



## 2021 South Dakota Legislature

# House Bill 1109

Introduced by: **Representative Chaffee**

1 **An Act to modify requirements and restrictions related to certain alcoholic**  
 2 **beverages.**

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

4 **Section 1.** That § 35-1-5.4 be AMENDED.

5 **35-1-5.4. Certain uses exempt from tax--Manufacture and storage in public**  
 6 **place or place of business--Consumption at place of business.**

7 Any person who produces for personal, family, or similar use two hundred gallons  
 8 or less of malt beverage each year or any person who produces for personal, family, or  
 9 similar use two hundred gallons or less of cider each year or any person who produces for  
 10 personal, family, or similar use two hundred gallons or less of wine each year is exempt  
 11 from any license required by this title and is exempt from any tax or fee imposed by this  
 12 title. ~~The malt beverage or wine produced pursuant to this section may not be sold or~~  
 13 ~~offered for sale.~~

14 No malt beverage, cider, or wine produced pursuant to this section may be  
 15 manufactured in a public place or place of business, and stored during the manufacturing  
 16 process in a public place or place of business, unless the business holds a retail on  
 17 premises manufacturer license pursuant to subdivision 35-4-2(21). ~~No malt beverage or~~  
 18 ~~wine produced pursuant to this section may be consumed on the licensed premises~~

19 Malt beverage, cider, or wine produced pursuant to this section may only be stored  
 20 or consumed on a licensed premises if the premises is licensed to sell such product and:

- 21 (1) Such place is at an exhibition, a festival, an educational event, a technical or  
 22 sensory evaluation, or a tasting competition;  
 23 (2) The malt beverage, cider, or wine is conspicuously identified by the licensed  
 24 business;  
 25 (3) The licensed business makes the location of manufacture available upon request;  
 26 and

1       (4) The malt beverage, cider, or wine is served free of charge or as a prize by the  
 2       licensed business.

3       The malt beverage, cider, or wine produced pursuant to this section may not be  
 4       sold or offered for sale. The licensed business does not violate this section by charging a  
 5       fee for admission to the exhibition, festival, educational event, technical or sensory  
 6       evaluation, or tasting competition as long as no separate fee is charged for consumption  
 7       of the malt beverage, cider, or wine.

8       **Section 2.** That § 35-4-66 be AMENDED.

9               **35-4-66. Restrictions on transportation of beverages.**

10              Alcoholic beverages may be transported only by:

- 11              (1) A transporter licensee in the course of delivery to persons authorized under this  
 12              title to receive the alcoholic beverages;
- 13              (2) A manufacturer or wholesaler in the manufacturer or wholesaler licensee's own  
 14              vehicles, carrying the manufacturer or wholesaler licensee's own merchandise;
- 15              (3) A manufacturer carrying only samples, sealed or unsealed;
- 16              (4) An individual, in interstate transportation carrying alcoholic beverages in quantities  
 17              of one gallon or less, or in intrastate transportation carrying any quantity, but in  
 18              either case carrying alcoholic beverages purchased by the individual for personal  
 19              use only or produced by the individual pursuant to § 35-1-5.4;
- 20              (5) A common carrier in interstate commerce if the shipment originates outside the  
 21              state and is destined for a point outside the state;
- 22              (6) A carrier licensee, in exercise of the privileges granted pursuant to the license or  
 23              purchased by passengers for personal use while on the conveyance;
- 24              (7) An established religious organization, in interstate transportation carrying alcoholic  
 25              beverages in quantities of four gallons or less, or in intrastate transportation  
 26              carrying any quantity, but in either case only alcoholic beverages purchased by the  
 27              established religious organization for sacramental use;
- 28              (8) An off-sale delivery licensee;
- 29              (9) A wine carrier as defined in § 35-12B-1; or
- 30              (10) A retailer, carrying the retailer's own merchandise purchased from a wholesaler to  
 31              the retailer's licensed premises.