

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

295M0438

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1163** - 02/15/2006

Introduced by: Representatives O'Brien, Cutler, Faehn, Garnos, Gillespie, Haley, Hargens, Haverly, Hennies, Hunhoff, Jensen, Murschel, Nelson, Rausch, Rave, Roberts, Rounds, and Tidemann and Senators Bogue, Abdallah, Dempster, Duenwald, Hansen (Tom), Knudson, Moore, Olson (Ed), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding court suspensions and
2 revocations of driver licenses.

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

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a any violation,
6 while in a ~~motor~~ vehicle, of §§ 22-42-5 to ~~22-42-11~~ 22-42-9, inclusive, 22-42A-3, or 22-42A-4,
7 the court shall revoke the driver license or driving privilege of the ~~person~~ driver so convicted
8 for a period of one hundred eighty days.

9 Upon a second or subsequent conviction or a second or subsequent adjudication of
10 delinquency for a violation, while in a ~~motor~~ vehicle, of §§ 22-42-5 to ~~22-42-11~~ 22-42-9,
11 inclusive, 22-42A-3, or 22-42A-4, the court shall revoke the driver license or driving privilege
12 of the ~~person~~ driver so convicted for a period of one year or until the person's seventeenth
13 birthday, whichever is a longer period of time. For any offense under this section, the court may
14 issue an order, upon proof of financial responsibility pursuant to § 32-35-43.1, permitting the



1 person to operate a ~~motor~~ vehicle for purposes of the person's employment, attendance at school,
2 or counseling programs. Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and
3 26-8C, the Unified Judicial System shall notify the Department of Public Safety of any
4 conviction or adjudication of delinquency for a violation, while in a ~~motor~~ vehicle, of §§ 22-42-
5 5 to ~~22-42-11~~ 22-42-9, inclusive, 22-42A-3, or 22-42A-4. The period of revocation shall begin
6 on the date the person's revoked driver license is received by the court or the department. At the
7 expiration of the revocation period, a person may make application as provided by law and shall
8 pay the license fee prescribed in § 32-12-47.1.

9 Section 2. That § 32-12-52.4 be amended to read as follows:

10 32-12-52.4. Upon a first conviction or a first adjudication as a child in need of supervision
11 for a violation of § 35-9-2 while in a ~~motor~~ vehicle, the court shall suspend the driver license
12 or driving privilege of ~~any the driver of a vehicle who~~, if the driver was under the age of
13 twenty-one when the offense occurred, for a period of ~~six months~~ thirty days.

14 Upon a second conviction or a second adjudication as a child in need of supervision for a
15 violation of § 35-9-2 while in a vehicle, the court shall suspend the driver license or driving
16 privilege of the driver, if the driver was under the age of twenty-one when the offense occurred,
17 for a period of one hundred eighty days.

18 Upon a ~~second~~ third or subsequent conviction or a ~~second~~ third or subsequent adjudication
19 as a child in need of supervision for a violation of § 35-9-2 while in a ~~motor~~ vehicle, the court
20 shall suspend the driver license or driving privilege of ~~any the driver of a vehicle who~~, if the
21 driver was under the age of twenty-one when the offense occurred, for a period of one year. For
22 any offense under this section, the court may issue an order, upon proof of financial
23 responsibility pursuant to § 32-35-43.1, permitting the person to operate a ~~motor~~ vehicle for
24 purposes of the person's employment, attendance at school, or attendance at counseling

1 programs.

2 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified
3 Judicial System shall notify the Department of Public Safety of any conviction or adjudication
4 for a violation, while in a ~~motor~~ vehicle, of § 35-9-2 or chapter 32-23. The period of suspension
5 ~~shall begin~~ begins on the date the person's suspended driver license is received by the court or
6 the Department of Public Safety. At the expiration of the period of suspension, a person may
7 make application to have the license reinstated and pay the license fee as prescribed in § 32-12-
8 47.1.

