

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

905E0521

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1126** - 01/31/2001

Introduced by: Representatives Duenwald, Abdallah, Duniphan, Monroe, Sebert, and Van  
Etten and Senators Daugaard, Albers, Madden, and Vitter

1 FOR AN ACT ENTITLED, An Act to limit the application of implied consent in circumstances  
2 involving an arrest for vehicular homicide or vehicular battery.

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

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given  
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the  
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the  
8 person's blood and to determine the presence of marijuana or any controlled drug or substance.

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

12 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal  
13 or chemical analysis may be required unless the person has been arrested for a third,  
14 fourth, or subsequent violation of § 32-23-1, constituting a felony offense under

1           § 32-23-4 or 32-23-4.6 or has been arrested for vehicular homicide under § 22-16-41  
2           or vehicular battery under § 22-16-42;

3       (2)   If the person refuses to submit to the withdrawal or chemical analysis, the person's  
4           driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the  
5           person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation  
6           order being issued; and

7       (3)   The person has the right to have a chemical analysis performed by a technician of the  
8           person's own choosing at the person's own expense, in addition to the test requested  
9           by the officer.