

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0223

HOUSE ENGROSSED NO. **SB67** - 2/19/98

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 alcohol present in the person's blood or after consuming
3 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 physical evidence of 0.02 percent or more by weight of alcohol in the
10 person's blood as shown by chemical analysis of the person's breath, blood, or other
11 bodily substance; or

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

14 If a person is found guilty of a violation of this section, the Unified Judicial System shall
15 notify the Department of Commerce and Regulation. Upon receipt of notification from the

1 Unified Judicial System of the court's determination, the secretary of the department shall
2 suspend that person's driver's license or operating privilege for a period of six months for a first
3 offense or one year for any second or subsequent offense. For any offense under this section, the
4 court may issue an order permitting the person to operate a motor vehicle for purposes of the
5 person's employment or attendance at school.

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

7 32-23-10. Any person who operates any vehicle in this state is considered to have given ~~his~~
8 consent to the withdrawal of blood or other bodily substance and chemical analysis of ~~his~~ the
9 person's blood, breath, or other bodily substance to determine the amount of alcohol in ~~his~~ the
10 person's blood and to determine the presence of marijuana or any controlled drug or substance.

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

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

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

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

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

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

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

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

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

17 32-23-18. The Department of Commerce and Regulation shall revoke the license of any
18 person arrested for violating § 32-23-1 or section 1 of this Act, who refuses to submit to a
19 chemical analysis as directed by a law enforcement officer pursuant to § 32-23-10.

1 **BILL HISTORY**

2 1/13/98 First read in Senate and referred to Transportation. S.J. 32

3 1/20/98 Scheduled for Committee hearing on this date.

4 1/20/98 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 111

5 1/22/98 Senate Deferred to another day. S.J. 168

6 1/23/98 Referred to Transportation. S.J. 183

7 1/29/98 Scheduled for Committee hearing on this date.

8 1/29/98 Transportation Do Pass, Passed, AYES 7, NAYS 0. S.J. 242

9 1/30/98 Tabled amendment. S.J. 266

10 1/30/98 Senate Do Pass Amended, Passed, AYES 33, NAYS 0. S.J. 266

11 2/2/98 First read in House and referred to Commerce. H.J. 354

12 2/10/98 House of Representatives Re-referred to Transportation. H.J. 507

13 2/14/98 Scheduled for Committee hearing on this date.

14 2/14/98 Transportation Do Pass, Passed, AYES 10, NAYS 3. H.J. 689

15 2/17/98 House of Representatives Deferred to another day. H.J. 733

16 2/18/98 Motion to Amend, Passed. H.J. 755

17 2/18/98 House of Representatives Do Pass Amended, Passed, AYES 47, NAYS 21. H.J. 756