

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0231

HOUSE ENGROSSED NO. **HB 1038** - 1/28/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding accident reports and  
2 insurance premium increases involving the operators of emergency snow removal  
3 equipment.

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

5 Section 1. That § 32-35-101 be amended to read as follows:

6 32-35-101. The Department of Public Safety shall furnish to any person upon request a  
7 certified abstract of the operating record for the last three years of any person subject to the  
8 provisions of this chapter. The abstract shall include enumeration of any motor vehicle accidents  
9 in which the person has been involved and reference to any convictions of the person for a  
10 violation of the motor vehicle laws as reported to the department. No accident may be entered  
11 on the driving record of a law enforcement officer, firefighter, or emergency medical technician  
12 if ~~such~~ the accident resulted from the law enforcement officer's, firefighter's, or emergency  
13 medical technician's response to a call of duty as a law enforcement officer, firefighter, or  
14 emergency medical technician and the law enforcement officer, firefighter, or emergency  
15 medical technician was lawfully engaged in the performance of official duties and was driving



1 an official vehicle. ~~Such~~ The accident shall be recorded separately. No accident may be entered  
2 on the driving record of an operator of emergency snow removal equipment if the accident  
3 resulted from the operator's response to an emergency call of duty as an operator of emergency  
4 snow removal equipment and the operator was lawfully engaged in the performance of official  
5 duties in support of an emergency call of duty by a law enforcement officer, firefighter, or  
6 emergency medical technician and was driving official snow removal equipment. The accident  
7 shall be recorded separately. The department shall collect four dollars for each abstract. The fee  
8 shall be credited to the state motor vehicle fund. Any governmental entity or subdivision is  
9 exempt from this fee.

10 Section 2. That § 58-24-75 be amended to read as follows:

11 58-24-75. No insurer may increase the premium or rate of an insured at policy issuance,  
12 during the term of a policy, or at renewal because of an accident if the insured was responding  
13 to a call of duty as a law enforcement officer, firefighter, ~~or~~ emergency medical technician, or  
14 operator of emergency snow removal equipment, when operation is in response to an emergency  
15 call of duty from and in support of a law enforcement officer, firefighter, or emergency medical  
16 technician's call to duty, for any accident:

17 (1) That occurred while the law enforcement officer, firefighter, ~~or~~ emergency medical  
18 technician, or operator of emergency snow removal equipment was lawfully engaged  
19 in the performance of official duties; and

20 (2) That occurred while the law enforcement officer, firefighter, ~~or~~ emergency medical  
21 technician, or operator of emergency snow removal equipment was driving an official  
22 vehicle; and

23 (3) For which the law enforcement officer, firefighter, ~~or~~ emergency medical technician,  
24 or operator of emergency snow removal equipment furnishes notice to the insurer that

1           the accident occurred under circumstances identified in subdivisions (1) and (2) of  
2           this section.

3   This section is not applicable to commercial lines policies. Any premium or rate increase in  
4   violation of this section, which is made erroneously and does not constitute a continuing  
5   business practice of the insurer, may not be the basis of any disciplinary action by the division  
6   against the insurer if the insurer refunds any excess premium promptly upon discovery of the  
7   error or upon request by the insured.

8       Section 3. That § 32-12-61 be amended to read as follows:

9       32-12-61. The Department of Public Safety shall file all abstracts of court records of  
10   convictions received by it under the laws of this state and all accident reports received. The  
11   Department of Public Safety shall maintain records or make suitable notations on the individual  
12   record of each licensee and any person domiciled in this state who is required to have a driver  
13   license showing the convictions, disqualifications, and other licensing actions for violations of  
14   any state or local law relating to motor vehicle traffic control committed while the licensee or  
15   person was operating any type of vehicle and the traffic accidents in which the licensee or  
16   person has been involved. The information shall be readily ascertainable and available for the  
17   consideration of the department upon any application for renewal of a license. However, with  
18   the exception of convictions resulting from operation of a commercial motor vehicle, no  
19   conviction for speeding which is ten miles per hour or less over the posted speed limit and no  
20   speeding conviction received from another state may be entered on the licensee's driving record,  
21   but may be recorded separately. The separate record may not be made available to the public.  
22   No accident may be entered on the driving record of a law enforcement officer, firefighter, or  
23   emergency medical technician if ~~such~~ the accident resulted from the law enforcement officer's,  
24   firefighter's, or emergency medical technician's response to a call of duty as a law enforcement

1 officer, firefighter, or emergency medical technician and the law enforcement officer, firefighter,  
2 or emergency medical technician was lawfully engaged in the performance of official duties and  
3 was driving an official vehicle. ~~Such~~ The accident shall be recorded separately. No accident may  
4 be entered on the driving record of an operator of emergency snow removal equipment if the  
5 accident resulted from the operator's response to an emergency call of duty as an operator of  
6 emergency snow removal equipment and the operator was lawfully engaged in the performance  
7 of official duties in support of an emergency call of duty by a law enforcement officer,  
8 firefighter, or emergency medical technician and was driving official snow removal equipment.  
9 The accident shall be recorded separately.