

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

574R0438

## HOUSE BILL NO. 1139

Introduced by: Representatives Olson (Betty), Brunner, Deadrick, Hamiel, Hoffman, Juhnke, Kirkeby, Lederman, Noem, Russell, Schrempp, Steele, Verchio, and Wink and Senators Brown, Gant, Maher, and Rhoden

1 FOR AN ACT ENTITLED, An Act to clarify the application of common law civil trespass on  
2 agricultural land and to provide for the recovery of liquidated damages against trespassers.

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

4 Section 1. Any person who, without the permission of another person who has, by freehold  
5 or leasehold, a possessory interest in such property, knowingly and without lawful justification,  
6 enters any parcel of cropland, pastureland, woodland, or other agricultural land either physically  
7 or by projecting any object upon or over the land commits an act of civil trespass. The trespasser  
8 who commits any act of civil trespass is liable to the freeholder or leaseholder for compensatory  
9 damages. The trespasser who commits any act of civil trespass is also liable to the freeholder  
10 or leaseholder, for each separate trespass, whether in person or by object, for nominal damages  
11 in the liquidated amount to five hundred dollars.

12 Section 2. The provisions of section 1 of this Act do not apply to civil trespass by a minor.  
13 The provisions of section 1 of this Act do not apply to civil trespass within the boundaries of  
14 any municipality.



1           Section 3. Civil trespass pursuant to section 1 of this Act may not be construed to constitute,  
2   ab initio, criminal trespass pursuant to chapter 22-35.