

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

282E0427

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1201** -
02/20/2001

Introduced by: Representatives Pummel, Hansen (Tom), Jensen, Lintz, Pederson
(Gordon), Rhoden, and Sutton (Duane) and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to trespass by buffalo
2 and to specify the characteristics of legal fences for buffalo.

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

4 Section 1. That § 40-28-4 be amended to read as follows:

5 40-28-4. Except as in this chapter otherwise provided, any person owning or having ~~in his~~
6 charge or possession of any buffalo, horses, mules, cattle, goats, sheep, or swine, ~~which such~~
7 ~~animals shall~~ that trespass upon the land, either fenced or unfenced, owned by or in possession
8 of any person, or being cropped by any person injured by such trespass, ~~shall be~~ is liable to any
9 such person injured for all damages sustained by reason of ~~such trespassing~~ the trespass. No
10 person ~~shall be~~ is liable under this chapter ~~where~~ if the person injured has maintained an
11 inadequate partition fence and notice thereof has been given pursuant to § 43-23-5 or if ~~he~~ the
12 person is not required to build ~~such~~ the fence because of frozen earth pursuant to § 43-23-7.

13 Section 2. That § 40-28-5 be amended to read as follows:

14 40-28-5. No person ~~shall be~~ is liable for damages caused by buffalo, horses, cattle, mules,

1 goats, or sheep owned by ~~him, which~~ the person, that trespass upon lands within the exterior
2 boundaries of the Black Hills and Harney National Forests, ~~which~~ if the lands were not at the
3 time of the trespass ~~inclosed~~ enclosed by a legal fence, as defined in §§ 43-23-3 and 43-23-4.

4 Section 3. That chapter 43-23 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A legal fence for buffalo is the same as provided in § 43-23-4, except as provided in this
7 section. A legal fence for buffalo may use smooth wire rather than barbed wire. All posts shall
8 be of sufficient length to provide for fifty-four inches above the surface, and one additional strand
9 of wire shall be included at fifty-four inches above the earth. The additional cost and maintenance
10 of the legal fence for buffalo, other than an as provided in § 43-23-4, shall be borne by the owner
11 or caretaker of the buffalo if only one of the parties partitioned possesses the buffalo.