

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

553B0714

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1242** - 2/21/2019

Introduced by: Representatives Gosch, Beal, Brunner, Chase, Diedrich, Goodwin, Greenfield (Lana), Haugaard, Hunhoff, Jensen (Kevin), Lake, Latterell, Mills, Otten (Herman), Post, Qualm, and Willadsen and Senators Greenfield (Brock) and Heinert

1 FOR AN ACT ENTITLED, An Act to include opossums within the definition of predator and  
2 to declare an emergency.

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

4 Section 1. That § 41-1-1 be amended to read:

5 41-1-1. Terms used in this title mean:

6 (1) "Any part thereof" or "the parts thereof," includes the hide, horns, and hoofs of any  
7 animal so referred to, and the plumage and skin and every other part of any bird so  
8 referred to;

9 (2) "Bait," baitfish, frogs, toads, salamanders, crayfish, freshwater shrimp, clams, snails  
10 and leeches;

11 (3) "Baitfish," includes fish of the minnow family (cyprinidae) except carp (cyprinus  
12 spp.) and goldfish (carassius spp.), fish of the sucker family (castostomidae) except  
13 buffalofish (ictiobus spp.) and carpsucker (carpiodes spp.), and fish of the stickleback



- 1 family (gasterosteidae);
- 2 (4) "Big game," all cloven-hoofed wild animals, wild mountain lion, wild black bear, and  
3 wild turkey. The term includes facsimiles of big game used for law enforcement  
4 purposes, but does not include any captive nondomestic animal of the mammalia  
5 class and the products thereof regulated by the Animal Industry Board under Title 40;
- 6 (5) "Big game seal," a locking seal which bears the same number as the license with  
7 which it is issued;
- 8 (6) "Big game tag," a tag which is part of the regular big game license and bears the same  
9 number as the license proper;
- 10 (7) "Biological specimens," wild nongame animals used for scientific study and collected  
11 for resale to biological supply companies;
- 12 (8) "Carcass," the dead body of any wild animal to which it refers, including the head,  
13 hair, skin, plumage, skeleton, or any other part thereof;
- 14 (9) "Domestic animal," any animal that through long association with man, has been bred  
15 to a degree which has resulted in genetic changes affecting the temperament, color,  
16 conformation, or other attributes of the species to an extent that makes it unique and  
17 different from wild individuals of its kind;
- 18 (9A) "Domicile," a person's established, fixed, and permanent home to which the person,  
19 whenever absent, has the present intention of returning;
- 20 (10) "Fishing," the taking, capturing, killing, or fishing for fish of any variety in any  
21 manner. If the word, fish, is used as a verb, it has the same meaning as the word,  
22 fishing;
- 23 (11) "Fur-bearing animals," opossum, muskrat, beaver, mink, marten, river otter, fisher,  
24 blackfooted ferret, skunks (all species), raccoon, badger, red, grey and swift fox,

1 coyote, bobcat, lynx, weasel, and jackrabbit;

2 (12) "Game," all wild mammals or birds;

3 (13) "Game fish," all species belonging to the paddlefish, sturgeon, salmon (trout), pike,  
4 catfish (including bullheads), sunfish (including black bass and crappies), perch  
5 (including walleye and sauger), and bass families. All species not included in the  
6 game fish families are rough fish;

7 (14) "Hunt" or "hunting," shooting, shooting at, pursuing, taking, attempting to take,  
8 catching, or killing of any wild animal or animals;

9 (15) "Loaded firearm," any firearm or other implement capable of discharging a projectile,  
10 containing cartridges, shells or projectiles in either the chamber, clip, or magazine;

11 (16) "Migratory waterfowl," any wild geese, swans, brants, coot, merganser, or wild  
12 ducks;

13 (17) "Migratory bird," all migratory waterfowl, sandhill crane, snipe, and dove;

14 (18) "Motor vehicle," any self-propelled vehicle and any vehicle propelled or drawn by  
15 a self-propelled vehicle, whether operated upon a highway, railroad track, on the  
16 ground, in the water, or in the air;

17 (19) "Nondomestic animal," any animal that is not domestic;

18 (20) "Possession," both actual and constructive possession, as well as the control of the  
19 article referred to;

20 (21) "Predator/varmint," coyote, wolf, gray fox, red fox, skunk, gopher, ground squirrel,  
21 chipmunk, jackrabbit, marmot, opossum, porcupine, crow, and prairie dog;

22 (22) "Resident," a person having a domicile within this state for at least ninety consecutive  
23 days immediately preceding the date of application for, purchasing, or attempting to  
24 purchase any license required under the provisions of this title or rules of the

1 commission, who makes no claim of residency in any other state or foreign country  
2 for any purpose, and other than for a person described in § 41-1-1.1, claims no  
3 resident hunting, fishing, or trapping privileges in any other state or foreign country,  
4 and prior to any application for any license, transfers to this state the person's driver's  
5 license and motor vehicle registrations;

6 (23) "Sell" and "sale," any sale or offer to sell or have in possession with intent to sell,  
7 use, or dispose of;

8 (24) "Small game," anatidae, commonly known as swans, geese, brants, merganser, and  
9 river and sea ducks; the rallidae, commonly known as rails, coots, and gallinule; the  
10 limicolae, referring specifically to shore birds, plover, snipe, and woodcock; the  
11 gruidae, commonly known as sandhill crane; the columbidae, commonly known as  
12 the mourning dove; the gallinae, commonly known as grouse, prairie chickens,  
13 pheasants, partridges, and quail but does not include wild turkeys; cottontail rabbit;  
14 and fox, grey and red squirrel. The term includes facsimiles of small game used for  
15 law enforcement purposes;

16 (25) "Trapping," the taking or the attempting to take of any wild animals by means of  
17 setting or operating of any device, mechanism, or contraption that is designed, built,  
18 or made to close upon, hold fast, or otherwise capture a wild animal or animals. If the  
19 word, trap, is used as a verb, it has the same meaning as the word, trapping;

20 (26) "Trout streams" or "trout waters," all waters and streams or portions of streams which  
21 contain trout;

22 (27) "Waters of the state," all the boundary waters of the state, and the provisions of this  
23 title are deemed to extend to and be in force and effect over and upon and in all  
24 thereof, unless otherwise expressly provided;

1 (28) "Wild animal," any mammal, bird, fish, or other creature of a wild nature endowed  
2 with sensation and the power of voluntary motion.

3 Section 2. That § 41-6-23 be amended to read:

4 41-6-23. Except as provided in this section, it is a Class 2 misdemeanor for any person to  
5 hunt, take, kill, or trap fur-bearing animals without a license to take fur-bearing animals or in  
6 violation of the conditions of the license or the rules of the Game, Fish and Parks Commission.

7 A license to take fur-bearing animals permits the licensee to set or operate a trap or traps,  
8 hunt, catch, take, trap, or kill fur-bearing animals, except the black-footed ferret, to the extent  
9 and in the manner provided in §§ 41-8-20 to 41-8-26, inclusive.

10 A license to take fur-bearing animals is not required for residents to hunt raccoon, skunk,  
11 opossum, badger, jackrabbit, fox, and coyote with firearms. A license to take fur-bearing  
12 animals is not required for residents to trap raccoon, skunk, opossum, badger, jackrabbit, fox,  
13 and coyote between April first and August thirty-first.

14 Section 3. Whereas, this Act is necessary for the support of the state government and its  
15 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
16 full force and effect from and after its passage and approval.