

CHAPTER [34-18](#)
HEALTH REGULATION OF LODGING AND FOOD SERVICE ESTABLISHMENTS AND
CAMPGROUNDS

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34-18-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Campground," a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public to be a place where camping units can be located and occupied as temporary living quarters for children or adults, or both. Camping units are considered to be trailers, tent campers, campers, tents, recreational park trailers, or other equipment that may be used by the public at individual campsites located at campgrounds or areas used by the public as campgrounds;
- (2) "County fair," any fair or celebration operated by any county of this state and under the supervision of a county fair board, county fair association, or the county board of commissioners;
- (3) "Department," the Department of Health;
- (4) "Food," any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption;
- (5) "Food service establishment," any fixed restaurant; coffee shop; cafeteria; short-order café; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; catering kitchen; delicatessen; bakery; grocery store; boardinghouse; or similar place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere with or without charge;
- (6) "Hotel," any hotel, motel, lodge, resort, cabins, building, or buildings with more than ten rental units which is used to provide sleeping accommodations for a charge to the public;
- (7) "Lodging establishment," any building or other structure and property or premises kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to two or more transient guests. The term includes hotels, motels, cabins, bed and breakfast establishments, lodges, vacation home establishments, dude ranches, and resorts;
- (8) "Mobile food service establishment," any mobile unit in which food or drink is prepared for sale or for service to the public with or without charge;

- (9) "Nonprofit organization," any governmental organization, church, fraternal, social, school, youth, or other similar organization that is organized and operated for a common good and not for the specific monetary gain of any person or persons;
- (10) "Owner," the operator, agent, proprietor, manager, or licensee whether it be a person, firm, corporation, limited liability company, or association;
- (11) "Rental unit," any room, cabin, or other quarters that may be rented to a guest for sleeping accommodations;
- (12) "Secretary," the secretary of the Department of Health;
- (13) "Specialty resort," any bed and breakfast establishment, lodge, dude ranch, resort, building, or buildings used to provide accommodations or recreation for a charge to the public, with no more than ten rental units for up to an average of twenty guests per night and in which meals are provided to only the guests staying at the specialty resort;
- (14) "State Fair," the fair at Huron, South Dakota, operated by the Department of Agriculture and Natural Resources;
- (15) "Temporary food service establishment," any food service establishment which operates at a fixed location for a temporary period of time, not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering;
- (16) "Transient guest," any person who resides in a lodging establishment less than four consecutive calendar weeks;
- (17) "Vacation home establishment," any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in subdivision [34-18-9.1\(1\)](#);
- (18) "Water recreational facility," any artificial basin of water located at a facility licensed pursuant to chapter [34-18](#) constructed, installed, modified, or improved for the purpose of swimming, wading, diving, or recreation, including swimming pools, spas, hot tubs, and water slides.

Source: SDC 1939, §§ 27.1702 to 27.1705; SL 1963, ch 158, § 2; SL 1970, ch 199, § 1; SL 1994, ch 351, § 60; SL 1996, ch 213, §§ 6, 7; SL 2008, ch 53, § 5; SL 2008, ch 172, § 1; SL 2009, ch 165, § 1; SL 2014, ch 164, § 1; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 14, eff. Apr. 19, 2021.

34-18-1.1. Repealed by SL 1986, ch 280, § 1.

[34-18-2](#). Secretary responsible for safety and sanitation requirements--Bond not required--Additional compensation not provided.

The secretary of health shall be responsible for carrying out the provisions of this chapter and all other statutes relating to the safety and sanitation of lodging establishments, campgrounds, food service establishments, temporary food service establishments, and mobile food service establishments as defined in this chapter. The secretary shall not be required to give bond, nor shall he receive any additional compensation for such services.

Source: SL 1907, ch 165, §§ 8 to 10; SL 1909, ch 185, §§ 7, 9, 10; SL 1913, ch 238, §§ 1, 7; SL 1915, ch 215, §§ 1, 7; RC 1919, §§ 7821, 7827; SL 1921, ch 256, § 5; SL 1935, ch 173, § 4; SDC 1939, §§ 27.1701, 27.1708; SL 1963, ch 158, § 1; SL 1970, ch 199, § 2.

34-18-3, 34-18-4. Repealed by SL 1988, ch 278, §§ 1, 2.

34-18-5. Repealed by SL 1971, ch 23, § 2.

34-18-6. Agreements between secretary of health and other agencies.

The secretary of health may enter into mutual agreements with other public and private agencies in order to promote the mutual effectiveness of both agencies in the area of public health and safety and to prevent duplication of effort in the promotion of an efficient public health program.

Source: SL 1963, ch 158, § 20; SL 1997, ch 201, § 1.

34-18-7. Employment of personnel by secretary--Local health departments as enforcement agents.

The secretary of health shall employ such personnel as are necessary to perform the duties of this chapter. Any county or district health department or municipal health department organized under existing laws may be designated as an agent of the secretary for the purpose of administering the provisions of this chapter and rules and regulations of the department.

Source: SL 1963, ch 158, § 6.

34-18-8. Deposit and accounting for money received.

All money received by the secretary in the administration of this chapter shall be receipted and accounted for by the State Health Department and all money so collected shall be deposited monthly with the state treasurer to the credit of the state general fund. If any local health department has been designated as an agent of the secretary as provided by § [34-18-7](#), and the local health department actually carries out the duties agreed to with the secretary, then all such money received by the secretary from establishments within the boundaries of the local health department shall be returned to that health department.

Source: SDC 1939, § 27.1726; SL 1963, ch 158, § 18; SL 1970, ch 200; SL 1996, ch 212.

34-18-9. License required to operate lodging or food service establishment or campground--Posting in conspicuous place.

