

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

400X0244

## SENATE BILL NO. 34

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the chemical testing  
2 of commercial drivers.

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

4 Section 1. That § 32-12A-46 be amended to read:

5 32-12A-46. Any person who holds or is required to hold a commercial learner's permit or  
6 commercial driver license and operates any commercial or noncommercial motor vehicle in this  
7 state is considered to have given consent to the withdrawal of blood or other bodily substance  
8 to determine the amount of alcohol in that person's blood, or to determine the presence of any  
9 controlled drug or substance. The chemical analysis shall be administered at the direction of a  
10 law enforcement officer who, after stopping or detaining ~~the commercial motor vehicle driver~~  
11 any person who holds or is required to hold a commercial learner's permit or commercial driver  
12 license, has probable cause to believe that the ~~driver~~ person was driving or in actual physical  
13 control of a commercial or noncommercial motor vehicle while having any alcohol or drugs in  
14 that person's system. Any person requested by a law enforcement officer under this section to  
15 submit to a chemical analysis shall be advised by the officer that:



- 1 (1) If the person refuses to submit to the chemical analysis, none shall be given; and
- 2 (2) If the person refuses to submit to the chemical analysis requested, the person shall be
- 3 immediately:
- 4 (a) Immediately placed out of service for a period of twenty-four hours, if
- 5 operating a commercial motor vehicle at the time of the refusal; and ~~be~~
- 6 ~~disqualified~~
- 7 (b) Disqualified from operating a commercial motor vehicle for a period of not
- 8 less than one year; or
- 9 (3) If the person submits to a chemical analysis which discloses that the person was
- 10 operating the commercial motor vehicle while there was 0.04 percent or more by
- 11 weight of alcohol in that person's blood the person shall be disqualified from
- 12 operating a commercial motor vehicle for not less than one year.

13 Section 2. That § 32-12A-36 be amended to read:

14 32-12A-36. Any person is disqualified from driving a commercial motor vehicle for a period  
15 of not less than one year:

- 16 (1) If convicted of a first violation of driving or being in actual physical control of a
- 17 commercial or noncommercial motor vehicle while under the influence of alcohol,
- 18 or any controlled drug or substance, in violation of § 32-23-1;
- 19 (2) If convicted of a first violation of driving or being in actual physical control of a
- 20 commercial motor vehicle while there is 0.04 percent or more by weight of alcohol
- 21 in that person's blood as shown by chemical analysis of that person's breath, blood
- 22 or other bodily substance, in violation of § 32-12A-44;
- 23 (3) If convicted of a first violation of leaving the scene of an accident while operating a
- 24 commercial or noncommercial motor vehicle, in violation of § 32-34-5 or 32-34-6;

- 1       (4)    If convicted of a first violation of using a commercial or noncommercial motor  
2            vehicle in the commission of any felony other than a felony described in § 32-12A-  
3            38; or
- 4       (5)    For refusing to submit to a chemical analysis for purposes of determining the amount  
5            of alcohol in that person's blood while driving a commercial or noncommercial motor  
6            vehicle in violation of § ~~32-23-11~~, 32-12A-43; or 32-12A-46;
- 7       (6)    If convicted of a first violation of operating a commercial motor vehicle while the  
8            person's commercial driver license is revoked, suspended, or canceled or the person  
9            is disqualified from operating a commercial motor vehicle in violation of § 32-12A-  
10           8. The department may not issue a new license until one year from the date the  
11           person would otherwise have been entitled to apply for a new license; or
- 12       (7)    If convicted of a first violation of causing a fatality through the negligent operation  
13            of a commercial motor vehicle.

14        If any of these violations or refusal occurred while transporting hazardous material required  
15        to be placarded, the person is disqualified for a period of not less than three years.