

2020 South Dakota Legislature

House Bill 1200**AMENDMENT 1200B FOR THE INTRODUCED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 **An Act to provide for mowing of rights-of-way and the state trunk highway system**
2 **and to provide a penalty.**

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

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

5 **31-5-21.1. Rights-of-way--Mowing--Permit or contract.**

6 A person may not mow or remove any grass from the right-of-way of any highway
7 on the state trunk highway system unless the person has first been issued a permit to
8 mow or a contract to mow by the region engineer of the department or by an authorized
9 representative.

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

11 **31-5-21.2. Permit to mow—Application.**

12 An application for a permit to mow the right-of-way of any portion of an interstate
13 highway, except medians, may be obtained from the department. An application must
14 include:

15 (1) The applicant's name, address, and phone number;

16 (2) The side or sides of the highway for which the permit to mow is requested,
17 identified by the beginning and ending mileposts to the tenth of a mile;

18 (3) A legal description of the mowing location; and

19 (4) A statement indicating whether the applicant is the owner or a lessee of the land
20 abutting the requested mowing area.

21 The applicant shall sign and date the permit to mow application. The department
22 may not charge a fee for the permit.

1 In issuing a permit to mow under this section, the department shall give priority to
2 an abutting landowner over any other person wishing to mow the highway right-of-way.
3 A general permit is granted to all residents for mowing all other state trunk highway
4 rights-of-way, except medians.

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

6 **31-5-21.3. Contract to mow--Bids.**

7 Mowing of a state highway median may only be done under a contract with the
8 department. The department shall publish notice, in at least three newspapers, regarding
9 the period during which it will accept bids for mowing, processing, and removing hay from
10 a state highway median.

11 A person submitting a bid shall identify the area to be covered by the bid, by
12 entering the beginning and ending mileposts to the tenth of a mile.

13 Bids must be submitted on a per-mile basis. The minimum acceptable bid is twenty
14 dollars per mile.

15 Any area for which the bidder is an abutting landowner must be identified
16 separately.

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

18 **31-5-21.4. Abutting property--Priority--Bids.**

19 The department shall give the owner of abutting property priority over all other
20 bidders in the issuance of a contract to mow that property. If more than one owner of
21 abutting property submits a bid for the same area, the department shall give priority to
22 the higher bidder.

23 The department may reject any bid or all bids.

24 If a bid is selected, the bidder shall enter into a contract with the department and
25 tender, either in cash or by check, the full amount bid for the area. The department shall
26 determine the amount due by multiplying the length of the area by the amount bid per
27 mile.

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

29 **31-5-21.5. Refusal of issuance.**

30 The department may elect not to issue permits to mow or contracts to mow on any
31 or all portions of the right-of-way.

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

2 **31-5-21.6. Nonabutting property owner--Waiver.**

3 If a person who does not own the abutting property applies for a permit to mow
4 the right-of-way of any portion of an interstate highway, the person shall attach to the
5 application a waiver signed by the abutting property owner.

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

7 **31-5-21.7. Mowing--Prohibited dates--Exceptions.**

8 Except as otherwise provided in this section, no person, including a property owner,
9 the holder of a contract to mow, the holder of a permit to mow, or departmental personnel
10 may:

11 (1) Mow the right-of-way or the median, in the counties of Dewey, Gregory, Jones,
12 Lyman, Stanley, or Tripp before June fifteenth of each year; or

13 (2) Mow the right-of-way or the median in any county east of the Missouri River before
14 July tenth of each year.

15 A permit to mow the right-of-way is not effective on or after September first of
16 each year.

17 A contract to mow the median is not effective until twenty-four hours after the
18 department has been given notice of the intent to mow. All mowing under a contract must
19 be conducted during the hours between sunrise and sunset.

20 Nothing in this section precludes departmental personnel or any other person from
21 mowing, at any time during the year, the first eight feet of areas within the rights-of-way,
22 if necessary for public safety.

23 Nothing in this section precludes mowing along the portion of a state trunk highway
24 system that lies within the boundaries of a municipality.

