

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

780B0499

## HOUSE ENGROSSED NO. **HB1120** - 3/16/98

Introduced by: Representatives Brown (Richard), Apa, Broderick, Brooks, Chicoine, Cutler, Fiegen, Fischer-Clemens, Fitzgerald, Jorgensen, Matthews, Moore, Peterson (Bill), Richter, and Roe and Senators Aker, Albers, Brosz, Dunn (Rebecca), Everist, Flowers, Halverson, Hunhoff, Hutmacher, Munson (David), Shoener, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide for a graduated licensing system.

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

3 Section 1. That § 32-12-11 be amended to read as follows:

4 32-12-11. Any person who is at least fourteen years of age ~~may~~ but less than eighteen years  
5 of age applying for a South Dakota driver's license who does not currently hold a driver's license  
6 that has been valid continuously for one hundred eighty days, shall apply to the Department of  
7 Commerce and Regulation for an instruction permit which shall be held for a minimum of one  
8 hundred eighty continuous days. The department may, after the applicant has successfully passed  
9 all parts of the examination other than the driving test and paid a fee which is equal in amount  
10 to the fee prescribed for a driver's license in § 32-12-16, issue to the applicant an instruction  
11 permit. The instruction permit entitles the applicant while having the permit in ~~his~~ the applicant's  
12 immediate possession to drive a motor vehicle upon the public highways for a period of one  
13 ~~hundred and eighty days~~ year if accompanied by a licensed operator who is at least eighteen years

1 of age, has had at least one year of driving experience, and who is occupying a seat beside the  
2 driver ~~unless the permittee is operating a motorcycle or a moped.~~ The holder of an instruction  
3 permit may apply for a restricted permit or operator's license after holding a valid instruction  
4 permit for one hundred eighty continuous days. A motorcycle instruction permit entitles the  
5 holder, while having the permit in ~~his~~ the permit holder's immediate physical possession, to  
6 operate a motorcycle during the hours of 6 a.m. to 8 p.m. if ~~he~~ the permit holder is accompanied  
7 by a licensed motorcycle operator who is at least eighteen years of age, who has at least one year  
8 of driving experience and who is driving another motorcycle along with the permit holder. No  
9 motorcycle instruction permit holder may carry another person on the motorcycle. The permit  
10 is valid for thirty days. The permit may be issued only once in a one-year period.

11 Section 2. That § 32-12-12 be amended to read as follows:

12 32-12-12. A restricted minor's permit may be issued, upon application and payment of the  
13 proper fee as provided for in § 32-12-16, ~~and passage of all driver's license examination tests,~~  
14 ~~to any a minor between the ages of at least fourteen and sixteen years of age but less than~~  
15 eighteen years of age who has successfully passed all driver's license examination tests and  
16 completed the requirements of an instruction permit as outlined in section 1 of this Act, and has  
17 not been convicted of a traffic violation during the past six months. For any such minor who has  
18 successfully completed a driver education class that has been approved by the Division of  
19 Education Services and Resources, the required minimum time period for holding the instruction  
20 permit in order to qualify for the restricted minor's permit is ninety continuous days. A restricted  
21 minor's permit entitles the holder, while having the permit in ~~his~~ immediate physical possession,  
22 to operate a motor vehicle during the hours of 6 a.m. to 8 p.m. standard time if the motor vehicle  
23 is being operated with the permission of the minor's parents or guardian and during the hours of  
24 8 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the minor's parent  
25 or guardian who is occupying a seat beside the driver. The restrictions as to time of operation

1 and operation under the direction of a parent or guardian do not apply to the holder of a valid  
2 restricted minor's permit operating a self-propelled agricultural machine which is not subject to  
3 registration under chapter 32-5.

4 Section 3. That § 32-12-14.1 be amended to read as follows:

5 32-12-14.1. The restrictions in §§ 32-12-12, 32-12-13, and 32-12-14 do not apply if the  
6 minor has obtained the age of sixteen years, if the minor has completed the requirements of an  
7 instruction permit as outlined in section 1 of this Act, and has not been convicted of a traffic  
8 violation during the six months prior to the minor's sixteenth birthday. Nothing in this section  
9 precludes the suspension or revocation of the minor's driving privileges upon the receipt of a  
10 record of conviction for a violation of the restrictions committed prior to the minor's sixteenth  
11 birthday.

12 Section 4. That § 32-12-15 be amended to read as follows:

13 32-12-15. The issuance of a an instruction permit or restricted minor's permit ~~under~~  
14 ~~§ 32-12-12~~ is on a probationary basis ~~and the~~. The Department of Commerce and Regulation on  
15 the receipt of a record of conviction for a traffic violation committed classified as a felony or  
16 Class 1 misdemeanor, prior to the minor's sixteenth birthday or a conviction for a violation of  
17 ~~this restricted minor's permit committed prior to the minor's sixteenth birthday~~, shall suspend the  
18 minor's driving privileges ~~for a period of thirty days or as otherwise required by law. A second~~  
19 ~~conviction for a traffic violation committed prior to the minor's sixteenth birthday or a conviction~~  
20 ~~for a violation of this restricted minor's permit committed prior to the minor's sixteenth birthday~~  
21 ~~shall result in revocation of the minor's driving privileges until the minor's sixteenth birthday or~~  
22 ~~for a period of ninety days, whichever period is longer~~ until the minor's sixteenth birthday or as  
23 otherwise required by law. Upon the receipt of a record of conviction prior to the minor's  
24 sixteenth birthday of any other traffic violation, the department shall suspend an instruction  
25 permit or restricted minor's permit for a period of thirty days for a first violation. A second

