

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

464A0460

## HOUSE TRANSPORTATION COMMITTEE

### ENGROSSED NO. **HB1138** - 2/13/97

Introduced by: Representatives Brown (Richard), Cutler, Gabriel, Jorgensen, and Richter and  
Senators Aker, Dunn (Rebecca), and Halverson

1 FOR AN ACT ENTITLED, An Act to provide for a graduated driver's licensing system.

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

3 Section 1. That § 32-12-12 be amended to read as follows:

4 32-12-12. A restricted minor's permit may be issued, upon application and payment of the  
5 proper fee as provided for in § 32-12-16; and passage of all driver's license examination tests,  
6 to ~~any a~~ minor between the ages of at least fourteen and sixteen years of age, if the applicant for  
7 a restricted minor's permit has not received a citation for a moving violation during the past six  
8 months while holding or eligible to hold an instruction permit. A restricted minor's permit entitles  
9 the holder, while having the permit in his immediate physical possession, to operate a motor  
10 vehicle during the hours of 6 a.m. to 8 p.m. standard time if the motor vehicle is being operated  
11 with the permission of the minor's parents or guardian and during the hours of 8 p.m. to 6 a.m.  
12 if the motor vehicle is being operated under the direction of the minor's parent or guardian who  
13 is occupying a seat beside the driver. The restrictions as to time of operation and operation under  
14 the direction of a parent or guardian do not apply to the holder of a valid restricted minor's  
15 permit operating a self-propelled agricultural machine which is not subject to registration under

1 chapter 32-5.

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

4 A minor's permit may be issued, upon application and payment of the proper fee as provided  
5 for in § 32-12-16 and upon passage of all driver's license examination tests, to a minor at least  
6 fifteen years of age if the applicant for a minor's permit has not received a citation for a moving  
7 violation during the past six months while holding or eligible to hold a restricted minor's permit.  
8 A minor's permit entitles the holder, while having the permit in immediate physical possession,  
9 to operate a motor vehicle during the hours of 6 a.m. to 8 p.m. standard time if the motor vehicle  
10 is being operated with the permission of the minor's parent or guardian and during the hours of  
11 8 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the minor's parent  
12 or guardian who is occupying a seat beside the driver. The restrictions as to time of operation  
13 and operation under the direction of a parent or guardian do not apply to the holder of a valid  
14 minor's permit operating a self-propelled agricultural machine which is not subject to registration  
15 under chapter 32-5.

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

18 An intermediate driver's permit may be issued, upon application and payment of the proper  
19 fee as provided for in § 32-12-16, to any minor at least sixteen years of age who is not otherwise  
20 disqualified, if the applicant has not been convicted of a moving violation within one year  
21 preceding application for an intermediate permit and the applicant holds a valid restricted minor's  
22 permit, or minor's permit at the time of application. An intermediate driver's permit entitles the  
23 holder, while having the permit in immediate physical possession, to operate a motor vehicle at  
24 any time of the day or night if the motor vehicle is being operated with the permission of the  
25 minor's parent or guardian. Nothing in this section precludes the suspension or revocation of the

1 minor's driving privileges upon the receipt of a record of conviction for a violation of this title  
2 committed prior to the minor's eighteenth birthday.

3 Section 4. That § 32-12-15 be amended to read as follows:

4 32-12-15. The issuance of a restricted minor's permit ~~under § 32-12-12, a minor's permit, or~~  
5 an intermediate driver's permit is on a probationary basis and the Department of Commerce and  
6 Regulation on the receipt of a record of conviction for a traffic violation committed prior to the  
7 minor's ~~sixteenth~~ eighteenth birthday ~~or a conviction for a violation of this restricted minor's~~  
8 ~~permit committed prior to the minor's sixteenth birthday~~, shall suspend the minor's driving  
9 privileges for a period of thirty days or as otherwise required by law. A second conviction for  
10 a traffic violation of reckless driving or of driving more than twenty miles per hour over the  
11 speed limit committed prior to the minor's ~~sixteenth~~ eighteenth birthday or a second conviction  
12 for a violation of ~~this restricted minor's a permit~~ committed prior to the minor's sixteenth birthday  
13 shall result in revocation of the minor's driving privileges until the minor's ~~sixteenth~~ eighteenth  
14 birthday or for a period of ninety days, whichever period is longer. If a minor has no restricted  
15 minor's permit, minor's permit, or intermediate driver's permit and commits any traffic violation  
16 prior to the minor's ~~sixteenth~~ eighteenth birthday, the department shall suspend or revoke the  
17 minor's driving privilege or privilege to apply for a permit or license as provided in this section.  
18 Any violation which occurs prior to the issuance of a restricted minor's permit, an intermediate  
19 driver's permit, or an operator's license shall be placed on the driving record and given the same  
20 consideration as any violation which occurs following the issuance of a restricted minor's permit,  
21 a minor's permit, an intermediate driver's permit, or an operator's license.

