

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0742

SENATE BILL NO. 233

Introduced by: Senators Albers and Vitter and Representatives Van Gerpen, Broderick,
Hansen (Tom), Hennies (Thomas), Koistinen, Kooistra, Peterson (Bill), and
Teupel

1 FOR AN ACT ENTITLED, An Act to require certain minimum penalties for second or
2 subsequent offenses for driving under the influence.

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

4 Section 1. That § 32-23-3 be amended to read as follows:

5 32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is
6 guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, ~~unconditionally:~~

7 (1) Unconditionally revoke the defendant's driving privilege for a period of not less than
8 one year. ~~However, upon the successful completion of a court-approved alcohol~~
9 ~~treatment program, the court may permit the person to drive for the purpose of~~
10 ~~employment and may restrict the privilege by the imposition of such conditions as the~~
11 ~~court sees fit. If such the person is convicted of driving without a license during that~~
12 ~~period, the person shall be sentenced to the county jail for not less than three days, in~~
13 ~~addition to any other penalties provided by law, which sentence may not be~~
14 ~~suspended;~~

1 (2) Order the suspension of the license plates or registration of each of the defendant's
2 motor vehicles for a period of time during the revocation period;

3 (3) Order an assessment of the defendant's degree of abuse of alcohol and treatment as
4 appropriate; and

5 (4) Impose a sentence of not less than thirty days of community service or not less than
6 five days in county jail.

7 Section 2. That § 32-23-4 be amended to read as follows:

8 32-23-4. If conviction for a violation of § 32-23-1 is for a third offense, the person is guilty
9 of a Class 6 felony, and the court, in pronouncing sentence, shall ~~unconditionally~~:

10 (1) Unconditionally revoke the defendant's driving privileges for such period of time as
11 may be determined by the court, but in no event less than one year from the date
12 sentence is imposed or one year from the date of discharge from incarceration,
13 whichever is later. If the person is convicted of driving without a license during that
14 period, ~~he~~ the person shall be sentenced to the county jail for not less than ten days,
15 in addition to any other penalties provided by law, which sentence may not be
16 suspended;

17 (2) Order the suspension of the license plates or registration of each of the defendant's
18 motor vehicles for a period of time during the revocation period;

19 (3) Order an assessment of the defendant's degree of abuse of alcohol and treatment as
20 appropriate; and

21 (4) Impose a sentence of not less than sixty days of community service or not less than
22 ten days in jail.

23 Section 3. That § 32-23-4.6 be amended to read as follows:

24 32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense, or a subsequent

1 ~~offenses~~ offense thereafter, and the person has previously been convicted of a felony under
2 § 32-23-4, the person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall
3 ~~unconditionally~~;

4 (1) Unconditionally revoke the defendant's driving privileges for such period of time as
5 may be determined by the court, but in no event less than two years from the date
6 sentence is imposed or two years from the date of discharge from incarceration,
7 whichever is later. If the person is convicted of driving without a license during that
8 period, ~~he~~ the person shall be sentenced to the county jail for not less than twenty
9 days, in addition to any other penalties provided by law, which sentence may not be
10 suspended;

11 (2) Order the suspension of the license plates or registration of each of the defendant's
12 motor vehicles for a period of time during the revocation period;

13 (3) Order an assessment of the defendant's degree of abuse of alcohol and treatment as
14 appropriate; and

15 (4) Impose sentence of not less than sixty days of not less than sixty days of community
16 service or not less than ten days in jail.

17 Section 4. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The cost of any assessment of the defendant's degree of abuse of alcohol ordered pursuant
20 to § 32-23-3, 32-23-4, or 32-23-4.6 shall be paid by the defendant.

21 Section 5. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Upon a showing by a family member of the convicted person or a co-owner of a vehicle
24 whose license plates or registration are subject to suspension under § 32-23-3, 32-23-4, or 32-

1 23-4.6 that the family or co-owner is completely dependent upon the motor vehicle for the
2 necessities of life, the court may exempt the vehicle's license plates or registration from
3 suspension. Under no circumstances may the exemption authorize the convicted person's use of
4 the vehicle during the period of license revocation.