



2022 South Dakota Legislature
House Bill 1108
ENROLLED

AN ACT

ENTITLED An Act to revise provisions related to driving under the influence.

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

Section 1. That § 32-23-2 be AMENDED:

32-23-2. If conviction for a violation of § 32-23-1 is for a first offense, the person is guilty of a Class 1 misdemeanor, and the court shall revoke the person's driver license 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, child care delivery or pickup, or attendance at counseling programs. The court may also order the revocation of the person'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:

32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, the person is guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, revoke the person's driver license 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, child care delivery or pickup, or attendance at counseling programs. 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 three days, which sentence may not be suspended.

Section 3. That § 32-23-4 be AMENDED:

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 revoke the

person's driver license 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, the person 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, child care delivery or pickup, or attendance at counseling programs.

Section 4. That § 32-23-4.6 be AMENDED:

32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense, the person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall revoke the person's driver license 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. If 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 court shall sentence the person 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, child care delivery or pickup, or attendance at counseling programs. Further, sentencing pursuant to this section includes the provisions of § 23A-27-18.

Section 5. That § 32-23-4.7 be AMENDED:

32-23-4.7. If conviction for violation of § 32-23-1 is for a fifth offense, or subsequent offenses thereafter, the person is guilty of a Class 4 felony and the court, in

pronouncing sentencing, shall revoke the person's driver license 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 court shall sentence the person 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, child care delivery or pickup, or attendance at counseling programs.

Section 6. That § 32-23-4.9 be AMENDED:

32-23-4.9. If a conviction for a violation of § 32-23-1 is for a sixth offense, or subsequent offense, and the person had at least five convictions of § 32-23-1 occurring within twenty-five years of the violation being charged, and at least two of those prior convictions having occurred within ten years, the violation is an aggravated offense and the person is guilty of a Class 4 felony.

The court, in pronouncing sentencing, shall revoke the person's driver license for a period of not less than three years from the date the sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. If the person is returned to imprisonment prior to the completion of the period of driver 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 court shall sentence the person 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 person's 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, child care delivery or pickup, or attendance at counseling programs.

For each person convicted under this section and placed on probation, parole, or released from prison due to a suspended sentence, the person's supervision must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The Unified Judicial System shall oversee supervision of the offender if the sentence does not include a term of imprisonment in the penitentiary. The Department of Corrections shall oversee supervision of the offender if the sentence includes a term of imprisonment in the penitentiary. Any offender supervised pursuant to this section is not excluded from earned discharge credit as otherwise authorized by statute.

If, during the period of supervision imposed under this section, the person being supervised violates conditions, the person must be penalized according to the graduated sanctions policy to be established by the Supreme Court or the Department of Corrections, respectively.

An Act to revise provisions related to driving under the influence.

I certify that the attached Act originated in the:
House as Bill No. 1108

Received at this Executive Office this ____ day of _____, 2022 at _____ M.

Chief Clerk

By _____ for the Governor

Speaker of the House

The attached Act is hereby approved this _____ day of _____, A.D., 2022

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2022 at _____ o'clock ___ M.

Secretary of the Senate

Secretary of State

House Bill No. 1108
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State