

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

184J0094

HOUSE BILL NO. 1275

Introduced by: Representatives Kraus, Adelstein, Gillespie, Hennies, McCaulley, Michels, Novstrup, Olson (Mel), Peterson (Bill), Sebert, Teupel, and Van Etten and Senators Abdallah, Bogue, de Hueck, Duenwald, Duniphan, Ham-Burr, McCracken, and Moore

1 FOR AN ACT ENTITLED, An Act to require chemical tests of drivers involved in accidents
2 resulting in serious bodily injury.

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~~ may
6 be required to consent to the withdrawal of blood or other bodily substance and chemical
7 analysis of the person's blood, breath, or other bodily substance to determine the amount of
8 alcohol in the person's blood and to determine the presence of marijuana or any controlled drug
9 or substance.

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

13 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal
14 or chemical analysis may be required unless the person has been arrested for a third,



1 fourth, or subsequent violation of § 32-23-1, constituting a felony offense under
2 § 32-23-4 or 32-23-4.6 ~~or~~; has been arrested for vehicular homicide under § 22-16-41
3 or vehicular battery under § 22-16-42; or has been involved in an accident resulting
4 in serious bodily injury of another person;

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

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

12 Section 2. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 For purposes of § 32-23-10, serious bodily injury is such injury as is grave and not trivial,
15 and gives rise to apprehension of danger to life, health, or limb.