



2022 South Dakota Legislature

Senate Bill 74

Introduced by: **Senator Wiik**

1 **An Act to revise provisions regarding out-of-service motor carrier violations.**

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

3 **Section 1. That § 32-12A-8.1 be AMENDED:**

4 **32-12A-8.1.** No person may drive a commercial motor vehicle on the highways of
 5 this state while the person, or the commercial motor vehicle, ~~or the motor carrier operation~~
 6 is subject to any out-of-service order. A violation of this section is a Class 1 misdemeanor.

7 **Section 2. That chapter 32-12A be amended with a NEW SECTION:**

8 No person may drive a commercial motor vehicle on the highways of this state
 9 while the motor carrier operation employing the person is subject to any out-of-service
 10 order. A violation of this section is a Class 2 misdemeanor.

11 **Section 3. That § 32-12A-52 be AMENDED:**

12 **32-12A-52.** Any person is disqualified from driving a commercial motor vehicle
 13 for a period of one hundred eighty days if convicted of a first violation of an out-of-service
 14 order pursuant to § 32-12A-8.1.

15 If a violation of an out-of-service order pursuant to this section occurred while
 16 transporting hazardous materials required to be placarded under 49 C.F.R. Part 172,
 17 Subpart F, as of January 1, 2015, or while operating a motor vehicle designed to transport
 18 sixteen or more passengers, including the driver, the operator is disqualified for a period
 19 of one hundred eighty days.

20 **Section 4. That § 32-12A-53 be AMENDED:**

1 **32-12A-53.** Any person is disqualified from driving a commercial motor vehicle
2 for a period of two years if convicted of two violations of out-of-service orders pursuant
3 to § 32-12A-8.1 in separate incidents during a ten-year period.

4 If the violations of out-of-service orders pursuant to this section occurred while
5 transporting hazardous materials required to be placarded under 49 C.F.R. Part 172,
6 Subpart F, as of January 1, 2015, or while operating a motor vehicle designed to transport
7 sixteen or more passengers, including the driver, the operator is disqualified for a period
8 of three years.

9 **Section 5. That § 32-12A-54 be AMENDED:**

10 **32-12A-54.** Any person is disqualified from driving a commercial motor vehicle
11 for a period of three years if convicted of three or more violations of out-of-service orders
12 pursuant to 32-12A-8.1 in separate incidents during a ten-year period.

13 If the violations of out-of-service orders pursuant to this section occurred while
14 transporting hazardous materials required to be placarded under 49 C.F.R. Part 172,
15 Subpart F, as of January 1, 2015, or while operating a motor vehicle designed to transport
16 sixteen or more passengers, including the driver, the operator is disqualified for a period
17 of five years.

18 **Section 6. That § 32-12A-56 be AMENDED:**

19 **32-12A-56.** In addition to disqualification, a driver who is convicted of violating
20 an out-of-service order pursuant to 32-12A-8.1 is subject to a civil penalty of not less than
21 two thousand five hundred dollars for a first conviction and not less than five thousand
22 dollars for a second or subsequent conviction.