25 **Section 8.** That a NEW SECTION be added:

26 **31-5-21.8. New construction--Mowing prohibited.**

27 The department may not authorize any mowing along newly constructed sections
28 of highway for a period of three years, unless the department determines that the grass
29 has become permanently established.

30 **Section 9.** That a NEW SECTION be added:

1 **31-5-21.9. Area to be mowed--Limitation.**

2 The area of the highway right-of-way that may be mowed by permit is limited to
3 the area from the right-of-way line up to the edge of the roadway shoulder and the areas
4 inside interchanges, if access to the interchange areas is by a means other than the main
5 highway.

6 The median of a divided highway may be mowed only by contract.

7 **Section 10.** That a NEW SECTION be added:

8 **31-5-21.10. Mowing--Condition upon completion.**

9 All work undertaken in accordance with a permit to mow or a contract to mow must
10 be conducted in an appropriate manner, as determined by the department. Upon
11 completion, the area must be left in a neat condition. A contractor shall mow, as closely
12 as possible, around all signs, delineators, guide rails, improvements, and appurtenances.

13 **Section 11.** That a NEW SECTION be added:

14 **31-5-21.11. Hay--Removal--Dates.**

15 Hay harvested under a permit to mow must be removed from the right-of-way
16 within thirty days after being processed.

17 Hay harvested under a contract to mow must be removed within ten days after
18 being processed unless an extension of time is granted in writing by the region engineer.

19 Hay that is baled and left in the right-of-way during the time specified by this
20 section may not be closer than thirty feet from the painted shoulder stripe.

21 Hay not removed within the time specified by this section or October first,
22 whichever is earlier, may be removed and disposed of by the department.

23 **Section 12.** That a NEW SECTION be added:

24 **31-5-21.12. Access to mowing area--Limitations.**

25 Access to the work area of a highway right-of-way may be obtained as provided
26 for in this section.

27 If a person has a permit to mow, the person may access the work area of an
28 interstate or a controlled-access highway only by using a gate in the right-of-way fence.

29 If a gate does not exist, the person may install one. Once installed, the gate becomes the
30 property of this state.

1 If a person has a contract to mow, the person may move only such mowing,
2 processing, and loading equipment, as is necessary, to the median from the main
3 roadway. Each piece of equipment must have a sign attached indicating that it is a slow
4 moving vehicle and it must stay within the median during the operation.

5 The loading of baled or processed hay onto hauling units must occur within the
6 median.

7 **Section 13.** That a NEW SECTION be added:

8 **31-5-21.13. Haying equipment--Parking--Limitations.**

9 If haying equipment is not in use, the equipment must be parked near the right-
10 of-way line.

11 Any haying equipment left overnight by a person who has a contract to mow must
12 be parked out of the median and near the right-of-way fence line.

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

14 **31-5-21.14. Liability insurance.**

15 Any person who has a permit to mow or a contract to mow is liable for damage
16 caused to fences, signs, landscape plantings, or other highway features, as a result of the
17 person's mowing or haying operations.

18 Any person who has a permit to mow or a contract to mow shall carry liability
19 insurance in the amount of fifty thousand dollars to cover any property damage and an
20 additional one hundred thousand dollars to cover any personal liability, as a result of the
21 person's mowing or haying operations.

22 Any person who has a permit to mow or a contract to mow shall hold the
23 department, its officers, and its employees harmless from any claims or actions brought
24 as a result of the person's negligence in conducting mowing or haying operations, or as a
25 result of negligence on the part of the person's agents or employees.

26 **Section 15.** That § 31-5-22 be AMENDED:

27 **31-5-22. Penalty.**

28 Any person who violates any of the rules authorized pursuant to ~~§ 31-5-21~~ §§ 31-
29 5-21.1 through 31-5-21.14 is guilty of a Class 2 misdemeanor.

30 **Section 16.** That § 31-5-21 be REPEALED.

- 1 **31-5-21. Mowing of ditches on state trunk highway--Rules--Priority to**
- 2 **abutting landowner.**

AMENDED