

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

660B0345

SENATE ENGROSSED NO. **SB 93** - 2/12/2019

Introduced by: Senators Soholt, Curd, Ewing, and Rusch and Representatives Barthel,  
Duvall, McCleerey, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding instruction and  
2 restricted driving permits.

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

4 Section 1. That § 32-12-11 be amended to read:

5 32-12-11. Any person who is at least fourteen years of age but less than eighteen years of  
6 age applying for a South Dakota operator's license, restricted minor's permit, or instruction  
7 permit who does not currently hold an operator's license, motorcycle operator's license,  
8 restricted minor's permit, motorcycle restricted minor's permit, instruction permit, or motorcycle  
9 instruction permit shall apply to the Department of Public Safety for an instruction permit. If  
10 ~~an applicant holds an instruction permit that has been valid continuously for one hundred eighty~~  
11 ~~days, and is still currently valid or that has been expired for thirty days or less, the department~~  
12 ~~shall waive the knowledge test to upgrade to an operator's license, motorcycle operator's license,~~  
13 ~~restricted minor's permit, or motorcycle restricted minor's permit. If the licensee applies and~~  
14 ~~makes payment of the required fee thirty-one or more days after the expiration date of the~~  
15 ~~permit, the licensee shall take the knowledge test as required by § 32-12-4 and may take the skill~~



1 ~~test for an operator's license.~~ The department may, after the applicant has successfully passed  
2 all parts of the examination other than the driving test and paid a fee which is equal in amount  
3 to the fee prescribed for a license in § 32-12-16, issue to the applicant an instruction permit. The  
4 instruction permit shall be held for at least one hundred eighty continuous days if issued before  
5 July 1, 2019, or at least three hundred sixty-five days if issued on or after July 1, 2019.

6 The instruction permit entitles the applicant, while having the permit in the applicant's  
7 immediate possession, to drive a motor vehicle upon the public highways for a period of five  
8 years during the hours of 6 a.m. to 10 p.m. if accompanied by a person holding a valid operator's  
9 license who is at least eighteen years of age, has had at least one year of driving experience, and  
10 who is occupying a seat beside the applicant. The applicant is entitled to drive a motor vehicle  
11 upon the public highways during the hours of 10 p.m. to 6 a.m. if the motor vehicle is being  
12 operated under the direction of the applicant's parent or guardian who is occupying a seat beside  
13 the applicant. No holder of an instruction permit may use any type of wireless communication  
14 device while operating a motor vehicle upon the public highways.

15 The holder of an instruction permit who is at least fourteen years of age but less than  
16 eighteen years of age may apply for a restricted minor's permit ~~or operator's license~~ after holding  
17 a valid instruction permit ~~for one hundred eighty continuous days~~ for the time required by this  
18 section.

19 If the holder of an instruction permit that has been valid continuously as required by this  
20 section and is still currently valid or that has been expired for thirty days or less applies to  
21 upgrade to an operator's license, motorcycle operator's license, restricted minor's permit, or  
22 motorcycle restricted minor's permit, the department shall waive the knowledge test. If the  
23 holder applies and makes payment of the required fee thirty-one or more days after the  
24 expiration date of the permit, the holder shall take the knowledge test as required by § 32-12-4

1 and may take the skill test for an operator's license.

2 Section 2. That § 32-12-11.1 be amended to read:

3 32-12-11.1. Any person who is at least fourteen years of age but less than eighteen years of  
4 age applying for a South Dakota motorcycle operator's license, motorcycle restricted minor's  
5 permit, or motorcycle instruction permit who does not currently hold an operator's license,  
6 motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit,  
7 instruction permit, or motorcycle instruction permit that has been valid continuously for at least  
8 one hundred eighty days if issued before July 1, 2019, or at least three hundred sixty-five days  
9 if issued on or after July 1, 2019, shall apply to the Department of Public Safety for an  
10 instruction permit ~~which shall be held for a minimum of one hundred eighty continuous days.~~

11 The department may, after the applicant has successfully passed all parts of the examination  
12 other than the driving test and paid a fee which is equal in amount to the fee prescribed for a  
13 license in § 32-12-16, issue to the applicant a motorcycle instruction permit. The instruction  
14 permit shall be held for at least one hundred eighty continuous days if issued before July 1,  
15 2019, or at least three hundred sixty-five days if issued on or after July 1, 2019.