It is a Class 2 misdemeanor to maintain, conduct or operate a lodging establishment, campground or food service establishment in this state unless a valid license, issued by the department, is in the possession of the owner and posted in a conspicuous place in such establishment or campground.

Source: SL 1909, ch 185, § 8; SL 1913, ch 238, § 5; SL 1915, ch 215, § 5; RC 1919, § 7825; SL 1921, ch 241; SL 1929, ch 212, § 2; SL 1935, ch 173, § 2; SDC 1939, § 27.1706; SL 1941, ch 127, § 1; SL 1955, ch 94, § 2; SL 1963, ch 158, § 7; SL 1967, ch 106, § 1; SL 1970, ch 199, § 3; SL 1977, ch 190, § 40.

34-18-9.1. Definition of terms related to bed and breakfast establishments.

Terms as used in §§ [34-18-9.1](#) to [34-18-9.4](#), inclusive, mean:

- (1) "Bed and breakfast establishment," any building or buildings run by an operator which is used to provide accommodations for a charge to the public, with at most five rental units for up to an average of ten guests per night and in which family style meals are provided;

- (2) "Family style meal," any meal ordered by persons staying at a bed and breakfast establishment which is served from common food service containers, as long as any food not consumed by those persons is not reused;
- (3) "Operator," the owner or the owner's agent, who is required to reside in the bed and breakfast establishment or on contiguous property.

Source: SL 1986, ch 280, § 3; SL 1996, ch 213, § 1.

34-18-9.2. Exemption for bed and breakfast establishment.

No bed and breakfast establishment as defined in § [34-18-9.1](#) is subject to be licensed under the provisions of this chapter.

Source: SL 1986, ch 280, § 2; SL 1996, ch 213, § 3.

34-18-9.3. Registration of bed and breakfast establishment--Fee--Investigation of complaints.

Any bed and breakfast establishment operating in this state shall register with the Department of Health. A one-time registration fee of thirty-eight dollars is required before a bed and breakfast establishment may be operated. The fee shall be placed in the Department of Health fee account. Any change in ownership or location of the bed and breakfast establishment requires a new registration on a form provided by the department. The form shall be submitted to the department along with payment of a thirty-eight dollar registration fee. The department may investigate any complaint made against any bed and breakfast establishment.

Source: SL 1986, ch 280, § 4; SL 1996, ch 213, § 4; SL 2009, ch 165, § 2.

34-18-9.4. Bed and breakfast establishment to maintain guest list and smoke detectors--Violation as misdemeanor.

Any bed and breakfast establishment shall maintain a guest list and shall place a smoke detector in each sleeping room with a minimum of at least one smoke detector per floor. Any violation of this section is a Class 2 misdemeanor.

Source: SL 1986, ch 280, § 5; SL 1996, ch 213, § 5.

34-18-10. Annual license required--Renewal--Initial application contents.

Every owner of a lodging establishment, campground, food service establishment, or mobile food service establishment shall obtain a license before beginning the operation of the establishment or campground. The license must be renewed annually on or before December thirty-first. To obtain or renew a license, an owner must apply on a form provided by the department, accompanied by the proper license fee.

The initial application form must contain:

- (1) The name and address of the establishment or campground and previous name, if changed due to a change in ownership;
- (2) The name, address, and telephone number of the owner and operator of the establishment or campground;
- (3) A specification of the type of license applied for;
- (4) If for a lodging establishment license, a description of the size of the establishment and whether it has a water recreational facility;
- (5) If for a campground license, a description of the size and type of the campground and whether it has a water recreational facility;

- (6) If for a food service or mobile food service establishment license, a description of the size of the establishment;
- (7) A license fee schedule; and
- (8) A certification of consent to allow inspections of the establishment or campground by authorized department inspectors during business hours upon the presentation of identification.

Source: SDC 1939, § 27.1706; SL 1941, ch 127, § 1; SL 1955, ch 94, § 2; SL 1963, ch 158, § 7; SL 1967, ch 106, § 1; SL 1970, ch 199, § 4; SL 1986, ch 281, § 1; SL 1995, ch 194, § 1; SL 2009, ch 165, § 3; SL 2025, ch 136, § 1.

34-18-10.1. Review of application--Issuance or refusal to issue license--Reasons for denial--Contest of denial.

The department shall, in the case of every application for licensure, review and ascertain whether the facts set forth in the application are true. The department shall issue a license to the applicant when it is satisfied that the facts set forth in the application are true. The department may refuse to issue a license upon any of the grounds stated in § [34-18-27.1](#). Upon denial, the department shall advise the applicant of the reasons for denial. The applicant may contest the denial pursuant to chapter [1-26](#).

Source: SL 1986, ch 281, § 5.

34-18-10.2. Notice--Closure order on failure to secure license--Injunctive relief.

If it is determined that a lodging establishment, campground, food service, or mobile food service establishment has not secured a license pursuant to § [34-18-10](#), the secretary shall notify the owner of such establishment. If the owner refuses or fails to comply with the provisions of § [34-18-10](#) within fourteen calendar days after notification, the secretary shall, subject to the requirements of chapter [1-26](#), issue a closure order to the owner of the establishment until such time as the owner complies with the licensure requirements. If the establishment or campground continues to operate after a closure order is issued, the secretary may refer the matter to the appropriate state's attorney for criminal proceedings or the attorney general's office for injunctive relief.

Source: SL 1988, ch 279, § 4.

34-18-10.3. Repealed.

Source: SL 1995, ch 194, § 2; SL 2025, ch 136, § 2.

34-18-10.4. Initial license fee for food service establishment, lodging establishment, and campground.

A one-time initial license fee of one hundred dollars shall be charged to any new food service establishment, lodging establishment, or campground upon initial licensure.

