



## 2021 South Dakota Legislature

# House Bill 1109

HOUSE COMMERCE AND ENERGY ENGROSSED

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;

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

3       (5) The malt beverage, cider, or wine does not exceed the sample size limitations  
 4       pursuant to § 35-4-10.2.

5       The malt beverage, cider, or wine produced pursuant to this section may not be  
 6       sold or offered for sale. The licensed business does not violate this section by charging a  
 7       fee for admission to the exhibition, festival, educational event, technical or sensory  
 8       evaluation, or tasting competition as long as no separate fee is charged for consumption  
 9       of the malt beverage, cider, or wine and no portion of the admission fee nor any other  
 10       compensation is paid to the person who produced the malt beverage, cider, or wine  
 11       pursuant to this section.

12       **Section 2.** That § 35-4-10.2 be AMENDED.

13       **35-4-10.2. Off-sale licensees permitted to provide free samples--No**  
 14       **additional license required--Restrictions--Violation as misdemeanor.**

15       A licensee holding a license pursuant to subdivision 35-4-2(3) or (5) may provide  
 16       samples of malt beverages, wine, cider, distilled spirits, liqueurs, and cordials to the  
 17       general public without obtaining an additional license. The licensee may only offer as  
 18       samples the malt beverages, wine, cider, distilled spirits, liqueurs, and cordials that the  
 19       licensee currently has in stock and is offering for sale to the general public. The malt  
 20       beverage, wine, cider, distilled spirits, liqueur, and cordial samples shall be dispensed at  
 21       no charge and shall be consumed on the licensed premises during the permitted hours of  
 22       off-sale. No sample of malt beverage or cider may be larger than three fluid ounces. No  
 23       sample of wine may be larger than fifty milliliters and no sample of distilled spirits, liqueur,  
 24       or cordial may be larger than twenty-five milliliters. A violation of this section is a Class 1  
 25       misdemeanor.

26       **Section 3.** That § 35-4-66 be AMENDED.

27       **35-4-66. Restrictions on transportation of beverages.**

28       Alcoholic beverages may be transported only by:

- 29       (1) A transporter licensee in the course of delivery to persons authorized under this  
 30       title to receive the alcoholic beverages;
- 31       (2) A manufacturer or wholesaler in the manufacturer or wholesaler licensee's own  
 32       vehicles, carrying the manufacturer or wholesaler licensee's own merchandise;
- 33       (3) A manufacturer carrying only samples, sealed or unsealed;

- 1 (4) An individual, in interstate transportation carrying alcoholic beverages in quantities  
2 of one gallon or less, or in intrastate transportation carrying any quantity, but in  
3 either case carrying alcoholic beverages purchased by the individual for personal  
4 use only or produced by the individual pursuant to § 35-1-5.4;
- 5 (5) A common carrier in interstate commerce if the shipment originates outside the  
6 state and is destined for a point outside the state;
- 7 (6) A carrier licensee, in exercise of the privileges granted pursuant to the license or  
8 purchased by passengers for personal use while on the conveyance;
- 9 (7) An established religious organization, in interstate transportation carrying alcoholic  
10 beverages in quantities of four gallons or less, or in intrastate transportation  
11 carrying any quantity, but in either case only alcoholic beverages purchased by the  
12 established religious organization for sacramental use;
- 13 (8) An off-sale delivery licensee;
- 14 (9) A wine carrier as defined in § 35-12B-1; or
- 15 (10) A retailer, carrying the retailer's own merchandise purchased from a wholesaler to  
16 the retailer's licensed premises.