

CHAPTER 24-03 CONSTRUCTION AND MAINTENANCE OF STATE HIGHWAY SYSTEM

24-03-01. Preparation and adoption of standard plans and specifications.

The director shall prepare and adopt uniform standard plans and specifications for the establishment, construction, and maintenance of the state highways and bridges within this state. Such plans and specifications may be amended, from time to time, as the director deems advisable.

24-03-02. Authority to construct and maintain state highway system.

The director has the authority, and is responsible for the construction, maintenance, protection, and control of the highways which comprise the state highway system. The director shall patrol and keep said system in good and safe condition for general public use.

24-03-03. Construction program.

Repealed by S.L. 1999, ch. 245, § 4.

24-03-04. Force accounts in emergencies.

In case of great emergency requiring immediate action, and if delay would cause a public injury, the work may be done by the department by force account.

24-03-05. Closing of roads - Penalty for passing over road or removing barricade.

Whenever, during the construction work on any state highway or at any other time, it may be necessary to prevent traffic from passing over any portion of such highway, the department may close such portion of the highway to all traffic by causing to be posted in a conspicuous manner, at the ends of the portion of the highway so closed, suitable signs warning the public that such road is closed under authority of law, and by the erection of suitable barricades, fences, or other obstructions. The driver, or owner, or both, of any vehicle, self-propelling or otherwise, passing through, over, or around any such barricade, fence, or other obstruction so placed, or any person opening, removing, or defacing any such barricade, fence, or other obstruction, or any such warning sign, without written permission from the engineer in charge of the work, or in charge of such highway, or any person willfully causing any damage to the work under construction, is guilty of a class A misdemeanor.

24-03-06. Method of construction of highway ditches.

All highways constructed or reconstructed by the department, board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or by any individual, firm, corporation, or limited liability company must be so designed as to permit the waters running into the ditches to drain into coulees, rivers, and lakes according to the surface and terrain where the highway or highways are constructed in accordance with the stream crossing standards prepared by the department and the state engineer so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. In the construction of highways the natural flow and drainage of surface waters to the extent required to meet the stream crossing standards prepared by the department and the state engineer may not be obstructed, but the water must be permitted to follow the natural course according to the surface and terrain of the particular terrain. The department, county, township, their contractors, subcontractors, or agents, or any individual, firm, corporation, or limited liability company is not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

24-03-07. Drains across state highways.

The director, when notified by the board of drain commissioners of any drainage district that it is necessary to run a drain across any state or federal-aid highway, shall make the necessary

opening through such highway and shall build and keep in repair suitable culverts or bridges, as provided in title 61.

24-03-08. Determinations of surface water flow and appropriate highway construction.

Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the state engineer, upon petition of the majority of landowners of the area affected or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the department and the state engineer. When the determination has been made by the state engineer, the department, the board of county commissioners, or the board of township supervisors, as the case may be, upon notification of the determination, shall install a culvert or bridge of sufficient capacity to permit the water to flow freely and unimpeded through the culvert or under the bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

24-03-09. Warning signs of road construction.

Whenever the department or any county or township enters into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place warning signs and devices which are in conformity with chapter 39-13. When a highway is so marked, the traveler shall proceed only with great care and diligence, but nothing contained in this section makes any township, county, or the state liable for the failure of any contractor to erect such warning signs.

24-03-10. Public officers - Warning sign placement duty.

Whenever a township, county, or the department shall construct, improve, or repair any road, culvert, or bridge, or shall gravel any road, and such work renders travel on such road, culvert, or bridge unsafe or dangerous, the board of supervisors of any such township, the board of county commissioners of any such county, or the director or any foreman or other person in charge of such work, shall place such warning signs as provided in section 24-03-09.

24-03-11. Penalty for failure to erect warning signs.

Any person in charge of any work or repairs on any public road, culvert, or bridge who fails or neglects to erect and maintain suitable warning signs as provided in sections 24-03-09 and 24-03-10 is guilty of a class B misdemeanor.

24-03-12. Authority to acquire equipment.

The office of management and budget, acting as a central purchasing agency of the state, has authority to purchase, lease, or acquire all road material, road machinery, tools, equipment, and supplies necessary for use in constructing, maintaining, controlling, and administering the state highway system. However, the office of management and budget may delegate such authority to the director, and in such instances the director has the authority to purchase, lease, or acquire, as the director deems necessary, all road material, road machinery, tools, equipment, and supplies necessary for the construction, maintenance, and control of the state highway system.

24-03-13. Equipment and materials may be purchased without advertising for bids.

The office of management and budget or the director, when the authority to purchase is delegated to the director, may purchase equipment, materials, supplies, or other personal

property useful to the department, from the United States government, or any of its officers, agents, agencies, or corporations, without compliance with the provisions of section 24-02-17.

24-03-14. Authority to acquire buildings for equipment.

The director has authority to construct, rent, or purchase for the state the necessary land and buildings for the storage and housing of road materials, road machinery, equipment, and tools.

24-03-15. Sale of obsolescent highway equipment.

