2020 South Dakota Legislature

House Bill 1117

ENROLLED

AN ACT

ENTITLED An Act to repeal and revise certain provisions regarding riot, to establish the crime of incitement to riot, and to revise provisions regarding civil liability for riot and riot boosting.

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

Section 1. That § 22-10-1 be AMENDED:

22-10-1. Riot--Violation as felony.

As used in this chapter, 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 is riot. A violation of this section is a Class 4 felony.

Section 2. That § 22-10-6 be REPEALED.

22-10-6. Encouraging or soliciting violence in riot--Felony.

Section 3. That § 22-10-6.1 be REPEALED.

22-10-6.1. Encouraging or soliciting violence in riot without participating--Felony.

Section 4. That a NEW SECTION be added:

22-10-17. Incitement to riot--Violation as felony.

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. For the purposes of this chapter, 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. This section may not be construed to prevent the peaceable assembly of persons for lawful purposes of protest or petition. A violation of this section is a Class 5 felony.

Section 5. 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 riot boosting 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 6. That § 20-9-54 be AMENDED:

20-9-54. Liability for riot or riot boosting.

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 in § 20-9-53.

In addition to any other liability or criminal penalty under law, a person is personally liable for riot boosting, and jointly and severally liable for riot boosting 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 in § 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 7. That § 20-9-55 be AMENDED:

20-9-55. Action for riot and riot boosting--Evidence--Procedure.

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

Evidence is not admissible in an action for riot or riot boosting 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 riot boosting shall be for the exclusive benefit of the state, political subdivision, or an otherwise damaged third party, 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 riot boosting may enter into an agreement to establish joint representation of a cause of action under § 20-9-54.

Section 8. That § 20-9-56 be AMENDED:

20-9-56. Recovery of damages.

The plaintiff in an action for riot or riot boosting 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 liability under § 20-9-54.

An Act to repeal and revise certain provisions regarding riot, to establish the crime of incitement to riot, and to revise provisions regarding civil liability for riot and riot boosting.

I certify that the attached Act originated in the:

House as Bill No. 1117

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1117
File No. ____
Chapter No. _____

Received at this Executive Office
this _____ day of _____,

2020 at _____M.

By _____
for the Governor

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

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 2020
at _____ o'clock __M.

_____
Secretary of State

By _____
Asst. Secretary of State