Source: SL 2009, ch 165, § 4.

34-18-10.5. Biological filtration system permitted--Water recreation facility--Requirements--Promulgation of rules.

A lodging establishment that has fifteen or fewer sleeping rooms may apply to the department for a permit to use a biological filtration system to filter water in the establishment's water recreational facility. Only

an establishment that has been issued a permit under this section may use a biological filtration system in a water recreational facility. A permit issued under this section is valid for one year.

A water recreational facility that uses a biological filtration system must otherwise meet the minimum public health and safety requirements for a water recreational facility, established by the department pursuant to § [34-18-22](#).

When applying for a permit, an establishment shall submit to the department a document that demonstrates how the proposed system meets water quality outcomes established by the department.

A biological filtration system must be inspected by the department every year. If a lodging establishment fails an inspection, the department must revoke the permit. An establishment that fails an inspection may not reapply for a permit under this section for one year.

The department shall promulgate rules pursuant to chapter [1-26](#) to establish:

- (1) Application requirements for a permit to use a biological filtration system;
- (2) Procedures for reapplying for a permit following a failed inspection;
- (3) Requirements for the routine maintenance of a biological filtration system by a lodging establishment;
- (4) The permit fee, which may not exceed fifty dollars; and
- (5) Water quality testing procedures for biological filtration systems.

For purposes of this section, "biological filtration system" means a system that is approved by the department and filters water using natural processes, including the use of plants, beneficial bacteria, and microbes, and does not rely on continuous chemical disinfectant residuals.

Source: SL 2026, ch 144, § 1.

[34-18-11](#). Annual fees for food service and lodging establishment licenses.

The annual license fee for a food service establishment or a lodging establishment shall be as follows:

- (1) Food service establishment with no seating, ninety dollars;
- (2) Food service establishment with one to fifty seats, inclusive, one hundred twenty dollars;
- (3) Food service establishment with fifty-one to one hundred seats, inclusive, one hundred eighty dollars;
- (4) Food service establishment with one hundred one or more seats, two hundred twenty-five dollars;
- (5) Vacation home establishment, forty-five dollars;
- (6) Specialty resort, forty-five dollars; and
- (7) Hotel, two dollars and twenty-five cents per unit, with a minimum of forty-five dollars.

Source: SL 1913, ch 238, § 6; SL 1915, ch 215, § 6; RC 1919, § 7826; SL 1921, ch 256, § 4; SL 1935, ch 173, § 3; SDC 1939, § 27.1707; SL 1941, ch 127, § 2; SL 1955, ch 94, § 3; SL 1963, ch 158, § 7; SL 1967, ch 106, § 1; SL 1980, ch 238, § 7; SL 2009, ch 165, § 5.

[34-18-11.1](#). Annual campground license fee.

The annual license fee for a campground is:

- (1) Two to twenty-five campsites, inclusive, seventy-five dollars;
- (2) Twenty-six to one hundred campsites, inclusive, one hundred thirteen dollars;
- (3) One hundred one to two hundred campsites, inclusive, one hundred fifty dollars;
- (4) Two hundred one to three hundred campsites, inclusive, one hundred eighty-eight dollars; and
- (5) Three hundred one or more campsites, two hundred twenty-five dollars.

Source: SL 1970, ch 199, § 5; SL 1980, ch 238, § 8; SL 2009, ch 165, § 6; SL 2014, ch 164, § 2.

[34-18-11.2](#). Annual fees for water recreational facilities.

Each facility licensed pursuant to this chapter with one water recreational facility shall be charged an annual fee of forty dollars. Each facility licensed pursuant to this chapter with more than one water recreational facility shall be charged an annual fee of sixty-five dollars.

Source: SL 2009, ch 165, § 11.

34-18-12. Repealed by SL 1988, ch 279, § 1.

34-18-13. Prorated license fee for less than full year.

A prorated license fee shall be charged for each new lodging establishment, campground, and food service establishment beginning operations after the first day of the license renewal period and for changes in ownership and location of any existing establishment and campground after the first day of the license renewal period. To implement this section, the department may promulgate rules pursuant to chapter [1-26](#).

Source: SL 1963, ch 158, § 8; SL 1970, ch 199, § 7; SL 1988, ch 279, § 2; SL 2009, ch 165, § 7.

34-18-14. Issuance of license when establishment in compliance.

After having received a properly completed application form and the correct license fee and after satisfying himself that the establishment or campground is in compliance with the provisions of this chapter and the rules and regulations of the department, the secretary of health shall issue a license to such establishment or campground.

Source: SL 1907, ch 165, § 11; SL 1909, ch 185, § 11; SL 1913, ch 238, §§ 2, 6; SL 1921, ch 256, § 4; SL 1935, ch 173, § 3; SDC 1939, § 27.1707; SL 1941, ch 127, § 2; SL 1955, ch 94, § 3; SL 1963, ch 158, §§ 7, 8; SL 1967, ch 106, § 1; SL 1970, ch 199, § 8; SL 1988, ch 279, § 3.

34-18-14.1. Issuance of provisional license.

The department may issue a provisional license if an applicant or licensee under this chapter fails to comply with the established standards but signifies an intention to remedy such fault. The provisional license shall state on its face the conditions under which it is granted and the period of time for which it is issued. A provisional license may also be issued to cover the maintenance of the establishment or campground until an inspection can be completed and a regular license issued, if the application for license is found to be in order.

Source: SL 2000, ch 167, § 3.

34-18-15. Expiration of license--New license required on change in ownership or location.

A license issued pursuant to § [34-18-14](#) shall expire on the thirtieth day of June each year, unless otherwise provided by this chapter, and is not transferable from owner to owner or from location to location of the establishment or campground. Changes in ownership or location shall require the purchase of a new license which may be secured by making proper application on a form provided by the department and the payment of the proper license fee.

