

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

376C0664

SENATE BILL NO. 159

Introduced by: Senators Benson, Bogue, Dennert, Drake, Kleven, Kloucek, and Vitter and
Representatives Cerny, Kazmerzak, and Koskan

1 FOR AN ACT ENTITLED, An Act to require railroads to build and maintain fences on newly
2 acquired right-of-ways.

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

4 Section 1. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Whenever any railroad acquires any new right-of-way, whether by purchase, lease, easement,
7 or condemnation, the railroad shall forthwith construct and maintain a legal fence, as provided
8 in § 42-23-4, along any boundary between the right-of-way and any adjoining land.

9 Section 2. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 A railroad is liable for any damages arising from any injury that is proximately caused by the
12 negligent construction or maintenance of any fence provided for in section 1 of this Act unless
13 it is proved, by a preponderance of the evidence, that the willful or negligent act of another is the
14 proximate cause of the injury.