22 Section 5. That § 32-12-17 be amended to read as follows:

23 32-12-17. The Department of Commerce and Regulation shall, upon payment of the fee  
24 established by § 32-12-16, issue to every applicant, who at the time of initial application has not  
25 received a moving violation within the past twelve months and surrenders to the department a

1 valid intermediate driver's license, qualifying therefor an operator's license. The license shall bear  
2 thereon a distinguishing number assigned to the licensee, the full legal name or any name lawfully  
3 taken, date of birth, residence address, an indication if the licensee is a donor pursuant to chapter  
4 34-26, an indication if the licensee has a living will pursuant to chapter 34-12D or a durable  
5 power of attorney for health care pursuant to chapter 59-7, a color photo and a brief description  
6 of the licensee, and the licensee's signature. The department shall indicate upon each driver's  
7 license the general class of vehicles which the licensee may drive.

8 Section 6. That § 32-12-29 be amended to read as follows:

9 32-12-29. The Department of Commerce and Regulation ~~shall~~ may not issue any license  
10 under this chapter to any person who is under the age of ~~sixteen~~ eighteen years, except that the  
11 department may issue a restricted license as provided in §§ 32-12-11 to 32-12-15, inclusive, to  
12 any person who is at least fourteen years of age, a minor's permit as provided in section 2 of this  
13 Act to any person at least fifteen years of age, and an intermediate driver's permit as provided  
14 in section 3 of this Act to any person who is at least sixteen years of age.

15 Section 7. That § 32-12-36 be amended to read as follows:

16 32-12-36. The Department of Commerce and Regulation upon issuing an operator's license  
17 ~~shall have authority whenever good cause appears to~~ or permit may impose restrictions suitable  
18 to the licensee's driving ability with respect to the type of or special mechanical control devices  
19 required on a motor vehicle which the licensee may operate or ~~such~~ any other restrictions  
20 applicable to the licensee as the department may determine to be appropriate to assure the safe  
21 operation of a motor vehicle by the licensee.

22 Section 8. That § 32-12-52.4 be amended to read as follows:

23 32-12-52.4. Upon a first conviction for violation, while in a motor vehicle, of § 35-9-2, the  
24 court shall suspend the driver's license or driving privilege of any driver of a vehicle who was  
25 under the age of twenty-one when the offense occurred, for a period of six months. If the driver

1 of the vehicle was under the age of eighteen years at the time of the offense, the suspension shall  
2 be for nine months. If the driver of the vehicle was under the age of sixteen years at the time of  
3 the offense, the suspension shall be for one year.

4       Upon a second or subsequent conviction for a violation, while in a motor vehicle, of  
5 § 35-9-2, the court shall suspend the driver's license or driving privilege of any driver of a vehicle  
6 who was under the age of twenty-one when the offense occurred, for a period of one year. For  
7 any offense under this section, the court may issue an order permitting the person to operate a  
8 motor vehicle for purposes of the person's employment or attendance at school.

9       Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 260-8C, the Unified  
10 Judicial System shall notify the Department of Commerce and Regulation of any conviction for  
11 a violation, while in a motor vehicle, of § 35-9-2 or chapter 32-23. The period of suspension  
12 shall begin on the date the person's suspended driver's license is received by the court or the  
13 Department of Commerce and Regulation. At the expiration of the period of suspension, a  
14 person may make application to have the license reinstated and pay the license fee as prescribed  
15 in § 32-12-47.1.

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

18       Any person holding a valid permit which was issued prior to the effective date of this Act and  
19 who must satisfy additional requirements in order to be licensed to operate a motor vehicle under  
20 the terms of this Act shall have six months from the effective date of this Act in which to qualify  
21 for the license.

1 **BILL HISTORY**

2 1/28/97 First read in House and referred to Transportation. H.J. 172

3 2/5/97 Scheduled for Committee hearing on this date.

4 2/5/97 Deferred to another day. H.J. 316

5 2/10/97 Scheduled for Committee hearing on this date.

6 2/10/97 Deferred to 41st legislative day, AYES 9, NAYS 4. H.J. 379

7 2/11/97 Recalled from committee (Rule 7-7). H.J. 410

8 2/12/97 Transportation Do Pass, Failed.

9 2/12/97 Transportation Do Pass, Failed, AYES 4, NAYS 9.

10 2/12/97 Report Without Recommendation, AYES 7, NAYS 6. H.J. 436