Source: SDC 1939 § 27.1706; SL 1941, ch 127, § 1; SL 1955, ch 94, § 2; SL 1963, ch 158, § 7; SL 1967, ch 106, § 1; SL 1970, ch 199, § 9; SL 2000, ch 167, § 2.

34-18-16. Mobile food service license fee.

The annual license fee for a mobile food service establishment shall be thirty-eight dollars.

Source: SL 1963, ch 158, § 11; SL 1972, ch 15, § 3; SL 2009, ch 165, § 8.

34-18-17. Temporary food service license--Fee--Food service in connection with special promotions--Duration of license.

Each owner of a temporary food service establishment shall secure a license before beginning the operation of the establishment after making proper application on a form provided by the department and accompanied by the proper license fee. The license fee for a temporary food service establishment shall be thirty-eight dollars. Any business which offers food at no cost or consideration not more than three times in any calendar year and no more than three consecutive days at any given time in conjunction with a grand opening, promotion, or special product showing is exempt from the licensing and license fee provisions of this chapter. Such exemption from the licensing and license fee provisions does not release the owner of the establishment from compliance with the public health requirements of this chapter and the rules promulgated pursuant to this chapter. If the secretary is satisfied that the temporary food service establishment is in compliance with this chapter and the rules promulgated pursuant to this chapter, the secretary shall issue a license for thirty days from the date of issuance.

Source: SDC 1939, § 27.1707 as enacted by SL 1941, ch 127, § 2; SL 1955, ch 94, § 3; SL 1963, ch 158, § 9; SL 1972, ch 193; SL 2009, ch 165, § 9.

34-18-18. Fairs and nonprofit organizations exempt from temporary food service license fee--Health requirements applicable.

Temporary food service establishments located on the state fairgrounds or on county fairgrounds of this state, operated in conjunction with these annual celebrations, and nonprofit organizations operating a temporary food service establishment shall be exempt from the license fee of this chapter. Such exemption from the license fee does not release the owner of such temporary food service establishment from compliance with the public health requirements of this chapter and the rules and regulations of the department.

Source: SDC 1939, § 27.1707 as enacted by SL 1941, ch 127, § 2; SL 1955, ch 94, § 3; SL 1963, ch 158, § 10.

34-18-19. Closure order for temporary food service establishment--Operation after closure notice as violation--Refund of license fee.

Should a temporary food service establishment licensed under § [34-18-17](#) not be in compliance with the provisions of this chapter and the rules and regulations of the department and compliance is not considered feasible during the period of the celebration or public gathering where its operation is planned, it shall be the duty of the secretary of health, subject to the requirements of § [1-26-29](#), to issue a closure order to the owner of such temporary food service establishment. Continued operation after notice of closure as rendered by the secretary shall be in direct violation of the licensing requirements of this chapter. Any license fees paid shall be refunded unless the temporary food service establishment has operated for more than one day. If the temporary food service establishment has operated for more than one day, the fee paid shall be forfeited by the owner of such temporary food service establishment.

Source: SL 1963, ch 158, § 9; SL 1972, ch 15, § 4.

34-18-20. Nonprofit organizations and alcoholic beverage licensees exempt--Health requirements applicable.

Nonprofit organizations shall be exempt from the licensing and license fee provisions of this chapter. Establishments serving alcoholic beverages as defined in chapter [35-1](#) and who do not otherwise come within the definition of a food service establishment, temporary food service establishment, or mobile food service establishment shall be exempt from the licensing and license fee provisions of this chapter. Such exemption from the licensing and license fee provisions does not release the owner of such establishments from compliance with the public health requirements of this chapter and the rules and regulations of the department.

Source: SL 1963, ch 158, § 12.

[34-18-21](#). Registration of guests at lodging establishment or campground--Contents and inspection of records.

Each person conducting a lodging establishment or campground shall keep a record of guests. Such a record may be kept in a register or on separate cards and shall be opened for inspection and copying by the secretary of health for the purpose of protecting the health or life of persons or for an emergency which may affect the public health. The inspection and copying shall take place during business hours and shall be conducted by an authorized department inspector after presentation of identification. The registry shall contain the name of the guest, the number in the party, the place of permanent residence of the guest, the date of registration, the date of departure, the daily rate charged, and the motor vehicle license number of the registrant. The record shall also include each rate, price, or fee charged to the guest for the guest's stay at the lodging establishment or campground, as required by subdivision 37-24-6(8). These records shall be kept for a minimum of one year.

Source: SDC 1939, § 27.1709; SL 1963, ch 158, § 15; SL 1970, ch 199, § 10; SL 1994, ch 277, § 1; SL 1998, ch 243, § 2.

[34-18-21.1](#). Confidentiality of information obtained through inspection of records.

Information obtained by the department under the authority of § [34-18-21](#) is confidential, except for official purposes of the department, and may not be disclosed except in accordance with a judicial order or as otherwise provided by law.

Source: SL 1994, ch 277, § 2.

[34-18-21.2](#). Review of requests for inspection of records.

In the event that a court is asked to review a request by the secretary for inspection pursuant to § [34-18-21](#), the court shall consider whether a health emergency exists and whether the request is consistent with the needs of the secretary to enforce the secretary's duties in this chapter. The court shall balance the business interests of the proprietor, the privacy interests of the guests and the enforcement interests of the secretary as it determines the extent to which the records shall be delivered to the secretary and determines the costs of such disclosures which shall be allocated to the secretary.

Source: SL 1994, ch 277, § 3.

[34-18-22](#). Health and safety requirements--Procedure for rules and regulations.

