

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

934R0652

HOUSE BILL NO. 1277

Introduced by: Representatives Hamiel, Bolin, Brunner, Carson, Cutler, Deadrick, Fargen, Gibson, Gosch, Greenfield, Hoffman, Hunt, Iron Cloud III, Jensen, Juhnke, Kirkeby, Kopp, Krebs, Lederman, Olson (Betty), Schlekeway, Sly, Turbiville, Vanneman, and Verchio and Senators Turbak Berry, Brown, Dempster, and Vehle

1 FOR AN ACT ENTITLED, An Act to provide for a process of obtaining certain information
2 from online content providers in slander and libel actions.

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

4 Section 1. That chapter 20-11 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the safe harbor provisions of the federal Communications Decency Act,
7 any person bringing an action for libel or slander under this chapter or under common law may
8 name the online content provider as a defendant in such an action for the limited purpose of
9 obtaining information about any unknown, anonymous, or pseudonymous person who has left
10 or uploaded a defamatory comment, posting, message, photo, video, or other communication
11 about another person. Any online content provider so named shall provide, within thirty days
12 of service of the summons, at the expense of the person bringing the slander or libel action, any
13 information, reasonably available and kept in the normal course of business, that assists in the



1 identification and location of the unknown, anonymous, or pseudonymous person who left or
2 uploaded the defamatory content.

3 Section 2. That chapter 20-11 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Upon providing the information to the person bringing the slander or libel action, in lieu of
6 serving an answer to the complaint, the content provider shall provide the court with an affidavit
7 that the provisions of this section have been complied with. Upon such showing, the court shall
8 issue a dismissal of the action against the content provider.

9 Section 3. That chapter 20-11 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any online content provider named as a defendant pursuant to this Act bears no liability for
12 damages and costs in the event of a judgment or verdict against the defendant who left the
13 defamatory communication. However, nothing in this section affects a person's right to sue the
14 online content provider under this chapter or under common law if the online content provider
15 himself or herself made a defamatory communication about another person.