

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

736R0588

## SENATE JUDICIARY ENGROSSED NO. **SB 149** 2/18/2010

Introduced by: Senators Tieszen, Abdallah, Gillespie, and Gray and Representatives Cutler, Engels, and Hunt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions providing for the method of  
2 calculating subsequent DUI offenses.

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

4 Section 1. That § 32-23-4.1 be amended to read as follows:

5 32-23-4.1. No previous conviction for, or plea of guilty to, a violation of § 32-23-1, 22-18-  
6 36, or 22-16-41 occurring more than ten years prior to the date of the violation being charged  
7 may be used to determine that the violation being charged is a second, third, or subsequent  
8 offense. However, any period of time during which the defendant was incarcerated for a  
9 previous violation may not be included when calculating if the time period provided in this  
10 section has elapsed.

11 Section 2. That § 32-23-4.5 be amended to read as follows:

12 32-23-4.5. Any conviction for, or plea of guilty to, an offense in another state which, if  
13 committed in this state, would be a violation of § 32-23-1, 22-18-36, or 22-16-41 and occurring  
14 within ten years prior to the date of the violation being charged, shall be used to determine if the



1 violation being charged is a second, third, or subsequent offense.

2 Section 3. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 For purposes of determining whether a conviction for a violation of § 32-23-1 is for a second  
5 or subsequent offense, any conviction for a violation of § 22-18-36 or 22-16-41 counts as a  
6 conviction of § 32-23-1.