



## 2021 South Dakota Legislature

# Senate Bill 105

### SENATE TRANSPORTATION ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

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--Instruction permit--**  
 6 **Restrictions--Knowledge test waiver.**

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. The department may, after the applicant has successfully passed all  
 13 parts of the examination other than the driving test and paid a fee which is equal in  
 14 amount to the fee prescribed for a license in § 32-12-16, issue to the applicant an  
 15 instruction permit.

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

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

16 **Section 2.** That § 32-12-11.1 be AMENDED.

17           **32-12-11.1. Motorcycle instruction permit--Application requirements--**  
18 **Examination and fee--Restrictions.**

19           Any person who is at least fourteen years of age but less than eighteen years of  
20 age applying for a South Dakota motorcycle operator's license, motorcycle restricted  
21 minor's permit, or motorcycle instruction permit who does not currently hold an operator's  
22 license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
23 minor's permit, instruction permit, or motorcycle instruction permit that has been valid  
24 continuously for ~~at least~~ one hundred eighty days ~~if issued before July 1, 2020, or at least~~  
25 ~~two hundred seventy five days if issued on or after July 1, 2020,~~ shall apply to the  
26 Department of Public Safety for a motorcycle an instruction permit. The department may,  
27 after the applicant has successfully passed all parts of the examination other than the  
28 driving test and paid a fee which is equal in amount to the fee prescribed for a license in  
29 § 32-12-16, issue to the applicant a motorcycle instruction permit. The ~~motorcycle~~  
30 instruction permit shall be held for at least one hundred eighty continuous days ~~if issued~~  
31 ~~before July 1, 2020, or at least two hundred seventy five days if issued on or after July 1,~~  
32 ~~2020.~~

33           A motorcycle instruction permit holder is not required to obtain a motorcycle operator's  
34 license or a motorcycle restricted minor's permit if the applicant currently holds an

1 instruction permit, restricted minor's permit, or operator's license that has been valid  
2 continuously for one hundred eighty days.

3 A motorcycle instruction permit entitles the holder, while having the permit in the  
4 permit holder's immediate physical possession, to operate a motorcycle during the hours  
5 of 6 a.m. to 8 p.m. if the permit holder is accompanied by a licensed motorcycle operator  
6 who is at least eighteen years of age, who has at least one year of driving experience, and  
7 who is driving another motorcycle along with the permit holder. No motorcycle instruction  
8 permit holder may carry another person on the motorcycle. The permit is valid for one  
9 year. The holder of ~~a~~ an instruction permit or motorcycle instruction permit who is at least  
10 ~~fourteen years of age but less than eighteen years of age~~ may apply for a motorcycle  
11 restricted minor's permit or motorcycle operator's license after holding a valid ~~motorcycle~~  
12 instruction permit ~~as required by this section~~ for one hundred eighty continuous days.

13 **Section 3.** That § 32-12-12 be AMENDED.

14 **32-12-12. Restricted minor's permit--Restrictions on operation.**

15 A restricted minor's permit may be issued, upon application and payment of the  
16 proper fees as provided in § 32-12-16, to a minor at least fourteen years of age but less  
17 than eighteen years of age who has successfully passed all applicable tests and completed  
18 the requirements of an instruction permit as provided in § 32-12-11 or 32-12-11.1 and  
19 has not been convicted of a traffic violation during the past six months. For any such minor  
20 who has successfully completed a driver education course that ~~has been approved~~ was  
21 taught by an instructor holding a valid driver's education permit issued by the Department  
22 of Education or a driver education course that the secretary of the department of public  
23 safety has determined has been approved by a state government agency in another state,  
24 the required minimum time period for holding the instruction permit in order to qualify for  
25 the restricted minor's permit is ninety continuous days ~~if issued before July 1, 2020, or one~~  
26 ~~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 and operation under the  
33 direction of a parent or guardian do not apply to the holder of a valid restricted minor's  
34 permit who is:

- 1 (1) Operating a self-propelled agricultural machine that is not subject to registration  
2 under chapter 32-5;
- 3 (2) Operating a motor vehicle while traveling the most direct route to or from school  
4 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 No holder of a restricted minor's permit may use any type of wireless  
10 communication device while operating a motor vehicle upon the public highways.

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

19 **Section 4.** That § 32-12-12.1 be AMENDED.

20 **32-12-12.1. Motorcycle restricted minor's permit--Application requirements--**  
21 **-Examination and fee--Restrictions.**

22 A motorcycle restricted minor's permit may be issued, upon application and  
23 payment of the proper fee as provided for in § 32-12-16, to a minor at least fourteen  
24 years of age but less than eighteen years of age who has successfully passed all applicable  
25 tests and completed the requirements of ~~a motorcycle~~ an instruction permit as outlined in  
26 § 32-12-11 and 32-12-11.1 and has not been convicted of a traffic violation during the  
27 past six months. For any minor who has successfully completed the motorcycle safety  
28 education courses provided by § 32-20-14 and a driver education class that ~~has been~~  
29 approved was taught by an instructor holding a valid driver's education permit issued by  
30 the Department of Education or a driver education course that the secretary of the  
31 department of public safety has determined has been approved by a state government  
32 agency in another state, the required minimum time period for holding the motorcycle  
33 instruction permit to qualify for the motorcycle restricted minor's permit is thirty

1 continuous days if issued before July 1, 2020, or one hundred eighty continuous days if  
 2 issued on or after July 1, 2020.

