



2024 South Dakota Legislature

House Bill 1083

HOUSE TRANSPORTATION ENGROSSED

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 **An Act to permit a person convicted of certain driving under the influence offenses**
 2 **to drive for certain purposes.**

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

4 **Section 1. That § 32-23-2 be AMENDED:**

5 **32-23-2.** If conviction for a violation of § 32-23-1 is for a first offense, the person
 6 is guilty of a Class 1 misdemeanor, and the court ~~shall~~ must revoke the person's driver
 7 license for not less than thirty days. ~~However, the~~ The court may, in its discretion, issue
 8 an order, upon proof of financial responsibility pursuant to § 32-35-113, permitting the
 9 person to operate a vehicle for purposes of employment, 24/7 sobriety testing, attendance
 10 at school, child care delivery or pickup, health appointments, attendance at court or
 11 probation appointments, or attendance at counseling programs, treatment, or aftercare.
 12 The court may also order the revocation of the person's driving privilege for a further
 13 period not to exceed one year or restrict the privilege in ~~such~~ any manner ~~as~~ it sees fit for
 14 a period not to exceed one year.

15 **Section 2. That § 32-23-3 be AMENDED:**

16 **32-23-3.** If conviction for a violation of § 32-23-1 is for a second offense, the
 17 person is guilty of a Class 1 misdemeanor, and the court ~~shall, in pronouncing sentence,~~
 18 must revoke the person's driver license for a period of not less than one year. ~~However,~~
 19 ~~upon~~ Upon the successful completion of a court-approved chemical dependency program,
 20 and proof of financial responsibility pursuant to § 32-35-113, the court may permit the
 21 person to drive for the purposes of employment, 24/7 sobriety testing, attendance at
 22 school, child care delivery or pickup, health appointments, attendance at court or
 23 probation appointments, or attendance at counseling programs, treatment, or aftercare.
 24 If the person is convicted of driving without a license during that period, the court must

1 sentence the person ~~shall be sentenced~~ to the county jail for not less than three days,
2 which sentence may not be suspended.

3 **Section 3. That § 32-23-4 be AMENDED:**

4 **32-23-4.** If conviction for a violation of § 32-23-1 is for a third offense, the person
5 is guilty of a Class 6 felony, and the court, ~~in pronouncing sentence, shall~~ must revoke
6 the person's driver license for a period of not less than one year from the date sentence
7 is imposed or one year from the date of initial release from imprisonment, whichever is
8 later. ~~In the event~~ If the person is returned to imprisonment prior to the completion of the
9 period of driver's license revocation, time spent imprisoned does not count toward fulfilling
10 the period of revocation. If the person is convicted of driving without a license during that
11 period, the court must sentence the person ~~shall be sentenced~~ to the county jail for not
12 less than ten days, which sentence may not be suspended. Notwithstanding § 23A-27-19,
13 the court retains jurisdiction to modify the conditions of the license revocation for the term
14 of ~~such~~ the revocation. Upon the successful completion of a court-approved chemical
15 dependency counseling program, and proof of financial responsibility pursuant to § 32-
16 35-113, the court may permit the person to operate a vehicle for the purposes of
17 employment, 24/7 sobriety testing, attendance at school, child care delivery or pickup,
18 health appointments, attendance at court or probation appointments, or attendance at
19 counseling programs, treatment, or aftercare.

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

21 **32-23-4.6.** If a conviction for a violation of § 32-23-1 is for a fourth offense, the
22 person is guilty of a Class 5 felony, and the court, ~~in pronouncing sentence,~~ must revoke
23 the person's driver license for a period of not less than two years from the date sentence
24 is imposed or two years from the date of initial release from imprisonment, whichever is
25 later. If the person is returned to imprisonment prior to the completion of the period of
26 driver's license revocation, time spent imprisoned does not count toward fulfilling the
27 period of revocation. If the person is convicted of driving without a license during that
28 period, the court must sentence the person to the county jail for not less than twenty
29 days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court
30 retains jurisdiction to modify the conditions of the license revocation for the term of ~~such~~
31 the revocation. Upon the successful completion of a court-approved chemical dependency
32 counseling program, and proof of financial responsibility pursuant to § 32-35-113, the
33 court may permit the person to operate a vehicle for the purposes of employment, 24/7

1 sobriety testing, attendance at school, child care delivery or pickup, health appointments,
2 attendance at court or probation appointments, or attendance at counseling programs,
3 treatment, or aftercare. ~~Further, sentencing~~ Sentencing pursuant to this section includes
4 the provisions of § 23A-27-18.

5 ~~If a person is convicted of a fourth violation of § 32-23-1, the~~ The court must
6 sentence the person to at least two years in a state correctional facility, one year of which
7 must be served on parole, unless refused pursuant to § 24-15A-15. Any term of parole
8 must include at least one of the following: enrollment in an alcohol or drug accountability
9 program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet,
10 or another enhanced monitoring tool. The court may suspend this sentence only if the
11 court orders the person to participate in and complete a drug court program, DUI court
12 program, veterans treatment court program, or mental health court program, as a
13 condition of probation.

