

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

183Y0486

## HOUSE ENGROSSED NO. **SB 104** - 3/6/2017

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

Introduced by: Senators Bolin, Frerichs, and Otten (Ernie) and Representatives Anderson, Ahlers, Jensen (Kevin), Latterell, Mills, Otten (Herman), Pischke, and Willadsen

1 FOR AN ACT ENTITLED, An Act to protect certain easement holders and rural customers  
2 from shutoffs by certain energy companies.

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

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Terms used in this Act mean:

6 (1) "Farm tap," a natural gas piping connection to an interstate or intrastate transmission  
7 pipeline, that is made available to a farm tap customer;

8 (2) "Farm tap customer," a person who receives natural gas through a farm tap  
9 distribution system;

10 (3) "Farm tap distribution system," a customer owned pipeline system that extends from  
11 an interstate or intrastate transmission pipeline to deliver natural gas to a farm tap  
12 customer; and

13 (4) "Farm tap service provider," any third party provider of farm tap distribution system  
14 services to:



1 (a) A farm tap customer; or

2 (b) An interstate or intrastate natural gas transmission pipeline holding one or  
3 more farm tap easements.

4 Section 2. That chapter 43-13 be amended by adding a NEW SECTION to read:

5 A farm tap easement is an easement for the location, construction, operation or maintenance  
6 of a pipeline which includes, as part of the consideration for the easement, the provision of  
7 natural gas to and for the use of the grantor through a direct connection to the pipeline. In any  
8 court action seeking enforcement of a farm tap easement, a prevailing grantor or successor to  
9 a grantor of a farm tap easement may receive specific performance as a portion of the remedy  
10 from the farm tap easement grantee or its successor.

11 Section 3. That the code be amended by adding a NEW SECTION to read:

12 The farm tap customer is responsible for the safety and reliability of the farm tap distribution  
13 system, unless the farm tap customer has contracted with or transferred ownership of his farm  
14 tap distribution system to a farm tap service provider pursuant to a written agreement which  
15 expressly transfers the responsibility for the safety and reliability of the farm tap distribution  
16 system to the farm tap service provider.

17 Section 4. That the code be amended by adding a NEW SECTION to read:

18 The farm tap service provider is not liable for damages related to or arising out of a farm tap  
19 or a farm tap distribution system, unless the damages are solely caused by the negligence of the  
20 farm tap service provider.

21 Section 5. That § 49-7A-15 be amended to read:

22 ~~49-7A-15. Underground facilities owned or operated by the landowner on his own land~~  
23 ~~which do not extend beyond the boundary of the private property are not subject to the~~  
24 ~~provisions of this chapter~~ Any person owning or operating underground facilities, including a

1 farm tap customer owning a farm tap distribution system, which serves third parties or which  
2 crosses a property line or is located in a public highway shall register with the one call  
3 notification system as an operator pursuant to chapter 49-7A.