



2023 South Dakota Legislature
Senate Bill 108
ENROLLED

AN ACT

ENTITLED An Act to provide an educational exception to consumption prohibitions for persons over eighteen years of age who are required to taste an alcoholic beverage as part of a course.

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

Section 1. That § 35-1-14 be AMENDED:

35-1-14. As used in this section, the term, postsecondary institution, includes any postsecondary institution, technical institute, or private college or university located within this state.

A postsecondary institution may produce up to two hundred gallons of distilled spirits, up to two hundred gallons of malt beverage, and up to two hundred gallons of wine each year, and securely store up to two hundred gallons of each at any given time, for purposes of research and offering bona fide educational courses instructing students in the production and serving of distilled spirits, malt beverage, or wine. A postsecondary institution is not deemed a manufacturer or retailer under this title. Only students enrolled in a course, faculty, researchers, or research participants directly involved in the purposes of this section may consume alcohol produced under this section.

The production and storage of alcohol under this section is exempt from any licensing required by this title, or any tax or fee imposed by this title. Any distilled spirits, malt beverage, or wine produced under this section may only be consumed for classroom instruction or research and may not be donated, sold, or offered for sale.

Section 2. That § 35-9-1.1 be AMENDED:

35-9-1.1. It is a Class 2 misdemeanor to sell or give for use as a beverage any alcoholic beverage to any person who is eighteen years of age or older but less than twenty-one years of age unless it is done in compliance with section 3 of this Act, in the immediate presence of a parent or guardian or spouse over twenty-one years of age, or

by prescription or direction of a duly licensed practitioner or nurse of the healing arts for medicinal purposes.

However, no licensee is civilly liable to any injured person or the injured person's estate for any injury suffered, including any action for wrongful death, or property damage suffered because of the sale or consumption of any alcoholic beverage in violation of the provisions of this section.

Section 3. That chapter 35-9 be amended with a NEW SECTION:

Sections 35-9-1.1 and 35-9-2 do not apply when an alcoholic beverage is provided to a student who:

- (1) Is eighteen years of age or older;
- (2) Is enrolled in an accredited college or university; and
- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage for instructional purposes during a class that is part of the curriculum of an accredited college or university.

This section only applies if the alcoholic beverage tasted for instructional purposes remains in the possession and control of an authorized instructor of the college or university who is twenty-one years of age or older.

Section 4. That § 35-9-2 be AMENDED:

35-9-2. It is a Class 2 misdemeanor for any person under the age of twenty-one years to purchase, attempt to purchase, or possess or consume alcoholic beverages, except pursuant to § 35-9-1.1, section 3 of this Act, or when consumed in a religious ceremony and given to the person by an authorized person; or to misrepresent the person's age with the use of any document for the purpose of purchasing or attempting to purchase alcoholic beverages from any licensee licensed under this title.

An Act to provide an educational exception to consumption prohibitions for persons over eighteen years of age who are required to taste an alcoholic beverage as part of a course.

I certify that the attached Act originated in
the:
Senate as Bill No. 108

Received at this Executive Office
this ____ day of _____,
2023 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this ____ day of
_____, A.D., 2023

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2023
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 108
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State