

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0045 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 11 - 02/01/2001

Introduced by: Senators Symens, Diedtrich (Elmer), and Vitter and Representatives
Hanson (Gary), Fryslie, and Lintz at the request of the Interim Agriculture
and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to permit the fencing of certain lakes, ponds, and sloughs
2 for the containment of livestock.

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

4 Section 1. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any landowner or lessee, who confines or pastures livestock, annually or seasonally, may
7 construct and maintain a fence appropriate to the containment of such livestock across or
8 through any lake, pond, slough, or similar natural body of water if the landowner owns, or the
9 lessee leases, the inundated land in which the fence is set or over which the fence floats or is
10 suspended. The fence may not limit the free navigation of any navigable watercourse or limit the
11 right of the public to the enjoyment of the entire lake. At the request of any person, unit of local
12 government, or political subdivision of the state, any contest pertaining to the restrictions set
13 forth in this section may be brought to the Water Management Board for resolution consistent
14 with the process established in § 46-5-1.1. This section does not apply to meandered lakes, lakes

1 where an ordinary high water mark has been established pursuant to § 43-17-21, or any lake that
2 has a history of public use and access.

3 Section 2. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The liability provisions related to landowners, tenants, or lessees in §§ 20-9-11 and 20-9-16
6 apply to any landowner, tenant, or lessee that constructs a fence in accordance with section 1 of
7 this Act.