

Chapter

IV

SD ASSOCIATION OF COUNTY HIGHWAY SUPERINTENDENTS

Certification Manual



SD Codified Laws, and Link to
Manual on Uniform Traffic Control
Devices Pertaining to Highway
Markers, Markings and Signs

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Purposes and limitations of the Manual

This manual was updated in the summer of 2024 at the direction of the South Dakota Association of County Highway Superintendents as a resource for county highway superintendents. This Manual is not all encompassing but is instead presented as a general outline of state statutes governing the operation of county highway departments. This manual does not include every statute and court opinion related to county highways and does not constitute legal advice. Further, laws, and the courts' interpretation of such laws, often change. If you are confronted with a particular issue, contact your state's attorney to research how the latest law applies to such issue.

SOUTH DAKOTA CODIFIED LAWS PERTAINING TO HIGHWAY MARKERS AND SIGNS

31-28-6. Warning signs at points of danger -- Maintenance -- Violation as misdemeanor The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of any sharp turn, blind crossing, or other point of danger on such highway, except railway crossings marked as required in § 31-28-7, a substantial and conspicuous warning sign. The sign shall be on the right-hand side of the highway approaching such point of danger. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

Source: SL 1923, ch 284, § 4; SDC 1939, §§ 28.0901, 28.9903; SL 1941, ch 1301; SDCL § 31-28-9; SL 2010, ch 145, § 137.

Cross-References.

Crimes, penalties for classified misdemeanors, § 22-6-2.

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to decisions and South Dakota Attorney General Opinion available at the time this manual was created (in no particular order):

- *Reaney v. Union County, 1943, 69 S.D. 392, 10 N.W.2d 762, adhered to on rehearing 69 S.D. 488, 12 N.W.2d 14.*
- *Op.Atty.Gen. Opinion No. 95-01, 1995 WL 155154.*
- *Stensland v. Harding County, 872 N.W.2d 92, 2015 S.D. 91.*
- *Fritz v. Howard Tp., 570 N.W.2d 240, 1997 S.D. 122.*
- *Kiel v. DeSmet Tp., 1976, 90 S.D. 492, 242 N.W.2d 153.*
- *Dohrman v. Lawrence County, 1966, 82 S.D. 207, 143 N.W.2d 865.*
- *Truman v. Griese, 762 N.W.2d 75, 2009 S.D. 8.*
- *Bickner v. Raymond Tp., 747 N.W.2d 668, 2008 S.D. 27.*
- *Hansen v. South Dakota Dept. of Transp., 584 N.W.2d 881, 1998 S.D. 109.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-28-7. Railway crossing signs – Violation as misdemeanor. The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of the place at which a highway crosses an operational railway track or right-of-way, except within the limits of municipalities, a standard railroad advance warning sign. The sign shall be on the right-hand side of the highway approaching such crossing and at a distance from the crossing as the department or other controlling body shall direct. Any legally abandoned or nonoperational track which is crossed by a public highway and at which the crossing has been properly marked as a railway grade crossing may be marked with a supplemental sign, meeting uniform traffic control practices, to inform drivers of vehicles identified in § 32-29-5 that a stop is not required at that crossing. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

Source: SL 1923, ch 284, § 4 ; SDC 1939, § 28.0903; SDC 1939, § 28.0901 as added by SL 1941, ch 130; SDCL, § 31-28-9; SL 1981, ch 228, § 1; SL 2010, ch 145, §138.

Cross-References:

Power of Department of Transportation respecting grade crossing, § 31-27-1.
Crimes, penalties for classified misdemeanors, § 22-6-2.

** Please note this statute has been reviewed and interpreted by the South Dakota Attorney General. The following is a citation to the South Dakota Attorney General Opinion available at the time this manual was created:

- *Op.Atty.Gen. Opinion No. 18-01, 2018 WL 1456529.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

The following opinion is no longer listed in West's annotated SDCL. It is retained here for reference purposes.

Opinions of Attorney General

Railroad authorities not relieved of responsibility of providing warning signs, Report 1949-50, p. 299.

31-28-7.1. "Legally abandoned" and "non-operational" track defined. For the purpose of § 31-28-7, legally abandoned track is any section of railway track on which formal legal abandonment proceedings have been completed. For the purpose of §§ 31-28-7, 31-28-7.2 and 32-29-5, non-operational track is any section of railway track on which there has been no traffic for the previous three months and there is no prospect of traffic in the near future.

Source: *SL 1981, ch 228, § 3.*

31-28-11. Markings to conform to uniform national signing standards on streets and roads constructed with federal aid. On any street or road constructed with federal aid, the location, form, character or informational regulatory warning signs, curb and pavement or other markings and traffic signals, shall conform to uniform national signing standards.

