



## 2023 South Dakota Legislature

# House Bill 1208

Introduced by: **Representative Aylward**

1 **An Act to prevent government entities from entering contracts with companies that**  
 2 **promote certain economic boycotts.**

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

4 **Section 1. That chapter 37-1 be amended with a NEW SECTION:**

5 Terms used in this Act mean:

6 (1) "Company," a for-profit organization, association, corporation, partnership, joint  
 7 venture, limited partnership, limited liability partnership, or limited liability  
 8 company, and including a wholly owned subsidiary, majority-owned subsidiary,  
 9 parent company, or affiliate of those entities or business associations. For purposes  
 10 of this section, the term does not include sole proprietorships;

11 (2) "Economic boycott," refusing to deal with, terminating business activities with, or  
 12 otherwise taking any commercial action that is intended to penalize, inflict  
 13 economic harm on, limit commercial relations with, or change or limit the activities  
 14 of a company, for the primary purpose of achieving social, political, or ideological  
 15 interests, because the company, without violating controlling federal or state law:

16 (a) Engages in the exploration, production, utilization, transportation, sale, or  
 17 manufacturing of, fossil fuel-based energy, timber, mining or agriculture;

18 (b) Engages in, facilitates, or supports the manufacture, distribution, sale, or  
 19 use of firearms;

20 (c) Does not meet, is not expected to meet, or does not commit to meet  
 21 corporate board, or employment, composition, compensation, or disclosure  
 22 criteria that incorporates characteristics protected under chapter 20-13;

23 (d) Does not facilitate, is not expected to facilitate, or does not commit to  
 24 facilitate access to abortion, sex or gender change, or transgender surgery;

25 or

26 (e) Does business with a company described above.

- 1       (3) "Governmental entity," a state agency or political subdivision of this state; and  
2       (4) "Ordinary business purpose," does not include any purpose to further social,  
3       political, or ideological interests. A company may reasonably be determined to have  
4       taken an action, or considered a factor, with a purpose to further social, political,  
5       or ideological interests based upon evidence indicating such a purpose, including:  
6       (a) Branding, advertising, statements, explanations, reports, letters to clients,  
7       communications with portfolio companies, statements of principles, or  
8       commitments; or  
9       (b) Participation in, affiliation with, or status as a signatory to, any coalition,  
10       initiative, joint statement of principles, or agreement.

11       **Section 2. That chapter 37-1 be amended with a NEW SECTION:**

12       No state agency, elected or appointed official or employee of this state, or political  
13       subdivision of this state may, under any governmental authority, enter into a contract  
14       that is paid wholly or partly from public funds of the governmental entity, with any  
15       company for goods or services unless the contract contains a written verification from the  
16       company that it does not engage in economic boycotts and will not engage in economic  
17       boycotts during the term of the contract.

18       **Section 3. That chapter 37-1 be amended with a NEW SECTION:**

19       Section 2 of this Act does not apply to any governmental entity that determines  
20       the requirements are inconsistent with the governmental entity's constitutional or  
21       statutory duties related to the issuance, incurrence, or management of debt obligations  
22       or the deposit, custody, management, borrowing, or investment of funds; or the  
23       requirements prevent the governmental entity from obtaining the supplies or services to  
24       be provided in an economically practicable manner.

25       **Section 4. That chapter 37-1 be amended with a NEW SECTION:**

26       No party, whether the federal government, state government, or any of its  
27       agencies, departments, or political subdivisions, may take action to penalize or threaten  
28       to penalize any company or financial institution affiliated with said company for compliance  
29       with sections 1 to 4, inclusive, of this Act.

30       **Section 5. That chapter 37-1 be amended with a NEW SECTION:**

1           Sections 1 to 4, inclusive, of this Act, must be enforced by the attorney general. If  
2           the attorney general has reasonable cause to believe that any person or entity has  
3           engaged in, is engaging in, or is about to engage in a violation of sections 2 to 4, inclusive,  
4           of this Act, the attorney general must investigate by subpoenaing any record, book,  
5           document, account, paper, or other relevant materials relating to such practice. Upon  
6           finding a probable violation, the attorney general must seek a declaratory judgment that  
7           the party is in violation of this chapter, and seek to nullify the terms of any contract  
8           entered into in violation of this chapter.