The department shall adopt rules and regulations setting forth the minimum public health and safety requirements for lodging establishments, campgrounds, food service establishments, temporary food service establishments, or mobile food service establishments. The procedure for adopting such rules and regulations shall be in accordance with chapter [1-26](#).

Source: SDC 1939, § 27.1728 as enacted by SL 1955, ch 94, § 5; SL 1963, ch 158, § 17; SL 1970, ch 199, § 11; SL 1972, ch 15, § 4.

34-18-22.1. Fire safety standards for specialty resort with less than ten occupants.

Any specialty resort establishment with less than ten occupants shall meet the following minimum fire safety standards:

- (1) Any primary exit that leads to the exterior of the structure shall be capable of unlocking from the interior without the use of a key or special knowledge or effort, free from obstruction, and clearly marked with illuminated exit signs. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement;
- (2) There shall be a smoke detector in each sleeping room. The owner or manager shall test any battery operated smoke detector at least twice a year;
- (3) Any sleeping room shall be equipped with an operable egress window. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement; and
- (4) Portable fire extinguishers with a minimum 2-A rating shall be made available on each floor and shall be inspected and tagged annually.

Source: SL 2005, ch 184, § 1; SL 2008, ch 171, § 1; SL 2011, ch 157, § 1.

34-18-22.2. Fire safety standards for specialty resort with ten or more occupants.

Any specialty resort establishment with ten or more occupants shall meet the following minimum fire safety standards:

- (1) Each floor where occupants are sleeping shall have access to at least two remote exits;
- (2) Any primary exit that leads to the exterior of the structure shall be capable of unlocking from the interior without the use of a key or special knowledge or effort, free from obstruction, and clearly marked with illuminated exit signs. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement;
- (3) There shall be a smoke detector in each sleeping room. The owner or manager shall test any battery operated smoke detector at least twice a year;
- (4) Any sleeping room shall be equipped with an operable egress window. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement; and
- (5) Portable fire extinguishers with a minimum 2-A rating shall be made available on each floor and shall be inspected and tagged annually.

Source: SL 2005, ch 184, § 2; SL 2008, ch 171, § 2; SL 2011, ch 157, § 2.

34-18-22.3. Fire safety standards for vacation home establishments.

Any vacation home establishment shall meet the following minimum fire safety standards:

- (1) Each floor where ten or more occupants are sleeping shall have access to at least two remote exits;
- (2) Any primary exit that leads to the exterior of the structure shall be capable of unlocking from the interior without the use of a key or special knowledge or effort and free from obstruction. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement;
- (3) There shall be a smoke detector in each sleeping room. The owner or manager shall test any battery operated smoke detector at least twice a year;
- (4) Any sleeping room shall be equipped with an operable egress window. Any sleeping room with a direct exit to the exterior of the building is exempt from this requirement; and
- (5) A portable fire extinguisher with a minimum 2-A rating shall be made available on each floor and shall be inspected and tagged annually.

Source: SL 2008, ch 172, § 2; SL 2011, ch 157, § 3.

34-18-23. Notice to department of construction and alteration of establishments.

The department shall be notified thirty days prior to initiating construction of new lodging establishments, campgrounds, food service establishments, mobile food service establishments, or permanent additions, alterations, or modification of existing structures. Owners of temporary food service establishments shall give notice to the department as may be prescribed by the department for any new construction, alteration, or modification of existing structures. Such notifications shall be made by the owner for the purpose of permitting a review of features having public health and safety significance.

Source: SL 1963, ch 158, § 16; SL 1970, ch 199, § 12.

34-18-24. Departmental inspections of lodging establishments and campgrounds.

The secretary of health shall at least annually inspect or cause to be inspected every lodging establishment and campground licensed in this state for compliance with the provisions of this chapter and the rules promulgated thereunder.

Source: SL 1907, ch 165, § 10; SL 1909, ch 185, § 10; SL 1913, ch 238, § 7; SL 1915, ch 215, § 7; RC 1919, § 7827; SL 1921, ch 256, § 5; SL 1935, ch 173, § 4; SDC 1939, § 27.1708; SL 1955, ch 94, § 4; SL 1963, ch 158, § 3; SL 1970, ch 199, § 13; SL 1982, ch 261, § 1; SL 1986, ch 281, § 2.

34-18-25. Repealed by SL 2019, ch 147, § 1.

34-18-25.1. Inspection of lodging establishments, campgrounds, food service establishments, and mobile food services--Fee.

The department shall, at least annually, make one inspection of each lodging establishment and campground and, at least twice annually, of each food service establishment or mobile food service licensed under this chapter to ascertain that the lodging establishment, campground, food service establishment, or mobile food service is in compliance with this chapter and the rules promulgated pursuant to this chapter. The department shall charge an inspection fee of twenty-five dollars for each inspection. The inspection shall take place during business hours and shall be conducted by an authorized department inspector after presentation of identification. The scope of the inspection is limited to those areas provided for in this chapter and the rules promulgated pursuant to this chapter.

Source: SL 1986, ch 281, § 6; SL 2009, ch 165, § 10.

34-18-25.2. Refusal to allow inspection--Suspension or revocation proceedings.

If, prior to an inspection being started, the owner or operator of a lodging establishment, campground, food service establishment, or mobile food service establishment refuses to allow the inspection, no inspection shall be made. If, during the course of an inspection, the owner or operator refuses to allow the inspection to continue, the inspection shall cease. In either case, however, the department may immediately initiate proceedings in accordance with chapter [1-26](#) to suspend or revoke the owner's establishment or campground license.

Source: SL 1986, ch 281, § 7.

34-18-25.3. Inspection of exempt establishments and campgrounds--Scope.

