



## 2026 South Dakota Legislature

# House Bill 1126

Introduced by: **Representative Walburg**

1 **An Act to revise a provision related to driving under the influence.**

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

3 **Section 1. That § 32-23-4.9 be AMENDED:**

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

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

1           Upon the person's successful completion of a court-approved chemical dependency  
2 counseling program and proof of financial responsibility pursuant to § 32-35-113, the  
3 court may permit the person to operate a vehicle for the purposes of employment, 24/7  
4 sobriety testing, attendance at school, child care delivery or pickup, health appointments,  
5 attendance at court or probation appointments, or attendance at counseling programs,  
6 treatment, or aftercare.

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

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