



2020 South Dakota Legislature
House Bill 1199
ENROLLED

AN ACT

ENTITLED An Act to revise civil liability for riot and incitement to riot.

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

Section 1. That § 20-9-53 be AMENDED:

20-9-53. Definitions.

Terms used in §§ 20-9-53 to 20-9-57, inclusive, mean:

- (1) "Civil recoveries," funds received by the state from any third party as damages resulting from riot or incitement to riot that cause the state or a political subdivision to incur costs;
- (2) "Incitement to riot," any person who, with the intent to cause a riot, commits an act or engages in conduct that urges three or more people, acting together and without authority of law, to use force or violence to cause any injury to any person or any damage to property, under circumstances in which the force or violence is imminent and the urging is likely to incite or produce the use of force or violence, incites riot. Urging includes instigating, inciting, or directing, but does not include the oral or written advocacy of ideas or expression of belief that does not urge the commission of an act or conduct of imminent force or violence;
- (3) "Person," any individual, joint venture, association, partnership, cooperative, limited liability company, corporation, nonprofit, other entity, or any group acting as a unit;
- (4) "Political subdivision," a county or municipality;
- (5) "Riot," any intentional use of force or violence by three or more persons, acting together and without authority of law, to cause any injury to any person or any damage to property; and
- (6) "Secretary," the secretary of the Department of Public Safety.

Section 2. That § 20-9-54 be AMENDED:

20-9-54. Liability for riot and incitement to riot.

In addition to any other liability or criminal penalty under law, a person is personally liable for riot, and jointly and severally liable for riot with any other person engaged in the same riot, to the state or a political subdivision in an action for damages if the person commits riot as defined under § 20-9-53.

In addition to any other liability or criminal penalty under law, a person is personally liable for incitement to riot, and jointly and severally liable for incitement to riot with any other person engaged in the same riot, to the state or a political subdivision in an action for damages if the person commits incitement to riot as defined under § 20-9-53.

Nothing in this section may be construed to include the oral or written advocacy of ideas or expression of belief that does not urge the commission of an act or conduct of imminent force or violence. This section may not be construed to prevent the peaceable assembly of persons for lawful purposes of protest or petition.

Section 3. That § 20-9-55 be AMENDED:

20-9-55. Jurisdiction--Evidence--Procedure.

A person is subject to the jurisdiction of the courts of this state for incitement to riot that results in a riot in this state, regardless of whether the person engages in incitement to riot personally, or through any employee, agent, or subsidiary.

Evidence is not admissible in an action for riot or incitement to riot that shows that any damages, in whole or in part, were paid by a third party. Notwithstanding any other law, any action arising under § 20-9-54 is governed by the procedural and substantive law of this state.

Any action for riot or incitement to riot shall be for the exclusive benefit of the state or political subdivision and shall be brought in the name of the state or political subdivision. The state, a political subdivision, or any third party having an interest in preventing a riot or incitement to riot may enter into an agreement to establish joint representation of a cause of action under § 20-9-54.

Section 4. That § 20-9-56 be AMENDED:

20-9-56. Damages for riot or incitement to riot.

The plaintiff in an action for riot or incitement to riot may recover both special and general damages, reasonable attorney's fees, disbursements, other reasonable expenses incurred from prosecuting the action, and punitive damages. A fine paid by a defendant

for any violation of chapter 22-10 may not be applied toward payment of damages under this section.

An Act to revise civil liability for riot and incitement to riot.

I certify that the attached Act originated in the:

House as Bill No. 1199

Received at this Executive Office
this ____ day of _____,
2020 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1199
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State