



**State:**

South Dakota

**Statute/Law:**

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

**Per Se Law?:**

Yes

**Statute/Law Language:**

Driving or control of vehicle prohibited with alcohol in blood or while under influence of alcohol, drug, or intoxicant. No person may drive or be in actual physical control of any vehicle while:

- (1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood, or other bodily substance;
- (2) Under the influence of an alcoholic beverage, marijuana, or any controlled drug or substance not obtained pursuant to a valid prescription, or any combination of an alcoholic beverage, marijuana, or such controlled drug or substance;
- (3) Under the influence of any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving;
- (4) Under the combined influence of an alcoholic beverage and or any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving; or
- (5) Under the influence of any substance ingested, inhaled, or otherwise taken into the body.

It is a Class 2 misdemeanor for any person under the age of twenty-one years to drive, operate, or be in actual physical control of any vehicle:

- (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's breath, blood, or other bodily substance; or
- (2) After having consumed marijuana or any controlled drug or substance for as long as physical evidence of the consumption remains present in the person's body.



**Penalties Following Conviction:**

For first offense: Not more than 1 year imprisonment, and up to \$2000 fine;

For 2nd offense within 10 years: Up to one year imprisonment (3 days mandatory for Defendant operating a vehicle without a license at time of offense), and up to \$2000 in fines;

For 3rd offense within 10 years (class 6 felony): Up to 2 year imprisonment, and up to \$4000 in fines;

For 4th offense within 10 years (class 5 felony): Up to 5 year imprisonment, and up to \$10,000 in fines;

For 5th or subsequent offense (class 4 felony): Up to 10 years imprisonment, and up to \$20,000 in fines.

For persons under 21: Up to 30 days in jail and/or not more than a \$200 fine plus 6 months suspension for first offense and 1 year suspension for second and subsequent offense.

**Discretionary Court-Ordered Penalties:**

The court may order community service, restitution, and an evaluation by a chemical dependency counselor.

**For more information:**

<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=32-23>

*Current as of August 2016*