Source: *SL 1945, ch 121; SDC Supp 1960, § 28.0904-1; SL 1984, ch 207, §§ 7, 71.*

Collateral Resources:

6 Am. Jur. Proof of Facts 2d 683.

31 Am. Jur. Proof of Facts 3d 351.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time this manual was created:

- *Fritz v. Howard Tp., 570 N.W.2d 240, 1997 S.D. 122.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-28-12. Markings on highways or under commissioners' jurisdiction – Distances between towns – Cost of markings. Each board of county commissioners shall erect and maintain substantial guideposts at convenient intervals along all public highways under its jurisdiction not within the boundaries of any city or incorporated town, which guideposts shall show in plain letters thereon the directions and distances to the next town or city on either side of the point where such guidepost is located. The cost of erecting such guideposts shall be paid from the county general fund.

Source: *SL 1913, ch 230; RC 1919, § 5902; SDC 1939, § 12.2901; SL 1980, ch 211, § 1.*

Cross-References:

County highway systems, see Chapter 31-12.

The following opinion is no longer listed in West's current annotated SDCL. It is retained here for reference purposes.

Opinions of Attorney General:

Claim for erection of guideposts on state trunk highway , payment of, Report 1919-20, p. 310.

31-28-13. Markings by local authorities – Local regulations not enforceable in absence of sign – Location and legibility of sign. Local authorities in their respective jurisdictions may cause appropriate signs to be erected and maintained, designating residence and business districts, highway and steam or interurban railway grade crossing, and such other signs as may be deemed necessary to carry out the provisions of chapters 32-14, 32-22 and 32-35 to 32-31, inclusive, and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the alleged violation, in appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an observant person.

Source: *SL 1929, ch 251, § 59; SDC 1939, § 44.0360.*

Cross References:

Traffic regulation generally, Chapter 32-14-1, et seq.
Speed regulations, see Chapters 32-25-1.1 et seq.

31-28-14. Unauthorized signs, markers, and signals prohibited – Authorization to organization No unauthorized person may erect or maintain upon any highway, any warning or direction sign, marker, signal, or light in imitation of any official sign, marker, signal, or light erected under the provisions of this chapter. No person may erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political campaign advertising. Nothing in this section prohibits the erection or maintenance of any sign, marker, or signal bearing thereon the name of an organization authorized to erect the sign, marker, or signal by the department or any local authority as defined in this chapter.

Source: *SL 1929, ch 251, § 60; SDC 1939, § 44.0361; SL 2010, ch 145, § 140; SL 2011, ch 137, § 1.*

Cross-References:

Traffic control devices, see Chapter 32-28.

31-28-16. Arterial highways -- Right-of-way -- Violation as misdemeanor. The department and boards of county commissioners may designate certain state and county highways, or portions thereof, as preferential or arterial highways. The traffic upon any highway so designated shall have the right-of-way. Failure to comply with the provisions of this section is a Class 2 misdemeanor.

Source: *SL 1927, ch 136, §§ 1,3; SDC 1939, §§ 28.0902, 28.9904; SDCL, § 31-28-18; SL 1967, ch 114; SL 2010, ch 145, § 141.*

Cross-References:

Duty to stop at intersection when sign posted, § 32-29-2.1.
Crimes, penalties for classified misdemeanors, § 22-6-2.

31-28-17 Hazardous intersections -- Railroad crossings -- Warning signs -- Violation as misdemeanor. Except within the limits of a municipality, the department and county commissioners may designate any hazardous intersection as a stop intersection, and designate any railroad crossing as a stop crossing. The intersections and railroad crossings shall be designated by placing a stop sign at the point of stop. The

sign to be preceded by a warning sign so as to give warning of stop. Failure to stop at the point of stop of such intersections and railroad crossings is a Class 2 misdemeanor.

Source: SL 1927, ch 136, §§ 2, 3; SDC 1939, §§ 28.0902, 28.9904; SDCL, § 31-28-18; SL 1967, ch 114; 1980, ch 211, § 2; SL 2010, ch 145, § 142.

Cross-References:

Power of Department of Transportation respecting railroad grade crossings, § 31-27-1.

Crimes, penalties for classified misdemeanors, § 22-6-2.

Stops and precautions required at railroad crossings, §§ 32-29-4 to 32-29-9.

The following opinion is no longer listed in West's annotated SDCL. It is retained here for reference purposes.

Opinions of Attorney General:

Hazardous intersections must have warning sign preceding stop sign, Report 1959-60, p. 87.

