

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

661P0061

HOUSE BILL NO. 1153

Introduced by: Representatives Steele, Brunner, DeVries, Hargens, Miles, Novstrup (Al),
Novstrup (David), Olson (Russell), Rhoden, Vanneman, and Willadsen and
Senators Garnos, Abdallah, Greenfield, Lintz, and McNenny

1 FOR AN ACT ENTITLED, An Act to establish requirements and procedures for the
2 certification of parent-taught driver education courses and to allow parents to teach driver
3 education to their qualified children.

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

5 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Terms used in this Act mean:

- 8 (1) "Department," the Department of Public Safety;
- 9 (2) "Parent," the biological parent, adoptive parent, parent by marriage, or legal guardian
10 of the student;
- 11 (3) "Parent instructor," a parent accepted by the department to teach a parent-taught
12 driver education course;
- 13 (4) "Parent-taught driver education course," a course of driver education instruction to
14 be taught to a student by his or her parent, which is certified by the department;



- 1 (5) "Parent-taught driver education provider," an individual, organization, or other entity
2 who is approved and certified by the department to offer curriculum and material for
3 parent-taught driver education courses;
- 4 (6) "Student," an individual who is at least fourteen years of age and has been issued an
5 instruction permit;
- 6 (7) "Vehicle," the car, pickup, van, minivan, or sport utility vehicle used to conduct the
7 behind-the-wheel portion of a parent-taught driver education course.

8 Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 To be certified as a parent-taught driver education provider, an individual, organization, or
11 other entity must meet the following requirements:

- 12 (1) Have offered parent-taught driver education, for the previous two years, or have been
13 a licensed driver education instructor or commercial driving school instructor for five
14 years immediately preceding the application date;
- 15 (2) Submit an application to the department on a form prescribed by the department;
- 16 (3) Furnish the department with curriculum which should meet or exceed the course of
17 study prescribed by the Department of Education. If the applicant is approved and
18 certified by the department as a parent-taught driver education provider, the
19 curriculum may not be changed in any manner without prior approval from the
20 department;
- 21 (4) Furnish the department with the complete costs to be charged to a customer for the
22 course, along with a blank copy of the contract or application intended for use with
23 the course. If the applicant is approved and certified by the department as a
24 parent-taught driver education provider, no changes in costs or to the contract shall

1 be made without prior notification to and approval and certification by the
2 department;

3 (5) Have a built-in comprehensive monitoring system to assure quality control of the
4 instruction of course materials, both classroom and behind-the-wheel instruction. The
5 phrase, comprehensive monitoring program, means a system of monitoring the
6 progress of the instruction by the parent instructor so that the provider can certify the
7 validity of the training.

8 Section 3. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any parent-taught driver education provider approved and certified by the department shall,
11 upon certification and during the period of certification:

12 (1) Include with the course, at no additional cost to the customer, a minimum of a two
13 million dollar liability insurance policy, and a one million dollar professional liability
14 insurance policy. The policies shall cover providers while in the performance of
15 behind-the-wheel instruction and shall be supplemental to required insurance
16 provided by the parent or owner of the vehicle. The provider shall agree to hold
17 harmless and free from any liability the department, any of the department's
18 employees, and the State of South Dakota;

19 (2) Maintain a surety bond, specifically and individually in the name of the State of
20 South Dakota, in the amount of ten thousand dollars. If the provider is unable to meet
21 its contractual obligations with South Dakota parents who have purchased a
22 parent-taught driver education course from the provider, the bond will be forfeited
23 for the purpose of disbursing reimbursements for all outstanding contracts of the
24 provider which were entered into pursuant to this Act;

