

AN ACT

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

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

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

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

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

40-28-5. No person is liable for damages caused by buffalo, horses, cattle, mules, goats, or sheep owned by the person, that trespass upon lands within the exterior boundaries of the Black Hills and Harney National Forests, if the lands were not at the time of the trespass enclosed by a legal fence, as defined in §§ 43-23-3 and 43-23-4.

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

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

buffalo if only one of the parties partitioned possesses the buffalo.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1201

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1201
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State