

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0179

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1076 - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to permit certain persons whose driving privileges have
2 been suspended or revoked to attend counseling programs.

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 counseling programs. Notwithstanding the provisions of chapters 26-7A,

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

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. For
14 any offense under this section, the court may issue an order permitting the person to operate a
15 motor vehicle for purposes of the person's employment ~~or~~, attendance at school, or attendance
16 at 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 § 32-33-18 be amended to read as follows:

1 32-33-18. Any driver of a motor vehicle who intentionally fails or refuses to bring a vehicle
2 to a stop, or who otherwise flees or attempts to elude a pursuing law enforcement vehicle, when
3 given visual or audible signal to bring the vehicle to a stop, is guilty of eluding. The signal given
4 by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer
5 giving the signal shall be in uniform, prominently displaying a badge of office, and the vehicle
6 shall be appropriately marked showing it to be an official law enforcement vehicle.

7 Eluding is a Class 1 misdemeanor. In addition, the court shall order that the defendant's
8 driver's license be ~~suspended~~ revoked for one year, but may issue an order allowing the defendant
9 ~~a work permit to operate a motor vehicle for purposes of the defendant's employment,~~
10 attendance at school, or counseling programs. Any person who is found guilty of eluding is
11 subject to the additional enhanced penalties if the course of eluding results in:

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

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