

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

185A0581

SENATE JUDICIARY COMMITTEE ENGROSSED

NO. **SB133** - 2/4/97

Introduced by: Senator Aker and Representative Matthews

1 FOR AN ACT ENTITLED, An Act to require persons convicted of driving under the influence
2 of alcohol or drugs to participate in certain education and evaluation by a chemical
3 dependency counselor or professional.

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

5 Section 1. That § 32-23-2 be amended to read as follows:

6 32-23-2. If conviction for a violation of § 32-23-1 is for a first offense, such person is guilty
7 of a Class 1 misdemeanor, and the defendant's driving privileges shall be revoked for not less
8 than thirty days. The defendant shall also be required to attend at least eight hours of education
9 conducted by a professional registered with the South Dakota Certification Board for Alcohol
10 and Drug Professionals regarding the prevention of driving under the influence of alcohol or
11 drugs. The cost of such education shall be paid for by the defendant. However, the court may
12 in its discretion issue an order permitting the person to operate a motor vehicle for purposes of
13 the person's employment or attendance at court-ordered counseling programs during the hours
14 of the day and the days of the week as set forth in the order. The court may also order the
15 revocation of the defendant's driving privilege for a further period not to exceed one year or

1 restrict the privilege in such manner as it sees fit for a period not to exceed one year.

2 Section 2. That § 32-23-3 be amended to read as follows:

3 32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is
4 guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, unconditionally
5 revoke the defendant's driving privilege for a period of not less than one year. The defendant
6 shall also undergo an evaluation by a certified chemical dependency counselor as recognized by
7 the South Dakota Certification Board of Alcohol and Drug Professionals to determine if the
8 defendant has an addiction to alcohol. The cost of the evaluation shall be paid by the defendant.

9 However, upon the successful completion of a court-approved alcohol treatment program
10 accredited by the South Dakota Division of Alcohol and Drug Abuse, the court may permit the
11 person to drive for the purpose of employment and may restrict the privilege by the imposition
12 of such conditions as the court sees fit. If such person is convicted of driving without a license
13 during that period, the person shall be sentenced to the county jail for not less than three days,
14 which sentence may not be suspended.

15 Section 3. That § 32-23-2.1 be amended to read as follows:

16 32-23-2.1. Any person convicted of a first offense pursuant to § 32-23-2 with a 0.17 percent
17 or more by weight of alcohol in ~~his~~ that person's blood shall, in addition to the penalties provided
18 in § 32-23-2, be required to undergo a court-ordered evaluation by a certified chemical
19 dependency counselor as recognized by the South Dakota Certification Board for Alcohol and
20 Drug Professionals to determine if the defendant has an addiction to alcohol. The cost of such
21 evaluation shall be paid by the defendant.

1 **BILL HISTORY**

2 January 24 - First read in Senate and referred to Judiciary. S.J. 159

3 January 31 - Scheduled for hearing.

4 January 31 - Passed as amended, AYES 7, NAYS 0. S.J. 274

5 January 31 - Amended title.