

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

400B0223

## SENATE BILL NO. 67

Introduced by: The Committee on Transportation at the request of the Department of  
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to prohibit any person under the age of twenty-one from  
2 operating a motor vehicle if there is any alcohol present in the person's blood or after  
3 consuming marijuana or any controlled drug or substance.

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

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

7 It is a Class 2 misdemeanor for any person under the age of twenty-one years to drive,  
8 operate, or be in actual physical control of any motor vehicle:

9 (1) If there is any physical evidence of alcohol in the person's blood as shown by chemical  
10 analysis of the person's breath, blood, or other bodily substance; or

11 (2) After having consumed marijuana or any controlled drug or substance for as long as  
12 physical evidence of the consumption remains present in the person's body.

13 If a person is found guilty of a violation of this section, the court shall notify the Department  
14 of Commerce and Regulation. Upon receipt of the court's determination, the secretary of the  
15 department shall suspend that person's driver's license or operating privilege for a period of six

1 months for a first offense or one year for any second or subsequent offense.

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

3 32-23-10. Any person who operates any vehicle in this state is considered to have given ~~his~~  
4 consent to the withdrawal of blood or other bodily substance and chemical analysis of ~~his~~ the  
5 person's blood, breath, or other bodily substance to determine the amount of alcohol in ~~his~~ the  
6 person's blood and to determine the presence of marijuana or any controlled drug or substance.

7 The person shall be requested by the officer to submit to the withdrawal of blood or other  
8 bodily substance for chemical analysis or chemical analysis of ~~his~~ the person's breath and shall  
9 be advised by the officer that:

10 (1) If ~~he~~ the person refuses to submit to the withdrawal or chemical analysis, no  
11 withdrawal or chemical analysis may be required unless ~~he~~ the person has been  
12 arrested for a third, fourth, or subsequent violation of § 32-23-1, constituting a felony  
13 offense under § 32-23-4 or 32-23-4.6;

14 (2) If ~~he~~ the person refuses to submit to the withdrawal or chemical analysis, ~~his~~ the  
15 person's driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1  
16 ~~he~~ the person pleads guilty to a violation of § 32-23-1 or section 1 of this Act, prior  
17 to a revocation order being issued; and

18 (3) ~~He~~ The person has the right to have a chemical analysis performed by a technician of  
19 ~~his~~ the person's own choosing at ~~his~~ the person's own expense, in addition to the test  
20 requested by the officer.

21 Section 3. That § 32-23-10.1 be amended to read as follows:

22 32-23-10.1. If a person refuses to submit to chemical analysis of ~~his~~ the person's blood, urine,  
23 breath, or other bodily substance, or allow the withdrawal of blood or other bodily substance for  
24 chemical analysis as provided in § 32-23-10, and that person subsequently stands trial for  
25 violation of § 32-23-1 or section 1 of this Act, such refusal may be admissible into evidence at

1 the trial.

2 Section 4. That § 32-23-14.1 be amended to read as follows:

3 32-23-14.1. To be considered valid under the provisions of this chapter, the withdrawal or  
4 chemical analysis shall be performed at the direction of a law enforcement officer having lawfully  
5 arrested the person for a violation of § 32-23-1 or section 1 of this Act and the chemical test  
6 analysis of the person's breath, if one is performed, shall ~~have been~~ be performed according to  
7 methods approved by the director of laboratories and by ~~an individual~~ a person possessing a valid  
8 permit issued by the director of laboratories for this purpose. The director of laboratories may  
9 approve satisfactory techniques or methods to ascertain the qualifications and competence of  
10 ~~individuals~~ anyone to conduct such analysis and issue permits which are subject to termination  
11 or revocation at the discretion of the director of laboratories.

12 Section 5. That § 32-23-18 be amended to read as follows:

13 32-23-18. The Department of Commerce and Regulation shall revoke the license of any  
14 person arrested for violating § 32-23-1 or section 1 of this Act, who refuses to submit to a  
15 chemical analysis as directed by a law enforcement officer pursuant to § 32-23-10.