

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0307

HOUSE BILL NO. 1023

Introduced by: The Committee on Transportation at the request of the Department of Game,
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to increase the amount of property damages necessary to
2 require the immediate reporting of a snowmobile or boat accident and to give cause in a boat
3 accident for withdrawal of blood or other bodily substances for chemical analysis.

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

5 Section 1. That § 32-20A-19 be amended to read as follows:

6 32-20A-19. The operator of a snowmobile on public lands, frozen public waters, or private
7 lands leased for public snowmobile use shall, in the case of a collision or an accident resulting
8 in damage to a snowmobile or other property to an apparent extent of ~~five hundred~~ one thousand
9 dollars or more to any one person's property or two thousand dollars or more in any one accident
10 or resulting in death or injury to a person, immediately, by the quickest means of communication,
11 give notice of the collision or accident to the nearest conservation officer or other law
12 enforcement officer who shall file with the Department of Game, Fish and Parks a full description
13 of the collision or accident upon forms provided by the department and available from any state,
14 county, or local law enforcement agency. If the operator of the snowmobile is physically
15 incapable of giving an immediate notice of a collision or accident and there was another occupant



1 in the snowmobile at the time of the collision or accident capable of doing so, such occupant
2 shall make or cause to be given the notice not given by the operator. The secretary of game, fish
3 and parks may investigate the circumstances of such accidents. Any operator or occupant who
4 fails to file a notice as required by this section is guilty of a Class 2 misdemeanor.

5 Section 2. That § 42-8-58 be amended to read as follows:

6 42-8-58. The operator of a boat on public waters shall, in the case of a collision or an
7 accident resulting in damage to a boat or other property to an apparent extent of ~~five hundred~~
8 one thousand dollars or more to any one person's property or two thousand dollars or more in
9 any one accident or resulting in death or injury to a person, immediately, by the quickest means
10 of communication, give notice of the collision or accident to the nearest conservation officer or
11 other law enforcement officer. The officer shall file with the Department of Game, Fish and Parks
12 a full description of the collision or accident upon forms provided by the department and
13 available from any state or county law enforcement agency. Notice of the collision or accident
14 is not required of any person who is physically incapable of giving immediate notice during the
15 period of such incapacity. If the operator of the boat is physically incapable of giving an
16 immediate notice of a collision or accident and there was another occupant in the boat at the time
17 of the collision or accident capable of doing so, such occupant shall make or cause to be given
18 the notice not given by the operator. The secretary of game, fish and parks may investigate the
19 circumstances of the accident. Any operator or occupant who fails to file a notice as required by
20 this section is guilty of a Class 2 misdemeanor.

21 Section 3. That § 42-8-45.6 be amended to read as follows:

22 42-8-45.6. Any person who operates a boat while underway on the public waters of the state
23 in this state is considered to have ~~given his consent~~ consented to the withdrawal of blood or
24 other bodily substance and chemical analysis of ~~his~~ such blood, breath, or other bodily substance

1 to determine the amount of alcohol in ~~his~~ such blood and to determine the presence of marijuana
2 or any controlled drug or substance.

3 The person, operating a boat underway which has been involved in a collision or an accident
4 resulting in bodily injury or death to any person or property damage to a boat or other property
5 to an apparent extent of ~~five hundred~~ one thousand dollars or more to any one person's property
6 or two thousand dollars or more in any one accident, shall submit to the withdrawal of blood or
7 other bodily substance for chemical analysis or chemical analysis of ~~his~~ the person's breath ~~and~~
8 ~~shall be advised by the officer that he has.~~ The officer shall advise the person of the right to have
9 an additional chemical analysis performed by a technician of his or her own choosing at his or
10 her own expense.

11 ~~All other persons~~ Any other person, operating a boat underway which has not been involved
12 in a collision or an accident resulting in bodily injury or death to any person or property damage
13 to a boat or other property to an apparent extent of ~~five hundred~~ one thousand dollars or more
14 to any one person's property or two thousand dollars or more in any one accident, shall be
15 requested by the officer to submit to the withdrawal of blood or other bodily substance for
16 chemical analysis or chemical analysis of his or her breath ~~and shall be advised by the officer that,~~
17 The officer shall advise the person that:

- 18 (1) If he or she refuses to submit to the withdrawal or chemical analysis, no withdrawal
19 or chemical analysis may be required;
- 20 (2) Such refusal ~~may be~~ is admissible into evidence at trial; and
- 21 (3) That he or she has the right to have an additional chemical analysis performed by a
22 technician of his or her own choosing at his or her own expense.

23 If such person refuses to submit to chemical analysis of his or her blood, urine, breath, or
24 other bodily substance, or allow the withdrawal of blood or other bodily substance for chemical

1 analysis as provided in this section, and that person subsequently stands trial for violation of
2 § 42-8-45, such refusal ~~may be~~ is admissible into evidence at the trial.