

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

831I0612

HOUSE ENGROSSED NO. **HB 1163** - 02/22/2003

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;

14 (2) The shooting at or taking by legal methods of small game, except mourning dove, that



1 are in flight over private land if the small game has either originated from or has taken
2 flight from the highway or public right-of-way or if the small game is in the process
3 of flying over the highway or public right-of-way.

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

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

19 No person hunting small game from any highway or other public right-of-way pursuant to
20 § 41-9-1.1 may discharge a firearm at any small game animal unless the motor vehicle by which
21 the person has been transported to the hunting location has, to the maximum extent practical,
22 been parked off the main traveled portion of the highway or public right-of-way in a manner that
23 does not create an unreasonable risk of injury or damage to other persons or property using the
24 highway or public right-of-way. If the person who discharges the firearm is more than fifty yards

1 from the vehicle, the doors on the side of the vehicle nearest the roadway shall be closed, but the
2 engine may be running. If the person who discharges the firearm is less than fifty yards from the
3 vehicle, all of the vehicle doors shall be closed and the engine shall be turned off.

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

6 Any person who, while hunting a road right-of-way, recklessly or negligently endangers
7 another person, or puts that person in fear of imminent serious bodily harm, is guilty of a Class
8 1 misdemeanor.