



## Compendium of U.S. Animal Protection Laws

# South Dakota



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*This chapter contains South Dakota’s general animal protection and related statutes with an effective date on or before September 1, 2023. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*South Dakota may employ similar provisions within other non-animal-specific criminal and civil statutes, may have other more specific statutes in addition to those included, and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

## South Dakota Laws

## SUBSTANTIVE PROHIBITIONS AND EXEMPTIONS

1. Definition of "Animal"	<p>"[A]ny mammal, bird, reptile, amphibian or fish, except humans"  <a href="#">S.D. CODIFIED LAWS § 40-1-1(2)</a></p>
2. General Cruelty	<p>Abandon, cruelty, humane killing, impound, mistreat, neglect definitions  <a href="#">S.D. CODIFIED LAWS § 40-1-1</a></p> <p>Neglect, abandonment, or mistreatment of animal  <a href="#">S.D. CODIFIED LAWS § 40-1-2.3</a>  <i>Class 1 misdemeanor</i></p> <p>Cruelty to animals  <a href="#">S.D. CODIFIED LAWS § 40-1-2.4</a>  <i>Class 6 felony</i></p> <p>Keeping an injured or diseased animal, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandoning to die any sick or disabled animal  <a href="#">S.D. CODIFIED LAWS § 40-1-12</a>  <i>Class 1 misdemeanor</i></p> <p>Corporate responsibility for knowledge and acts of agents  <a href="#">S.D. CODIFIED LAWS § 40-1-14</a></p> <p>Poisoning animal of another  <a href="#">S.D. CODIFIED LAWS § 40-1-20</a>  <i>Class 1 misdemeanor</i></p> <p>Killing, injuring, or mistreating animal of another  <a href="#">S.D. CODIFIED LAWS § 40-1-21</a>  <i>Class 1 misdemeanor</i></p> <p>Liability of parent or guardian for violation by minor  <a href="#">S.D. CODIFIED LAWS § 40-1-32</a></p> <p><b>Exemptions:</b>  Research animals  <a href="#">S.D. CODIFIED LAWS § 40-1-16</a></p> <p>Lawful hunting, slaughter, other</p>

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	<p>S.D. CODIFIED LAWS § 40-1-17</p> <p>Livestock</p> <p>S.D. CODIFIED LAWS § 40-2-4</p>
<b>3. Animal Fighting</b>	<p>Procedural matters relating to peace office entry of where animal fighting occurs, and seizure of animals used of fighting located in the Seizure section of this document.</p> <p>Being a spectator at an animal fighting exhibition S.D. CODIFIED LAWS § 40-1-10.1 Class 1 misdemeanor</p> <p>Training an animal with the intent to fight is prohibited. S.D. CODIFIED LAWS § 40-1-10.1</p> <p>Various animal fighting activities S.D. CODIFIED LAWS § 40-1-10.1 Class 6 felony</p>
<b>4. Sexual Assault</b>	<p>The sexual assault of an animal is a sex crime S.D. CODIFIED LAWS §§ 22-22-42, 22-22-43, 22-22-44 1<sup>st</sup> offense: Class 6 felony Subsequent offenses: Class 5 felony</p>
<b>5. Cruelty to Working Animals</b>	<p>Intentionally and unjustifiably killing a law enforcement animal S.D. CODIFIED LAWS § 22-11-36 Class 6 felony</p> <p>Harassment of service animal S.D. CODIFIED LAWS § 40-1-38 Class 2 misdemeanor</p>
<b>6. Laws Specific to Farmed Animals</b>	[None]
<b>7. Cruel Hunting, Trapping, and Fishing</b>	<p>Unlawful taking of fur-bearing animals without a license S.D. CODIFIED LAWS § 41-6-23</p> <p>Unlawful hunting methods S.D. CODIFIED LAWS § 41-8-31</p> <p>Trapping of fur-bearing animals prohibited S.D. CODIFIED LAWS § 41-8-19</p>

