

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

74110693

## SENATE BILL NO. 212

Introduced by: Senators Koskan, Dennert, Duenwald, Duxbury, and Symens and  
Representatives Juhnke, Garnos, Smidt, Teupel, and Van Gerpen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to hunting from 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~~:

10 (1) Fishing, trapping, or hunting on highways or other public rights-of-way within this  
11 state that meet the requirements of § 41-9-1.3; or

12 (2) Any person hunting on highways or other public rights-of-way within this state that  
13 meet the requirements of § 41-9-1.3, if the person shoots a shotgun at small game  
14 birds that are in flight over private land and if the small game birds have either taken  
15 flight from the highway or public right-of-way or are in the process of flying over the



1 highway or public right-of-way.

2 No person, except the adjoining landowner or any person receiving written permission from  
3 the adjoining landowner, may use such highways or rights-of-way for the purposes of hunting  
4 defined in this title within ~~six hundred sixty~~ one thousand feet of an occupied ~~dwelling, a church,~~  
5 ~~schoolhouse,~~ structure or livestock being held in a confined area according to standard animal  
6 husbandry practices or six hundred sixty feet of a church or schoolhouse. No person, except the  
7 adjoining landowner or any person receiving written permission from the adjoining landowner,  
8 may use such highways or rights-of-way for the purpose of trapping within six hundred sixty feet  
9 of an occupied dwelling, church, or schoolhouse. A violation of this section is a Class 2  
10 misdemeanor. If any person is convicted of knowingly discharging a firearm within ~~six hundred~~  
11 ~~sixty~~ one thousand feet of any occupied ~~dwelling, church, or schoolhouse~~ structure for which  
12 such distance has been clearly and accurately marked and posted, the court shall, in addition to  
13 any other penalty, revoke the person's hunting privileges for a period of one year from the date  
14 of conviction.

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

17 No person hunting small game birds from highways or other public rights-of-way within this  
18 state that meet the requirements of § 41-9-1.3 may shoot at small game birds from the highway  
19 or public right-of-way unless the doors to the motor vehicle in which the person has been  
20 transported are closed, the vehicle's engine is not running, and the vehicle has been parked as  
21 nearly as practical off the main traveled portion of the highway or public right-of-way, or unless  
22 the person is more than fifty yards away from the vehicle. A violation of this section is a Class  
23 2 misdemeanor.