

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

905E0521

HOUSE BILL NO. 1126

Introduced by: Representatives Duenwald, Abdallah, Duniphan, Monroe, Sebert, and Van
Etten and Senators Daugaard, Albers, Madden, and Vitter

1 FOR AN ACT ENTITLED, An Act to require any driver involved in a fatal traffic accident to
2 submit to a chemical test.

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

4 Section 1. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any driver of a motor vehicle, who is involved in a traffic accident in which there is probable
7 cause to believe a death or fatal injury had occurred, shall submit to a chemical test as provided
8 in section 2 of this Act.

9 Section 2. That § 32-23-10 be amended to read as follows:

10 32-23-10. Any person who operates any vehicle in this state is considered to have given
11 consent to the withdrawal of blood or other bodily substance and chemical analysis of the
12 person's blood, breath, or other bodily substance to determine the amount of alcohol in the
13 person's blood and to determine the presence of marijuana or any controlled drug or substance.

14 The person shall be requested by the officer to submit to the withdrawal of blood or other
15 bodily substance for chemical analysis or chemical analysis of the person's breath and shall be

1 advised by the officer that:

2 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal
3 or chemical analysis may be required unless the person has been the driver of a vehicle
4 involved in a fatal traffic accident, pursuant to section 1 of this Act, or has been
5 arrested for a third, fourth, or subsequent violation of § 32-23-1, constituting a felony
6 offense under § 32-23-4 or 32-23-4.6;

7 (2) If the person refuses to submit to the withdrawal or chemical analysis, the person's
8 driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the
9 person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation
10 order being issued; and

11 (3) The person has the right to have a chemical analysis performed by a technician of the
12 person's own choosing at the person's own expense, in addition to the test requested
13 by the officer.