

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

924Y0578

HOUSE BILL NO. 1144

Introduced by: Representatives Tieszen, Howard, Johns, Kaiser, Lust, Smith, and Soli and
Senators Rusch, Kennedy, Partridge, Peters, Solano, and White

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding commercial driver
2 license disqualification for refusing to submit to a chemical analysis.

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

4 Section 1. That § 32-12A-46 be amended to read:

5 32-12A-46. Any person who holds or is required to hold a commercial learner's permit or
6 commercial driver license and operates any commercial or noncommercial motor vehicle in this
7 state is considered to have given consent to the withdrawal of blood or other bodily substance
8 to determine the amount of alcohol in that person's blood, or to determine the presence of any
9 controlled drug or substance. The chemical analysis shall be administered at the direction of a
10 law enforcement officer who, after stopping or detaining any person who holds or is required
11 to hold a commercial learner's permit or commercial driver license, has probable cause to
12 believe that the person was driving or in actual physical control of a commercial or
13 noncommercial motor vehicle while having any alcohol or drugs in that person's system. Any
14 person requested by a law enforcement officer under this section to submit to a chemical
15 analysis shall be advised by the officer that:



- 1 (1) If the person refuses to submit to the chemical analysis, none ~~shall~~ may be given,
2 unless a warrant for the chemical analysis is issued; and
- 3 (2) If the person refuses to submit to the chemical analysis requested, the person shall be:
 - 4 (a) Immediately placed out of service for a period of twenty-four hours, if
5 operating a commercial motor vehicle at the time of the refusal; and
 - 6 (b) Disqualified from operating a commercial motor vehicle for a period of not
7 less than one year; or
- 8 (3) If the person submits to a chemical analysis which discloses that the person was
9 operating the commercial motor vehicle while there was 0.04 percent or more by
10 weight of alcohol in that person's blood the person shall be disqualified from
11 operating a commercial motor vehicle for not less than one year.