

ORDINANCE #321

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF HAYTI,
HAMLIN COUNTY, SOUTH DAKOTA:

Dynamic Brake

(A) Except as provided in the section, the use or operation of a dynamic braking device on unmuffled vehicles is hereby prohibited within this municipality;

(B) A dynamic braking device is a device used on vehicles that converts the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. These devices are commonly referred to as "air brakes," "engine brakes," "compression brakes," "Jacob's Brakes," or "Jake Brakes."

(C) This section shall not apply to municipal emergency vehicles, whether or not responding to an emergency.

(D) As an affirmative defense to a charge of a violating of this section, the drive of the vehicle must provide by a preponderance of the evidence that:

1. The driver of the vehicle was operating the vehicle in compliance with all applicable laws at the time the unmuffled dynamic braking device was used; and
2. The speed of vehicle was reasonable given all of the relevant circumstances; and
3. The drive believed that the use of the unmuffled dynamic braking device was necessary to either;
 - a. Avoid an imminent threat to the safety of the driver or any other person; or
 - b. Avoid an imminent threat to property.
4. The driver's belief as to the necessity for using the unmuffled dynamic braking device was objectively reasonable.

Dated this 9 day of February, 2022.

Board Chairperson

Passed First Reading: Jan. 12, 2022

Passed Second Reading: Feb. 9, 2022

Published: _____

ATTEST:

Finance Officer – Carol Reuer