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	<p>Prohibited methods of hunting mink, muskrats and beavers S.D. CODIFIED LAWS § 41-8-24</p> <p>Prohibition of big game hunting or possession S.D. CODIFIED LAWS § 41-8-2</p> <p>Dogs prohibited in hunting big game S.D. CODIFIED LAWS § 41-8-15</p> <p>Prohibited possession or destruction of nest or eggs of protected birds S.D. CODIFIED LAWS § 41-11-7</p> <p>Fishing restricted to hook and line S.D. CODIFIED LAWS § 41-12-5</p> <p>Unlawful methods of fishing S.D. CODIFIED LAWS § 41-12-13</p> <p>Prohibited fishing devices S.D. CODIFIED LAWS § 41-12-12</p>
REPORTING LAWS	
8. Cross Reporting	[None]
9. Veterinary Reporting	[None]
10. "Ag-Gag" Laws	[None]
CIVIL AND CIVILIAN INTERVENTION	
11. Emergency Rescue and Relief	<p>Unattended animals in standing or parked vehicles S.D. CODIFIED LAWS § 40-1-36</p>
12. Civil Enforcement	[None]
13. Domestic Violence and Protection Orders	[None]
CRIMINAL JUSTICE INTERVENTION	
14. Maximum Penalties	Class 2 misdemeanor

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<p><b>and Statute of Limitations</b></p>	<p><i>30 days county jail and/or \$500 fine</i>  <b>S.D. CODIFIED LAWS § 22-6-2(2)</b></p> <p>Class 1 misdemeanor  <i>1 year county jail and/or \$2,000 fine</i>  <b>S.D. CODIFIED LAWS § 22-6-2(1)</b></p> <p>Class 6 felony  <i>2 years state penitentiary and/or \$4,000 fine</i>  <b>S.D. CODIFIED LAWS § 22-6-1(9)</b></p> <p>Class 5 felony  <i>5 years state penitentiary and \$10,000 fine</i>  <b>S.D. CODIFIED LAWS § 22-6-1(8)</b></p> <p>Statute of Limitations  <i>Misdemeanor or felony: 7 years</i>  <b>S.D. CODIFIED LAWS § 23A-42-2</b></p>
<p><b>15. Law Enforcement Policies</b></p>	<p>The South Dakota Animal Industry Board shall administer and enforce the provisions of this chapter concerning cattle, horses, sheep, swine and other livestock. The board may also address situations involving dangerous animals, including nonlivestock animals.  <b>S.D. CODIFIED LAWS § 40-1-25</b></p> <p>The board, any peace officer or any agent or officer of a humane society may administer oaths, take statements, access memoranda, papers and other documents, articles and instruments, and may compel the disclosure by witnesses of all facts known to them relative to the matters under investigation.  <b>S.D. CODIFIED LAWS § 40-1-29</b></p> <p>Law enforcement and animal control agencies may enforce the animal protection laws; animal control officers may request that law enforcement arrest suspects, and may prepare and execute search warrants when accompanied by law enforcement.  <b>S.D. CODIFIED LAWS § 40-2-7</b></p>
<p><b>16. Seizure</b></p>	<p>Any peace officer, agent of the board or agent or officer of any humane society may impound inhumanely treated animals.  <b>S.D. CODIFIED LAWS § 40-1-5</b></p> <p>Any law enforcement officer may enter any place where there is any sport or exhibition of the fighting of animals or where preparations are being made for such sport or exhibition, and without a warrant arrest all persons there present, and</p>

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

	<p>seize all animals and property used in for animal fighting.  <b>S.D. CODIFIED LAWS §§ 40-1-11, 40-1-11.1</b></p> <p>Inspection of premises authorized.  <b>S.D. CODIFIED LAWS § 40-1-28</b></p> <p>No agent of the board, peace officer, or agent or officer of a humane society may be held liable as a result of reasonable actions taken.  <b>S.D. CODIFIED LAWS § 40-1-31</b></p>
<b>17. Courtroom Animal Advocate Program</b>	[None]
<b>18. Restitution</b>	<p>Upon conviction, the court shall order restitution to any “victim” as authorized in chapter 23A-28.  <b>S.D. CODIFIED LAWS § 22-6-2</b></p> <p>Expenses of impoundment and costs of care constitute a lien on the animal.  <b>S.D. CODIFIED LAWS § 40-1-5</b></p> <p>Owner is liable for expenses of seized animals.  <b>S.D. CODIFIED LAWS § 40-1-5.1</b></p>
<b>19. Forfeiture and Possession Bans</b>	<p>Impounded animals may be disposed of at direction of humane agent or board.  <b>S.D. CODIFIED LAWS § 40-1-34</b></p>
<b>20. Rehabilitative Sentencing</b>	[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 1. DEFINITION OF "ANIMAL"

