

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

662M0629

HOUSE BILL NO. 1219

Introduced by: Representatives Vehle, Boomgarden, Brunner, Faehn, Haley, Hennies, Jensen, Miles, Rave, Sebert, Street, Tornow, and Van Etten and Senators Olson (Ed), Abdallah, Broderick, Dempster, Duniphan, McCracken, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise the advice that a law enforcement officer must
2 give any person arrested for driving under influence.

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~~ If a person has been arrested for a first or second violation of § 32-23-1 and the person
10 has not been arrested for vehicular homicide under § 22-16-41 or vehicular battery under § 22-
11 16-42 or the person has not been involved in an accident resulting in death or serious bodily
12 injury of another person, the person shall be requested by the officer to submit to the withdrawal
13 of blood or other bodily substance for chemical analysis or chemical analysis of the person's
14 breath and shall be advised by the officer only that:



- 1 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal
2 or chemical analysis may be required ~~unless the person has been arrested for a third,~~
3 ~~fourth, or subsequent violation of § 32-23-1, constituting a felony offense under § 32-~~
4 ~~23-4 or 32-23-4.6; has been arrested for vehicular homicide under § 22-16-41 or~~
5 ~~vehicular battery under § 22-16-42; or has been involved in an accident resulting in~~
6 ~~death or serious bodily injury of another person;~~
- 7 (2) If the person refuses to submit to the withdrawal or chemical analysis, the person's
8 driver's license ~~shall~~ may be revoked for one year, ~~unless pursuant to § 32-23-11.1~~
9 ~~the person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation~~
10 ~~order being issued as provided by state law; and~~
- 11 (3) The person has the right to have a separate chemical analysis performed by a
12 technician of the person's own choosing at the person's own expense, ~~in addition to~~
13 ~~the test requested by the officer.~~