



2020 South Dakota Legislature  
**House Bill 1077**  
**ENROLLED**

AN ACT

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

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

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

**32-26-51. Definitions.**

Terms used in §§ 32-26-52 through 32-26-56 mean:

- (1) "Funeral escort vehicle," an authorized emergency vehicle operating with visible flashing or strobing emergency lights;
- (2) "Funeral lead vehicle," any motor vehicle including a funeral hearse that is carrying the remains of a deceased person, leading and facilitating the movement of a funeral procession;
- (3) "Funeral procession," two or more motor vehicles, one of which is carrying the remains of a deceased person, including a funeral lead vehicle or a funeral escort vehicle.

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

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

Notwithstanding any traffic-control device or provision governing the right-of-way, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turn or other movement necessary while leading the procession. The officer, without regard to any traffic-control device or provision governing the right-of-way, may direct the operator of any other motor vehicle not in the funeral procession to stop, turn, proceed, or make another movement. When leading the funeral procession, the officer shall operate a funeral escort vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

- (3) The operator of a motor vehicle not in a funeral procession may not pass the vehicles in a funeral procession on any two-lane highway or roadway;
- (4) Notwithstanding the provisions of §§ 32-26-15 and 32-31-6, the operator of a motor vehicle not in a funeral procession may pass a funeral procession on the left on any highway having two or more lanes traveling in the same direction as the procession if the passing can be done safely. If the funeral procession is in the farthest left lane, the operator may pass a procession on the right if the passing can be done safely; and
- (5) If a funeral procession is proceeding through a red signal as permitted under § 32-26-53, the operator of a motor vehicle not in the funeral procession may not enter the intersection unless the operator can do so without crossing the path of the funeral procession.

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

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

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

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

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

For the purposes of §§ 32-26-52 through 32-26-55 and this section, the operator of a motor vehicle in a funeral procession is not an agent of the funeral establishment

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

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

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

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

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

An Act to establish certain requirements regarding funeral processions.

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I certify that the attached Act originated in the:  
  
House as Bill No. 1077

Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2020 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2020

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2020  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1077  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State