

AN ACT

ENTITLED, An Act to permit persons convicted of driving under the influence to operate a vehicle for 24/7 sobriety testing and to declare an emergency.

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

Section 1. That § 32-23-2 be amended to read as follows:

32-23-2. If conviction for a violation of § 32-23-1 is for a first offense, such person is guilty of a Class 1 misdemeanor, and the defendant's driving privileges shall be revoked for not less than thirty days. However, the court may in its discretion issue an order upon proof of financial responsibility, pursuant to § 32-35-113, permitting the person to operate a vehicle for purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs. The court may also order the revocation of the defendant's driving privilege for a further period not to exceed one year or restrict the privilege in such manner as it sees fit for a period not to exceed one year.

Section 2. That § 32-23-3 be amended to read as follows:

32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, unconditionally revoke the defendant's driving privilege for a period of not less than one year. However, upon the successful completion of a court-approved chemical dependency program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to drive for the purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs. If such person is convicted of driving without a license during that period, the person shall be sentenced to the county jail for not less than three days, which sentence may not be suspended.

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

32-23-4. If conviction for a violation of § 32-23-1 is for a third offense, the person is guilty of

a Class 6 felony, and the court, in pronouncing sentence, shall order that the driver's license of any person so convicted be revoked for a period of not less than one year from the date sentence is imposed or one year from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, he shall be sentenced to the county jail for not less than ten days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court-approved chemical dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs.

Section 4. That § 32-23-4.6 be amended to read as follows:

32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense and the person has previously been convicted of a felony under § 32-23-4, the person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall order that the driver's license of any person so convicted be revoked for a period of not less than two years from the date sentence is imposed or two years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the person shall be sentenced to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court- approved chemical dependency counseling

program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs.

Section 5. That § 32-23-4.7 be amended to read as follows:

32-23-4.7. If conviction for violation of § 32-23-1 is for a fifth offense, or subsequent offenses thereafter, and the person has previously been convicted of a felony under § 32-23-4, the person is guilty of a Class 4 felony and the court, in pronouncing sentencing, shall order that the driver's license of any person so convicted be revoked for a period of not less than three years from the date sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the person shall be sentenced to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court- approved chemical dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs.

Section 6. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to permit persons convicted of driving under the influence to operate a vehicle for 24/7 sobriety testing and to declare an emergency.

I certify that the attached Act
originated in the

HOUSE as Bill No. 1239

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1239
File No. _____
Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State