9 Section 3. That § 32-24-3 be amended to read as follows:

10 32-24-3. If a conviction for a violation of § 32-24-1 is for a second or subsequent offense
11 within a period of one year, such person is guilty of a Class 1 misdemeanor, and the court shall,
12 in pronouncing sentence, order that the defendant's driving privilege be ~~suspended~~ revoked for
13 thirty days. However, the court may ~~in its discretion~~ issue an order, upon proof of financial
14 responsibility pursuant to § 32-35-43.1, permitting the person to operate a ~~motor~~ vehicle for
15 purposes of the person's employment ~~during the hours of the day and the days of the week as~~
16 ~~set forth in the order~~, attendance at school, or attendance at counseling programs. The court may
17 also order the revocation of the defendant's driving privilege for a further period not to exceed
18 one year or restrict the privilege in such manner as it sees fit for a period not to exceed one year.

19 Section 4. That § 32-23-21 be amended to read as follows:

20 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
21 drive, operate, or be in actual physical control of any ~~motor~~ vehicle:

- 22 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
23 person's blood as shown by chemical analysis of the person's breath, blood, or other
24 bodily substance; or

(2) After having consumed marijuana or any controlled drug or substance for as long as physical evidence of the consumption remains present in the person's body.

If a person is found guilty of or adjudicated for a violation of this section, the Unified Judicial System shall notify the Department of Public Safety. Upon conviction or adjudication, the court shall suspend that person's driver's license or operating privilege for a period of ~~six months~~ thirty days for a first offense, one hundred eighty days for a second offense, or one year for any ~~second~~ third or subsequent offense. However, the court may, ~~in its discretion~~ upon proof of financial responsibility pursuant to § 32-35.43.1, issue an order permitting the person to operate a ~~motor~~ vehicle ~~during the hours and days of the week set forth in the order~~ for purposes of the person's employment, attendance at school, or attendance at ~~court-ordered~~ counseling programs.

Section 5. That § 22-16-41 be amended to read as follows:

22-16-41. Any person who, while under the influence of an alcoholic beverage, any controlled drug or substance, marijuana, or a combination thereof, without design to effect death, operates or drives a ~~motor~~ vehicle of any kind in a negligent manner and thereby causes the death of another person, including an unborn child, is guilty of vehicular homicide. Vehicular homicide is a Class 3 felony. In addition to any other penalty prescribed by law, the court may also order that the driver's license of any person convicted of vehicular homicide be revoked for such period of time as may be determined by the court but in no case less than two years.

Section 6. That § 32-12-15 be amended to read as follows:

32-12-15. The issuance of an instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The Department of Public Safety upon the receipt of a record of conviction for a traffic violation or

1 for a violation of the restrictions in § 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1, 32-12-13,
2 or 32-12-14, committed prior to the minor's sixteenth birthday shall suspend ~~or revoke~~ the
3 minor's driving privileges according to the following schedule:

- 4 (1) A felony or Class 1 misdemeanor traffic conviction--suspension until the minor's
5 sixteenth birthday or as otherwise required by law;
- 6 (2) A first Class 2 misdemeanor traffic conviction--suspension for thirty days or as
7 otherwise required by law;
- 8 (3) A first conviction of a violation of the conditions of an instruction permit, a
9 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted
10 minor's permit--suspension for thirty days or as otherwise required by law;
- 11 (4) A second Class 2 misdemeanor traffic conviction--~~revocation~~ suspension until the
12 minor's sixteenth birthday or for ninety days, whichever period is longer, or as
13 otherwise required by law; and
- 14 (5) A second conviction of a violation of the conditions of an instruction permit, a
15 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted
16 minor's permit--~~revocation~~ suspension until the minor's sixteenth birthday or for
17 ninety days, whichever period is longer, or as otherwise required by law.

18 No permit may be suspended for a first violation of § 32-14-9.1, 32-21-27, 32-25-5, 32-26-
19 20, or 34A-7-7, ~~or 32-26-20~~.

20 If a minor has no instruction permit, motorcycle instruction permit, restricted minor's permit,
21 or motorcycle restricted minor's permit and is convicted of any traffic violation prior to the
22 minor's sixteenth birthday, the department shall suspend or revoke the minor's driving privilege
23 or privilege to apply for a driver license as provided in this section. A conviction for any traffic
24 violation that occurs prior to the issuance of an instruction permit, motorcycle instruction

1 permit, restricted minor's permit, motorcycle restricted minor's permit, motorcycle operator's
2 license or an operator's license shall be placed on the driving record and given the same
3 consideration as any violation that occurs following the issuance of an instruction permit,
4 motorcycle instruction permit, restricted minor's permit, motorcycle restricted minor's permit,
5 motorcycle operator's license, or an operator's license.