



## 2022 South Dakota Legislature

**House Bill 1232**

HOUSE ENGROSSED

Introduced by: **Representative** Karr

1 **An Act to establish mandatory sentences for certain driving while under the**  
 2 **influence violations.**

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

4 **Section 1. That § 32-23-4.6 be AMENDED:**

5 **32-23-4.6.** If a conviction for a violation of § 32-23-1 is for a fourth offense, the  
 6 person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall order  
 7 that the driver's license of any person so convicted be revoked for a period of not less  
 8 than two years from the date sentence is imposed or two years from the date of initial  
 9 release from imprisonment, whichever is later. If the person is returned to imprisonment  
 10 prior to the completion of the period of driver's license revocation, time spent imprisoned  
 11 does not count toward fulfilling the period of revocation. If the person is convicted of  
 12 driving without a license during that period, the person ~~shall~~ must be sentenced to the  
 13 county jail for not less than twenty days, which sentence may not be suspended.  
 14 Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the  
 15 license revocation for the term of such revocation. Upon the successful completion of a  
 16 court-approved chemical dependency counseling program, and proof of financial  
 17 responsibility pursuant to § 32-35-113, the court may permit the person to operate a  
 18 vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, or  
 19 attendance at counseling programs. Further, sentencing pursuant to this section includes  
 20 the provisions of § 23A-27-18.

21 If a person is convicted of a fourth violation of § 32-23-1, the court shall sentence  
 22 the person to at least one year in the state penitentiary, which sentence may not be  
 23 suspended.

24 **Section 2. That § 32-23-4.7 be AMENDED:**

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

16           If a person is convicted of a fifth or subsequent violation of § 32-23-1, the court  
17 shall sentence the person to at least three years in the state penitentiary, which sentence  
18 may not be suspended.

19   **Section 3. That § 32-23-4.9 be AMENDED:**

20           **32-23-4.9.** If a conviction for a violation of § 32-23-1 is for a sixth offense, or  
21 subsequent offense, and the person had at least five convictions of § 32-23-1 occurring  
22 within twenty-five years of the violation being charged, and at least two of those prior  
23 convictions having occurred within ten years, the violation is an aggravated offense and  
24 the person is guilty of a Class 4 felony. If a person is convicted of an aggravated violation  
25 of § 32-23-1 and the person had at least six convictions of § 32-23-1 occurring within  
26 fifteen years of the violation being charged, the court shall sentence the person to at least  
27 five years in the state penitentiary, which sentence may not be suspended.

28           The court, in pronouncing sentencing, shall order that the driver license of any  
29 person so convicted be revoked for a period of not less than three years from the date the  
30 sentence is imposed or three years from the date of initial release from imprisonment,  
31 whichever is later. If the person is returned to imprisonment prior to the completion of  
32 the period of driver license revocation, time spent imprisoned does not count toward  
33 fulfilling the period of revocation. If the person is convicted of driving without a license  
34 during that period, the person ~~shall~~ must be sentenced to the county jail for not less than

1 twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the  
2 court retains jurisdiction to modify the conditions of the license revocation for the term of  
3 such revocation.

4 Upon the person's successful completion of a court-approved chemical dependency  
5 counseling program and proof of financial responsibility pursuant to § 32-35-113, the  
6 court may permit the person to operate a vehicle for the purposes of employment, 24/7  
7 sobriety testing, attendance at school, or attendance at counseling programs.

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

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

21 **Section 4. That chapter 32-23 be amended with a NEW SECTION:**

22 Any person subject to a mandatory sentence under § 32-23-4.6, 32-23-4.7, or 32-  
23 23-4.9 is not eligible for parole consideration.