3 A motorcycle restricted minor's permit entitles the holder, while having the permit  
 4 in immediate physical possession, to operate a motorcycle during the hours of 6 a.m. to  
 5 8 p.m. standard time if the motorcycle is being operated with the permission of the  
 6 holder's parents or guardian.

7 A motorcycle operator's license may be issued to a minor at least sixteen years of  
 8 age but less than eighteen years of age who has successfully completed the requirements  
 9 set forth in § 32-12-11.1, has held a restricted minor's motorcycle permit for at least six  
 10 months, and has not been convicted of any traffic violations during the past six months  
 11 immediately preceding the application for a motorcycle operator's license.

12 **Section 5.** That § 32-12-12.5 be REPEALED.

13 **32-12-12.5. Restricted Minor's Permit--Passenger Limit.**

14 **Section 6.** That § 32-12-15 be AMENDED.

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

16 The issuance of an instruction permit, motorcycle instruction permit, restricted  
 17 minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The  
 18 Department of Public Safety upon the receipt of a record of conviction for a traffic violation  
 19 or for a violation of the restrictions in §§ 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1,  
 20 32-12-13, ~~or 32-12-14, or 32-12-12.5~~, committed while operating under an instruction  
 21 permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted  
 22 minor's permit prior to the minor's ~~eighteenth~~ sixteenth birthday shall suspend the minor's  
 23 driving privileges according to the following schedule:

- 24 (1) A felony or Class 1 misdemeanor traffic conviction--suspension for one hundred  
 25 eighty days or until the minor's ~~eighteenth~~ sixteenth birthday whichever period is  
 26 ~~shorter~~ longer or as otherwise required by law;
- 27 (2) A first Class 2 misdemeanor traffic conviction or a comparable conviction of any  
 28 moving traffic violation of a county or municipal ordinance--suspension for thirty  
 29 days or as otherwise required by law;
- 30 (3) A first conviction of a violation of the conditions of an instruction permit, a  
 31 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted  
 32 minor's permit--suspension for thirty days or as otherwise required by law;

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

10 No permit may be suspended for a first violation of §§ 32-14-9.1, 32-21-27, 32-25-5,  
 11 32-26-20, or 34A-7-7.

12 If a minor has no instruction permit, motorcycle instruction permit, restricted minor's  
 13 permit, or motorcycle restricted minor's permit and is convicted of any traffic violation  
 14 prior to the minor's ~~eighteenth~~ sixteenth birthday, the department shall suspend or revoke  
 15 the minor's driving privilege or privilege to apply for a driver license as provided in this  
 16 section. A conviction for any traffic violation that occurs prior to the issuance of an  
 17 instruction permit, motorcycle instruction permit, restricted minor's permit, motorcycle  
 18 restricted minor's permit, motorcycle operator's license or an operator's license shall be  
 19 placed on the driving record and given the same consideration as any violation that occurs  
 20 following the issuance of an instruction permit, motorcycle instruction permit, restricted  
 21 minor's permit, motorcycle restricted minor's permit, motorcycle operator's license, or an  
 22 operator's license.

23 **Section 7.** That § 32-12-17 be AMENDED.

24 **32-12-17. Issuance of license--Qualifications.**

25 Upon payment of the fee established by § 32-12-16, the Department of Public  
 26 Safety shall issue an operator's license to each qualifying applicant. An operator's license  
 27 may be issued to a minor at least sixteen years of age but less than eighteen years of age  
 28 who has successfully passed all applicable tests and completed the requirements of an  
 29 instruction permit as provided in § 32-12-11 ~~and the restricted minor's permit as provided~~  
 30 ~~in § 32-12-12 if or 32-12-11.1,~~ if the applicant has not been convicted of a traffic violation  
 31 in the past six months, and the applicant is not currently under suspension, revocation,  
 32 or disqualification. If an applicant has successfully completed a driver education course  
 33 that was taught by an instructor holding a valid driver's education permit issued by the  
 34 Department of Education or a driver education course that the secretary of the Department

1 of Public Safety has determined to have been approved by a state agency in another state,  
2 the required minimum time period for holding the instruction permit to qualify for the  
3 operator's license is ninety continuous days.

4 **Section 8.** That § 32-12-17.1 be AMENDED.

5 **32-12-17.1. Issuance of motorcycle operator's license--Requirements.**

6 Upon payment of the fee established by § 32-12-16, the Department of Public  
7 Safety shall issue a motorcycle operator's license to each qualifying applicant. A  
8 motorcycle operator's license may be issued to a minor at least sixteen years of age but  
9 less than eighteen years of age who has successfully passed all applicable tests and  
10 completed the requirements of ~~a motorcycle~~ an instruction permit as provided in § 32-12-  
11 11 or 32-12-11.1 and restricted motorcycle minor's permit as provided in § 32-12-12.1,  
12 if the applicant has not been convicted of a traffic violation during the past six months,  
13 and if the applicant is not currently under suspension, revocation, or disqualification. If  
14 any applicant has successfully completed the motorcycle safety education courses  
15 provided by § 32-20-14 and a driver education class that was taught by an instructor  
16 holding a valid driver's education permit issued by the Department of Education or a driver  
17 education course that the secretary of the Department of Public Safety has determined  
18 has been approved by a state government agency in another state, the required minimum  
19 time period for holding the motorcycle instruction permit to qualify for the motorcycle  
20 operator's license is thirty continuous days.