

2026 South Dakota Legislature

House Bill 1188**AMENDMENT 1188A
FOR THE INTRODUCED BILL**

1 **An Act to clarify the duties and limit the liability of law enforcement officers and**
2 **others when removing a disabled vehicle from a highway, a right of way, or**
3 **public waters.**

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

5 **Section 1. That a NEW SECTION be added to chapter 32-30:**

6 If the driver or person in charge of a disabled motor vehicle is unable to
7 expeditiously arrange for the removal of the vehicle from the main-traveled portion of a
8 highway pursuant to § 32-30-4, or from the right of way, or if a vehicle is an obstruction
9 or hazard to traffic pursuant to § 32-30-14, any agent of the Division of Highway Patrol,
10 the Department of Transportation, a sheriff, or a peace officer of this state~~must~~ may
11 arrange for the removal of the vehicle to a garage or place of safety, pursuant to § 32-
12 30-13. That person~~must~~ may also arrange for removal from the highway or right of way
13 of any spilled cargo or other personal property belonging to the occupants of the motor
14 vehicle, which could obstruct traffic or present a safety hazard.

15 The owner of the motor vehicle is responsible for any costs of removal incurred by
16 the state or any political subdivision of the state.

17 Absent gross negligence or willful and wanton misconduct in removing the vehicle
18 and its cargo, no agent of the Division of Highway Patrol, the Department of
19 Transportation, a sheriff, or a peace officer of this state, and no removal agency as defined
20 by § 32-36-2, or other person acting on behalf of any agent of the Division of Highway
21 Patrol, the Department of Transportation, a sheriff, or a peace officer of this state, is liable
22 for damages to the disabled motor vehicle, its cargo, the personal property of the motor
23 vehicle's occupants, or the surrounding area.

24 **Section 2. That a NEW SECTION be added to chapter 32-30:**

1 Any agent of the Division of Highway Patrol, the Department of Transportation, the
2 Department of Game, Fish and Parks, any sheriff or peace officer of this state, and any
3 removal agency or other person acting at the direction of law enforcement or any state
4 agency personnel specified in this section, may, in the interest of public safety, remove
5 from the public waters of this state a disabled:

6 (1) Boat, as defined in § 32-3A-2;

7 (2) Motor vehicle, as defined in § 32-5-1;

8 (3) Off-road vehicle, as defined in § 32-20-1; and

9 (4) Snowmobile, as defined in § 32-20A-1.

10 The owner of the boat, motor vehicle, off-road vehicle, or snowmobile, is
11 responsible for any costs of removal incurred by the state or any political subdivision of
12 the state.

13 Absent gross negligence or willful and wanton misconduct in removing a boat,
14 motor vehicle, off-road vehicle, or snowmobile, and its cargo, no agent of the Division of
15 Highway Patrol, the Department of Transportation, the Department of Game, Fish and
16 Parks, and no removal agency or other person acting under the direction of law
17 enforcement or any state agency personnel specified in this section, is liable for damages
18 to the disabled boat, motor vehicle, off-road vehicle, or snowmobile, or to its cargo, the
19 personal property of the operator, or the surrounding area.