

2021 South Dakota Legislature

Senate Bill 109**AMENDMENT 109A FOR THE INTRODUCED BILL**

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:

1 **35-13A-2. No registration fee for certain annual purchase totals.**

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

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

6 **35-13A-3. Limit on distilled spirits received from another state for personal**
7 **use--Resale prohibited--Exception--Violation a misdemeanor--Department of**
8 **Revenue to promulgate rules.**

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

21

22 ~~**Section 4.** That a NEW SECTION be added:~~

23 ~~Shipping to South Dakota resident without license prohibited—Penalty.~~

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