16 A motorcycle instruction permit is not required to obtain a motorcycle operator's license or  
17 a motorcycle restricted minor's permit if the applicant currently holds an instruction permit,  
18 restricted minor's permit, or operator's license that has been valid continuously for one hundred  
19 eighty days.

20 A motorcycle instruction permit entitles the holder, while having the permit in the permit  
21 holder's immediate physical possession, to operate a motorcycle during the hours of 6 a.m. to  
22 8 p.m. if the permit holder is accompanied by a licensed motorcycle operator who is at least  
23 eighteen years of age, who has at least one year of driving experience, and who is driving  
24 another motorcycle along with the permit holder. No motorcycle instruction permit holder may

1 carry another person on the motorcycle. The permit is valid for one year. The holder of an  
2 instruction permit or motorcycle instruction permit who is at least fourteen years of age but less  
3 than eighteen years of age may apply for a motorcycle restricted minor's permit ~~or motorcycle~~  
4 ~~operator's license~~ after holding a valid instruction permit ~~for one hundred eighty continuous days~~  
5 as required by this section.

6 Section 3. That § 32-12-12 be amended to read:

7 32-12-12. A restricted minor's permit may be issued, upon application and payment of the  
8 proper fees as provided in § 32-12-16, to a minor at least fourteen years of age but less than  
9 eighteen years of age who has successfully passed all applicable tests and completed the  
10 requirements of an instruction permit as provided in § 32-12-11 or 32-12-11.1 and has not been  
11 convicted of a traffic violation during the past ~~six~~ twelve months. For any such minor who has  
12 successfully completed a driver education course that has been approved by the Department of  
13 Education or a driver education course that the secretary of the department of public safety has  
14 determined has been approved by a state government agency in another state, the required  
15 minimum time period for holding the instruction permit in order to qualify for the restricted  
16 minor's permit is ninety continuous days if issued before July 1, 2019, or two hundred seventy-  
17 five continuous days if issued on or after July 1, 2019.

18 A restricted minor's permit entitles the holder, while having the permit in immediate  
19 physical possession, to operate a motor vehicle during the hours of 6 a.m. to 10 p.m. standard  
20 time if the motor vehicle is being operated with the permission of the holder's parent or guardian  
21 and during the hours of 10 p.m. to 6 a.m. if the motor vehicle is being operated under the  
22 direction of the holder's parent or guardian who is occupying a seat beside the holder. The  
23 restrictions as to time of operation and operation under the direction of a parent or guardian do  
24 not apply to the holder of a valid restricted minor's permit ~~operating~~ who is:

- 1       (1)   Operating a self-propelled agricultural machine which is not subject to registration  
2           under chapter 32-5;
- 3       (2)   Operating the motor vehicle to attend or to return home from school or a school  
4           event;
- 5       (3)   Operating the motor vehicle while going directly to or from any religious worship  
6           service held by a religious organization; or
- 7       (4)   Operating the motor vehicle while going to, from or in connection with any job,  
8           employment or farm-related work.

9       No holder of a restricted minor's permit may use any type of wireless communication device  
10     while operating a motor vehicle upon the public highways.

11     An operator's license may be issued to a minor at least sixteen years of age but less than  
12     eighteen years of age who has held a restricted minor's permit for at least six months and has  
13     not been convicted of any traffic violations during the past six months.

14     Section 4. That § 32-12-12.1 be amended to read:

15     32-12-12.1. A motorcycle restricted minor's permit may be issued, upon application and  
16     payment of the proper fee as provided for in § 32-12-16, to a minor at least fourteen years of age  
17     but less than eighteen years of age who has successfully passed all applicable tests and  
18     completed the requirements of an instruction permit as outlined in § 32-12-11 or 32-12-11.1 and  
19     has not been convicted of a traffic violation during the past six months. For any minor who has  
20     successfully completed the motorcycle safety education courses provided by § 32-20-14 and a  
21     driver education class that has been approved by the Department of Education or a driver  
22     education course that the secretary of the department of public safety has determined has been  
23     approved by a state government agency in another state, the required minimum time period for  
24     holding the motorcycle instruction permit to qualify for the motorcycle restricted minor's permit

1 is thirty continuous days if issued before July 1, 2019, or two hundred seventy-five continuous  
2 days if issued on or after July 1, 2019.

