

AN ACT

ENTITLED, An Act to reduce the legal blood alcohol limits for motor vehicle drivers and boat operators.

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

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

32-23-1. No person may drive or be in actual physical control of any vehicle while:

- (1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood, or other bodily substance;
- (2) Under the influence of an alcoholic beverage;
- (3) Under the influence of marijuana or any controlled drug or substance to a degree which renders the person incapable of safely driving; or
- (4) Under the combined influence of an alcoholic beverage and marijuana or any controlled drug or substance to a degree which renders the person incapable of safely driving.

Section 2. That § 32-23-7 be amended to read as follows:

32-23-7. In any criminal prosecution for a violation of § 32-23-1 relating to driving a vehicle while under the influence of intoxicating liquor, a violation of § 22-16-41, or a violation of § 22-16-42, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, breath, or other bodily substance gives rise to the following presumptions:

- (1) If there was at that time five hundredths percent or less by weight of alcohol in the defendant's blood, it is presumed that the defendant was not under the influence of intoxicating liquor;
- (2) If there was at that time in excess of five hundredths percent but less than eight hundredths percent by weight of alcohol in the defendant's blood, such fact does not give rise to any

presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

- (3) If there was at that time eight hundredths percent or more by weight of alcohol in the defendant's blood, it is presumed that the defendant was under the influence of intoxicating liquor.

Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0 cubic centimeters of whole blood or 2100 cubic centimeters of deep lung breath.

Section 3. That § 32-23-1.3 be amended to read as follows:

32-23-1.3. Any person arrested for driving or being in actual physical control of a vehicle while the weight of alcohol in the blood of the arrested person is 0.08 percent or greater, shall be charged with a violation of § 32-23-1. The charge may be reduced or dismissed only if the prosecuting attorney states the reasons for reduction or dismissal in writing and on the record and files the reasons with the clerk of courts.

Section 4. That § 32-12A-44 be amended to read as follows:

32-12A-44. No person may drive or be in actual physical control of a commercial motor vehicle while there is between 0.04 and 0.08 percent or more, by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood, or other body substance. Any violation of this section is a Class 2 misdemeanor.

Section 5. That § 42-8-45 be amended to read as follows:

42-8-45. No person may operate a boat while underway on the public waters of the state while:

- (1) There is 0.08 percent or more by weight of alcohol in his blood as shown by chemical analysis of that person's breath, blood, or other bodily substance;
- (2) Under the influence of an alcoholic beverage;

- (3) Under the influence of marijuana or any controlled drug or substance to a degree which renders the person incapable of safely driving or operating such boat; or
- (4) Under the combined influence of an alcoholic beverage and marijuana or any controlled drug or substance to a degree which renders the person incapable of safely driving or operating such boat.

Any violation of this section is a Class 1 misdemeanor.

Section 6. That § 42-8-45.4 be amended to read as follows:

42-8-45.4. In any criminal prosecution for a violation of § 42-8-45, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, breath, or other bodily substance gives rise to the following presumptions:

- (1) If there was at that time five hundredths percent or less by weight of alcohol in the defendant's blood, it is presumed that the defendant was not under the influence of intoxicating liquor;
- (2) If there was at that time in excess of five hundredths percent but less than eight hundredths percent by weight of alcohol in the defendant's blood, such fact does not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;
- (3) If there was at that time eight hundredths percent or more by weight of alcohol in the defendant's blood, it is presumed that the defendant was under the influence of intoxicating liquor.

Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0 cubic centimeters of whole blood or 2100 cubic centimeters of deep lung breath.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1034

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1034

File No. _____

Chapter No. _____

Received at this Executive Office this ____ day of _____,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State