

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

831I0612

CONFERENCE COMMITTEE ENGROSSED NO. **HB** **1163** - 03/10/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Peterson (Bill), Cutler, Elliott, Frost, Hennies, Konold, Kroger, Miles, Sebert, Smidt, Solum, Van Etten, and Wick and Senators McCracken, Abdallah, Brown, Duniphan, Kloucek, Koetzle, Kooistra, Moore, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to hunting in public
2 rights-of-way.

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

4 Section 1. That § 41-9-1.1 be amended to read as follows:

5 41-9-1.1. Except for controlled access facilities as defined in § 31-8-1, interstate highways,
6 unimproved section lines not commonly used as public rights-of-way, and highways within parks
7 or recreation areas or within or adjoining public shooting areas or game refuges posted for
8 restriction of an applicable use as hereinafter set forth by the Department of Game, Fish and
9 Parks, § 41-9-1 does not apply to fishing, trapping, or hunting on highways or other public
10 rights-of-way within this state that meet the requirements of § 41-9-1.3. For purposes of this
11 section, hunting on highways or other public rights-of-way includes:

12 (1) The shooting at or taking by legal methods of small game, except mourning dove, that
13 are located within the boundaries of the highway or public right-of-way;



1 (2) The shooting at or taking by legal methods of small game, except mourning dove, that
2 are in flight over private land if the small game has either originated from or has taken
3 flight from the highway or public right-of-way or if the small game is in the process
4 of flying over the highway or public right-of-way.

5 If subdivision (2) of this section is declared by an advisory opinion or adjudication of the
6 South Dakota Supreme Court to be a taking of private property requiring compensation,
7 subdivision (2) is void.

8 No person, except the adjoining landowner or any person receiving written permission from
9 the adjoining landowner, may use such highways or rights-of-way for the purposes of hunting
10 defined in this title within ~~six hundred sixty feet of an occupied dwelling, a church, schoolhouse,~~
11 ~~or livestock~~ a six hundred sixty-foot safety zone surrounding an occupied dwelling, a church,
12 schoolhouse, or livestock. Neither the person discharging a firearm at small game nor the small
13 game being shot at may be within the safety zone. No person, except the adjoining landowner
14 or any person receiving written permission from the adjoining landowner, may use such highways
15 or rights-of-way for the purpose of trapping within six hundred sixty feet of an occupied
16 dwelling, church, or schoolhouse. A violation of this section is a Class 2 misdemeanor. If any
17 person is convicted of knowingly discharging a firearm within six hundred sixty feet of any
18 occupied dwelling, church, or schoolhouse for which such distance has been clearly and
19 accurately marked and posted, the court shall, in addition to any other penalty, revoke the
20 person's hunting privileges for a period of one year from the date of conviction.

21 Section 2. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 In order to protect the public safety, it is the intent of the Legislature that hunting from
24 highways or other public rights-of-way be accomplished without the use of motorized vehicles.

1 Therefore, the following restrictions apply to such hunting:

2 (1) No person hunting small game from any highway or other public right-of-way
3 pursuant to § 41-9-1.1 may discharge a firearm at any small game animal unless the
4 motor vehicle by which the person has been transported to the hunting location has,
5 to the maximum extent practical, been parked off the main traveled portion of the
6 highway or public right-of-way in a manner that does not create an unreasonable risk
7 of injury or damage to other persons or property using the highway or public right-of-
8 way;

9 (2) If the person who discharges the firearm is more than fifty yards from the vehicle, the
10 doors on the side of the vehicle nearest the roadway shall be closed, but the engine
11 may be running; and

12 (3) If the person who discharges the firearm is less than fifty yards from the vehicle, all
13 of the vehicle doors shall be closed and the engine shall be turned off.

14 A violation of this section is a Class 2 misdemeanor.

15 Section 3. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any person who, while hunting a road right-of-way, negligently endangers another person,
18 or puts that person in fear of imminent serious bodily harm, is guilty of a Class 1 misdemeanor.