

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0173

## SENATE BILL NO. 20

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

1 FOR AN ACT ENTITLED, An Act to remove the requirement of a prior felony conviction for  
2 a fourth and subsequent driving under the influence offenses.

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

4 Section 1. That § 32-23-4.6 be amended to read as follows:

5 32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense ~~and the person~~  
6 ~~has previously been convicted of a felony under § 32-23-4~~, the person is guilty of a Class 5  
7 felony, and the court, in pronouncing sentence, shall order that the driver's license of any person  
8 so convicted be revoked for a period of not less than two years from the date sentence is  
9 imposed or two years from the date of initial release from imprisonment, whichever is later. In  
10 the event the person is returned to imprisonment prior to the completion of the period of driver's  
11 license revocation, time spent imprisoned does not count toward fulfilling the period of  
12 revocation. If the person is convicted of driving without a license during that period, the person  
13 shall be sentenced to the county jail for not less than twenty days, which sentence may not be  
14 suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions  
15 of the license revocation for the term of such revocation. Upon the successful completion of a



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

5 Section 2. That § 32-23-4.7 be amended to read as follows:

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