

## NEIGHBORING STATES' LAND ACCESS STATUTES

This memorandum provides a general overview of statutes in neighboring states which govern land access for sportsmen.

### MINNESOTA

In Minnesota, an individual may not enter agricultural land or posted land for outdoor recreation unless the individual has permission from the owner, occupant, or lessee, or the individual is on foot and retrieving either wounded game that was lawfully shot or a hunting dog. Minnesota Statutes Annotated Sections 97B.001 and 609.605(5). If the individual is retrieving a hunting dog, the individual may not carry a firearm. Additionally, if an individual is notified personally by the owner, occupant, or lessee not to enter land for outdoor recreation, the individual is prohibited from entering the land for 1 year. Minnesota Statutes Annotated Sections 97B.001(3) and 609.605(1)(b)(8). For purposes of these statutes, "[o]utdoor recreation' means any voluntary activity, including hunting, fishing, trapping, boating, hiking, camping, and engaging in winter sports, which is conducted primarily for the purposes of pleasure, rest, or relaxation and is dependent upon or derives its principal benefit from natural surroundings" and "agricultural land' means land:

- (1) that is plowed or tilled;
- (2) that has standing crops or crop residues;
- (3) within a maintained fence for enclosing domestic livestock;
- (4) that is planted native or introduced grassland or hay land; or
- (5) that is planted to short rotation woody crops..." Minnesota Statutes Annotated Section 97B.001(1).

An individual who violates the restrictions on entering land for outdoor recreation is guilty of a misdemeanor and subject to a fine up to \$1,000 or 90 days in jail or both. Minnesota Statutes Annotated Sections 97A.315(1) and 609.02(3). However, if the individual knowingly disregards signs prohibiting trespassing or is convicted of violating the outdoor recreation statute more than once in a 3-year period, the individual is guilty of a gross misdemeanor, and the applicable fine may be up to \$3,000. Minnesota Statutes Annotated Sections 97A.315(1), 609.02(4), and 609.605(5). Depending on the circumstances, an individual guilty of violating the statute also may lose a hunting, fishing, or other license and may be ineligible for a new license for 2 years. Minnesota Statutes Annotated Section 97A.315(2). Additionally, an individual who trespasses on another's premises and refuses to leave after being told to leave by a lawful possessor of the premises is guilty of a misdemeanor. Minnesota Statutes Annotated Section 609.605(1)(b)(3).

Conservation officers, sheriffs, and deputies may issue citations to individuals who unlawfully enter land for outdoor recreation or who remove signs prohibiting trespassing. Minnesota Statutes Annotated Section 97B.002(1). The penalties for citations are \$50 for the first violation or any unlawful removal of a sign, \$200 for a second violation within 3 years, and \$500 plus the loss of every license or registration being used for a third or subsequent violation within 3 years. Minnesota Statutes Annotated Section 97B.002(2).

### MONTANA

In Montana, trespass laws are stricter for hunters and trappers than for others. For example, an individual is guilty of criminal trespass by entering or remaining on land when the individual is not licensed, invited, or otherwise privileged to be on the land. Montana Code Annotation Sections 45-6-201 and 45-6-203. An individual has a privilege to enter land if the individual is explicitly granted permission by the landowner or other authorized individual or if the land is not posted. However, the law is different for hunters and trappers. Before entering land to hunt or trap, an individual is required to obtain permission from the landowner, lessee, or an agent of the landowner or lessee. Montana Code Annotation Section 87-6-415.

A hunter or trapper who does not obtain the necessary permission and is convicted of a first offense is fined \$135. Montana Code Annotation Section 87-6-415. For a second offense within 5 years, the fine is between \$500 and \$1,000. Under certain conditions, the hunter or trapper may lose hunting, fishing, and trapping licenses and may have to make restitution for any property damage the individual caused.

The Montana Department of Fish, Wildlife, and Parks is required to educate individuals with hunting, fishing, and trapping licenses about land access statutes in the state. Montana Code Annotation Section 45-6-201(5). The department's [website](#) states, in part, "[h]unters must obtain landowner permission to hunt on all private land, which often can be obtained through simple courtesy and communication between the hunter and the landowner."

The department also operates a [Block Management program](#) that helps hunters gain access to land. The program is a cooperative effort among the department, private landowners, and public land management agencies. Each year, the department publishes a guide identifying land where hunters may request free reservations for hunting through a landowner or the department. In return for allowing access to their land, landowners may receive free sportsmen's licenses, limited liability protection, livestock loss reimbursement, and compensation up to \$15,000. The program is funded by license fees collected by the department.

### **SOUTH DAKOTA**

In South Dakota, like in Montana, trespass laws are stricter for sportsmen than for others. Generally, an individual trespasses if the individual enters or remains on premises where notice against trespass is given. However, an individual is required to have a landowner or lessee's permission to fish, hunt, or trap on private land. South Dakota Codified Laws Section 41-9-1. A violation of that requirement is a Class 2 misdemeanor and may be punished by a \$500 fine or 30 days in a county jail or both. South Dakota Codified Laws Sections 41-9-1 and 22-6-2. Additionally, an individual who fishes, hunts, or traps on private land without permission loses fishing, hunting, or trapping privileges for 1 year for a first violation or 2 years for a subsequent violation within 10 years. South Dakota Codified Laws Section 41-9-8. However, an individual may enter private land without permission to retrieve small game that was lawfully taken, provided the individual is unarmed and does not use a motor vehicle. South Dakota Codified Laws Section 41-9-8.