

OFFICIAL OPINION NO. 86-26, Revocation of minor's driving privilege

July 22, 1986

Mr. Glenn L. Roth
Hutchinson County States Attorney
Olivet, South Dakota 57052

OFFICIAL OPINION NO. 86-26

Revocation of minor's driving privilege

Dear Mr. Roth:

You have requested an official opinion from this office regarding the following factual situation:

FACTS:

A minor, age 15, having a restricted minor's driving permit was stopped and arrested for driving after hours in violation of SDCL 32-12-12 on March 13, 1986. On March 27, 1986, the minor turned age 16. On April 7, 1986, the minor pled guilty to the charge of driving after hours, SDCL 32-12-12. This was minor's second conviction; the first having occurred in September, 1985. After turning age 16, the minor received his driver's license. According to SDCL 32-12-15, a second conviction shall result in revocation of the minor's permit until the licensee's 16th birthday or revocation of the minor's driving privileges for a period of 90 days, which may extend beyond the licensee's 16th birthday, whichever period is longer. The Department of Commerce and Regulation, Driver Improvement Division, was notified of the second conviction, however, it will not revoke the minor's driving privileges, since he was convicted after his 16th birthday.

You have asked the following question:

QUESTION:

Is the Department of Commerce and Regulation, Driver Improvement Division, required to revoke the minor's driving privileges for a period of 90 days even though his conviction occurred after his sixteenth birthday?

IN RE QUESTION:

SDCL 32-12-15 provides:

The issuance of a restricted minor's permit under § 32-12-12 is on a probationary basis and the department of commerce and regulation on the receipt of a record of conviction for a traffic violation or a conviction of a violation of a restricted minor's permit, shall suspend such restricted minor's permit for a period of thirty days or as otherwise required by law. A second conviction shall result in revocation of the restricted minor's permit until the licensee's sixteenth birthday or revocation of the minor's driving privileges for a period of ninety days which may extend beyond the licensee's sixteenth birthday, whichever period is longer.

'The manifest intent of a statute must be derived from the statute as a whole, from its language, and affording the language its plain, ordinary and popular meaning.' (Citations omitted.) Moulton v. State, 363 N.W.2d 405, 408 (S.D. 1985). A comprehensive view of SDCL 32-12-15 discloses an intent to enforce compliance by minors of the terms of the restricted permits issued to them and the rules of the road governing all traffic on the public highways.

An interpretation of § 32-12-15 restricting revocation of a minor's driving privileges to those circumstances where the second conviction is _received by the Department of Commerce and Regulation prior to the minor's sixteenth birthday is inconsistent with the intent of the legislature and contrary to the demands of SDCL § 2-14-12. The law directs a liberal construction of our statutes with a view to effect their objects and promote justice.

The statute in question specifically provides for and requires revocation of a minor's 'restricted permit' or 'driving privileges' upon receipt of a second conviction. In my opinion that language clearly requires revocation of a minor's driving privileges for ninety days, even after his or her sixteenth birthday, upon receipt of a second conviction arising from violations occurring prior thereto. The statutory language allowing extension of the ninety day revocation period beyond the minor's sixteenth birthday further supports such a conclusion.

Therefore, the answer to your question is yes.

Respectfully submitted,

Mark V. Meierhenry
Attorney General