- 1 (3) Furnish the department, at times and in a manner agreed to by the department and the
2 provider, with a listing of all approved applications, whether the course is completed
3 or not;
- 4 (4) Provide the student with a completion certificate, bearing the seal of the provider,
5 upon successful completion of the course by the student;
- 6 (5) Maintain all records received from students and parents pertaining to this Act,
7 including correspondence, applications, contracts, and test answer sheets. All records
8 shall be segregated by individual student, and all records for each student shall be
9 maintained by the provider for at least one year; and
- 10 (6) Agree to:
 - 11 (a) Allow access by the department to all records maintained by the provider for
12 each student, for purposes of monitoring and auditing;
 - 13 (b) Ensure that no behind-the-wheel instruction is recognized if the student fails
14 to first obtain an instruction permit from the department;
 - 15 (c) Provide immediate written notification to the department of any impropriety
16 or misconduct of any parent teaching a parent-taught driver education course;
 - 17 (d) Acknowledge that the department reserves the right to take prompt and
18 appropriate remedial action against the certification of any parent instructor
19 or parent-taught driver education provider who fails to comply with any state
20 law regarding a parent-taught driver education course;
 - 21 (e) Maintain curriculum meeting the standards established by the Department of
22 Education;
 - 23 (f) Allow a department representative to conduct on-site compliance inspections,
24 as necessary to review records and to observe procedures. All records must be

1 accessible during normal business hours of the parent-taught driver education
2 provider for inspection upon request by a department representative; and

3 (g) Provide the department with brochures about the course for distribution to
4 interested parents and students. Information contained in the brochure shall
5 include the cost of the course, a description of the course, and a contract or
6 application for the course.

7 Section 4. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Parent-taught driver education provider applications shall be requested from the department
10 to apply for certification as a parent-taught driver education provider. The applying
11 parent-taught driver education provider shall provide the following information:

- 12 (1) Date of application;
- 13 (2) Name of parent-taught driver education provider institution;
- 14 (3) Complete school physical address and mailing address;
- 15 (4) Name of administrator;
- 16 (5) Statement of agreement to comply with rules of the department and with the
17 provisions of any contract entered into between the provider and a parent; and
- 18 (6) Signature of administrator.

19 No renewal of the certification is required. However, the department may cancel the
20 certification as provided in section 18 of this Act.

21 Section 5. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The provider shall notify the department immediately, in writing, of any changes to the
24 information on the original application for certification. The provider shall temporarily suspend

1 the sale of courses to any new applicants until the department has approved the changes. If a
2 change of ownership occurs, the department reserves the right to request the provider to halt all
3 future business as a parent-taught driver education provider and to reapply for certification.

4 Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Prior to teaching a parent-taught driver education course, a parent shall request a
7 parent-taught driver education packet from the department. The packet shall contain:

- 8 (1) A list of approved parent-taught driver education providers and the cost of their
9 respective courses;
- 10 (2) Brochures from the parent-taught driver education providers describing their courses;
- 11 (3) An application for each parent-taught driver education provider; and
- 12 (4) An affidavit to be completed and returned to the department prior to commencement
13 of behind-the-wheel training by a parent instructor.

14 Section 7. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 A parent-taught driver education course must be instructed by a parent who has a valid
17 driver license, which shall be in the parent instructor's possession at all times while performing
18 behind-the-wheel instruction. No parent instructor may provide instruction if his or her driving
19 privileges and driver license have been suspended, canceled, revoked, or denied within the past
20 twelve months; if the parent instructor has been convicted of possession or use of alcohol or
21 drugs within the past twelve months; or if the parent instructor has any administrative action
22 pending before the department. A parent instructor shall exercise all due caution while
23 instructing a behind-the-wheel session, taking into account the alertness and responsiveness of
24 the student; the traffic, weather, atmospheric, and road conditions; the time of day; and any other

1 factors the parent deems may adversely influence the ability of the student to perform safely
2 during the behind-the-wheel session.

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

5 The student must have an instruction permit prior to the commencement of any
6 behind-the-wheel training. The permit shall be in the student's possession at all times while
7 performing behind-the-wheel training.

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

10 Behind-the-wheel instruction and training of a parent-taught driver education course may
11 only be given to a student named in the affidavit and performed in a vehicle listed on the
12 affidavit submitted to the department. Any vehicle listed shall be properly registered and display
13 a valid license plate and comply with the proof of financial responsibility requirements in
14 chapter 32-35.

