

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

277B0587

HOUSE BILL NO. 1213

Introduced by: Representatives Matthews and Volesky and Senators Aker, Albers, and Olson

1 FOR AN ACT ENTITLED, An Act to require certain persons convicted of driving under the
2 influence of alcohol or drugs or related crime to participate in an evaluation, education, and
3 treatment.

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. Any person who is convicted of driving under the influence or who enters a plea
7 of guilty or nolo contendere to reckless or careless driving after a driving-under-the-influence-
8 related arrest shall undergo an alcohol and other drug use evaluation conducted by a certified
9 chemical dependency counselor as recognized by the South Dakota Chemical Dependency
10 Certification Board, d.b.a. the South Dakota Certification Board for Alcohol and Drug
11 Professionals, or by any person designated by a tribal government as having authority to conduct
12 evaluations if the defendant is under tribal jurisdiction, or a licensed psychologist or licensed
13 physician doing work within the standards, ethics, and specific addiction credential of their
14 respective professions. The cost of the evaluation shall be paid by the defendant. If conviction
15 for a violation of § 32-23-1 is for a first offense, such person is guilty of a Class 1 misdemeanor,
16 and the defendant's driving privileges shall be revoked for not less than thirty days. Education

1 or treatment, or both, shall be required at the level appropriate to the defendant's alcohol or other
2 drug problem as determined by evaluation. The defendant shall attend any education program
3 of at least sixteen hours approved by the South Dakota Chemical Dependency Certification
4 Board or any treatment program accredited by the South Dakota Division of Alcohol and Drug
5 Abuse, or both. Education and treatment shall be provided by professionals recognized by the
6 South Dakota Chemical Dependency Certification Board. The costs of such education shall be
7 paid by the defendant. However, the court may in its discretion issue an order permitting the
8 person to operate a motor vehicle for purposes of the person's employment or attendance at
9 court-ordered counseling, treatment, and educational programs, programs during the hours of
10 the day and the days of the week as set forth in the order. The court may also order the
11 revocation of the defendant's driving privilege for a further period not to exceed one year or
12 restrict the privilege in such manner as it sees fit for a period not to exceed one year.

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

14 32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is
15 guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, unconditionally
16 revoke the defendant's driving privilege for a period of not less than one year. ~~However, upon~~
17 ~~the successful completion of a court-approved alcohol treatment program~~ The defendant shall
18 also undergo an alcohol and other drug use evaluation by a certified chemical dependency
19 counselor as recognized by the South Dakota Chemical Dependency Certification Board, d.b.a.
20 the South Dakota Certification Board for Alcohol and Drug Professionals, or by any person
21 designated by a tribal government as having authority to conduct evaluations if the defendant is
22 under tribal jurisdiction, or a licensed psychologist or licensed physician doing work within the
23 standards, ethics, and specific addictions credential of their respective professions, to determine
24 if the defendant has an addiction to alcohol or other drugs. The cost of the evaluation shall be
25 paid by the defendant. Treatment and education shall be required at the level appropriate to the

1 defendant's alcohol or other drug problem as determined by evaluation. The defendant shall
2 attend any South Dakota Chemical Dependency Certification Board approved education
3 program of at least sixteen hours or any treatment program accredited by the South Dakota
4 Division of Alcohol and Drug Abuse. Education or treatment, or both, shall be provided by
5 professionals recognized by the South Dakota Chemical Dependency Certification Board. The
6 court may in its discretion issue an order permitting the person to operate a motor vehicle for
7 the purposes of the person's attendance at court-ordered counseling, treatment, and educational
8 programs, during the hours of the day and the days of the week as set forth in the order. Upon
9 successful completion of a treatment program accredited by the South Dakota Division of
10 Alcohol and Drug Abuse, the court may permit the person to drive for the purpose of
11 employment and may restrict the privilege by the imposition of such conditions as the court sees
12 fit. If such person is convicted of driving without a license during that period, the person shall
13 be sentenced to the county jail for not less than three days, which sentence may not be
14 suspended.