

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0866

SENATE BILL NO. 189

Introduced by: The Committee on Appropriations

1 FOR AN ACT ENTITLED, An Act to establish a fund to receive civil recoveries to offset costs
2 incurred by riot boosting, to make a continuous appropriation therefor, and to declare an
3 emergency.

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

5 Section 1. That chapter 20-9 be amended by adding a NEW SECTION to read:

6 Terms used in this Act mean:

- 7 (1) "Civil recoveries," funds received by the state from any third party as damages
8 resulting from violations of chapter 22-10 that cause the state or a political
9 subdivision to incur costs arising from riot boosting under section 2 of this Act;
- 10 (2) "Person," any individual, joint venture, association, partnership, cooperative, limited
11 liability company, corporation, nonprofit, other entity, or any group acting as a unit;
- 12 (3) "Political subdivision," a county or municipality;
- 13 (4) "Riot," the same as the term is defined under § 22-10-1; and
- 14 (5) "Secretary," the secretary of the Department of Public Safety.

15 Section 2. That chapter 20-9 be amended by adding a NEW SECTION to read:



1 In addition to any other liability or criminal penalty under law, a person is liable for riot
2 boosting, jointly and severally with any other person, to the state or a political subdivision in
3 an action for damages if the person:

4 (1) Participates in any riot and directs, advises, encourages, or solicits any other person
5 participating in the riot to acts of force or violence;

6 (2) Does not personally participate in any riot but directs, advises, encourages, or solicits
7 other persons participating in the riot to acts of force or violence; or

8 (3) Upon the direction, advice, encouragement, or solicitation of any other person, uses
9 force or violence, or makes any threat to use force or violence, if accompanied by
10 immediate power of execution, by three or more persons, acting together and without
11 authority of law.

12 Section 3. That chapter 20-9 be amended by adding a NEW SECTION to read:

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

16 Evidence is not admissible in an action for riot boosting action that shows that any damages,
17 in whole or in part, were paid by a third party. Notwithstanding any other law, any action arising
18 under section 2 this Act is governed by the procedural and substantive law of this state.

19 Any action for riot boosting shall be for the exclusive benefit of the state, political
20 subdivision, or an otherwise damaged third party, and shall be brought in the name of the state
21 or political subdivision. The state, a political subdivision, or any third party having an interest
22 in preventing a riot or riot boosting may enter into an agreement to establish joint representation
23 of a cause of action under section 2 of this Act.

24 Section 4. That chapter 20-9 be amended by adding a NEW SECTION to read:

1 The plaintiff in an action for riot boosting may recover both special and general damages,
2 reasonable attorney's fees, disbursements, other reasonable expenses incurred from prosecuting
3 the action, and punitive damages. A defendant who solicits or compensates any other person to
4 commit an unlawful act or to be arrested is subject to three times a sum that would compensate
5 for the detriment caused. A fine paid by a defendant for any violation of chapter 22-10 may not
6 be applied toward payment of liability under section 2 of this Act.

7 Section 5. That chapter 20-9 be amended by adding a NEW SECTION to read:

8 There is established in the state treasury the riot boosting recovery fund. Money in the fund
9 may be used to pay any claim for damages arising out of or in connection with a riot or may be
10 transferred to the pipeline engagement activity coordination expenses fund. Interest earned on
11 money in the fund established under this section shall be credited to the fund. The fund is
12 continuously appropriated to the Department of Public Safety, which shall administer the fund.
13 All money received by the department for the fund shall be set forth in an informational budget
14 pursuant to § 4-7-7.2 and be annually reviewed by the Legislature.

15 The secretary shall approve vouchers and the state auditor shall draw warrants to pay any
16 claim authorized by this Act.

17 Any civil recoveries shall be deposited in the fund.

18 Section 6. Whereas, this Act is necessary for the support of the state government and its
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
20 full force and effect from and after its passage and approval.