#### S.D. CODIFIED LAWS § 40-1-1. Definition of terms.

*Terms used in chapters 40-1 and 40-2, mean:*

- (1) "Abandon," to give up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party;
- (2) "Animal," any mammal, bird, reptile, amphibian, or fish, except humans;
- (3) "Board," the South Dakota Animal Industry board;
- (4) "Cruelty," to intentionally, willfully, and maliciously inflict gross physical abuse on an animal that causes prolonged pain, that causes serious physical injury, or that results in the death of the animal;
- (5) "Dangerous animal," any animal that, by itself or by environmental circumstances, at the determination of the board, any agent or officer of a humane society, or any law enforcement officer, is a threat to the physical well-being of other owned animals or humans;
- (6) "Humane killing," to cause the death of an animal in a manner to limit the pain or suffering of the animal as much as reasonably possible under the circumstances;
- (7) "Impound," to take physical control and custody of an animal;
- (8) "Livestock," any agricultural or commercial animal owned, bred, or raised for profit, but not including dogs, cats, rabbits, or other household pets;
- (9) "Mistreat," to cause or permit the continuation of unjustifiable physical pain or suffering of an animal;
- (10) "Neglect," to fail to provide food, water, protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition, and type of animal;
- (11) "Proper enclosure," a secure confinement in an enclosed or locked facility suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human.

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 2. GENERAL CRUELTY

#### S.D. CODIFIED LAWS § 40-1-1. Definition of terms.

*Terms used in chapters 40-1 and 40-2, mean:*

- (1) *“Abandon,” to give up with the intent of never again regaining one’s interests in, or rights to, an animal other than placing ownership with a responsible party;*
- (2) *“Animal,” any mammal, bird, reptile, amphibian, or fish, except humans;*
- (3) *“Board,” the South Dakota Animal Industry board;*
- (4) *“Cruelty,” to intentionally, willfully, and maliciously inflict gross physical abuse on an animal that causes prolonged pain, that causes serious physical injury, or that results in the death of the animal;*
- (5) *“Dangerous animal,” any animal that, by itself or by environmental circumstances, at the determination of the board, any agent or officer of a humane society, or any law enforcement officer, is a threat to the physical well-being of other owned animals or humans;*
- (6) *“Humane killing,” to cause the death of an animal in a manner to limit the pain or suffering of the animal as much as reasonably possible under the circumstances;*
- (7) *“Impound,” to take physical control and custody of an animal;*
- (8) *“Livestock,” any agricultural or commercial animal owned, bred, or raised for profit, but not including dogs, cats, rabbits, or other household pets;*
- (9) *“Mistreat,” to cause or permit the continuation of unjustifiable physical pain or suffering of an animal;*
- (10) *“Neglect,” to fail to provide food, water, protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal’s health and well-being consistent with the species, breed, physical condition, and type of animal;*
- (11) *“Proper enclosure,” a secure confinement in an enclosed or locked facility suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human.*

#### S.D. CODIFIED LAWS § 40-1-2.3. Neglect, abandonment, or mistreatment of animal- Misdemeanor.

*No person owning or responsible for the care of an animal may neglect, abandon, or mistreat the animal. A violation of this section is a Class 1 misdemeanor.*

#### S.D. CODIFIED LAWS § 40-1-2.4. Cruelty to animals- Felony.

*No person may subject an animal to cruelty. A violation of this section is a Class 6 felony.*

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### **S.D. CODIFIED LAWS § 40-1-12. Allowing fatally injured or diseased animal to suffer needlessly prohibited – Violation as misdemeanor.**

*No person may keep any animal which is injured or diseased, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandon to die any sick or disabled animal. A violation of this section is a Class 1 misdemeanor.*

### **S.D. CODIFIED LAWS § 40-1-14. Corporate responsibility for knowledge and acts of agents**

For the purposes of §§ 40-1-1 to 40-1-17, inclusive, knowledge and acts of agents of, and persons employed by, any corporation in regard to animals transported, owned, or employed by or in custody of such corporation, shall be held to be the knowledge and acts of such corporation as well as such agents or employees.

