

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.