14 **Section 5. That § 32-23-4.7 be AMENDED:**

15 **32-23-4.7.** If a conviction for violation of § 32-23-1 is for a fifth or subsequent
16 ~~offense, or subsequent offenses thereafter,~~ the person is guilty of a Class 4 felony and the
17 court, ~~in pronouncing sentencing,~~ must revoke the person's driver license for a period of
18 not less than three years from the date sentence is imposed or three years from the date
19 of initial release from imprisonment, whichever is later. ~~In the event~~ If the person is
20 returned to imprisonment prior to the completion of the period of driver's license
21 revocation, time spent imprisoned does not count toward fulfilling the period of revocation.
22 If the person is convicted of driving without a license during that period, the court must
23 sentence the person to the county jail for not less than twenty days, which sentence may
24 not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify
25 the conditions of the license revocation for the term of ~~such~~ the revocation. Upon the
26 successful completion of a court-approved chemical dependency counseling program, and
27 proof of financial responsibility pursuant to § 32-35-113, the court may permit the person
28 to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at
29 school, child care delivery or pickup, health appointments, attendance at court or
30 probation appointments, or attendance at counseling programs, treatment, or aftercare.

31 ~~If a person is convicted of a fifth or subsequent violation of § 32-23-1, the~~ The
32 court must sentence the person to at least four years in a state correctional facility, one
33 year of which must be served on parole, unless refused pursuant to § 24-15A-15. Any
34 term of parole must include at least one of the following: enrollment in an alcohol or drug

1 accountability program, an ignition interlock, a breath alcohol interlock, an alcohol
2 monitoring bracelet, or another enhanced monitoring tool. The court may suspend this
3 sentence only if the court orders the person to participate in and complete a drug court
4 program, DUI court program, veterans treatment court program, or mental health court
5 program, as a condition of probation.

6 **Section 6. That § 32-23-4.9 be AMENDED:**

7 **32-23-4.9.** If a conviction for a violation of § 32-23-1 is for a sixth or subsequent
8 offense, ~~or subsequent offense,~~ and the person had at least five convictions of § 32-23-1
9 occurring within twenty-five years of the violation being charged, and at least two of those
10 prior convictions ~~having~~ occurred within ten years, the violation is an aggravated offense
11 and the person is guilty of a Class 4 felony. If a person is convicted of an aggravated
12 violation of § 32-23-1 and the person has at least six convictions of § 32-23-1 occurring
13 within fifteen years of the violation being charged, the court must sentence the person to
14 at least six years in a state correctional facility, one year of which must be served on
15 parole, unless refused pursuant to § 24-15A-15. Any term of parole must include at least
16 one of the following: enrollment in an alcohol or drug accountability program, an ignition
17 interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced
18 monitoring tool. The court may suspend this sentence only if the court orders the person
19 to participate in and complete a drug court program, DUI court program, veterans
20 treatment court program, or mental health court program, as a condition of probation.

21 The court, ~~in pronouncing sentencing,~~ shall must revoke the person's driver license
22 for a period of not less than three years from the date the sentence is imposed or three
23 years from the date of initial release from imprisonment, whichever is later. If the person
24 is returned to imprisonment prior to the completion of the period of driver license
25 revocation, time spent imprisoned does not count toward fulfilling the period of revocation.
26 If the person is convicted of driving without a license during that period, the court must
27 sentence the person to the county jail for not less than twenty days, which sentence may
28 not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify
29 the conditions of the license revocation for the term of ~~such~~ the revocation.

30 Upon the person's successful completion of a court-approved chemical dependency
31 counseling program and proof of financial responsibility pursuant to § 32-35-113, the
32 court may permit the person to operate a vehicle for the purposes of employment, 24/7
33 sobriety testing, attendance at school, child care delivery or pickup, health appointments,

1 attendance at court or probation appointments, or attendance at counseling programs,
2 treatment, or aftercare.

3 For ~~each~~ any person convicted under this section and placed on probation, parole,
4 or released from prison due to a suspended sentence, the person's supervision must
5 include at least one of the following: enrollment in an alcohol or drug accountability
6 program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet,
7 or another enhanced monitoring tool. The Unified Judicial System shall ~~oversee~~
8 ~~supervision of~~ supervise the offender if the sentence does not include a term of
9 imprisonment in a state correctional facility. The Department of Corrections shall ~~oversee~~
10 ~~supervision of~~ supervise the offender if the sentence includes a term of imprisonment in
11 a state correctional facility. Any offender supervised pursuant to this section is not
12 excluded from earned discharge credit as otherwise authorized by statute.

13 If, during the period of supervision imposed under this section, the person being
14 supervised violates conditions, the person must be penalized according to the graduated
15 sanctions policy ~~to be~~ as established by the Supreme Court or the Department of
16 Corrections, respectively.