

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

727M0603

## SENATE ENGROSSED NO. **HB 1118** - 02/08/2006

Introduced by: Representatives Rounds, Hennies, McCoy, and O'Brien and Senators Bogue, Bartling, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding failure to stop at the  
2 command of a law enforcement officer and regarding eluding a law enforcement officer in  
3 a vehicle.

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

5 Section 1. That § 32-33-18 be amended to read as follows:

6 32-33-18. Any driver of a ~~motor~~ vehicle who intentionally fails or refuses to bring a vehicle  
7 to a stop, ~~or who otherwise flees or attempts to elude a pursuing law enforcement vehicle,~~ when  
8 given visual or audible signal to bring the vehicle to a stop, is guilty of ~~eluding~~ failure to stop  
9 at the signal of a law enforcement officer. The signal given by the law enforcement officer may  
10 be by hand, voice, emergency light, or siren. The officer giving the signal shall be in uniform,  
11 prominently displaying a badge of office, and the vehicle shall be appropriately marked showing  
12 it to be an official law enforcement vehicle.

13 ~~Eluding~~ Failure to stop at the signal of a law enforcement officer is a ~~Class 1~~ Class 2  
14 misdemeanor. In addition, the court ~~shall~~ may order that the defendant's driver's license be  
15 revoked for up to one year, but may issue an order, upon proof of financial responsibility



1 pursuant to § 32-35-43.1, allowing the defendant to operate a ~~motor~~ vehicle for purposes of the  
2 defendant's employment, attendance at school, or counseling programs. ~~Any person who is found~~  
3 ~~guilty of eluding is subject to the additional enhanced penalties if the course of eluding results~~  
4 ~~in:~~

- 5 ~~— (1) — Death or great bodily injury to another person, a Class 4 felony; and~~
- 6 ~~— (2) — Substantial bodily injury to another person or property damage in excess of five~~  
7 ~~hundred dollars to property belonging to a person other than the person eluding, a~~  
8 ~~Class 6 felony.~~

9 ~~— For any subsequent violation, the court shall order that the defendant's driver's license be~~  
10 ~~revoked for five years.~~

11 Section 2. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any driver of a vehicle who, after failing or refusing to bring a vehicle to a stop pursuant  
14 to § 32-33-18, flees from the law enforcement officer or attempts to elude the pursuit of the law  
15 enforcement officer is guilty of eluding. Eluding is a Class 1 misdemeanor. In addition, the court  
16 may order that the defendant's driver's license be revoked for up to one year, but may issue an  
17 order, upon proof of financial responsibility pursuant to § 32-35-43.1, allowing the defendant  
18 to operate a vehicle for purposes of the defendant's employment, attendance at school, or  
19 counseling programs.

20 Section 3. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Any driver of a vehicle who flees from a law enforcement officer or attempts to elude the  
23 pursuit of a law enforcement officer is guilty of aggravated eluding if, at any time during the  
24 flight or pursuit, the driver operates the vehicle in a manner that constitutes an inherent risk of

1 death or serious bodily injury to any third person.

2       Aggravated eluding is a Class 6 felony. In addition, the court may order that the defendant's  
3 driver's license be revoked for up to one year, but may issue an order, upon proof of financial  
4 responsibility pursuant to § 32-35-43.1, allowing the defendant to operate a vehicle for purposes  
5 of the defendant's employment, attendance at school, or counseling programs. For any  
6 subsequent aggravated eluding violation, the court shall order that the defendant's driver's  
7 license be revoked for five years.