

2023 South Dakota Legislature

House Bill 1186**AMENDMENT 1186B
FOR THE HOUSE AGRICULTURE AND NATURAL RESOURCES
ENGROSSED BILL**

1 **An Act to require restitution for landowners or lessees following an unauthorized**
2 **entry to hunt, fish, or trap.**

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

4 **Section 1. That § 41-9-8 be AMENDED:**

5 **41-9-8.** If a person violates § 41-9-1 or 41-9-2, a court may, upon a finding of
6 guilt or upon a conviction, order the revocation of the person's hunting, fishing, or trapping
7 privileges for one year. The court shall, upon a finding of guilt or upon a conviction of
8 unknowing trespass, order the person to pay restitution to the landowner in the amount
9 of one hundred and fifty dollars.

10 If a person knowingly enters or remains on private property for the purpose of
11 hunting, fishing, or trapping, in violation of § 41-9-1 or 41-9-2, a court, upon a finding of
12 guilt or upon a conviction, shall impose a fine upon the person shall be fined in the amount
13 of five hundred dollars, and shall lose; order the revocation of the person's hunting,
14 trapping, or fishing privileges for one year following a finding of guilt or a conviction; and
15 order the person to pay restitution to the landowner in the amount of five hundred dollars.

16 If the property upon which a violation occurred was under the control of a lessee,
17 the court shall order that the requisite restitution be paid to the lessee.

18 A court shall revoke a person's hunting, fishing, or trapping privileges ~~shall be~~
19 ~~revoked,~~ for two years, following a second or subsequent finding of guilt or a second or
20 subsequent conviction, under § 41-9-1 or 41-9-2, within ten years.

21 The court may order that any revocation of hunting, fishing, or trapping privileges,
22 authorized by this section, be served consecutively with any other revocation of a person's
23 hunting, fishing, or trapping privileges imposed for a violation for which the person is
24 convicted and for which revocation of the privileges is authorized under this title.

1 If the person is the holder of a license to hunt, trap, or fish, the court shall require
2 that the license holder surrender and deliver the license to the court, to be returned to
3 the Department of Game, Fish and Parks.

4 Unarmed retrieval of lawfully taken small game from private land, land controlled
5 by the Department of Game, Fish and Parks, or other public lands, is not a crime or petty
6 offense, if the retrieval of the small game does not involve the use of a motor vehicle.

7 It is a Class 2 misdemeanor for any person, while engaged in the retrieval of small
8 game from private land, without permission of the owner or lessee of the land, to
9 intentionally drive or flush any small game located on the land toward other hunters of
10 the retriever's same hunting group, located on other parcels of land or rights-of-way.

11 It is a Class 2 misdemeanor for any person, who is a member of the same hunting
12 group as the person performing the retrieval without the permission of the owner or lessee
13 of the land, to intentionally discharge a firearm at small game, except waterfowl⁷ that
14 originates from the private land during the retrieval.

15 This section does not limit any civil remedies available to a landowner.