Upon receipt of a complaint, the department may enter and inspect any lodging establishment, campground, food service establishment, mobile food service establishment, or temporary food service establishment which is exempt from the licensing or license fee provisions of this chapter pursuant to §§ [34-18-17](#), [34-18-18](#), and [34-18-20](#) to determine if there are violations of this chapter or any of the rules promulgated thereunder. Before entering an establishment, the department shall obtain the consent of the owner or obtain a court order authorizing entry for the purpose of inspection except in those instances when an emergency exists. As used in this section, the term, emergency, means any circumstance which the department has reason to believe exists, which may constitute a hazardous condition that may endanger human life or be seriously detrimental to public health. The inspection shall take place during reasonable times and shall be conducted by an authorized department inspector after presentation of identification. The scope of the inspection is limited to those areas provided for in this chapter and the rules promulgated thereunder. After an inspection is completed, the department may proceed in accordance with § [34-18-19](#) or [34-18-26](#) to cause compliance with this chapter and the rules promulgated thereunder.

Source: SL 1991, ch 275.

34-18-26. Notice and correction of deficiencies--Closure order on failure to correct deficiency--Injunctive relief.

If, upon an inspection, it is determined that a lodging establishment, campground, food service establishment, or mobile food service establishment is not being conducted or is not equipped and maintained in a manner and condition required by the provisions of this chapter and the rules promulgated thereunder the secretary or an authorized department inspector shall notify the owner or operator of the lodging establishment, campground, food service establishment, or mobile food service establishment of such changes or alterations as are considered necessary for complete compliance. The owner shall make such changes and alterations necessary to put the lodging establishment, campground, food service establishment, or mobile food service establishment in a condition that complies with the provisions of this chapter and rules promulgated thereunder. If, after proper notice, the owner refuses or fails to comply within sixty days following notification, the secretary shall, subject to the requirements of chapter [1-26](#), issue a closure order to the owner of the establishment or campground until such requirements are complied with. If the establishment or campground continues operation after a closure order is issued, the secretary may refer the matter to the state's attorney for appropriate action or the attorney general's office for injunctive relief.

Source: SL 1907, ch 165, § 10; SL 1909, ch 185, § 10; SL 1913, ch 238, § 7; SL 1915, ch 215, § 7; RC 1919, § 7827; SL 1921, ch 256, § 5; SL 1935, ch 173, § 4; SDC 1939, § 27.1708; SL 1955, ch 94, § 4; SL 1963, ch 158, § 5; SL 1970, ch 199, § 14; SL 1972, ch 15, § 4; SL 1986, ch 281, § 4; SL 1988, ch 279, § 5.

34-18-26.1. Follow-up inspection--Fee.

The department shall conduct a follow-up inspection of a lodging establishment, campground, food service establishment, or mobile food service to ascertain compliance with a sixty-day notice issued pursuant to § [34-18-26](#). When the department conducts an inspection pursuant to this section, the owner shall promptly remit, but not later than thirty days after the follow-up inspection, a fifty dollar inspection fee to the department.

The inspection fee provisions of §§ [34-18-26.1](#) and [34-18-27.1](#) do not apply to nonprofit organizations.

Source: SL 1991, ch 276, §§ 1, 3.

34-18-26.2. Expedited follow-up inspection process.

The department shall implement an expedited inspection process whereby the owner of a food service establishment, lodging establishment, or campground may request a follow-up inspection to the establishment's most recent routine inspection. If an establishment has received an inspection score of eighty or higher, but less than ninety, on the most recent routine inspection, the establishment may request a follow-up inspection through the expedited inspection process. A request for a follow-up inspection as part of the expedited inspection process shall be received by the department within ten business days of the most recent routine inspection. The department shall conduct the follow-up inspection within sixty days of receipt of the request, unless the establishment requesting the follow-up inspection ceases or temporarily suspends operations prior to the follow-up inspection. No establishment may receive more than one follow-up inspection every two years, as part of the expedited inspection process. The department shall charge a fee of one hundred dollars for each follow-up inspection performed as part of the expedited inspection process.

Source: SL 2013, ch 155, § 1.

34-18-27. Summary suspension of license on discovery of hazardous condition.

The secretary of health, upon determining the existence of a hazardous condition that may immediately endanger human life or be seriously detrimental to public health may, subject to the requirements of § [1-26-29](#), summarily suspend the license of any lodging establishment, campground, food service establishment, temporary food service establishment, or mobile food service establishment in this state. A license suspended on this basis shall remain suspended until such time as the establishment or campground is in compliance with the requirements of this chapter and the rules and regulations of the department.

Source: SL 1915, ch 215, § 24; RC 1919, § 7843; SL 1921, ch 256, § 7; SL 1935, ch 173, § 13; SDC 1939, § 27.1727; SL 1963, ch 158, § 13; SL 1970, ch 199, § 15; SL 1972, ch 15, § 4.

34-18-27.1. Grounds for denial, suspension, or revocation of license.

The department may deny any application or suspend or revoke any license issued under the provisions of this chapter on any of the following grounds:

- (1) Commission of fraud or willful misrepresentation in the application for or in obtaining a license;
- (2) Commission, or permitting, aiding, or abetting in the commission, of any unlawful act in a lodging establishment, campground, food service establishment, or mobile food service establishment;
- (3) Conduct or practices detrimental to the public health, safety, or welfare;
- (4) Failure to allow department inspections authorized under §§ [34-18-24](#) and [34-18-27.3](#) or necessary follow-up inspections;
- (5) Violation by the applicant or licensee of any of the provisions of this chapter or of the rules promulgated thereunder;
- (6) Failure to remit follow-up inspection fees pursuant to § [34-18-26.1](#).

Source: SL 1986, ch 281, § 8; SL 1991, ch 276, § 2.

34-18-27.2. Consideration of new application after correction of conditions.

