



## 2021 South Dakota Legislature

# Senate Bill 109

SENATE COMMERCE AND ENERGY ENGROSSED

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