

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

838W0576

## SENATE BILL NO. 108

Introduced by: Senators Tieszen and Vehle and Representatives Gosch, Sly, and Soli

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to aggravated DUI's.

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

3 Section 1. That § 32-23-4.9 be amended to read as follows:

4 32-23-4.9. If a conviction for a violation of § 32-23-1 is for a sixth offense, or subsequent  
5 offense, and the person had at least five convictions of § 32-23-1 occurring within twenty-five  
6 years of the violation being charged, and at least two of those prior convictions having occurred  
7 within ten years, the violation is an aggravated offense and the person is guilty of a Class 4  
8 felony.

9 The court, in pronouncing sentencing, shall order that the driver license of any person so  
10 convicted be revoked for a period of not less than three years from the date the sentence is  
11 imposed or three years from the date of initial release from imprisonment, whichever is later.  
12 If the person is returned to imprisonment prior to the completion of the period of driver license  
13 revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If  
14 the person is convicted of driving without a license during that period, the person shall be  
15 sentenced to the county jail for not less than twenty days, which sentence may not be suspended.



1 Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the  
2 license revocation for the term of such revocation.

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

7 ~~In addition to the penalties authorized by law, any person convicted under this section and~~  
8 ~~having ten or more previous convictions under § 32-23-1 is subject to a term of supervision not~~  
9 ~~less than ten years. Any person convicted under this section and having at least five and not~~  
10 ~~more than nine previous convictions under § 32-23-1 is subject to a term of supervision not less~~  
11 ~~than five years. The For each person convicted under this section and placed on probation,~~  
12 ~~parole, or released from prison due to a suspended sentence, the person's supervision of an~~  
13 ~~offender shall include at least one of the following: enrollment in an alcohol or drug~~  
14 ~~accountability program, ignition interlock, breath alcohol interlock, an alcohol monitoring~~  
15 ~~bracelet, or another enhanced monitoring tool. Supervision of the offender shall be overseen by~~  
16 ~~the Unified Judicial System if the sentence does not include a term of imprisonment in the~~  
17 ~~penitentiary or by the Department of Corrections if the sentence includes a term of~~  
18 ~~imprisonment in the penitentiary. Any offender supervised pursuant to this section is not~~  
19 ~~excluded from earned discharge credit as otherwise authorized by statute.~~

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