



2021 South Dakota Legislature

House Bill 1160

Introduced by: **Representative Fitzgerald**

1 **An Act to prohibit driving a motor vehicle while exceeding the legal limit of delta 9-**
 2 **tetrahydrocannabinol.**

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

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

5 **32-23-1. Driving or control of vehicle prohibited with alcohol in blood or**
 6 **while under influence of alcohol, drug, or intoxicant.**

7 No person may drive or be in actual physical control of any vehicle while:

- 8 (1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown
 9 by chemical analysis of that person's breath, blood, or other bodily substance;
- 10 (2) Under the influence of an alcoholic beverage, marijuana, or any controlled drug or
 11 substance not obtained pursuant to a valid prescription, or any combination of an
 12 alcoholic beverage, marijuana, or such controlled drug or substance;
- 13 (3) Under the influence of any controlled drug or substance obtained pursuant to a valid
 14 prescription, or any other substance, to a degree which renders the person
 15 incapable of safely driving;
- 16 (4) Under the combined influence of an alcoholic beverage and or any controlled drug
 17 or substance obtained pursuant to a valid prescription, or any other substance, to
 18 a degree which renders the person incapable of safely driving; ~~or~~
- 19 (5) Under the influence of any substance ingested, inhaled, or otherwise taken into the
 20 body as prohibited by § 22-42-15; or
- 21 (6) There is two nanograms or more of delta 9-tetrahydrocannabinol per milliliter in
 22 that person's whole blood as shown by chemical analysis of that person's blood.

23 **Section 2.** That § 32-23-6 be AMENDED.

1 **32-23-6. Lawful use of drugs no defense.**

2 The fact that any person charged with a violation of § 32-23-1 is or has been
3 prescribed a drug under the laws of this state or authorized to use medical cannabis under
4 chapter 34-20G is not a defense against any charge of violating § 32-23-1.