### **S.D. CODIFIED LAWS § 40-1-20. Intentionally poisoning animal of another – Misdemeanor – Exceptions.**

*Except as specifically provided for in this chapter, no person may intentionally administer poison to any animal that belongs to another, nor intentionally expose any poisonous substance so that it may be taken by an animal which belongs to another. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prevent animal control activities conducted by municipalities or counties.*

### **S.D. CODIFIED LAWS § 40-1-21. Killing, injuring, or mistreating animal of another as misdemeanor – Authorized euthanasia excepted.**

*No person may intentionally kill any animal of any age or value, the property of another, nor intentionally injure or mistreat any such animal. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prohibit euthanasia conducted by the municipality or under a municipality's animal control activities. This section may not be construed to prohibit activities conducted under chapter 40-34.*

### **S.D. CODIFIED LAWS § 40-1-32. Liability of parent or guardian for violation by minor**

*A parent or guardian is civilly liable for any violation of this chapter committed by a minor in their custody.*

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### **S.D. CODIFIED LAWS § 40-1-16. Regulated scientific experiments permitted – Inspection.**

*Nothing in this chapter may be construed to interfere with any properly conducted scientific experiments or investigations performed by personnel following guidelines, regulations, or requirements established by the United States Department of Agriculture and the United States Department of Health and Human Services. Any experiments or scientific investigation and facilities used under this section shall be open to inspection by the board.*

### **S.D. CODIFIED LAWS § 40-1-17. Exemptions from chapters 40-1 and 40-2.**

*Nothing in this chapter or chapter 40-2 may be construed to interfere with an animal under the direct and proper care of a licensed veterinarian or with persons engaged in standard and accepted agricultural pursuits or animal husbandry practices.*

*In addition, the following are exempt from the provisions of this chapter and chapter 40-2:*

- (1) Any usual and customary practice;
  - (a) In the production of food, feed, or fiber, including all aspects of the livestock industry;*
  - (b) In the boarding, breeding, competition, exhibition, feeding, raising, service work, showing, training, transportation, and use of animals; or*
  - (c) In the harvesting of animals for food or byproducts;**
- (2) Any humane killing of an animal;*
- (3) Any lawful hunting, trapping, fishing, or other activity authorized by the South Dakota Department of Game, Fish and Parks;*
- (4) Any lawful pest, vermin, predator, and animal damage control, including the disposition of wild animals;*
- (5) Any reasonable action taken by a person for the destruction or control of an animal known to be dangerous, a threat, or injurious to life, limb, or property; and*
- (6) Any actions taken by personnel or agents of the board, the Department of Agriculture and Natural Resources, Department of Game, Fish and Parks, or the United States Department of Agriculture in the performance of duties as prescribed by law.*

### **S.D. CODIFIED LAWS § 40-2-4. Limitation on activities.**

*Except as provided in chapter 40-1, the activities of any humane society incorporated pursuant to this chapter for the prevention of neglect, abandonment, mistreatment, or cruelty to animals, as provided in chapter 40-1 or this chapter, are limited to animals other than cattle, horses, sheep, swine, and other livestock.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 3. ANIMAL FIGHTING

**Note:** Procedural matters relating to peace office entry of where animal fighting occurs, and seizure of animals used of fighting located in the seizure section of this document.

**S.D. CODIFIED LAWS § 40-1-10.1. Animal fighting exhibitions or for amusement or gain prohibited – Felony or misdemeanor.**

*No person may:*

- (1) Own, possess, keep, or train any animal with the intent to engage the animal in an exhibition of fighting with another animal;*
- (2) For amusement or gain cause any animal to fight with another animal or cause any animal to injure another animal; or*
- (3) Permit the activity prohibited by this section to be done on any premises under the person's charge or control, or aid, or abet any activity prohibited by this section.*

*A violation of this section is a Class 6 felony.*

*It is a Class 1 misdemeanor to be present at any violation of subdivision (2) of this section as a spectator.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 4. SEXUAL ASSAULT

#### **S.D. CODIFIED LAWS § 22-22-42. Bestiality—Acts constituting—Commission a felony.**

*No person, for the purpose of that person's sexual gratification, may:*

- (1) Engage in a sexual act with an animal; or*
- (2) Coerce any other person to engage in a sexual act with an animal; or*
- (3) Use any part of the person's body or an object to sexually stimulate an animal; or*
- (4) Videotape a person engaging in a sexual act with an animal; or*
- (5) Kill or physically abuse an animal.*

*Any person who violates any provision of this section is guilty of the crime of bestiality. Bestiality is a Class 6 felony. However, if any person has been previously convicted of a sex crime pursuant to § 22-22-30, any subsequent violation of this section is a Class 5 felony.*

