



## 2025 South Dakota Legislature

# Senate Bill 134

Introduced by: **Senator Perry**

1 **An Act to provide limitations on liability and damages caused by a wildfire.**

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

3 **Section 1. That a NEW SECTION be added to chapter 20-9:**

4 Terms used in this Act mean:

5 (1) "Electric utility," any electric utility, as defined in § 49-34A-1, including any entity

6 that:

7 (a) Is a generator of electricity at utility scale; or

8 (b) Operates an electric transmission facility; and

9 (2) "Wildfire," an uncontrolled, unplanned, and unwanted fire burning in this state

10 that:

11 (a) May impact, damage, or cause harm, including to natural resources,

12 agricultural resources, homes and property; or

13 (b) Threatens lives and safety.

14 **Section 2. That a NEW SECTION be added to chapter 20-9:**

15 In any civil action alleging wildfire-related damages caused by an electric utility:

16 (1) A standard of strict liability may not be applied to the alleged actions of the electric  
17 utility;

18 (2) A plaintiff may not recover punitive damages unless the electric utility acted with  
19 malice or criminal intent and the electric utility's action was the actual and  
20 proximate cause of damages to the plaintiff;

21 (3) A plaintiff may not recover noneconomic losses from an electric utility unless the  
22 plaintiff suffered death or bodily injury in the form of a burn; and

23 (4) A plaintiff may recover damages from the electric utility to compensate for  
24 economic losses, as otherwise provided in chapter 21-1, and for damage to real or  
25 personal property, including vegetation, in an amount that is the least of:

- 1           (a) The cost to restore the property to its pre-wildfire condition;  
2           (b) The cost to replace the lost use of the property; or  
3           (c) The difference between the fair market value of the property immediately  
4           before the wildfire and the fair market value of the property after the  
5           wildfire.
- 6           An action under this section may not be maintained unless brought within three  
7           years from the date of initial ignition of the wildfire.
- 8           Nothing in this section may be construed to limit any defense that an electric utility  
9           is entitled to raise in a civil action for wildfire-related damages.