



2021 South Dakota Legislature

Senate Bill 109

Introduced by: **Senator Maher**

1 **An Act to authorize certain interstate shipments of distilled spirits, to provide for**
 2 **the collection of taxes, and to establish certain penalties.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **35-13A-1. Purchase of distilled spirits not in distribution in state--Ordering**
 6 **procedures.**

7 Notwithstanding any other provision of law, any person who is at least twenty-one
 8 years of age may purchase and receive distilled spirits from another state as provided in
 9 this section if the distilled spirits are not in distribution in this state. The person may place
 10 an order with a licensee as defined in subdivision 35-4-2(3) or (5). The licensee shall order
 11 the distilled spirits through a wholesaler licensed pursuant to subdivision 35-4-2(2) and
 12 the wholesaler shall arrange the purchase of the distilled spirits. The licensee shall inform
 13 the purchaser of the cost of the distilled spirits, the amount of any tax that would apply
 14 to the purchase pursuant to § 35-5-3, the amount of sales tax that would apply, and the
 15 amount of charges for freight and handling. The licensee shall collect the total amount due
 16 from the customer before ordering the distilled spirits through the wholesaler. After
 17 receiving the order for the distilled spirits from the licensed retailer, the wholesaler shall
 18 arrange for the distilled spirits to be shipped directly to the licensee who placed the order
 19 for the purchaser. Distilled spirits purchased pursuant to this Act may only be delivered
 20 and received by the purchaser from a licensee as defined in subdivision 35-4-2(3) or (5).

21 **Section 2.** That a NEW SECTION be added:

22 **35-13A-2. No registration fee for certain annual purchase totals.**

23 If the wholesaler orders three or less cases of a particular brand of distilled spirits
 24 for an individual purchaser in one calendar year pursuant to this Act, no registration fee
 25 pursuant to chapter 39-13 may be imposed.

1 **Section 3.** That a NEW SECTION be added:

2 **35-13A-3. Limit on distilled spirits received from another state for personal**
3 **use--Resale prohibited--Exception--Violation a misdemeanor--Department of**
4 **Revenue to promulgate rules.**

5 No person may receive for personal use more than three cases of distilled spirits,
6 containing no more than nine liters per case, in any calendar year from another state. No
7 person who receives distilled spirits under this Act may resell any of the distilled spirits.
8 However, if the delivery of the distilled spirits does not result in a completed sale to the
9 person who placed the original order, the licensee may sell the distilled spirits in the
10 ordinary course of business. It is a Class 2 misdemeanor for any person to receive more
11 than three cases of distilled spirits during a calendar year in violation of this Act. It is a
12 Class 2 misdemeanor for any person to resell or attempt to resell any distilled spirits
13 obtained pursuant to this Act. The Department of Revenue shall promulgate rules,
14 pursuant to chapter 1-26, to provide for the reporting and tracking of information related
15 to the sale of distilled spirits under this Act and to prescribe forms for the implementation
16 of this Act.

17 **Section 4.** That a NEW SECTION be added:

18 **35-13A-4. Shipping to South Dakota resident without license prohibited--**
19 **Penalty.**

20 No person in the business of selling distilled spirits may ship or cause to be shipped
21 any distilled spirits to any South Dakota resident who does not hold a license issued
22 pursuant to chapter 35-4. The department shall, for the first offense, send a certified
23 letter to any person who violates this section and order such person to cease and desist
24 any shipments of distilled spirits to nonlicensed South Dakota residents. Any subsequent
25 violation of this section is a Class 1 misdemeanor.