



## 2020 South Dakota Legislature

# House Bill 1077

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative Steele**

1 **An Act to establish certain requirements regarding funeral processions.**

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

3 **Section 1.** That a NEW SECTION be added:

4 **32-26-51. Funeral procession--Definitions.**

5 Terms used in this Act mean:

6 (1) "Funeral escort vehicle," an authorized emergency vehicle operating with visible  
7 flashing or strobing emergency lights;

8 (2) "Funeral lead vehicle," any motor vehicle including a funeral hearse that is carrying  
9 the remains of a deceased person, leading and facilitating the movement of a  
10 funeral procession;

11 (3) "Funeral procession," two or more motor vehicles, one of which is carrying the  
12 remains of a deceased person, including a funeral lead vehicle or a funeral escort  
13 vehicle.

14 **Section 2.** That a NEW SECTION be added:

15 **32-26-52. Funeral procession--Law enforcement officer.**

16 Notwithstanding any traffic-control device or provision governing the right-of-way,  
17 a law enforcement officer leading a funeral procession may proceed through any  
18 intersection or make any turn or other movement necessary while leading the procession.

19 The officer, without regard to any traffic-control device or provision governing the right-  
20 of-way, may direct the operator of any other motor vehicle not in the funeral procession  
21 to stop, turn, proceed, or make another movement. When leading the funeral procession,  
22 the officer shall operate a funeral escort vehicle.

23 **Section 3.** That a NEW SECTION be added:

1           **32-26-53. Funeral procession--Intersections.**

2           Notwithstanding any traffic-control device or provision governing the right-of-way,  
3           if a law enforcement officer operating a funeral escort vehicle enters an intersection, the  
4           remainder of the vehicles in the funeral procession may follow through the intersection.  
5           The driver of each vehicle in the procession shall exercise reasonable care toward any  
6           other vehicle or pedestrian on the roadway.

7           **Section 4.** That a NEW SECTION be added:

8           **32-26-54. Funeral procession--Motor vehicles in procession.**

9           Notwithstanding any traffic-control device or provision governing the right-of-way,  
10          any motor vehicle in a funeral possession has the right-of-way if the following conditions  
11          are met:

- 12          (1) Each motor vehicle in the funeral procession displays lighted headlamps, tail lamps,  
13              and flashing hazard or warning turn signal lamps;  
14          (2) Each motor vehicle in the funeral procession follows the preceding motor vehicle  
15              in the procession as closely as is safe and practicable; and  
16          (3) The operator of each motor vehicle in the funeral procession yields the right of way  
17              to any approaching emergency vehicle when directed to do so by a law enforcement  
18              officer or when the vehicle is giving an audible or visual signal.

19          If any motor vehicle in the funeral procession becomes separated from the funeral  
20          procession and the funeral escort vehicle so that the procession is no longer continuous,  
21          the operator of the motor vehicle shall proceed to the destination obeying all traffic signals  
22          and general rules of the road.

23          **Section 5.** That a NEW SECTION be added:

24          **32-26-55. Funeral procession--Other vehicles--Violation as misdemeanor.**

25          The following provisions apply to any motor vehicle not in a funeral procession  
26          when approaching or being approached by a funeral procession:

- 27          (1) The operator of a motor vehicle not in a funeral procession may not drive between  
28              the vehicles comprising a funeral procession while those vehicles are in motion  
29              unless authorized to do so by a law enforcement officer or unless the vehicle is an  
30              emergency vehicle giving an audible or visible signal;  
31          (2) The operator of a motor vehicle not in a funeral procession may not join a funeral  
32              procession for the purpose of securing the right-of-way granted under § 32-26-53;

1 (3) The operator of a motor vehicle not in a funeral procession may not pass the  
2 vehicles in a funeral procession on any two-lane highway or roadway;

3 (4) Notwithstanding the provisions of §§ 32-26-15 and 32-31-6, the operator of a  
4 motor vehicle not in a funeral procession may pass a funeral procession on the left  
5 on any highway having two or more lanes traveling in the same direction as the  
6 procession if the passing can be done safely. If the funeral procession is in the  
7 farthest left lane, the operator may pass a procession on the right if the passing  
8 can be done safely; and

9 (5) If a funeral procession is proceeding through a red signal as permitted under § 32-  
10 26-53, the operator of a motor vehicle not in the funeral procession may not enter  
11 the intersection unless the operator can do so without crossing the path of the  
12 funeral procession.

13 A violation of any provision in this section is a Class 2 misdemeanor.

14 **Section 6.** That a NEW SECTION be added:

15 **32-26-56. Funeral procession--Liability.**

16 Liability for any death, personal injury, or property damage suffered by any person  
17 in a funeral procession may not be imposed upon a funeral establishment, the director of  
18 a funeral establishment, any agent or employee of a funeral establishment, any law  
19 enforcement agency or any law enforcement officer operating a funeral escort vehicle  
20 unless the death, personal injury or property damage is proximately caused by a negligent  
21 or intentional act or omission of the funeral director, an agent or employee of a funeral  
22 establishment, or the law enforcement officer operating the funeral escort vehicle.

23 Liability for any death, personal injury or property damage that results from, is  
24 caused by, or arises out of any action or inaction of any operator of a motor vehicle in a  
25 funeral procession under the control of a funeral establishment or the law enforcement  
26 officer operating a funeral escort vehicle may not be imposed upon the funeral  
27 establishment, the director of the funeral establishment, any agent or employee of the  
28 funeral establishment, any law enforcement agency or the law enforcement officer  
29 operating a funeral escort vehicle unless the death, personal injury or property damage is  
30 proximately caused by a negligent or intentional act or omission of the director of the  
31 funeral establishment, an agent or employee of the funeral establishment, or the law  
32 enforcement officer operating the funeral escort vehicle.

33 For the purposes of this Act, the operator of a motor vehicle in a funeral procession  
34 is not an agent of the funeral establishment unless the operator is an employee of the

1 funeral establishment and is acting in the course of the operator's employment or unless  
2 the operator was retained as an independent contractor of the funeral establishment and  
3 is performing services under the terms of the contract.

4 Nothing in this section waives the sovereign immunity of the public entities of this  
5 state or the employees of this state.

6 **Section 7.** That § 32-31-1 be AMENDED:

7 **32-31-1. Emergency vehicle--Traffic regulations.**

8 The driver of an authorized emergency vehicle, when responding to an emergency  
9 call or when in the pursuit of an actual or suspected violator of the law or when responding  
10 to but not upon returning from a fire alarm or when operating a funeral escort vehicle as  
11 defined in § 32-26-51, may exercise the privileges set forth in § 32-31-2, but subject to  
12 the conditions stated in §§ 32-31-3 and 32-31-5.