



## 2020 South Dakota Legislature

# House Bill 1199

SENATE COMMERCE AND ENERGY ENGROSSED

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

*Introduced by: **Representative** Reed at the request of the Electric Services in an Annexed Area*

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

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

3 **Section 1.** That § 20-9-53 be AMENDED:

4 **20-9-53. Definitions.**

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

- 6 (1) "Civil recoveries," funds received by the state from any third party as damages  
7 resulting from ~~violations of chapter 22-10-riot or incitement to riot~~ that cause the  
8 state or a political subdivision to incur costs ~~arising from riot boosting under § 20-~~  
9 ~~9-54;~~
- 10 (2) "Incitement to riot," any person who, with the intent to cause a riot, commits an  
11 act or engages in conduct that urges three or more people, acting together and  
12 without authority of law, to use force or violence to cause any injury to any person  
13 or any damage to property, under circumstances in which the force or violence is  
14 imminent and the urging is likely to incite or produce the use of force or violence,  
15 incites riot. Urging includes instigating, inciting, or directing, but does not include  
16 the oral or written advocacy of ideas or expression of belief that does not urge the  
17 commission of an act or conduct of imminent force or violence;
- 18 (3) "Person," any individual, joint venture, association, partnership, cooperative,  
19 limited liability company, corporation, nonprofit, other entity, or any group acting  
20 as a unit;
- 21 ~~(3)~~(4) "Political subdivision," a county or municipality;
- 22 ~~(4)~~(5) "Riot," ~~the same as the term is defined under § 22-10-1~~ any intentional use of force  
23 or violence by three or more persons, acting together and without authority of law,  
24 to cause any injury to any person or any damage to property; and
- 25 ~~(5)~~(6) "Secretary," the secretary of the Department of Public Safety.

26 **Section 2.** That § 20-9-54 be AMENDED:

1           **20-9-54. Liability for riot and incitement to riot.**

2           ~~In addition to any other liability or criminal penalty under law, a person is liable for~~  
 3 ~~riot boosting, jointly and severally with any other person, to the state or a political~~  
 4 ~~subdivision in an action for damages if the person:~~

5 ~~(1) Participates in any riot and directs, advises, encourages, or solicits any other person~~  
 6 ~~participating in the riot to acts of force or violence;~~

7 ~~(2) Does not personally participate in any riot but directs, advises, encourages, or~~  
 8 ~~solicits other persons participating in the riot to acts of force or violence; or~~

9 ~~(3) Upon the direction, advice, encouragement, or solicitation of any other person, uses~~  
 10 ~~force or violence, or makes any threat to use force or violence, if accompanied by~~  
 11 ~~immediate power of execution, by three or more persons, acting together and~~  
 12 ~~without authority of law.~~

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

17           In addition to any other liability or criminal penalty under law, a person is  
 18 personally liable for incitement to riot, and jointly and severally liable for incitement to  
 19 riot with any other person engaged in the same riot, to the state or a political subdivision  
 20 in an action for damages if the person commits incitement to riot as defined under § 20-  
 21 9-53.

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

26           **Section 3.** That § 20-9-55 be AMENDED:

27           **20-9-55. Jurisdiction--Evidence--Procedure.**

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

32           Evidence is not admissible in an action for riot ~~boosting action~~ or incitement to riot  
 33 that shows that any damages, in whole or in part, were paid by a third party.

1 Notwithstanding any other law, any action arising under § 20-9-54 is governed by the  
2 procedural and substantive law of this state.

3 Any action for riot ~~boosting or incitement to riot~~ shall be for the exclusive benefit of  
4 the state, or political subdivision, ~~or an otherwise damaged third party,~~ and shall be  
5 brought in the name of the state or political subdivision. The state, a political subdivision,  
6 or any third party having an interest in preventing a riot or ~~riot boosting incitement to riot~~  
7 may enter into an agreement to establish joint representation of a cause of action under  
8 § 20-9-54.

9 **Section 4.** That § 20-9-56 be AMENDED:

10 **20-9-56. Damages for riot or incitement to riot.**

11 The plaintiff in an action for riot ~~boosting or incitement to riot~~ may recover both  
12 special and general damages, reasonable attorney's fees, disbursements, other  
13 reasonable expenses incurred from prosecuting the action, and punitive damages. A  
14 ~~defendant who solicits or compensates any other person to commit an unlawful act or to~~  
15 ~~be arrested is subject to three times a sum that would compensate for the detriment~~  
16 ~~caused.~~ A fine paid by a defendant for any violation of chapter 22-10 may not be applied  
17 toward payment of liability damages under § 20-9-54 this section.