The director is authorized to sell, exchange, or otherwise dispose of all obsolescent road machinery, equipment, and material no longer needed, required, or useful for highway purposes. All such obsolescent road machinery, equipment, and material offered for sale to political subdivisions must be sold by negotiation to the purchasing political subdivision at the department's established market value. All such obsolescent road machinery, equipment, and material which is offered at general sale and valued at more than three thousand dollars must be sold by public auction or by sealed bids at the highest and best bid, reserving the right to reject all bids, with no money deposit required of any bidder prior to sale. Any funds or money derived from the sale of such property must be credited to the funds from which such purchase was made originally.

24-03-16. Inspection and testing of materials.

The director has the authority to inspect and test all materials, supplies, equipment, and machinery used by the department and to develop methods and procedures for this purpose.

24-03-17. Testing laboratory.

The director has the authority to maintain and develop a testing laboratory to carry out the requirements of section 24-03-16. The department may, upon request of any division or agency of government, make available the services and facilities of said testing laboratory, and make a reasonable charge therefor.

24-03-18. Preparation of manuals of methods and procedures.

The director shall, to the extent practicable, prepare, print, and distribute manuals of standard and uniform methods for any of the activities, divisions, or work of the department, or for general road and bridge construction, design, land acquisition, traffic control, maintenance, marking, and kindred purposes in this state.

24-03-19. Research on highway development.

The director has the authority to gather, investigate, and compile information concerning the use, construction, and maintenance of highways, the practices and methods of efficient highway organization, financing, and such other information, data, and statistics of this state or other states as deemed advisable, and the extent of the natural resources of roadbuilding materials within this state. The director has the further authority to enter into agreements with other states or research organizations to carry on research and test projects involving highway development and to expend highway funds for this purpose. The director shall disseminate all such information, together with any recommendations the director deems advisable.

24-03-20. Traffic surveys.

The director has the authority to collect, analyze, and interpret all physical and economic data needed to measure existing and estimated future street and highway traffic characteristics, such as, origin and destination, volumes, speeds, accidents, congestion, parking, pedestrian use of streets, and the economic loss caused by inferior traffic facilities, including the preparation of traffic plans and recommendations.

24-03-21. Preparation of road maps - Publication of tourist information.

The commissioner shall prepare for general distribution road maps of the state highway system and other roads as the commissioner determines necessary. Any tourist-oriented material printed on road maps must be prepared by the department of commerce division of tourism at no cost to the department of transportation.

24-03-22. Highway maintenance radio net.

The department is hereby authorized to purchase, install, and maintain a department of transportation radio communications network out of funds now and hereinafter designated as state highway maintenance funds. The department is further authorized to enter into an agreement with the federal civil defense administration for the purchase of radio equipment for said radio communications network on a fifty-fifty fund matching basis.

24-03-23. Encroachments on state highways.

No part of the right of way for state highways may be encroached upon by erection thereon of any structure, or placing thereon any personal property, other than a temporary parking of a motor vehicle, without a written permit from the director. Any encroachment may be caused to be removed, obliterated, or corrected by order of the director and the total cost thereof must be paid by the person responsible for the encroachment. Property other than motor vehicles left upon highway right of way for a period exceeding seventy-two hours, the ownership of which cannot be determined after reasonable effort has been made to do so, must be deemed abandoned and may be removed from the right of way and stored at the nearest site available for thirty days and if it is not claimed by the owner during such period, and the cost of removal and storage paid, it may be disposed of in the manner prescribed by the director. Abandoned motor vehicles are subject to the provisions of sections 39-26-01 through 39-26-11. If such property is disposed of it must, except as otherwise provided by this section, be sold or disposed of in the manner provided in sections 39-26-05 through 39-26-09. The receipts therefrom must be deposited in the state treasury as provided in section 1 of article IX of the Constitution of North Dakota and credited to the common schools trust fund unless a commercial towing service lawfully disposes of the abandoned vehicle.

(Contingent effective date - See note) Encroachments on state highways. No part of the right of way for state highways may be encroached upon by erection thereon of any structure, or placing thereon any personal property, other than a temporary parking of a motor vehicle, without a written permit from the director. Any encroachment may be caused to be removed, obliterated, or corrected by order of the director and the total cost thereof must be paid by the person responsible for the encroachment. Property other than motor vehicles left upon highway right of way for a period exceeding seventy-two hours, the ownership of which cannot be determined after reasonable effort has been made to do so, must be deemed abandoned and may be removed from the right of way and stored at the nearest site available for thirty days and if it is not claimed by the owner during such period, and the cost of removal and storage paid, it may be disposed of in the manner prescribed by the director. Abandoned motor vehicles are subject to the provisions of chapter 23.1-15. If such property is disposed of it must, except as otherwise provided by this section, be sold or disposed of in the manner provided in chapter 23.1-15. The receipts therefrom must be deposited in the state treasury as provided in section 1 of article IX of the Constitution of North Dakota and credited to the common schools trust fund unless a commercial towing service lawfully disposes of the abandoned vehicle.