31-28-19. Markings resembling official signs -- Obscuring official sign -- Violation as Misdemeanor. No person may place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal. A violation of this section is a Class 2 misdemeanor.

Source: SL 1963, ch 274, §§ 4 (1), 6; SDCL, § 31-28-24; SL 2010, ch 145, §143.

Commission Note. (This note is no longer included in West's annotated SDCL. It is included here for reference purposes.)

The code commission classified the offense described in this section according with the directions contained in § 43-6, ch 158, SL 1976.

Cross-References:

Crimes, penalties for classified misdemeanors, § 22-6-2.

Traffic control devices, Chapter 32-28-1.

31-28-20. Commercial or political campaign advertising -- Violation as misdemeanor. No person may place or maintain nor may any public authority permit upon any highway or public right-of-way any traffic sign or signal bearing any commercial or political campaign advertising. A violation of this section is a Class 2 misdemeanor.

Sources: SL 1963, ch 274, §§ 4 (2), 6; SDCL, § 31-28-24; SL 2010, ch 145, § 144; SL 2011, ch 137, § 2.

Cross-References:

Advertising on public highways, see Chapter 31-29.

Crimes, penalties for classified misdemeanors, § 22-6-2.

31-28-21. Signs on private property. The provisions of § 31-28-19 and 31-28-20 do not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Source: SL 1963, ch 274, § 4 (3); SL 2010, ch 145, § 145.

31-28-22. Prohibited sign as nuisance. Every sign, signal, marking, or device prohibited by §§ 31-28-19 and 31-28-20 is hereby declared to be a public nuisance, and the Department of Transportation or local authorities within their respective jurisdictions

shall remove the sign, signal, marking, or device or cause it to be removed immediately. The removal may be done without notice.

Source: *SL 1963, ch 274, § 4 (4); 2001, ch 160, § 2; SL 2011, ch 137, § 3.*

Cross-References:

Remedies against nuisances, Chapter 21-10.

31-28-23. Tampering, molesting or interfering with markers, signs or control devices – Violation as misdemeanor – Liability for costs. No person may, without lawful authority, attempt or actually alter, deface, injure, knock down, remove, or in any manner molest or interfere with any official highway marker, sign, guide board, traffic-control device, interstate highway gate, or any railroad sign or signal, barrier, warning device, or sign erected in connection with highway maintenance or construction activities. A violation of this section is a Class 1 misdemeanor. Any person who violates this section is responsible for the cost of repairing or replacing such markers, signs, signals, barriers, or devices.

Source: *SL 1963, ch 274, §§ 5, 6; SDCL, § 31-28-24; SL 1984, ch 207, § 73; 1996, ch 188, § 3; 2001 ch 160, § 1; SL 2006, ch 130, § 12.*

Cross-References:

Crimes, penalties for classified misdemeanors, § 22-6-2.

Traffic control devices, see §32-28-1 et seq.

HIGHWAY MARKERS AND SIGNS

31-28-23.1. Civil penalty for tampering, removing, or interfering with highway marker, sign, or control device. In addition to any damages and penalties provided by § 31-28-23, any person who is convicted of the offense of intentionally tampering, removing, or interfering with any official highway marker, sign, or control device pursuant to § 31-28-23 is subject to a civil penalty, to be set by the court, not to exceed two thousand dollars. Any civil penalty collected pursuant to this section shall be distributed to the state or the political subdivision with jurisdiction on the involved highway.

Source: *SL 2014, ch 135, § 1.*

31-28-28. Unauthorized possession of official signs or markers as misdemeanor. No person may possess any sign, guide board, mileage post, signal or marker erected by the state or by any governmental subdivision unless obtained in a legal manner. A violation of this section is a Class 1 misdemeanor.

Source: *SL 1977, ch 245; 1984, ch 207, § 76.*

Cross-References:

Crimes, penalties for classified misdemeanors, § 22-6-2.

32-29-2. Stop and yield signs to designate through highways – Visibility at night. The department of transportation with reference to state highways and local authorities with reference to highways under their jurisdiction may designate main traveled or through highways by erecting at the entrances thereto from intersecting highways stop or yield signs. All such signs shall be illuminated at night or so placed as to be illuminated by headlights of an approaching vehicle.

Source: *SL 1929, ch 251, § 22; SDC 1939, § 44.0321; SL 1957, ch 220; 1961, ch 225, § 1; 1965, ch 194; 1970, ch 175, § 24; 1980, ch 211, § 9;*

Cross-References:

Designation of arterial highways, § 31-28-16. Highway signs and markers, Chapter 31-28.

