

2025 South Dakota Legislature

Senate Bill 130**AMENDMENT 130A
FOR THE INTRODUCED BILL**

1 **An Act to authorize the shipment of distilled spirits direct to consumers, and to**
2 **provide a penalty therefor.**

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

4 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

5 Terms used in this chapter mean:

6 (1) "Common carrier," a commercial firm, whose services are open to the general
7 public, engaged in the business of transporting goods for a fee;

8 (2) "Department," the Department of Revenue;

9 (3) "Direct shipper," a distillery that has obtained a distilled spirits direct shipper
10 license under this chapter;

11 (4) "Distilled spirits carrier," a common carrier that has obtained a distilled spirits
12 license under this chapter;

13 (5) "Distillery," a firm that produces distilled spirits and holds a federal distilled spirits
14 permit; and

15 (6) "Purchase price," the price of a product charged to the end consumer before the
16 application of South Dakota state and local taxes.

17 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

18 A distillery located within or outside of the state may obtain a distilled spirits direct
19 shipper license. An applicant for an initial or renewal distilled spirits direct shipper license
20 must:

21 (1) File an application with the department on a form prescribed by the department;

22 (2) Pay a license fee of one hundred dollars;

23 (3) Submit a copy of the applicant's current federal distilled spirits permit;

24 (4) Register each brand label offered for sale in this state, if not previously registered,
25 and pay all applicable brand registration fees pursuant to chapter 39-13;

1 (5) Hold a South Dakota sales and use tax license issued by the department; and

2 (6) Be current on the remittance of all applicable state and local taxes.

3 The department shall issue a distilled spirits direct shipper license to an applicant
4 who meets the requirements of this chapter.

5 All moneys collected pursuant to this section must be deposited in the general
6 fund.

7 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

8 A common carrier may apply for a distilled spirits carrier license. An applicant for
9 an initial or renewal distilled spirits carrier license shall:

10 (1) File an application with the department on a form prescribed by the department;

11 and

12 (2) Pay a license fee of one hundred dollars.

13 The department shall issue a distilled spirits carrier license to an applicant who
14 meets the requirements of this chapter. All moneys collected pursuant to this section must
15 be deposited in the general fund.

16 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

17 Unless otherwise provided by this section, a direct shipper license and distilled
18 spirits carrier license is valid from January first through December thirty-first. The license
19 is valid for an additional three days if an application for a renewal license is in the
20 possession of the department prior to the first day of January after the expiration of the
21 license.

22 The full fee must be charged for any license issued pursuant to this chapter for a
23 portion of the period provided in this section.

24 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

25 Notwithstanding any other provisions of title 35, a direct shipper of distilled spirits
26 licensed pursuant to this chapter may sell and ship distilled spirits to an individual in this
27 state who the direct shipper verified to be twenty-one years of age or older, if the distilled
28 spirits are registered for direct shipment as required pursuant to section 2 of this Act.

29 Before shipping the distilled spirits, the direct shipper shall verify the age of the
30 individual placing the order by obtaining a copy of the individual's valid, age-bearing photo
31 identification document issued by this state, another state, or the federal government, or

1 by using an age verification service. The direct shipper shall record the name, address,
2 date of birth, and telephone number of the individual placing the order on the order form
3 or other verifiable record. The direct shipper shall notify the individual placing the order
4 that the recipient of the shipment is required to show a valid age-bearing photo
5 identification document issued by this state, another state, or the federal government
6 upon delivery.

7 A direct shipper of distilled spirits may not ship more than twelve liters of distilled
8 spirits, in any calendar year, to an individual under this chapter.

9 A direct shipper of distilled spirits may not ship more than sixty thousand liters of
10 distilled spirits into this state, in any calendar year.

11 A direct shipper who ships distilled spirits in violation of this section is subject to a
12 civil penalty of one thousand dollars for a first offense and two thousand dollars for all
13 subsequent violations. The department may impose the penalty.

14 The department shall forward all moneys collected pursuant to this section to the
15 state treasurer, for deposit in the general fund.

16 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

17 A direct shipper shall label each package to be shipped in accordance with the
18 provisions of this chapter so that it conspicuously contains words indicating the package
19 contains alcohol and that the signature of an individual, twenty-one years of age or older,
20 is required for delivery.

21 A direct shipper who ships distilled spirits in violation of this section is subject to a
22 civil penalty of one thousand dollars for a first offense and two thousand dollars for all
23 subsequent violations. The department may impose the penalty.

24 The department shall forward all moneys collected pursuant to this section to the
25 state treasurer, for deposit in the general fund.

26 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

27 A shipment of distilled spirits made in accordance with this chapter must be
28 delivered by a distilled spirits carrier and must be accompanied by a shipping label that
29 conforms to the requirements contained in section 6 of this Act. The distilled spirits carrier
30 shall obtain the signature of an individual, twenty-one years of age or older, prior to
31 delivery of the shipment. The distilled spirits carrier shall request that the individual
32 signing for the shipment display a valid age-bearing photo identification document issued

1 by this state, another state, or the federal government verifying that the individual is
2 twenty-one years of age or older.

