

## AN ACT

ENTITLED, An Act to revise certain provisions regarding the days and hours that alcoholic beverages may be sold on a licensed premise and who may sell, serve, or dispense alcoholic beverages on a licensed premise and to revise certain provisions concerning the power of municipalities and counties to regulate the sale and use of alcoholic beverages.

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

Section 1. That § 35-4-81 be amended to read as follows:

35-4-81. No on-sale or off-sale licensee, licensed under subdivision 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of two a.m. and seven a.m. or on Sunday after two a.m., on Memorial Day after two a.m., or at any time on Christmas Day. However, any municipality or county may, by ordinance, allow the sale, service, and consumption of alcoholic beverages on Sundays and Memorial Day. A violation of this section is a Class 2 misdemeanor.

Section 2. That § 35-4-81.1 be repealed.

Section 3. That § 35-4-81.2 be amended to read as follows:

35-4-81.2. No licensee licensed under subdivisions 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of two a.m. and seven a.m. A violation of this section is a Class 2 misdemeanor.

Section 4. That § 35-4-79 be amended to read as follows:

35-4-79. No on-sale licensee may permit any person less than twenty-one years old to loiter on the licensed premises or to sell, serve, dispense, or consume alcoholic beverages on such premises. However, an on-sale licensee licensed pursuant to subdivision 35-4-2(4), (6), (11), (12), (13), or (16) may permit persons eighteen years old or older to sell and serve or dispense alcoholic beverages if less than fifty percent of the gross business transacted by that establishment is from the sale of

alcoholic beverages and the licensee or an employee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or dispensed. For the purposes of this section, the term, to sell and serve alcoholic beverages, means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. The term does not include tending bar or drawing or mixing alcoholic beverages.

A violation of this section is a Class 2 misdemeanor.

Section 5. That § 35-4-79.1 be amended to read as follows:

35-4-79.1. No off-sale licensee licensed under subdivision 35-4-2(3), (5), (17), or (17A) may permit any person less than twenty-one years old to sell, serve, or dispense alcoholic beverages on the licensed premises unless such sales of alcoholic beverages constitutes less than fifty percent of the gross business transacted by that establishment. If alcoholic beverage sales constitute less than fifty percent of the gross business transacted by the establishment, the licensee may permit persons eighteen years old or older to sell, serve, or dispense alcoholic beverages.

Section 6. That § 35-4-79.3 be repealed.

Section 7. That § 35-4-2.8 be amended to read as follows:

35-4-2.8. An on-sale licensee, licensed under subdivision 35-4-2(4) or (6), may also be licensed under subdivision 35-4-2(12) or (16), or both. A licensee holding two or more licenses pursuant to this section may exercise the privileges granted under the license issued pursuant to subdivision 35-4-2(12) or subdivision 35-4-2(16).

Section 8. That § 9-29-7 be amended to read as follows:

9-29-7. Each municipality may prohibit or regulate the transaction of business in alcoholic beverages and the use and consumption of alcoholic beverages, establish the number of on- and off-sale licenses which may be issued and the fees to be charged for the licenses, and provide for reasonable classifications of on-sale and off-sale licenses consistent with the provisions of Title 35.

Section 9. That subdivision (8) of § 7-8-20 be amended to read as follows:

- (8) To regulate the transaction of business in alcoholic beverages and the use and consumption of alcoholic beverages, to establish the number of on-sale licenses which may be issued, to provide for reasonable classification of on-sale licenses and fix the fees to be charged for the licenses consistent with the provisions of Title 35;

An Act to revise certain provisions regarding the days and hours that alcoholic beverages may be sold on a licensed premise and who may sell, serve, or dispense alcoholic beverages on a licensed premise and to revise certain provisions concerning the power of municipalities and counties to regulate the sale and use of alcoholic beverages.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1002

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1002  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_

\_\_\_\_\_  
Governor

=====  
STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State