

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0361      HOUSE JUDICIARY COMMITTEE ENGROSSED NO.  
**HB1112 - 2/4/97**

Introduced by: Representative Moore and Senator Flowers

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions regarding the denial,  
2 cancellation, suspension, and revocation of a driver license.

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

4 Section 1. That § 32-12-59 be repealed.

5 ~~— 32-12-59. Any person denied a license or whose license has been canceled, suspended, or~~  
6 ~~revoked by the Department of Commerce and Regulation may file a petition within thirty days~~  
7 ~~thereafter for a hearing in the matter in a court of record for the county where the person resides~~  
8 ~~and the court is vested with jurisdiction and it shall set the matter for hearing within thirty days,~~  
9 ~~written notice thereof to be given to the Department of Commerce and Regulation, at least ten~~  
10 ~~days in advance of the hearing date. The court shall take testimony, examine the facts of the case~~  
11 ~~and determine whether the petitioner is entitled to a license or is subject to suspension,~~  
12 ~~cancellation, or revocation of license under the provisions of this chapter.~~

13 Section 2. That § 32-23-12 be repealed.

14 ~~— 32-23-12. Any person whose license has been canceled, suspended, or revoked by the~~  
15 ~~Department of Commerce and Regulation under the provisions of § 32-23-11 or 32-23-18, has~~

1 ~~the right, only after compliance with § 32-23-11, to file a petition within thirty days after~~  
2 ~~issuance of the department's notice of withdrawal of driving privileges for rehearing of the matter~~  
3 ~~in the circuit court in the county where the person was charged with the violation, and that court~~  
4 ~~is vested with jurisdiction. The court shall set the matter for trial de novo upon ten days' written~~  
5 ~~notice to the department, and thereupon take testimony and examine the facts of the case and~~  
6 ~~determine whether the petitioner's license is subject to cancellation, suspension, or revocation~~  
7 ~~under the provisions of §§ 32-23-11 and 32-23-18.~~

8 Section 3. That § 32-23-11.1 be amended to read as follows:

9 32-23-11.1. A person's license to drive is not subject to revocation as provided in § 32-23-11  
10 or 32-23-18 if that person pleads guilty to violating § 32-23-1, or if the charge of violating  
11 § 32-23-1 is dismissed by the state prior to the departmental hearing and the person is not  
12 convicted of a violation of § 32-24-1 or 32-24-8, or, if a hearing is not requested, prior to a  
13 revocation order being issued, ~~or, if, in the case of a juvenile sixteen years or older, the juvenile~~  
14 ~~admits to a delinquency petition for violating § 32-23-1, or if the delinquency petition for~~  
15 ~~violating § 32-23-1 is dismissed by the state prior to the departmental hearing and the juvenile~~  
16 ~~is not convicted of a violation of § 32-24-1 or 32-24-8.~~

17 Section 4. That § 32-23-18 be amended to read as follows:

18 32-23-18. The Department of Commerce and Regulation shall revoke the license of any  
19 person arrested for violating § 32-23-1, ~~or of any juvenile offender, taken into temporary~~  
20 ~~custody~~, who refuses to submit to a chemical analysis as directed by a law enforcement officer  
21 pursuant to § 32-23-10.

1 **BILL HISTORY**

2 January 28 - First read in House and referred to Judiciary. H.J. 167

3 January 31 - Scheduled for hearing.

4 February 3 - Scheduled for hearing.

5 February 3 - Passed as amended, AYES 12, NAYS 1. H.J. 254

6 February 3 - Amended title.