15 Section 10. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 No more than two parent instructors and no more than two students may be present in any
18 vehicle being used for behind-the-wheel instruction in a parent-taught driver education course.

19 Section 11. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 Any parent claiming to be a parent instructor shall sign the required affidavit and submit it
22 to the department. The affidavit shall contain the following information:

- 23 (1) For each parent desiring to be a parent-instructor, the full legal name, mailing
24 address, and driver license number of the parent;

- 1 (2) The name of the parent-taught driver education provider selected by the parent;
- 2 (3) The full legal name, mailing address, and instruction permit number or driver license
- 3 number of the student;
- 4 (4) A description of each vehicle to be used for behind-the-wheel instruction, including:
- 5 (a) Make, model, and year;
- 6 (b) License plate number and expiration date; and
- 7 (c) Insurance company, policy number, and expiration date.

8 Upon acceptance of the affidavit, the department shall return a copy of the affidavit, marked,
9 Accepted, to the parent. No parent may begin the behind-the-wheel portion of a parent-taught
10 driver education course until the affidavit has been accepted. The accepted affidavit shall be
11 carried in the vehicle at all times it is being used for a behind-the-wheel session of an approved
12 parent-taught driver education course.

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

15 The parent shall notify the department immediately, in writing, of any changes to the
16 information on the accepted affidavit. The parent shall temporarily suspend the instruction of
17 the parent-taught driver education course until the department has approved the changes.

18 Section 13. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 A prescribed course of study and instruction, or curriculum, for parent-taught driver
21 education shall be designed to develop and instill the knowledge, attitudes, habits, and skills
22 necessary for the safe operation of motor vehicles, encompassing:

- 23 (1) Those provisions of state law relating to the operation of motor vehicles;
- 24 (2) Acceptance of personal responsibility in traffic; and

1 (3) Appreciation of the causes, seriousness, and consequences of traffic collisions.

2 Section 14. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Any parent-taught driver education student shall receive a minimum of thirty hours of
5 classroom instruction and a minimum of fifty-five hours of actual behind- the-wheel instruction
6 in the vehicle accepted by the department, while accompanied by and under the supervision and
7 instruction of a parent instructor accepted by the department.

8 Section 15. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The content of the parent-taught driver education course shall include instruction in the
11 following:

- 12 (1) Signs, signals, highway markings, and highway design;
- 13 (2) Rules of the road, state laws, and local ordinances;
- 14 (3) Driving attitude toward motorcyclists, bicyclists, and pedestrians;
- 15 (4) Basic driving maneuvers;
- 16 (5) Operation of motor vehicle on streets and highways;
- 17 (6) Familiarity with the South Dakota Driver's Manual;
- 18 (7) Insurance laws of the state;
- 19 (8) Financial responsibility;
- 20 (9) Seat belt use and laws;
- 21 (10) Effects of natural laws on driving;
- 22 (11) Alcohol and drug substance abuse and the effect on driving;
- 23 (12) Basic vehicle maintenance including fluid levels, tire pressure, and lighting systems;
- 24 (13) Driving skills:

- 1 (a) Starting;
- 2 (b) Backing;
- 3 (c) Parallel parking;
- 4 (d) Hill parking;
- 5 (e) Starting on hill;
- 6 (f) Intersection movement and observance;
- 7 (g) Lane observance and changing;
- 8 (h) Left and right turns;
- 9 (i) Pedestrian and vehicle right-of-way;
- 10 (j) Proper use of automatic or standard transmission, or both;
- 11 (k) Use of brake and accelerator;
- 12 (l) Traffic lights or signals.

13 Section 16. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 A completion certificate shall be provided by and issued by the parent-taught driver
16 education provider to each student upon the successful completion of course work, both
17 classroom and behind-the-wheel. These certificates shall be computer generated, in a format
18 agreed upon by the department and the provider, and shall contain the following:

- 19 (1) Name of the provider;
- 20 (2) Full legal name of student;
- 21 (3) Number of total hours of instruction, and a breakdown of in-class and in-car hours;
- 22 (4) Date of completion;
- 23 (5) Signature of administrator; and
- 24 (6) Embossed seal of provider.

