solid form.~~

19 Section 4. That § 34-20D-4 be repealed.

20 ~~34-20D-4. Any retailer who offers for sale any combination product containing~~  
21 ~~pseudoephedrine or ephedrine as an active ingredient, any package of a product containing~~  
22 ~~pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap~~  
23 ~~form or any package of a product containing pseudoephedrine as the product's sole active~~  
24 ~~ingredient which is primarily intended for administration to children under twelve years of age,~~

1 ~~according to the product's label, regardless of whether the product is in liquid or solid form,~~  
2 ~~shall display and offer such product for sale, except as otherwise provided, within twenty feet~~  
3 ~~of a counter which allows the attendant to view the products in an unobstructed manner. A~~  
4 ~~retailer may display or offer for sale without restriction any of the products listed in this section~~  
5 ~~if the product is displayed using any type of anti-theft device system, including an electronic~~  
6 ~~anti-theft device system that utilizes a product tag and detection alarm which prevents the theft~~  
7 ~~of the product.~~

8 Section 5. That § 34-20D-5 be amended to read as follows:

9 34-20D-5. A retailer shall post notice at the location where a product containing  
10 pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the  
11 following:

12 South Dakota law prohibits the sale or purchase of more than two packages containing  
13 pseudoephedrine or ephedrine as an active ingredient unless sold or purchased with a valid  
14 prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate  
15 authority.

16 Section 6. That chapter 34-20D be amended by adding thereto a NEW SECTION to read  
17 as follows:

18 If offering for sale a product containing pseudoephedrine or ephedrine as an active  
19 ingredient, a retailer shall, before making such a sale, require and make a record of the  
20 identification of the person purchasing the product containing pseudoephedrine or ephedrine.  
21 For purposes of this section, the term, identification, means a document issued by a  
22 governmental agency which contains a description of the person or a photograph of the person,  
23 or both, and gives the person's date of birth, such as a driver's license, passport, or military  
24 identification card. The retailer shall maintain the record of identification, including the

1 purchaser's name and date of birth. On August 1, 2006, and no later than the fifth day of every  
2 month thereafter, the retailer shall send any such records to the county sheriff of the county in  
3 which the sales occurred. No retailer may use or maintain the record for any private or  
4 commercial purpose or disclose the record to any person, except as authorized by law. The  
5 retailer shall disclose the record, upon request, to a law enforcement agency for a law  
6 enforcement purpose.

7 Section 7. That chapter 34-20D be amended by adding thereto a NEW SECTION to read  
8 as follows:

9 No person may possess, receive, or otherwise acquire more than nine grams of ephedrine  
10 base, pseudoephedrine base, or phenylpropanolamine base in any product, mixture, or  
11 preparation within any thirty-day period. This restriction does not apply to any quantity of  
12 product, mixture, or preparation obtained pursuant to a valid prescription drug order prescribed  
13 by a practitioner as defined in § 36-11-2 with appropriate authority.

14 Possession of more than nine grams of a drug product containing more than nine grams of  
15 ephedrine base, pseudoephedrine base, or phenylpropanolamine base constitutes a rebuttable  
16 presumption of the intent to use the product as a precursor to methamphetamine or another  
17 controlled substance. This rebuttable presumption does not apply to:

- 18 (1) A retail distributor of drug products;
- 19 (2) A wholesale drug distributor, or its agents;
- 20 (3) A manufacturer of drug products, or its agents;
- 21 (4) A pharmacist licensed by the Board of Pharmacy; or
- 22 (5) A licensed health care professional possessing the drug products in the course of  
23 carrying out the profession.

24 Any violation of this section is a Class 1 misdemeanor.