#### **S.D. CODIFIED LAWS § 22-22-43. Sexual act with an animal defined – Proof.**

*For the purposes of § 22-22-42, the term, sexual act with an animal, means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act with an animal may be proved without evidence of penetration.*

#### **S.D. CODIFIED LAWS § 22-22-44. Provisions of § 22-22-42 not applicable to accepted practices.**

*The provisions of § 22-22-42 do not apply to or prohibit normal, ordinary, or accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 5. CRUELTY TO WORKING ANIMALS

#### **S.D. CODIFIED LAWS § 22-11-36. Killing, injury, or interference with a law enforcement support animal prohibited – Felony or misdemeanor.**

*If any person intentionally and unjustifiably kills a law enforcement animal, the person is guilty of a Class 6 felony. If any person intentionally and unjustifiably causes physical injury to, torments, strikes, disables, or tampers with a law enforcement support animal, the person is guilty of Class 1 misdemeanor. If any person harasses, taunts, or provokes a law enforcement support animal; interferes with a law enforcement support animal while the animal is working; or interferes with the individual handling the animal, the person is guilty of Class 2 misdemeanor. For purposes of this section, the term, law enforcement support animal, means any animal that is on duty which is being used by or on behalf of a law enforcement officer in the performance of the officer's functions and duties.*

This section does not apply to a law enforcement officer or a veterinarian who terminates the life of a law enforcement support animal to relieve the animal of undue suffering and pain.

#### **S.D. CODIFIED LAWS § 40-1-38. Harassment of service animal accompanying disabled person prohibited.**

*No person may maliciously beat, injure, attempt to injure, harass, intimidate, entice, distract, or otherwise interfere with any service animal accompanying a person with a disability if the service animal is being controlled by the person and the service animal is wearing a harness or other control device normally used for service animals accompanying or leading persons with disabilities. A violation of this section is a Class 2 misdemeanor.*

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### 6. LAWS SPECIFIC TO FARMED ANIMALS

**Editor's Note:** *This section does **not** contain all state or territorial laws regarding farmed animals. This section contains only criminal statutes with the primary purpose of preventing individual farmed animals from suffering unnecessary pain or suffering.*

[None]

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### 7. CRUEL HUNTING, TRAPPING, AND FISHING

**Editor's Note:** *This section does **not** contain all state or territorial laws regarding hunting, trapping, and fishing. This section contains only criminal statutes with the primary purpose of preventing individual wild animals from suffering unnecessary pain or suffering.*

#### **S.D. CODIFIED LAWS § 41-6-23. Fur-bearing animal hunting and trapping license--Privileges--Activities for which license not required--Violation as misdemeanor**

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

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

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

#### **S.D. CODIFIED LAWS § 41-8-31. Hunting methods restricted--Violation as misdemeanor**

*No person may at any time hunt, catch, take, attempt to take, or kill any small game or game animal in any other manner than by shooting the same with a firearm, except:*

- (1) Game birds and animals may be taken with birds trained in falconry or with bow and arrow;
  - (1A) Cottontail rabbit, red squirrel, fox squirrel, grey squirrel, and any species defined as a predator/varmint in § 41-1-1 may be taken with an air gun that complies with specifications established by rules promulgated by the Game, Fish and Parks Commission pursuant to chapter 1-26;
- (2) A person with a permanent or temporary disability who is missing an upper limb, physically incapable of using an upper limb, or confined to a wheelchair may obtain a disabled hunter permit to use a crossbow or other legal bow equipped with a draw-lock device to take game birds and animals;
- (3) A person who is legally blind, is legally licensed, possesses a disabled hunter permit, and is physically present and participates in the hunt but cannot safely discharge a firearm or bow and arrow, may claim game birds and animals taken by a designated hunter in accordance with the license possessed by the hunter who is legally blind;
  - (3A) A person who is quadriplegic, is legally licensed, possesses a disabled hunter permit, and is physically present and participates in the hunt but cannot safely discharge a firearm or bow and arrow, may claim game birds and animals taken by a designated hunter in accordance with the license possessed by the hunter who is quadriplegic; and
- (4) A person with a permanent or temporary disability as defined in subdivision (2) of this section who is legally licensed for a youth big game hunting season, possesses a disabled hunter permit, and is

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physically present and participates in the hunt but is unable to safely discharge a firearm or bow and arrow, may claim any big game animal taken by a designated hunter in accordance with the youth big game license possessed by the person with a permanent or temporary disability.