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

3 Certification of parent-taught driver education providers or acceptance of parent instructors
4 granted under this Act may be terminated by either the department or the certified provider or
5 parent instructor, by giving written notice to the other party, stating the cause or reason for
6 termination.

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

9 The department may take action against a parent-taught driver education provider or
10 provider applicant as follows:

- 11 (1) Cancel the certification of a parent-taught driver education provider for failure to
12 comply with any provisions of state law, federal regulation, or department rule; or
- 13 (2) Deny certification to an individual, organization, or other entity applying for
14 certification as a parent-taught driver education provider for failure to meet the
15 requirements prescribed by this Act.

16 Section 19. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The department may take action against a parent instructor or a parent as follows:

- 19 (1) Cancel the acceptance of a parent instructor for failure to comply with any provisions
20 of state law, federal regulation, or department rule;
- 21 (2) Deny acceptance to any parent applying for acceptance as a parent instructor for
22 failure to meet the requirements prescribed by this Act.

23 Section 20. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Any of the following constitute automatic cancellation of the acceptance of parent
2 instructors:

- 3 (1) Lapse in liability insurance on any vehicle listed in the affidavit;
- 4 (2) Suspension, revocation, cancellation, or denial of the driving privileges of any parent
5 or student named in the affidavit;
- 6 (3) Lapse in the registration of any vehicle listed in the affidavit;
- 7 (4) Failure of any student named in the affidavit to meet school attendance requirements.

8 Section 21. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any provider or provider applicant whose certification is cancelled or denied or any parent
11 instructor or parent whose acceptance is cancelled or denied is not eligible to reapply for
12 certification or acceptance for a period of six months from the date of cancellation or denial.

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

15 If a minor disqualification exists that may readily be rectified by the provider or parent, the
16 department may informally notify the provider or parent by mail or telephone of the minor
17 disqualification, with a request for compliance within a specified period of time. If the provider
18 or parent fails to rectify the disqualification or violation, the department may proceed with any
19 action for cancellation or denial.

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

22 Any provider or provider applicant whose certification is cancelled or denied or any parent
23 instructor or parent whose acceptance is cancelled or denied may request a hearing with the
24 department.

1 Section 24. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Successful completion of a parent-taught driver education course entitles the student to the
4 same rights and privileges as a driver education course approved by the Department of
5 Education or a driver education course determined by the secretary of public safety to be
6 approved by another state.

7 Section 25. That § 32-12-12 be amended to read as follows:

8 32-12-12. A restricted minor's permit may be issued, upon application and payment of the
9 proper fees as provided in § 32-12-16, to a minor at least fourteen years of age but less than
10 eighteen years of age who has successfully passed all applicable tests and completed the
11 requirements of an instruction permit as provided in § 32-12-11 or 32-12-11.1 and has not been
12 convicted of a traffic violation during the past six months. For any such minor who has
13 successfully completed a driver education course that has been approved by the Department of
14 Education or a driver education course that the secretary of the ~~department of public safety~~
15 Department of Public Safety has determined has been approved by a state government agency
16 in another state or a parent-taught driver education course certified by the Department of Public
17 Safety, the required minimum time period for holding the instruction permit in order to qualify
18 for the restricted minor's permit is ninety continuous days. A restricted minor's permit entitles
19 the holder, while having the permit in immediate physical possession, to operate a motor vehicle
20 during the hours of 6 a.m. to 10 p.m. standard time if the motor vehicle is being operated with
21 the permission of the holder's parent or guardian and during the hours of 10 p.m. to 6 a.m. if the
22 motor vehicle is being operated under the direction of the holder's parent or guardian who is
23 occupying a seat beside the holder. The restrictions as to time of operation and operation under
24 the direction of a parent or guardian do not apply to the holder of a valid restricted minor's

- 1 permit operating a self-propelled agricultural machine which is not subject to registration under
- 2 chapter 32-5.