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to decisions and South Dakota Attorney General Opinions available at the time this manual was created (in no particular order):

- *Carpenter v. City of Belle Fourche, 609 N.W.2d 751, 2000 S.D. 55.*
- *Musilek v. Stober, 1989, 434 N.W.2d 765.*
- *McKiver v. Theo Hamm Brewing Co. (1941) 67 SD 613, 297 NW 445.*
- *State v. Muhs (1965) 81 SD 480, 137 NW 2d 237.*
- *Power of local authorities to designate through highways, Report 1965-66, p. 62.*
- *Warning sign must precede stop sign at hazardous intersection, Report 1965-60, p.87.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-25-10. Regulatory signs for unfenced roads in livestock grazing area – Application for erection. Any person grazing livestock in an area where there are no fences along the road may apply to the governing body that has the responsibility to maintain that road to erect a regulatory sign that livestock will be at large along the road. If the governing body permits the erection of such signs, it shall erect at least one sign where the road enters the grazing area which shall state how far the grazing area continues and one sign where the road leaves the grazing area.

Source: *SL 1983, ch 227, § 1.*

Commission Note:

Section 4 of SL 1983, ch 227, provided that this section and 31-25-11 do not affect any sign erected before July 1, 1983.

** Please note this statute has been reviewed and interpreted by the South Dakota Attorney General. The following is a citation to the South Dakota Attorney General Opinion available at the time this manual was created:

- *Op. Atty. Gen. Opinion No. 18-01, 2018 WL 1456529.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-25-11. Uniform signs. The Transportation Commission shall design, produce and make available a uniform sign pursuant to § 31-25-10.

Source: *SL 1983, ch 227, § 2.*

31-25-12. Cost of signs. The cost of the sign shall be arranged between the governing body and the person applying for it. The sign shall be erected by the governing body.

Source: *SL 1983, ch 227, § 3.*

31-14-27. County construction or replacement of bridges and culverts on township secondary roads--Reimbursement of county. If a township board of supervisors or county highway superintendent requests the board of county

commissioners to construct or replace in its entirety any bridge or the placing or replacing of any culvert with an opening of sixteen square feet or more including material upon the secondary roads within the township, the board of county commissioners may cause the work to be done and the township shall reimburse the county up to and including five hundred dollars. If the cost is in excess of five hundred dollars, the county and township may enter into an agreement as to how the cost in excess of five hundred dollars will be split between the county and the township. After the placing or replacing of any culvert as provided in this section, the culvert shall be maintained and kept clean at the expense of the township. The construction or replacing of any bridge or the placing or replacing of any culvert with an opening of less than sixteen square feet upon a secondary road within a township shall be at the total expense of the township. The bridge or culvert shall be maintained and kept clean at the expense of the township.

Source: *SL 1919, ch 333, § 30; SDC 1939, § 28.1403; SL 1949, ch 111; SL 1955, ch 102, § 2; SL 1957, ch 127; SL 1974, ch 203, § 1; SL 1980, ch 210; SL 1981, ch 226; SL 2018, ch 168, § 55.*

Cross-References:

Municipal power as to bridges, §§ 9-45-3; 9-45-4.

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to the decisions and South Dakota Attorney General Opinions available at the time this manual was created (in no particular order):

- *Op. Atty. Gen. Opinion No. 90-20, 1990 WL 596789.*
- *Rex Township v. Bailey Township (1929) 56 SD 119, 227 NW 488.*
- *“Construction or replacing” includes repairing of bridges and culverts, Report 1955-56, p. 177; 1959-60, p. 107.*
- *Duty of county to replace demolished bridge on township secondary highway, Report 1943-44, p. 350; 1955-56, p. 172.*
- *Installation is part of cost of culvert, Report 1959-60, p. 140.*
- *Ratification and payment by county for bridge constructed by township, Report 1923-24, p. 74*
- *Unorganized township, no reimbursement of county, Opinion No. 69-48.*
- *County obligated to keep all bridges and culvers in repair whether it costs more or less than \$200, Report 1955-56, p. 177; 1959-60, p. 107.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state’s attorney and also determine whether any other guidance has been issued.

Link to the Manual on Uniform Traffic Control Devices (MUTCD)

https://mutcd.fhwa.dot.gov/kno_11th_Edition.htm

The following Parts and Chapters may be of most interest:

Part 1 - General

Part 2 - Signs

Chapter 2A – General

Chapter 2B – Regulatory Signs, Barricades, and Gates

Chapter 2C – Warning Signs and Object Markers

Chapter 2D – Guide Signs – Conventional Roads

Part 3 – Markings

Part 6 – Temporary Traffic Control