A violation of this section is a Class 2 misdemeanor.

### **S.D. CODIFIED LAWS § 41-8-19. Trapping of fur-bearing animals prohibited--Exceptions--Violation as misdemeanor**

*Except as authorized by chapter 41-6 and this chapter, no person may set or operate any trap, hunt, catch, take, trap, or kill any fur-bearing animal. A violation of this section is a Class 2 misdemeanor.*

### **S.D. CODIFIED LAWS § 41-8-24. Prohibited methods of hunting mink, muskrats and beavers--Violation as misdemeanor**

*No person may hunt any mink or muskrat with the aid of any dog, or dig, disturb, or molest any mink den or beaver house for the purpose of capturing any of these animals. No person may use poison, gas, or smokers of any kind to kill, take, or capture mink, muskrats, or beavers. No person may shoot or spear muskrats at any time except under permit as provided in § 41-8-23 or except as provided in § 41-8-24.1. Any violation of this section is a Class 2 misdemeanor.*

### **S.D. CODIFIED LAWS § 41-8-2. Hunting or possession of big game prohibited except as expressly provided--Violation**

*Except as otherwise expressly provided, no person may pursue, hunt, take, possess, shoot at, kill, wound, or capture any big game animal within the limits of this state at any time. A violation of this section is subject to § 41-8-18.*

### **S.D. CODIFIED LAWS § 41-8-15. Dogs prohibited in hunting big game--Exceptions--Violation**

*No dog may be used in hunting big game animals except as follows:*

- (1) A dog may be used in the hunting of mountain lions during established hunting seasons in the manner and under such conditions as provided by rules promulgated by the Game, Fish and Parks Commission pursuant to chapter 1-26; and
- (2) A dog that is leashed and under the control of a handler may be used to track and retrieve any big game animal that is wounded or presumed dead, if the handler complies with the conditions and restrictions prescribed in this chapter and the rules promulgated pursuant to this chapter.

A violation of this section is subject to § 41-8-18.

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## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

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### **S.D. CODIFIED LAWS § 41-11-7. Possession or destruction of nest or eggs of protected birds prohibited--Violation as misdemeanor**

Except as permitted by statute, no person may take or have in possession or break or destroy any nest or the eggs of the kinds of birds, the taking or killing of which is at any time or at all times prohibited. A violation of this section is a Class 2 misdemeanor.

### **S.D. CODIFIED LAWS § 41-12-5. Fishing restricted to hook and line except as provided--Violation as misdemeanor**

*Except as otherwise provided by law, only hook and line may be used in the taking of any fish in any waters which have been opened to fishing by Game, Fish and Parks Commission rule. A violation of this section is a Class 2 misdemeanor.*

### **S.D. CODIFIED LAWS § 41-12-13. Use of explosives, electrical devices, and drugs as misdemeanor**

*It is a Class 1 misdemeanor to kill, take, or attempt to kill, or take in any waters for any purpose, any fish by the use of any explosive, electrical device, poisonous, deleterious, or stupefying substance, unless written authorization to do so is obtained from the Department of Game, Fish and Parks.*

### **S.D. CODIFIED LAWS § 41-12-12. Fishing devices prohibited--Landing nets and gaffs permitted--Violation as misdemeanor**

*No spear, spear gun, bow and arrow, crossbow, snaghook, setline, hoop net, trap, artificial light, or other device except hook and line may be used for fishing except as expressly provided by rules promulgated by the Game, Fish and Parks Commission pursuant to chapter 1-26. However, landing nets, gaffs, and similar devices may be used as an aid in landing fish which are in the process of being caught by legal methods. Use of a device prohibited by this section is a Class 2 misdemeanor.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 8. CROSS REPORTING

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 9. VETERINARY REPORTING

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 10. "AG-GAG" LAWS

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 11. EMERGENCY RESCUE AND RELIEF

#### **S.D. CODIFIED LAWS § 40-1-36. Unattended animals in standing or parked vehicles--Authority to remove-- Liability for removal.**

*No owner or caretaker may leave a dog, cat, or other small animal unattended in a standing or parked vehicle in a manner that endangers the health or safety of such animal. Reasonable force may be used to remove such animal by any peace officer or agent or officer of any humane society. No such person may be held civilly or criminally liable for any damage caused by removing such animal from a vehicle.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 12. CIVIL ENFORCEMENT

