

## 2022 South Dakota Legislature

**House Bill 1232****AMENDMENT 1232A FOR THE INTRODUCED BILL**

1 **An Act to establish mandatory sentences for certain driving while under the**  
2 **influence violations.**

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

4 **Section 1. That § 32-23-4.6 be AMENDED:**

5 **32-23-4.6.** If a conviction for a violation of § 32-23-1 is for a fourth offense, the  
6 person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall order  
7 that the driver's license of any person so convicted be revoked for a period of not less  
8 than two years from the date sentence is imposed or two years from the date of initial  
9 release from imprisonment, whichever is later. If the person is returned to imprisonment  
10 prior to the completion of the period of driver's license revocation, time spent imprisoned  
11 does not count toward fulfilling the period of revocation. If the person is convicted of  
12 driving without a license during that period, the person ~~shall~~ must be sentenced to the  
13 county jail for not less than twenty days, which sentence may not be suspended.  
14 Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the  
15 license revocation for the term of such revocation. Upon the successful completion of a  
16 court-approved chemical dependency counseling program, and proof of financial  
17 responsibility pursuant to § 32-35-113, the court may permit the person to operate a  
18 vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, or  
19 attendance at counseling programs. Further, sentencing pursuant to this section includes  
20 the provisions of § 23A-27-18.

21 If a person is convicted of a fourth violation of § 32-23-1 ~~and it is within ten years~~  
22 ~~of a conviction for the person's first violation of § 32-23-1,~~ the court shall sentence the  
23 person to at least three years in the state penitentiary, which sentence may not be  
24 suspended.

25 **Section 2. That § 32-23-4.7 be AMENDED:**

1           **32-23-4.7.** If a conviction for violation of § 32-23-1 is for a fifth offense, or  
2 subsequent offenses thereafter, the person is guilty of a Class 4 felony and the court, in  
3 pronouncing sentencing, shall order that the driver's license of any person so convicted  
4 be revoked for a period of not less than three years from the date sentence is imposed or  
5 three years from the date of initial release from imprisonment, whichever is later. In the  
6 event the person is returned to imprisonment prior to the completion of the period of  
7 driver's license revocation, time spent imprisoned does not count toward fulfilling the  
8 period of revocation. If the person is convicted of driving without a license during that  
9 period, the person ~~shall~~ must be sentenced to the county jail for not less than twenty  
10 days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court  
11 retains jurisdiction to modify the conditions of the license revocation for the term of such  
12 revocation. Upon the successful completion of a court-approved chemical dependency  
13 counseling program, and proof of financial responsibility pursuant to § 32-35-113, the  
14 court may permit the person to operate a vehicle for the purposes of employment, 24/7  
15 sobriety testing, attendance at school, or attendance at counseling programs.

16           If a person is convicted of a fifth or subsequent violation of § 32-23-1 ~~and it is~~  
17 ~~within ten years of a conviction for the person's first violation of § 32-23-1,~~ the court shall  
18 sentence the person to at least seven years in the state penitentiary, which sentence may  
19 not be suspended.

20   **Section 3. That § 32-23-4.9 be AMENDED:**

21           **32-23-4.9.** If a conviction for a violation of § 32-23-1 is for a sixth offense, or  
22 subsequent offense, and the person had at least five convictions of § 32-23-1 occurring  
23 within twenty-five years of the violation being charged, and at least two of those prior  
24 convictions having occurred within ten years, the violation is an aggravated offense and  
25 the person is guilty of a Class 4 felony. If a person is convicted of an aggravated violation  
26 of § 32-23-1 ~~and it is within twenty years of a conviction for the person's first violation of~~  
27 ~~§ 32-23-1,~~ the court shall sentence the person to at least seven years in the state  
28 penitentiary, which sentence may not be suspended.

29           The court, in pronouncing sentencing, shall order that the driver license of any  
30 person so convicted be revoked for a period of not less than three years from the date the  
31 sentence is imposed or three years from the date of initial release from imprisonment,  
32 whichever is later. If the person is returned to imprisonment prior to the completion of  
33 the period of driver license revocation, time spent imprisoned does not count toward  
34 fulfilling the period of revocation. If the person is convicted of driving without a license

1 during that period, the person ~~shall~~ must be sentenced to the county jail for not less than  
2 twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the  
3 court retains jurisdiction to modify the conditions of the license revocation for the term of  
4 such revocation.

5 Upon the person's successful completion of a court-approved chemical dependency  
6 counseling program and proof of financial responsibility pursuant to § 32-35-113, the  
7 court may permit the person to operate a vehicle for the purposes of employment, 24/7  
8 sobriety testing, attendance at school, or attendance at counseling programs.

9 For each person convicted under this section and placed on probation, parole, or  
10 released from prison due to a suspended sentence, the person's supervision ~~shall~~ must  
11 include at least one of the following: enrollment in an alcohol or drug accountability  
12 program, ignition interlock, breath alcohol interlock, an alcohol monitoring bracelet, or  
13 another enhanced monitoring tool. Supervision of the offender ~~shall~~ must be overseen by  
14 the Unified Judicial System if the sentence does not include a term of imprisonment in the  
15 penitentiary or by the Department of Corrections if the sentence includes a term of  
16 imprisonment in the penitentiary. Any offender supervised pursuant to this section is not  
17 excluded from earned discharge credit as otherwise authorized by statute.

18 If, during the period of supervision imposed under this section, the person being  
19 supervised violates conditions, the offender ~~shall~~ must be penalized according to the  
20 graduated sanctions policy to be established by the Supreme Court or the Department of  
21 Corrections, respectively.