



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0283

## HOUSE COMMERCE ENGROSSED NO. **HB 1037** - 1/16/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding action on medical  
2 claims for workers' compensation and to establish a administrative fine for delays regarding  
3 these medical claims.

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

5 Section 1. That chapter 62-4 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Within thirty days after receiving a properly submitted bill for medical payments, the  
8 employer shall:

- 9 (1) Pay the charge or any portion of the bill that is not denied;
- 10 (2) Deny all or a portion of the bill on the basis that the injury is not compensable, or the  
11 service or charge is excessive or not medically necessary; or
- 12 (3) Request additional information to determine whether the charge or service is  
13 excessive or not medically necessary or whether the condition is compensable.

14 Section 2. That chapter 62-4 be amended by adding thereto a NEW SECTION to read as  
15 follows:



1       An employer that fails, refuses, or neglects to comply with the provisions of section 1 of this  
2       Act is subject to a administrative fine of five hundred dollars payable to the Department of  
3       Labor for each act of noncompliance, unless the employer had good cause for noncompliance.  
4       The department may promulgate rules pursuant to chapter 1-26 to implement the provisions of  
5       this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0301

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1042** - 1/17/2008

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the definition of  
2 residency and the issuance of resident hunting, fishing, and trapping licenses.

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

4 Section 1. That § 41-1-1 be amended by adding thereto a NEW SUBDIVISION to read as  
5 follows:

6 "Domicile," a person's established, fixed, and permanent home to which the person,  
7 whenever absent, has the present intention of returning;

8 Section 2. That subdivision (22) of § 41-1-1 be amended to read as follows:

9 (22) "Resident," a person actually living having a domicile within and intending to make  
10 the person's home in this state. ~~However, any person who has lawfully acquired a~~  
11 ~~resident hunting, fishing, or trapping license and who leaves the state after acquiring~~  
12 ~~the license to take up residency elsewhere may continue to exercise all the privileges~~  
13 ~~granted by the license until the license expires if the person's respective privileges are~~  
14 ~~not revoked or suspended pursuant to §§ 41-6-75 to 41-6-75.2, inclusive. No resident~~



1 ~~may lose rights under this title by reason of the resident's absence on business of the~~  
2 ~~United States or of this state, or armed services of the United States or the spouse of~~  
3 ~~an active duty military person, or any student regularly attending a school of higher~~  
4 ~~learning as a full-time student for at least ninety consecutive days immediately~~  
5 ~~preceding the date of application for, purchasing, or attempting to purchase any~~  
6 ~~license required under the provisions of this title or rules of the commission, who~~  
7 ~~makes no claim of residency in any other state or foreign country for any purpose,~~  
8 ~~and other than for a person described in section 3 of this Act, claims no resident~~  
9 ~~hunting, fishing, or trapping privileges in any other state or foreign country, and prior~~  
10 ~~to any application for any license, transfers to this state the person's driver's license~~  
11 ~~and motor vehicle registrations;~~

12 Section 3. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 For the purposes of this title, the following are deemed to be residents of this state:

- 15 (1) Any person who previously had a domicile in this state who is absent due to business  
16 of the United States or of this state, or is serving in the armed forces of the United  
17 States or the spouse of an active duty military person;
- 18 (2) Any person who previously had a domicile in this state who is absent due to the  
19 person's regular attendance at a post-high school institution as a full-time student;
- 20 (3) Any person in the active military of the United States or that person's spouse who is  
21 continuously stationed in this state;
- 22 (4) Any person who is a patient in any war veterans' hospital within this state;
- 23 (5) Any person who is an employee of the veterans' administration or any veterans'  
24 hospital in this state;

- 1 (6) Any person residing on restricted military reservations in this state;
- 2 (7) Any person attending regularly a post-high school institution in this state as a  
3 full-time student for thirty days or more immediately preceding the application;
- 4 (8) Any foreign exchange student over sixteen years of age attending a public or private  
5 high school who has resided in the state for thirty days or more preceding the  
6 application;
- 7 (9) Any foreign exchange student who is between the ages of twelve years and sixteen  
8 years who has completed the Department of Game, Fish and Parks' course of  
9 instruction in the safe handling of firearms and has been issued a certificate of  
10 competency upon completion of instruction and who has resided in the state for thirty  
11 days or more preceding application for a license;
- 12 (10) Any person who is a minor dependent of a resident of this state; and
- 13 (11) For the purpose of acquiring resident small game and fishing licenses, any person  
14 who does not reside in South Dakota but who is a member of the South Dakota  
15 National Guard or of any other unit of a reserve component of the armed forces of the  
16 United States that is located in South Dakota.