If a lodging establishment, campground, food service establishment, or mobile food service establishment license is suspended or revoked as provided in § [34-18-27.1](#), a new application for license may be considered by the department when satisfactory evidence has been submitted to show that the conditions upon which suspension or revocation was based have been corrected. A new license may then be granted after proper inspection has been made and all provisions of this chapter and the rules promulgated thereunder have been complied with.

Source: SL 1986, ch 281, § 9.

34-18-27.3. Departmental inspection upon receipt of complaint--Initiation of suspension, revocation or denial proceedings.

The department, upon receipt of a complaint, may inspect any lodging establishment, campground, food service establishment, or mobile food service establishment to determine if there are violations of this chapter or any of the rules promulgated thereunder. The scope of the inspection is limited to those areas set forth in this chapter and the rules promulgated thereunder. After an inspection is completed, the department may, if warranted, proceed in accordance with chapter [1-26](#) to suspend, revoke, or deny the license of the establishment or campground.

Source: SL 1986, ch 281, § 10.

34-18-28. Request for hearing on license suspension or revocation or closure order.

If the owner of any establishment or campground licensed under this chapter is aggrieved by action taken for suspension or revocation of his license or a closure order he may request a hearing which shall be had and appeal may be taken under the provisions of chapter [1-26](#) as a contested case. Such request for a hearing shall be a written notice to the secretary of health setting forth the reason or reasons for the grievance.

Source: SL 1963, ch 158, § 14; SL 1970, ch 199, § 16; SL 1972, ch 15, § 4.

34-18-29, 34-18-30. Repealed by SL 1970, ch 199, § 17.

34-18-31. Precedence over other statutes.

The provisions of this chapter shall have precedence over any other statutes relating directly to the safety and sanitary requirements, inspection and licensing of lodging establishments, campground, food service establishments, temporary food service establishments, and mobile food service establishments.

Source: SL 1963, ch 158, § 19; SL 1970, ch 199, § 18.

34-18-32. Violation of chapter or rules or regulations as misdemeanor--Each day as separate offense.

Any lodging establishment, campground, food service establishment, temporary food service establishment, or mobile food service establishment owner violating the provisions of this chapter or the rules and regulations adopted pursuant to this chapter shall be guilty of a Class 2 misdemeanor. Each and every day of operation after serving the notice of closure shall constitute a distinct and separate offense.

Source: SL 1907, ch 165, § 7; SL 1909, ch 185, § 16; SL 1913, ch 238, § 24; SL 1915, ch 215, § 24; RC 1919, § 7843; SL 1921, ch 256, § 7; SL 1935, ch 173, § 13; SDC 1939, § 27.9933; SL 1963, ch 158, § 22; SL 1970, ch 199, § 19; SL 1977, ch 190, § 41.

34-18-33. Severability of provisions.

If any provisions of this chapter or the application thereof to anyone or to any circumstance is held invalid, the remainder of the chapter and the application of such provisions to other circumstances shall not be affected thereby.

Source: SL 1963, ch 158, § 21.

34-18-34. Farmer's market fresh fruits and vegetables--Licensure exemption.

No person selling whole, intact fresh fruits or vegetables at a farmer's market, roadside stand, or similar venue is required to be licensed pursuant to this chapter.

Source: SL 2010, ch 172, § 1.

34-18-35. Sale of homemade foods and food products.

Except as otherwise provided in § [34-18-38](#), the licensure provisions of this chapter do not apply to a person selling:

- (1) Non-temperature-controlled food prepared at a residence;
- (2) Home-processed canned goods;
- (3) Baked goods prepared at a residence; or
- (4) Any food product prepared at a residence and authorized under § [34-18-36](#) or [34-18-36.1](#).

Source: SL 2010, ch 172, § 2; SL 2022, ch 106, § 1.

34-18-36. Canned goods—Requirements.

No canned good may be sold unless the pH level is 4.6 or less or the water activity level is .85 or less.

Except as otherwise provided in this section, a producer selling canned goods under this section shall, every five years, complete food safety training approved by the department. The training must be available online. The producer shall retain records verifying the timely completion of such training.

A producer selling home-processed goods under this section may, in lieu of the requirement for food safety training, maintain verification of each recipe from a third-party processing authority. The third-party processing authority must have knowledge of the thermal processing required of food in hermetically-sealed containers and shall verify the method of processing and that the pH or water activity threshold levels are met. The processing authority shall provide verification in writing to the producer.

Source: SL 2010, ch 172, § 3; SL 2022, ch 106, § 2.

34-18-36.1. Food safety training—Authorized sales.

Any producer who verifies compliance with the food safety training requirements set forth in accordance with § [34-18-36](#), may sell the following:

- (1) Any non-heat-processed fermented food, provided the food is consistently maintained at a temperature that is at or below forty-one degrees Fahrenheit;
- (2) Kuchen and baked goods that require time and temperature control for safety, including soft pies, cheesecake, and baked goods having a custard or cream filling, and sauces and pesto that require time and temperature control for safety, provided the food is consistently maintained at a temperature that is at or below forty-one degrees Fahrenheit; and
- (3) Home-processed frozen fruit and produce, provided the food is consistently maintained at a temperature that is at or below zero degrees Fahrenheit.

Source: SL 2022, ch 106, § 3.

34-18-37. Label requirements.

Food prepared at a residence may not be sold unless it has a label that includes the following information:

- (1) Name of the product;
- (2) Name of the producer;
- (3) Physical address of production;
- (4) Mailing address of the producer;
- (5) Telephone number of the producer;
- (6) Date the product was made or processed;
- (7) Ingredients;
- (8) In the case of food sold in accordance with § [34-18-36.1](#), a directive to keep refrigerated or frozen; and
- (9) A disclaimer that states: "This product was not produced in a commercial kitchen. It has been home-processed in a kitchen that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and crustacean shellfish."