3 A common carrier or distilled spirits carrier who ~~knowingly~~ delivers distilled spirits
4 to an individual under twenty-one years of age is subject to a civil penalty of one thousand
5 dollars for a first offense and two thousand dollars for all subsequent violations.

6 The department shall forward all moneys collected pursuant to this section to the
7 state treasurer, for deposit in the general fund.

8 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

9 An individual who receives distilled spirits pursuant to the provisions of this chapter
10 may not resell any of the distilled spirits.

11 It is a Class 1 misdemeanor for an individual to resell or attempt to resell any
12 distilled spirits obtained pursuant to the provisions of this chapter.

13 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

14 A direct shipper of distilled spirits may ship only distilled spirits that were produced
15 by the direct shipper in accordance with the direct shipper's federal distilled spirits permit.

16 A violation of this section is a Class 2 misdemeanor.

17 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

18 A direct shipper is deemed to have consented to the jurisdiction of the department
19 and the courts of this state with respect to the enforcement of the provisions of this
20 chapter. The department may perform an audit of a direct shipper's records and any
21 documents used to verify the age of an individual ordering distilled spirits from the direct
22 shipper. The direct shipper shall provide copies of any records upon request by the
23 department.

24 **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

25 A direct shipper shall file quarterly reports with the department on or before the
26 fifteenth day of the month following each quarterly period ending March thirty-first, June
27 thirtieth, September thirtieth, and December thirty-first. The required quarterly report
28 must be filed even if no business was transacted in this state during the reporting period.

29 The report must contain the following documentation regarding the shipment of
30 distilled spirits under this chapter:

- 1 (1) The business name, address, and direct shipper license number of the direct
- 2 shipper;
- 3 (2) The total gallons of distilled spirits shipped to recipients in this state during the
- 4 quarterly period;
- 5 (3) The name and address of shipment recipients in this state and the number of cases,
- 6 or portions thereof, received per recipient during the quarterly period;
- 7 (4) The distilled spirits carrier used to deliver each shipment;
- 8 (5) The date, type of distilled spirits, brand label, quantity, and purchase price of each
- 9 shipment;
- 10 (6) Any taxes paid by the purchaser of each shipment, during the quarterly period;
- 11 and
- 12 (7) The tracking number of each shipment.

13 **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

14 A distilled spirits carrier shall file quarterly reports with the department on or before
15 the fifteenth day of the month following each quarterly period ending March thirty-first,
16 June thirtieth, September thirtieth, and December thirty-first. The required quarterly
17 report must be filed even if no business was transacted in this state during the reporting
18 period.

19 The report must include:

- 20 (1) The business name and address of the direct shipper for each shipment;
- 21 (2) The date of shipment;
- 22 (3) The name and address of shipment recipients in this state;
- 23 (4) The weight in pounds of each package shipped; and
- 24 (5) The tracking number of each shipment.

25 **Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

26 A direct shipper shall pay the alcohol excise tax, as prescribed pursuant to § 35-5-
27 2, according to the rates established in § 35-5-3. Notwithstanding the filing and payment
28 requirements prescribed in chapter 35-5, a direct shipper shall include on the report
29 required by section 11 of this Act, the gallons of distilled spirits shipped to recipients in
30 this state by each category set forth in § 35-5-3, and calculate the tax due for each
31 category.

32 Additionally, the direct shipper shall pay the tax imposed by § 35-5-6.1 on shipped
33 distilled spirits based upon the purchase price of distilled spirits sold to the individual under

1 the provisions of this chapter. The direct shipper shall remit the taxes quarterly on or
2 before the fifteenth day of the month following each quarterly period.

3 **Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

4 All reports required pursuant to sections 11 and 12 of this Act must be submitted
5 by electronic means to the department. All taxes required to be remitted pursuant to
6 section 13 of this Act must be remitted by electronic transfer to the department.

7 **Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

8 A sale and shipment of distilled spirits directly to an individual in this state from a
9 distillery that does not hold a valid direct shipper license is prohibited.

10 For the first violation, the department shall send a certified letter to a person who
11 violates this section and order the person to cease and desist any shipment of distilled
12 spirits into this state. For all subsequent violations, the department shall notify the
13 alcoholic beverage control agency in the person's state of domicile, if other than this state,
14 and the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of
15 the Treasury of the violation. A person who violates this section is subject to a civil penalty
16 of up to five thousand dollars.

17 The department shall forward all moneys collected pursuant to this section to the
18 state treasurer, for deposit in the general fund.

19 **Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

20 The department may promulgate rules, pursuant to chapter 1-26, concerning:
21 (1) Forms necessary for the implementation of this chapter;
22 (2) Reporting and tracking requirements for distilled spirits direct shipper licensees;
23 and
24 (3) The procedure for filing tax returns and the payment of all applicable taxes.

25 **Section 17. That a NEW SECTION be added to a NEW CHAPTER in title 35:**

26 The department shall compile and publish on its website a list of distilled spirits
27 labels registered for sale and shipped in the state each quarter, based on information
28 reported pursuant to section 11 of this Act. The list must include:

29 (1) The manufacturer's name and address;
30 (2) Each brand label shipped by the manufacturer; and

- 1 (3) Whether the manufacturer shipped the brand label to an individual under the
2 provisions of this chapter.

AMENDED