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 13. DOMESTIC VIOLENCE AND PROTECTION ORDERS

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 14. MAXIMUM PENALTIES AND STATUTE OF LIMITATIONS

#### **S.D. CODIFIED LAWS § 22-6-2. Misdemeanor classes and penalties—Restitution—Misdemeanor when no penalty imposed.**

*Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:*

- (1) *Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;*
- (2) *Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.*

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

#### **S.D. CODIFIED LAWS § 22-6-1. Felony classes and penalties--Restitution--Habitual criminal sentences.**

Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) *Class A felony: death or life imprisonment in a state correctional facility. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;*
- (2) *Class B felony: life imprisonment in the a state correctional facility. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;*
- (3) *Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;*
- (4) *Class 1 felony: fifty years imprisonment in a state correctional facility. In addition, a fine of fifty thousand dollars may be imposed;*
- (5) *Class 2 felony: twenty-five years imprisonment in a state correctional facility. In addition, a fine of fifty thousand dollars may be imposed;*
- (6) *Class 3 felony: fifteen years imprisonment in a state correctional facility. In addition, a fine of thirty thousand dollars may be imposed;*
- (7) *Class 4 felony: ten years imprisonment in a state correctional facility. In addition, a fine of twenty thousand dollars may be imposed;*
- (8) *Class 5 felony: five years imprisonment in a state correctional facility. In addition, a fine of ten thousand dollars may be imposed; and*
- (9) *Class 6 felony: two years imprisonment in a state correctional facility or a fine of four thousand dollars, or both.*

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## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

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If the defendant is under the age of eighteen years at the time of the offense and found guilty of a Class A, B or C felony, the maximum sentence may be a term of years in a state correctional facility, and a fine of fifty thousand dollars may be imposed.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

### **S.D. CODIFIED LAWS § 23A-42-2. Seven-year limitation on other prosecutions.**

*In all other prosecutions for a public offense and all proceedings of a quasi-criminal or penal nature, including the forfeiture of existing rights, the proceedings shall be commenced within seven years after the commission of the offense or crime which is the basis of the prosecution or proceedings, except as provided in § 23A-42-3.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 15. LAW ENFORCEMENT POLICIES

#### **S.D. CODIFIED LAWS § 40-1-25. Administration and enforcement of livestock provisions regarding livestock and dangerous—Promulgation of rules.**

*The board shall administer and enforce the provisions of this chapter concerning cattle, horses, sheep, swine, and other livestock. In addition, the board may address situations involving dangerous animals, including nonlivestock animals, under the provisions of §§ 40-1-23 and 40-1-24. The board may issue orders for the execution of the powers conferred upon it by this chapter. The board may promulgate rules, pursuant to chapter 1-26, which may address cattle, horses, sheep, swine, and other livestock and dangerous animals, and which shall include:*

- (1) Procedures for filing complaints;*
- (2) Reasons for and methods of euthanizing animals;*
- (3) Specific standards and accepted food, water, protection from the elements, sanitation facilities, and care;*
- (4) Procedures and methods for impoundment;*
- (5) Methods for transferring ownership of impounded animals;*
- (6) Methods of investigating reported inhumane treatment;*
- (7) Methods for contracting with law enforcement officers, humane societies, or others to serve as agents for the board;*
- (8) Methods for certifying the proper training for agents of the board;*
- (9) Procedures and criteria for the euthanasia of animals pursuant to § 40-1-13; and*
- (10) Procedures for dealing with dangerous animals.*

#### **S.D. CODIFIED LAWS § 40-1-29. Investigation Procedure.**

*The board, any peace officer or any agent or officer of a humane society may administer oaths, take statements, access memoranda, papers and other documents, articles and instruments, and may compel the disclosure by witnesses of all facts known to them relative to the matters under investigation pursuant to § 40-1-28.*

#### **S.D. CODIFIED LAWS § 40-2-7. Enforcement by law enforcement officer or animal control officer—Powers.**

*Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a county or municipality if the legislative authority of the county or municipality has entered into a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on a law enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal control officer has the following enforcement powers when enforcing this chapter:*

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**ANIMAL PROTECTION LAWS OF SOUTH DAKOTA**