17 Section 4. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 Except for a person who continues to qualify for resident privileges as provided in section  
20 3 of this Act, a person is deemed to have terminated the person's South Dakota resident status  
21 if the person applies for, purchases, or accepts a resident hunting, fishing, or trapping license  
22 issued by another state or foreign country; registers to vote in another state or foreign country;  
23 accepts a driver's license issued by another state or foreign country; or moves to any other state  
24 or foreign country and makes it the person's domicile or makes any claim of residency for any

1 purpose in the other state or foreign country. However, a person who has lawfully acquired a  
2 resident hunting, fishing, or trapping license and who leaves the state after acquiring the license  
3 to take up residency elsewhere may continue to exercise all the privileges granted by the license  
4 until the license expires if the person's respective privileges are not revoked or suspended  
5 pursuant to §§ 41-6-75 to 41-6-75.2, inclusive.

6 Section 5. That § 41-6-52 be amended to read as follows:

7 41-6-52. No person other than a resident as defined in this title may make application for,  
8 purchase, or attempt to purchase a resident license under §§ 41-6-12 to 41-6-45.1, inclusive;  
9 ~~unless the applicant has been a resident of this state for at least ninety days before making of the~~  
10 ~~application and claims no resident privileges in any other state. Before making application for,~~  
11 ~~purchasing, or attempting to purchase a resident hunting or fishing license in the state, the~~  
12 ~~applicant shall transfer to this state the applicant's driver's license and motor vehicle registration~~  
13 ~~for motor vehicles used in this state. However, any person in the active military of the United~~  
14 ~~States or that person's spouse who has been continuously stationed in this state; any person who~~  
15 ~~is a patient in any war veterans' hospital within this state; any person who is an employee of the~~  
16 ~~veterans' administration or any veterans' hospital; any person residing on restricted military~~  
17 ~~reservations in this state; any person attending regularly a post-high school institution as a full-~~  
18 ~~time student for thirty days or more immediately preceding the application; any foreign~~  
19 ~~exchange student over sixteen years of age attending a public or private high school who has~~  
20 ~~resided in the state for thirty days or more preceding the application; any foreign exchange~~  
21 ~~student who is between the ages of twelve years and sixteen years who has completed the~~  
22 ~~Department of Game, Fish and Parks' course of instruction in the safe handling of firearms and~~  
23 ~~has been issued a certificate of competency upon completion of instruction and who has resided~~  
24 ~~in the state for thirty days or more preceding his application; or any person who is a minor~~

1 ~~dependent of a resident of this state, is a resident of the state for the purpose of this title. Any~~  
2 ~~person who does not reside in South Dakota but who is a member of the South Dakota National~~  
3 ~~Guard or of any other unit of a reserve component of the armed forces of the United States that~~  
4 ~~is located in South Dakota is a resident of the state for the purpose of acquiring resident small~~  
5 ~~game and fishing licenses. A violation of this section is a Class 2 misdemeanor.~~

6 Section 6. That § 41-6-16.2 be amended to read as follows:

7 41-6-16.2. Any resident who is on active duty in the armed forces of the United States and  
8 who is stationed at a location outside the state may fish and hunt small game without payment  
9 of a fee or the applicable hunting and fishing license authorizing the activity. However, if the  
10 resident is hunting migratory birds, the resident shall obtain a migratory bird certification permit  
11 and federal migratory bird stamp. While engaged in the permitted activity, the resident shall  
12 ~~have in possession~~ possess and display appropriate military orders indicating the resident is on  
13 active duty stationed outside of South Dakota and a valid ~~South Dakota driver's license or South~~  
14 ~~Dakota~~ military identification card. This section does not apply to any person who is serving on  
15 active duty for training as a member of the armed forces reserve or national guard.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0236

## HOUSE JUDICIARY ENGROSSED NO. **HB 1061** - 1/17/2008

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 penalty for the distribution or possession with  
2 intent to distribute marijuana to a minor.