Source: SL 2010, ch 172, § 4; SL 2020, ch 143, § 1; SL 2022, ch 106, § 4.

[34-18-38. Exemption from licensure—Requirements.](#)

A person selling food prepared at the person's primary residence, in accordance with § [34-18-35](#), is exempt from the licensing and license fee provisions of this chapter if:

- (1) The food meets the requirements of § [34-18-37](#);
- (2) The food is sold in the seller's physical presence at:
 - (a) The seller's primary residence;
 - (b) A farmer's market;
 - (c) A roadside stand; or
 - (d) Other temporary sale venue; and
- (3) The seller, or a person residing at the seller's primary residence, personally delivers the food to the buyer at the completion of the sale.

Source: SL 2011, ch 158, § 1; SL 2020, ch 143, § 2; SL 2022, ch 106, § 5.

[34-18-39. Definition of terms--Camping liability--Immunity.](#)

Terms used in §§ [34-18-39](#) to [34-18-42](#), inclusive, mean:

- (1) "Camping," visiting, staying at, using, and leaving a private campground, including lodging of all types;
- (2) "Inherent risks of camping," dangers and hazards from:
 - (a) Features of the natural world, such as trees, tree stumps, naturally occurring infectious agents, roots, brush, rocks, mud, sand, standing and moving water, and soil;
 - (b) Uneven and unpredictable terrain;
 - (c) Natural bodies of water and accessories permitting the use of natural bodies of water, including piers, docks, swimming and aquatic sports, or recreation facilities or areas;
 - (d) A lack of lighting;
 - (e) Campfires contained in or outside a fire pit or an enclosure provided by the private campground, bonfires, grass or brush fires, wildfires, and forest fires;
 - (f) Weather;
 - (g) Insects, birds, and other wildlife;
 - (h) A violation of safety rules or a disregard for signs or other methods of communicating warnings;
 - (i) Another camper or visitor at the private campground acting in a negligent manner, if the private campground owner or an employee or officer of the private campground owner is not involved;
 - (j) Actions by a camper or visitor that exceed his or her physical limitations or abilities;
 - (k) Actions by a camper or visitor involving climbing, rappelling, caving, mountaineering;
 - (l) Fireworks of a camper, visitor, or offsite entity not authorized by the private campground owner or employee or officer of a private campground owner; and

- (m) Any person coming onto the campsite not reported to the private campground owner or an employee or officer of the private campground owner.
- (3) "Private campground," any parcel or tract of land, including buildings and other structures, that is owned or operated by a private property owner where five or more campsites are made available for use as temporary living quarters for recreational, camping, travel, or seasonal use. The term also includes recreational vehicle parks.

Source: SL 2022, ch 107, § 1.

34-18-40. Camping liability--Immunity granted.

Except as provided under § [34-18-41](#), a private campground owner, or an employee or officer of a private campground owner, is not liable if a person is injured or killed or property is damaged as a result of an inherent risk of camping.

Source: SL 2022, ch 107, § 2.

34-18-41. Camping liability--Immunity not granted.

The provisions of § [34-18-40](#) do not limit the liability of a private campground owner or an employee or officer of a private campground owner who:

- (1) Intentionally causes the injury, death, or property damage;
- (2) Acts with a willful or wanton disregard for the safety of the person or property damaged. This includes conduct committed with an intentional or reckless disregard for the safety of others;
- (3) Fails to use that degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances; or
- (4) Fails to conspicuously post warning signs of a dangerous, inconspicuous condition known to the owner of the private campground, or his or her employees or officers, on the property that the owner owns, leases, rents, or is otherwise in lawful control of or in possession of, if the owner, employee, or officer is aware of the condition by reason of a prior injury involving the same location or the same mechanism of injury. Such warning signs must appear in black letters on a white background with each letter a minimum of one inch in height.

Source: SL 2022, ch 107, § 3.

34-18-42. Camping liability--Warning mandated.

Every written contract entered into by a private campground owner or an employee or officer of a private campground owner must contain, in clearly readable print, the warning notice specified in this section. A warning sign must be posted at the entrance or registration desk of a private campground. The signs described in subdivision [34-18-41](#)(4) and contracts described in this section must contain the following warning:

WARNING

Under South Dakota law, a private campground owner or an employee or officer of a private campground owner is not liable for an injury to or the death of a person or any property damage resulting from the inherent risks of camping.

Source: SL 2022, ch 107, § 4.

34-18-43. Product containing cell-cultured protein--Sale or distribution prohibited--Enforcement--Penalty.

During the period beginning July 1, 2026, and ending June 30, 2031, a person may not sell, offer for sale, hold for sale, or distribute in this state any product containing cell-cultured protein.

Upon receipt of a complaint, the department must inspect any food service establishment, mobile food service establishment, or temporary food service establishment and, if a violation is found, issue a stop-sale order. Following a conviction under this section, the department must proceed in accordance with chapter [1-26](#) to suspend, revoke, or deny renewal of the establishment's license, as provided under §§ [34-18-27.1](#) and [34-18-27.3](#).

A violation of this section is a Class 2 misdemeanor.

For purposes of this section, "cell-cultured protein" means a product that is produced for use as human food, made wholly or in part from any cell culture or DNA of a host animal, and grown or cultivated outside a live animal. Cell-cultured protein does not include proteins produced through microbial fermentation, enzymatic processing, traditional food cultures, or biotechnology processes used in the manufacturing of pharmaceuticals, biologics, vaccines, dietary supplements, enzymes, or medical products, provided those products are not intended to replicate meat or animal tissue for human consumption.

Source: SL 2026, ch 145, § 1.