

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

385D0176

SENATE BILL NO. 110

Introduced by: Senators Hutmacher and Flowers and Representatives Cerny and Nachtigal

1 FOR AN ACT ENTITLED, An Act to prohibit the placement of certain hazardous or injurious
2 devices on state lands and to provide penalties therefor.

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

4 Section 1. No person may, with reckless disregard to the risk that another person will be
5 placed in danger of death or bodily injury and under circumstances manifesting extreme
6 indifference to such risk, use or place a hazardous or injurious device on any land owned or
7 leased by the State of South Dakota, including any highway, road, or right-of-way.

8 Section 2. Any person who violates section 1 of this Act is guilty of:

- 9 (1) A Class 1 felony, if the death of any person results;
- 10 (2) A Class 2 felony, if serious bodily injury to any person results;
- 11 (3) A Class 3 felony, if bodily injury to any person results;
- 12 (4) A Class 4 felony, if damage to the property of any person results or if avoidance costs
13 have been incurred exceeding ten thousand dollars; and
- 14 (5) A Class 6 felony, in any other case.

15 Section 3. Any person injured as the result of a violation of section 1 of this Act may
16 commence a civil action against any person who is alleged to be in violation of section 1 of this
17 Act. The court may award, in addition to monetary damages for any injury resulting from an

1 alleged violation of section 1 of this Act, costs of litigation, including reasonable attorney and
2 expert witness fees, to any prevailing or substantially prevailing party, if the court determines
3 such award to be appropriate.

4 Section 4. For the purposes of this Act, a serious bodily injury is any bodily injury which
5 involves:

- 6 (1) A substantial risk of death; or
- 7 (2) Extreme physical pain; or
- 8 (3) Protracted and obvious disfigurement; or
- 9 (4) Protracted loss or impairment of the function of bodily member, organ, or mental
10 faculty.

11 Section 5. For the purposes of this Act a bodily injury is any:

- 12 (1) Cut, abrasion, bruise, burn, or disfigurement; or
- 13 (2) Physical pain; or
- 14 (3) Illness; or
- 15 (4) Impairment of the function of a bodily member, organ, or mental faculty; or
- 16 (5) Any other permanent or temporary injury to the body.

17 Section 6. For the purposes of this Act, a hazardous or injurious device is any device, which
18 when assembled or placed, is capable of causing bodily injury, or damage to property, by the
19 action of any person making contact with such device subsequent to the assembly or placement.

20 The term includes guns attached to trip wires or other triggering mechanisms, ammunition
21 attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires
22 or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks
23 attached, nails, or other such devices placed so that the sharpened ends are positioned in an
24 upright manner, or tree spiking devices including spikes, nails, or other objects hammered,
25 driven, fastened, or otherwise placed into or on any timber, whether or not severed from the

1 stump. However, the term does not include puncture strips placed by law enforcement officers
2 in an immediate attempt to stop a fleeing vehicle.

3 Section 7. For the purposes of this Act, avoidance costs are costs incurred by any person for
4 the purpose of:

- 5 (1) Detecting a hazardous or injurious device; or
- 6 (2) Preventing death, serious bodily injury, bodily injury, or property damage likely to
7 result from the use of a hazardous or injurious device in violation of section 1 of this
8 Act.