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

4 Section 1. That § 22-42-7 be amended to read as follows:

5 22-42-7. The distribution, or possession with intent to distribute, of less than one-half ounce  
6 of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution, or  
7 possession with intent to distribute, of one ounce or less of marijuana is a Class 6 felony. The  
8 distribution, or possession with intent to distribute, of more than one ounce but less than  
9 one-half pound of marijuana is a Class 5 felony. The distribution, or possession with intent to  
10 distribute, of one-half pound but less than one pound of marijuana is a Class 4 felony. The  
11 distribution, or possession with intent to distribute, of one pound or more of marijuana is a Class  
12 3 felony. ~~However, the distribution of any amount of marijuana to a minor is a Class 4 felony.~~  
13 The distribution, or possession with intent to distribute, of one ounce or less of marijuana to a  
14 minor is a Class 5 felony. The distribution, or possession with intent to distribute, of more than



1 one ounce but less than pound of marijuana to a minor is a Class 4 felony. The distribution, or  
2 possession with intent to distribute, of one pound or more of marijuana to a minor is a Class 3  
3 felony. A first conviction of a felony under this section shall be punished by a mandatory  
4 sentence in the state penitentiary or county jail of at least thirty days, which sentence may not  
5 be suspended. A second or subsequent conviction of a felony under this section shall be  
6 punished by a mandatory sentence of at least one year. Conviction of a Class 1 misdemeanor  
7 under this section shall be punished by a mandatory sentence in county jail of not less than  
8 fifteen days, which sentence may not be suspended. A civil penalty, not to exceed ten thousand  
9 dollars, may be imposed, in addition to any criminal penalty, upon a conviction of a felony  
10 violation of this section.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

862P0288

## HOUSE JUDICIARY ENGROSSED NO. **HB 1093** - 1/17/2008

Introduced by: Representatives Vehle, Deadrick, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the custody, service,  
2 and earnings of children.

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

4 Section 1. That § 25-5-7 be amended to read as follows:

5 25-5-7. The Subject to the court's right to award custody of the child to either parent,  
6 considering the best interest of the child as to its temporal, mental, and moral welfare the father  
7 and mother of ~~an unmarried~~ any minor child born in wedlock are equally entitled to the child's  
8 custody, service, and earnings. ~~If either the father or mother is dead or refuses to take the~~  
9 ~~custody or has abandoned the family, the other is entitled to the child's custody, service, and~~  
10 earnings.

11 Section 2. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Notwithstanding any initial entitlement to custody pursuant to § 25-5-10, there is no legal  
14 presumption that such custody is in the best interest of the child, nor is a change of



1 circumstances required for a change of the initial custody as determined by § 25-5-10.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

862P0298

HOUSE JUDICIARY ENGROSSED NO. **HB 1096**  
1/17/2008

Introduced by: Representatives Vehle, Deadrick, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to authorize the court appointment of parenting  
2 coordinators in certain custody and visitation disputes.

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

4 Section 1. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 In any custody or visitation dispute between parents, the court may appoint a parenting  
7 coordinator to assist the parents in resolving contested issues.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

724P0140

## HOUSE JUDICIARY ENGROSSED NO. **HB 1113** - 1/15/2008

Introduced by: Representatives Kirkeby, Brunner, Elliott, Gosch, Haverly, Lust, Nelson, Olson (Russell), Pederson (Gordon), Pitts, Rausch, Rhoden, Sigdestad, Turbiville, Van Etten, Vanneman, and Wick and Senators Napoli, Abdallah, Heidepriem, Katus, Kloucek, Koetzle, Lintz, Maher, McCracken, McNenny, and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to provide minimum notice requirements to persons who  
2 lease real property for their own mobile or manufactured homes.

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

4 Section 1. Any person who owns a mobile or manufactured home and leases real property  
5 on which to place the home shall, if the property is developed for an alternate use, receive no  
6 less than sixty days notice to vacate and remove the home from the real property. The provisions  
7 of this section do not apply if the notice is based upon a breach of the terms of a lease.

