

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0179

HOUSE BILL NO. 1076

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the suspension and
2 revocation of drivers' licenses and permits.

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

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a violation,
6 while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive, § 22-42A-3 or 22-42A-4, the
7 court shall revoke the driver's license or driving privilege of the person so convicted for a period
8 of one hundred eighty days.

9 Upon a second or subsequent conviction or a second or subsequent adjudication of
10 delinquency for a violation, while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive,
11 § 22-42A-3 or 22-42A-4, the court shall revoke the driver's license or driving privilege of the
12 person so convicted for a period of one year or until the person's seventeenth birthday, whichever
13 is a longer period of time. For any offense under this section, the court may issue an order
14 permitting the person to operate a motor vehicle for purposes of the person's employment ~~or,~~
15 attendance at school, or court-ordered counseling programs. Notwithstanding the provisions of

1 chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified Judicial System shall notify the
2 Department of Commerce and Regulation of any conviction or adjudication of delinquency for
3 a violation, while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive, § 22-42A-3 or
4 22-42A-4. The period of revocation shall begin on the date the person's revoked driver's license
5 is received by the court or the department. At the expiration of the revocation period, a person
6 may make application as provided by law and shall pay the license fee prescribed in § 32-12-47.1.

7 Section 2. That § 32-12-52.4 be amended to read as follows:

8 32-12-52.4. Upon a first conviction for violation, while in a motor vehicle, of § 35-9-2, the
9 court shall suspend the driver's license or driving privilege of any driver of a vehicle who was
10 under the age of twenty-one when the offense occurred, for a period of ~~six months~~ ninety days.

11 Upon a second or subsequent conviction for a violation, while in a motor vehicle, of
12 § 35-9-2, the court shall suspend the driver's license or driving privilege of any driver of a vehicle
13 who was under the age of twenty-one when the offense occurred, for a period of ~~one year~~ one
14 hundred eighty days. For any offense under this section, the court may issue an order permitting
15 the person to operate a motor vehicle for purposes of the person's employment ~~or~~, attendance
16 at school, or attendance at court-ordered counseling programs.

17 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified
18 Judicial System shall notify the Department of Commerce and Regulation of any conviction for
19 a violation, while in a motor vehicle, of § 35-9-2 or chapter 32-23. The period of suspension
20 shall begin on the date the person's suspended driver's license is received by the court or the
21 Department of Commerce and Regulation. At the expiration of the period of suspension, a
22 person may make application to have the license reinstated and pay the license fee as prescribed
23 in § 32-12-47.1.

24 Section 3. That § 32-23-21 be amended to read as follows:

1 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
2 drive, operate, or be in actual physical control of any motor vehicle:

3 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
4 person's blood as shown by chemical analysis of the person's breath, blood, or other
5 bodily substance; or

6 (2) After having consumed marijuana or any controlled drug or substance for as long as
7 physical evidence of the consumption remains present in the person's body.

8 If a person is found guilty of a violation of this section, the unified judicial system shall notify
9 the Department of Commerce and Regulation. Upon conviction, the court shall suspend that
10 person's driver's license or operating privilege for a period of ~~six months~~ ninety days for a first
11 offense or ~~one year~~ one hundred eighty days for any second or subsequent offense. However,
12 the court may, in its discretion, issue an order permitting the person to operate a motor vehicle
13 during the hours and days of the week set forth in the order for purposes of the person's
14 employment, attendance at school, or attendance at court-ordered counseling programs.

15 Section 4. That § 32-33-18 be amended to read as follows:

16 32-33-18. Any driver of a motor vehicle who intentionally fails or refuses to bring a vehicle
17 to a stop, or who otherwise flees or attempts to elude a pursuing law enforcement vehicle, when
18 given visual or audible signal to bring the vehicle to a stop, is guilty of eluding. The signal given
19 by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer
20 giving the signal shall be in uniform, prominently displaying a badge of office, and the vehicle
21 shall be appropriately marked showing it to be an official law enforcement vehicle.

22 Eluding is a Class 1 misdemeanor. In addition, the court shall order that the defendant's
23 driver's license be ~~suspended~~ revoked for one year, but may issue an order allowing the defendant
24 ~~a work permit~~ to operate a motor vehicle for purposes of the defendant's employment,

1 attendance at school, or court-ordered counseling programs. Any person who is found guilty of
2 eluding is subject to the additional enhanced penalties if the course of eluding results in:

- 3 (1) Death or great bodily injury to another person, a Class 4 felony; and
- 4 (2) Substantial bodily injury to another person or property damage in excess of five
5 hundred dollars to property belonging to a person other than the person eluding, a
6 Class 6 felony.

7 For any subsequent violation, the court shall order that the defendant's driver's license be
8 ~~suspended~~ revoked for five years.

9 Section 5. That § 35-9-7 be repealed.

10 ~~—35-9-7. If the conviction for a violation of § 35-9-1, 35-9-1.1, or 35-9-2 is for a first offense,~~
11 ~~the court shall, in addition to any other penalty allowed by law, order the revocation of the~~
12 ~~defendant's driving privileges for a period not less than thirty days and not to exceed one year.~~
13 ~~However, the court may issue an order permitting the person to operate a motor vehicle for~~
14 ~~purposes of the person's employment or attendance at school or to court-ordered counseling~~
15 ~~programs during the hours of the day and the days of the week set forth in the order. The court~~
16 ~~may also restrict the privilege in such manner as it sees fit for a period not to exceed one year.~~
17 ~~—If the conviction for a violation of § 35-9-1, 35-9-1.1, or 35-9-2 is for a second or~~
18 ~~subsequent offense, the court shall, in addition to any other penalty allowed by law, order the~~
19 ~~revocation of the defendant's driving privileges for a period not less than sixty days and not to~~
20 ~~exceed one year.~~