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- (1) *The power to issue citations based on probable cause to offenders for misdemeanor and felony violations of this chapter or chapter 40-1;*
- (2) *The power to request that a law enforcement officer arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or chapter 40-1. An animal control officer may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate an arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;*
- (3) *The power to carry protective devices, other than firearms, for personal protection;*
- (4) *The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or chapter 40-1, and to seize evidence of those violations.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 16. SEIZURE

#### **S.D. CODIFIED LAWS § 40-1-5. Impoundment of neglected, abandoned, mistreated, or cruelly treated animal – Expenses of care as lien – Warrant or court order.**

*Any law enforcement officer, agent of the board, or agent or officer of any humane society finding an animal neglected, abandoned, mistreated, or subjected to cruelty, may, pursuant to a warrant or court order, cause the animal to be impounded and properly cared for, and the expenses of such impoundment or care constitute a lien on the animal to be paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary for law enforcement officers if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.*

#### **S.D. CODIFIED LAWS § 40-1-11. Entry by officer of place where animal fight conducted—Arrest of persons present.**

*Any law enforcement officer may enter any place where there is any sport or exhibition of the fighting of animals or where preparations are being made for such sport or exhibition, and without a warrant arrest any person there present.*

#### **S.D. CODIFIED LAWS § 40-1-11.1. Seizure of fighting animals and related paraphernalia – Disposition.**

*Any law enforcement officer making an arrest for a violation of § 40-1-10.1 shall take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of § 40-1-10.1. The provisions of chapters 23A-35 and 23A-37 apply to the search and seizure of violations of § 40-1-10.1 and apply to the disposition of seized paraphernalia, implements, or other property or things used or employed, or about to be employed, in violation of § 40-1-10.1. For the purposes of this section, animals seized pursuant to a violation of § 40-1-10.1 are contraband and property of an illegal nature and may be destroyed pursuant to § 23A-37-9.*

#### **S.D. CODIFIED LAWS § 40-1-28. Inspection of premises authorized.**

*The board, any peace officer or any agent or officer of a humane society may enter and inspect any premises necessary to carry out the provisions of this chapter.*

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## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

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### **S.D. CODIFIED LAWS § 40-1-31. Liability of officer or agent.**

*No agent of the board, peace officer, or agent or officer of a humane society may be held liable as a result of reasonable actions taken pursuant to this chapter.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 17. COURTROOM ANIMAL ADVOCATE PROGRAM

[None]

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 18. RESTITUTION

#### **S.D. CODIFIED LAWS § 22-6-2. Misdemeanor classes and penalties—Restitution—Misdemeanor when no penalty imposed.**

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;
- (2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

*The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.*

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

#### **S.D. CODIFIED LAWS § 40-1-5. Impoundment of neglected, abandoned, mistreated, or cruelly treated animal--Expenses of care as lien--Warrant or court order.**

Any law enforcement officer, agent of the board, or agent or officer of any humane society finding an animal neglected, abandoned, mistreated, or subjected to cruelty, may, pursuant to a warrant or court order, cause the animal to be impounded and properly cared for, *and the expenses of such impoundment or care constitute a lien on the animal to be paid before the animal may be lawfully recovered.* However, a warrant or court order is not necessary for law enforcement officers if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

#### **S.D. CODIFIED LAWS § 40-1-5.1. Liability of owner or caretaker for impounded animal.**

*The owner or caretaker of an animal impounded or cared for pursuant to § 40-1-5 is liable for the expense of services rendered. The governing body of the county or municipality that has rendered such services may recover such sums for services pursuant to § 40-1-5 as it deems reasonable. The payment shall be on vouchers, as other claims against the county or municipality are paid. Expenses may be recovered in a civil action against the owner unless the expenses are paid within thirty days after notice and demand.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 19. FORFEITURE AND POSSESSION BANS

#### **S.D. CODIFIED LAWS § 40-1-34. Disposition of impounded animals.**

*An animal impounded under this chapter shall, within reasonable time at the direction of the board, any agent or officer of a humane society or any peace officer be disposed of by:*

- (1) Returning to the owner or caretaker;*
- (2) Transferring ownership to a humane society as described in chapter 40-2;*
- (3) Euthanizing;*
- (4) Sold through public auction;*
- (5) Transferring ownership to a suitable caretaker or facility as prescribed in rule by the board; or*
- (6) Any other disposition as determined by the board, any agent or officer of a humane society or any peace officer in accordance with rules promulgated pursuant to § 40-1-25.*

## ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

### 20. REHABILITATIVE SENTENCING

[None]