



## 2021 South Dakota Legislature

# Senate Bill 105

Introduced by: **Senator Wiik**

1 **An Act to revise certain provisions regarding operator's licenses, instruction**  
 2 **permits, and restricted minor's permits.**

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

4 **Section 1.** That § 32-12-11 be AMENDED.

5 **32-12-11. Application for license or permit--Persons at least fourteen and**  
 6 **less than eighteen--Instruction permit--Restrictions.**

7 Any person who is at least fourteen years of age but less than eighteen years of  
 8 age applying for a South Dakota operator's license, restricted minor's permit, or  
 9 instruction permit who does not currently hold an operator's license, motorcycle operator's  
 10 license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit,  
 11 or motorcycle instruction permit shall apply to the Department of Public Safety for an  
 12 instruction permit. If an applicant holds an instruction permit that was valid continuously  
 13 for one hundred days or more, and is currently valid or has been expired for thirty days  
 14 or less, the department shall waive the knowledge test to upgrade to an operator's license  
 15 or a restricted minor's license. The department may, after the applicant has successfully  
 16 passed all parts of the examination other than the driving test and paid a fee which is  
 17 equal in amount to the fee prescribed for a license in § 32-12-16, issue to the applicant  
 18 an instruction permit.

19 The instruction permit entitles the applicant, while having the permit in the  
 20 applicant's immediate possession, to drive a motor vehicle upon the public highways for  
 21 a period of five years during the hours of 6 a.m. to 10 p.m. if accompanied by a person  
 22 holding a valid operator's license who is at least eighteen years of age, has had at least  
 23 one year of driving experience, and who is occupying a seat beside the applicant. The  
 24 applicant is entitled to drive a motor vehicle upon the public highways during the hours of  
 25 10 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the  
 26 applicant's parent or guardian who is occupying a seat beside the applicant. No holder of

1 an instruction permit may use any type of wireless communication device while operating  
2 a motor vehicle upon the public highways.

3 The holder of an instruction permit ~~who is at least fourteen years of age but less~~  
4 ~~than eighteen years of age~~ may apply for a restricted minor's permit or operator's license  
5 after holding a valid instruction permit for at least one hundred eighty continuous days if  
6 issued before July 1, 2020, or at least two hundred seventy-five days if issued after July  
7 1, 2020. ~~The minor holding the instruction permit issued after July 1, 2020, shall drive a~~  
8 ~~minimum of fifty hours under the supervision of a parent, legal guardian, or licensed driver~~  
9 ~~over the age of eighteen with at least one year of driving experience. Ten of the mandated~~  
10 ~~hours must be in inclement weather and no less than ten hours must be during night time~~  
11 ~~hours. A parent or legal guardian shall attest in writing that the minor has met the~~  
12 ~~instruction permit requirements as set forth in this chapter before the minor can apply for~~  
13 ~~and obtain a restricted minor's permit under § 32-12-12.~~

14 **Section 2.** That § 32-12-12 be AMENDED.

15 **32-12-12. Restricted minor's permit--Restrictions on operation.**

16 A restricted minor's permit may be issued, upon application and payment of the  
17 proper fees as provided in § 32-12-16, to a minor at least fourteen years of age but less  
18 than eighteen years of age who has successfully passed all applicable tests and completed  
19 the requirements of an instruction permit as provided in § 32-12-11 and has not been  
20 convicted of a traffic violation during the past six months. For any such minor who has  
21 successfully completed a driver education course that has been approved by the  
22 Department of Education or a driver education course that the secretary of the department  
23 of public safety has determined has been approved by a state government agency in  
24 another state, the required minimum time period for holding the instruction permit in  
25 order to qualify for the restricted minor's permit is ninety continuous days ~~if issued before~~  
26 ~~July 1, 2020, or one hundred eighty continuous days if issued on or after July 1, 2020.~~

27 A restricted minor's permit entitles the holder, while having the permit in  
28 immediate physical possession, to operate a motor vehicle during the hours of 6 a.m. to  
29 10 p.m. standard time if the motor vehicle is being operated with the permission of the  
30 holder's parent or guardian and during the hours of 10 p.m. to 6 a.m. if the motor vehicle  
31 is being operated under the direction of the holder's parent or guardian who is occupying  
32 a seat beside the holder. ~~The restrictions as to time of operation do not apply to the holder~~  
33 ~~of a valid restricted minor's permit who is:~~

1           ~~(1) Operating a self-propelled agricultural machine that is not subject to~~  
2 registration under chapter 32-5;

3           ~~(2) Operating a motor vehicle while traveling the most direct route to or from~~  
4 school or a school event;

5           ~~(3) Operating a motor vehicle while traveling the most direct route to or from any~~  
6 religious worship service or meeting held by a religious organization; or

7           ~~(4) Operating a motor vehicle while traveling the most direct route to, from, or in~~  
8 connection with any job, employment, or farm-related work.