1 conviction for a traffic violation committed prior to the minor's sixteenth birthday or a conviction  
2 for a violation of an instruction permit or restricted minor's permit committed prior to the minor's  
3 sixteenth birthday shall result in revocation of the minor's driving privileges until the minor's  
4 sixteenth birthday or for a period of ninety days, whichever period is longer, or as otherwise  
5 required by law. If a minor has no instruction permit or restricted minor's permit and ~~commits~~  
6 is convicted of any traffic violation prior to the minor's sixteenth birthday, the department shall  
7 suspend or revoke the minor's driving privilege or privilege to apply for a permit or license as  
8 provided in this section. Any traffic violation which occurs prior to the issuance of ~~a~~ an  
9 instruction permit or restricted minor's permit or an operator's license shall be placed on the  
10 driving record and given the same consideration as any violation which occurs following the  
11 issuance of ~~a~~ an instruction permit, restricted minor's permit, or an operator's license.

12 Section 5. That § 32-12-36 be amended to read as follows:

13 32-12-36. The Department of Commerce and Regulation upon issuing an operator's license  
14 ~~shall have authority whenever good cause appears to~~ or permit may impose restrictions suitable  
15 to the licensee's driving ability with respect to the type of or special mechanical control devices  
16 required on a motor vehicle which the licensee may operate or such other restrictions applicable  
17 to the licensee as the department may determine to be appropriate to assure the safe operation  
18 of a motor vehicle by the licensee.

19 Section 6. That § 32-12-17 be amended to read as follows:

20 32-12-17. The Department of Commerce and Regulation shall, upon payment of the fee  
21 established by § 32-12-16, issue to every applicant qualifying therefor an operator's license. An  
22 operator's license may be issued to a minor at least sixteen years of age but less than eighteen  
23 years of age who has successfully passed all driver's license examination tests and completed the  
24 requirements of an instruction permit as provided in section 1 of this Act, if the applicant has not  
25 been convicted of a traffic violation in the past six months, and if the applicant is not currently

1 under suspension, revocation, or disqualification. The license shall bear thereon a distinguishing  
2 number assigned to the licensee, the full legal name or any name lawfully taken, date of birth,  
3 residence address, an indication if the licensee is a donor pursuant to chapter 34-26, an indication  
4 if the licensee has a living will pursuant to chapter 34-12D or a durable power of attorney for  
5 health care pursuant to chapter 59-7, a color photo and a brief description of the licensee, and  
6 the licensee's signature. The department shall indicate upon each driver's license the general class  
7 of vehicles which the licensee may drive.

8 Section 7. That § 32-12-28 be amended to read as follows:

9 32-12-28. ~~Upon receipt by the department of commerce and regulation of a list of students~~  
10 ~~enrolled in~~ Any student enrolled in a driver education class which has been approved by the  
11 South Dakota ~~division of education services and resources and which list is certified to by an~~  
12 ~~approved driver education instructor on a form furnished by the department, the students on such~~  
13 ~~list so certified~~ Department of Education and Cultural Affairs may drive a motor vehicle without  
14 a license under this chapter on a designated highway or within a designated area ~~when~~ if such  
15 student is accompanied by an approved driver education instructor who is occupying a seat  
16 beside such student driver.

17 Section 8. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 Restricted minor's permits issued prior to the effective date of this Act remain valid, subject  
20 to the conditions and restrictions of the minor's permit and any penalties for violation of the  
21 minor's permit.

22 Section 9. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 The Department of Commerce and Regulation on the receipt of a record of conviction for  
25 a violation of the conditions of an instruction permit or restricted minor's permit shall suspend

1 the minor's driving privileges for a period of thirty days.

2 Section 10. The effective date of this Act is January 1, 1999.

1 **BILL HISTORY**

2 1/20/98 First read in House and referred to State Affairs. H.J. 119

3 1/23/98 Scheduled for Committee hearing on this date.

4 1/23/98 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 3. H.J. 194

5 1/27/98 Motion to Amend, Passed. H.J. 259

6 1/27/98 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 260

7 1/28/98 First read in Senate and referred to State Affairs. S.J. 237

8 2/11/98 Scheduled for Committee hearing on this date.

9 2/11/98 State Affairs Do Pass, Passed, AYES 8, NAYS 0. S.J. 442

10 2/12/98 Senate Deferred to another day. S.J. 494

11 2/13/98 Senate Do Pass Amended, Passed, AYES 27, NAYS 8. S.J. 515

12 2/14/98 Signed by Speaker. H.J. 704

13 2/17/98 Signed by President. S.J. 566

14 2/18/98 Delivered to the Governor. H.J. 765

15 2/23/98 Vetoed for style and form.

16 2/26/98 House of Representatives Vetoed for style and form Passed, AYES 60, NAYS 3.

17 H.J. 974

18 3/16/98 Senate Vetoed for style and form Passed, AYES 29, NAYS 6.