3 A motorcycle restricted minor's permit entitles the holder, while having the permit in  
4 immediate physical possession, to operate a motorcycle during the hours of 6 a.m. to 8 p.m.  
5 standard time if the motorcycle is being operated with the permission of the holder's parents or  
6 guardian.

7 A South Dakota motorcycle operator's license may be issued to a minor at least sixteen years  
8 of age but less than eighteen years of age who has held a restricted minor's permit for at least  
9 six months and has not been convicted of any traffic violations during the past twelve months.

10 Section 5. That chapter 32-12 be amended by adding a NEW SECTION to read:

11 No holder of a restricted minor's permit or instruction permit may operate a motor vehicle  
12 carrying more than one passenger under the age of eighteen years who is not:

- 13 (1) A member of the permit holder's immediate family; or  
14 (2) A person whose primary residence is the same household as the permit holder's.

15 The provisions of this section do not apply if the permit holder is accompanied by a parent  
16 or guardian or any passenger whose primary residence is the same household as the permit  
17 holder and the passenger is at least eighteen years of age. The provisions of this section do not  
18 apply if the permit holder is operating the motor vehicle to attend or return from school or a  
19 school event.

20 Section 6. That § 32-12-15 be amended to read:

21 32-12-15. The issuance of an instruction permit, motorcycle instruction permit, restricted  
22 minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The  
23 Department of Public Safety upon the receipt of a record of conviction for a traffic violation or  
24 for a violation of the restrictions in §§ 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1, 32-12-13,

1 or 32-12-14, or section 5 of this Act, committed prior to the minor's ~~sixteenth~~ eighteenth  
2 birthday shall suspend the minor's driving privileges according to the following schedule:

3 (1) A felony or Class 1 misdemeanor traffic conviction--suspension until the minor's  
4 sixteenth birthday or as otherwise required by law;

5 (2) A first Class 2 misdemeanor traffic conviction or a comparable conviction of any  
6 moving traffic violation of a county or municipal ordinance--suspension for thirty  
7 days or as otherwise required by law;

8 (3) A first conviction of a violation of the conditions of an instruction permit, a  
9 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted  
10 minor's permit--suspension for thirty days or as otherwise required by law;

11 (4) A second Class 2 misdemeanor traffic conviction or a comparable conviction of any  
12 moving traffic violation of a county or municipal ordinance--suspension until the  
13 minor's sixteenth birthday or for ninety days, whichever period is longer, or as  
14 otherwise required by law; and

15 (5) A second conviction of a violation of the conditions of an instruction permit, a  
16 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted  
17 minor's permit--suspension until the minor's sixteenth birthday or for ninety days,  
18 whichever period is longer, or as otherwise required by law.

19 No permit may be suspended for a first violation of §§ 32-14-9.1, 32-21-27, 32-25-5, 32-26-  
20 20, or 34A-7-7.

21 If a minor has no instruction permit, motorcycle instruction permit, restricted minor's permit,  
22 or motorcycle restricted minor's permit and is convicted of any traffic violation prior to the  
23 minor's sixteenth birthday, the department shall suspend or revoke the minor's driving privilege  
24 or privilege to apply for a driver license as provided in this section. A conviction for any traffic

1 violation that occurs prior to the issuance of an instruction permit, motorcycle instruction  
2 permit, restricted minor's permit, motorcycle restricted minor's permit, motorcycle operator's  
3 license or an operator's license shall be placed on the driving record and given the same  
4 consideration as any violation that occurs following the issuance of an instruction permit,  
5 motorcycle instruction permit, restricted minor's permit, motorcycle restricted minor's permit,  
6 motorcycle operator's license, or an operator's license.