9           The restrictions as to time of operation and operation under the direction of a  
10 parent or guardian do not apply to the holder of a valid restricted minor's permit operating  
11 a self-propelled agricultural machine that is not subject to registration under chapter 32-  
12 5. No holder of a restricted minor's permit may use any type of wireless communication  
13 device while operating a motor vehicle upon the public highways.

14           ~~An operator's license may be issued to a minor at least sixteen years of age but~~  
15 ~~less than eighteen years of age who has successfully completed the requirements set forth~~  
16 ~~in § 32-12-11, has held a restricted minor's permit for at least six months, and has not~~  
17 ~~been convicted of any traffic violations during the six months immediately preceding the~~  
18 ~~application for an operator's license. If the holder applies and makes payment of the~~  
19 ~~required fee thirty one or more days after the expiration date of the restricted minor's~~  
20 ~~permit, the holder shall take the knowledge test as required by § 32-12-4 and may take~~  
21 ~~the skill test for an operator's license.~~

22   **Section 3.** That § 32-12-12.5 be REPEALED.

23           **32-12-12.5. Restricted Minor's Permit--Passenger Limit.**

24   **Section 4.** That § 32-12-15 be AMENDED.

25           **32-12-15. Permits issued on probationary basis--Suspension--Exception.**

26           The issuance of an instruction permit, motorcycle instruction permit, restricted  
27 minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The  
28 Department of Public Safety upon the receipt of a record of conviction for a traffic violation  
29 or for a violation of the restrictions in §§ 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1,  
30 32-12-13, ~~32-12-14, or 32-12-12.5~~or 32-12-14, committed while operating under an  
31 instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle  
32 restricted minor's permit prior to the minor's ~~eighteenth~~sixteenth birthday shall suspend  
33 the minor's driving privileges according to the following schedule:

- 1 (1) A felony or Class 1 misdemeanor traffic conviction--suspension for one hundred  
2 eighty days or until the minor's ~~eighteenth~~sixteenth birthday whichever period is  
3 shorter or as otherwise required by law;
- 4 (2) A first Class 2 misdemeanor traffic conviction or a comparable conviction of any  
5 moving traffic violation of a county or municipal ordinance--suspension for thirty  
6 days or as otherwise required by law;
- 7 (3) A first conviction of a violation of the conditions of an instruction permit, a  
8 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted  
9 minor's permit--suspension for thirty days or as otherwise required by law;
- 10 (4) A second Class 2 misdemeanor traffic conviction or a comparable conviction of any  
11 moving traffic violation of a county or municipal ordinance--suspension until the  
12 minor's ~~eighteenth~~sixteenth birthday or for one hundred eighty days, whichever  
13 period is shorter, or as 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--suspension until the minor's ~~eighteenth~~sixteenth birthday or for  
17 one hundred eighty days, whichever period is shorter, or as otherwise required by  
18 law.

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

21 If a minor has no instruction permit, motorcycle instruction permit, restricted minor's  
22 permit, or motorcycle restricted minor's permit and is convicted of any traffic violation  
23 prior to the minor's ~~eighteenth~~sixteenth birthday, the department shall suspend or revoke  
24 the minor's driving privilege or privilege to apply for a driver license as provided in this  
25 section. A conviction for any traffic violation that occurs prior to the issuance of an  
26 instruction permit, motorcycle instruction permit, restricted minor's permit, motorcycle  
27 restricted minor's permit, motorcycle operator's license or an operator's license shall be  
28 placed on the driving record and given the same consideration as any violation that occurs  
29 following the issuance of an instruction permit, motorcycle instruction permit, restricted  
30 minor's permit, motorcycle restricted minor's permit, motorcycle operator's license, or an  
31 operator's license.

32 **Section 5.** That § 32-12-17 be AMENDED.

1           **32-12-17. Issuance of license--Qualifications.**

2           Upon payment of the fee established by § 32-12-16, the Department of Public  
3           Safety shall issue an operator's license to each qualifying applicant. An operator's license  
4           may be issued to a minor at least sixteen years of age but less than eighteen years of age  
5           who has successfully passed all applicable tests and completed the requirements of an  
6           instruction permit as provided in § 32-12-11 ~~and the restricted minor's permit as provided~~  
7           ~~in § 32-12-12 if or 32-12-11.1,~~ if the applicant has not been convicted of a traffic violation  
8           in the past six months, and the applicant is not currently under suspension, revocation,  
9           or disqualification. If an applicant has successfully completed a driver education course  
10          that has been approved by the Department of Education or a driver education course that  
11          the secretary of the Department of Public Safety has determined to have been approved  
12          by a state agency in another state, the required minimum time period for holding the  
13          instruction permit to qualify for the operator's license is ninety continuous days.