

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

790Y0031

SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 143** - 2/14/2017

Introduced by: Senators Soholt, Haverly, Kolbeck, Solano, and Stalzer and Representatives Otten (Herman), Beal, Gosch, Holmes, Tieszen, and Willadsen

1 FOR AN ACT ENTITLED, An Act to create an off-sale delivery license and to allow certain
2 off-sale licensees to deliver alcohol.

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

4 Section 1. That chapter 35-4 be amended by adding a NEW SECTION to read:

5 A licensee licensed pursuant to subdivisions 35-4-2(3) or (5) may apply for an off-sale
6 delivery license as provided by section 2 of this Act to deliver alcohol to a consumer within the
7 boundaries of the municipality that issued the off-sale license. The alcohol for delivery shall be
8 purchased in person and on-site at the licensee's off-sale premises. The minimum purchase of
9 alcohol shall be one hundred fifty dollars. The delivery shall be made during hours of operation
10 pursuant to § 35-4-81 by an employee of the licensee who is at least twenty-one years old. The
11 employee shall obtain the signature of a person twenty-one years of age or older prior to delivery
12 of the shipment. The employee shall request that the person signing for the delivery display a
13 valid age-bearing photo identification document issued by this state, another state, or the federal
14 government verifying that the person is twenty-one years of age or older. Documentation



1 verifying the identification of the person signing for the delivery shall be retained by the licensee
2 for one year.

3 Any licensee who delivers alcohol to a person under twenty-one years of age is subject to
4 a civil penalty of one thousand dollars for a first offense and two thousand dollars for a second
5 or subsequent offense. Any money collected pursuant to this section shall be deposited in the
6 general fund.

7 Section 2. That § 35-4-2 be amended to read:

8 35-4-2. Classes of licenses, with the fee of each class, follow:

- 9 (1) Distillers--four thousand dollars. However, no license fee is required for
10 manufacturers of alcohol for use in industry as a nonbeverage. If the manufacturer
11 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
12 dispose of alcohol for any use other than an industrial use, the license fee required
13 by this section shall be allocated to and payable for the portion of the year the
14 manufacturer devoted to such other use for each calendar month or fraction thereof
15 while so engaged, but in no case less than one-twelfth of the license fee;
- 16 (2) Wholesalers of alcoholic beverages--five thousand dollars;
- 17 (3) Off-sale--not less than five hundred dollars in municipalities of the first class, not
18 more than four hundred dollars in municipalities of the second class, and not more
19 than three hundred dollars in municipalities of the third class. The renewal fee for
20 such licenses may not exceed five hundred dollars in municipalities of the first class,
21 four hundred dollars in municipalities of the second class, and three hundred dollars
22 in municipalities of the third class;
- 23 (4) On-sale--in municipalities of various classes: municipalities of the first class, not less
24 than one dollar for each person residing within the municipality as measured by the

1 last preceding federal census, the renewal fee for such license is fifteen hundred
2 dollars; municipalities of the second class, no more than twelve hundred dollars;
3 municipalities of the third class, no more than nine hundred dollars;

4 (5) Off-sale licenses issued to municipalities under local option--not less than two
5 hundred fifty dollars;

6 (6) On-sale licenses issued outside municipalities--except as provided in § 35-4-11.9, not
7 less than the maximum that the municipality to which the applicant is nearest is
8 charging for a like license in that municipality, the renewal fee shall be the same as
9 is charged for a like license in the nearest municipality. However, if the nearest
10 municipality is more than fifteen miles from the on-sale license, the fee shall be
11 established pursuant to § 35-4-11.10. If the municipality to which the applicant is
12 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a
13 specified fee, then the fee shall be the maximum amount that could be charged as if
14 the municipality had not been authorized to obtain on-sale licenses pursuant to § 35-
15 3-13. However, if the nearest municipality is a municipality of the first class and is
16 authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be more
17 than one hundred fifty percent of the minimum a municipality not so authorized may
18 charge for a like license. The renewal fee shall be the same as could be charged for
19 a like license in the nearest municipality;

20 (7) Solicitors--twenty-five dollars;

21 (8) Transportation companies--twenty-five dollars;

22 (9) Carrier--one hundred dollars, which fee entitles the licensee to sell or serve alcoholic
23 beverages on all conveyances the licensee operates within the state unless restricted
24 by local ordinance;

- 1 (10) Dispensers--ten dollars;
- 2 (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;
- 3 (12) Wine retailers, being both package dealers and on-sale dealers--five hundred dollars;
- 4 (13) Convention facility on-sale--not less than one dollar for each person residing within
- 5 the municipality as measured by the last preceding federal census, the renewal fee for
- 6 such license, in municipalities of the first class, is fifteen hundred dollars; the
- 7 renewal fee for such license, in municipalities of the second class, is no more than
- 8 twelve hundred dollars; the renewal fee for such license, in municipalities of the third
- 9 class, is no more than nine hundred dollars;
- 10 (14) Manufacturers of malt beverages--five hundred dollars;
- 11 (15) Wholesalers of malt beverages--four hundred dollars;
- 12 (16) Malt beverage retailers, being both package dealers and on-sale dealers--three
- 13 hundred dollars;
- 14 (17) Malt beverage package dealers--two hundred dollars;
- 15 (17A) Malt beverage and wine produced pursuant to chapter 35-12 package dealers--two
- 16 hundred twenty-five dollars;
- 17 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
- 18 for each day of the week between the hours of seven a.m. and two a.m. to nonprofit
- 19 corporations established pursuant to chapter 7-7--two hundred dollars;
- 20 (19) Off-sale package wine dealers in table wines, sparkling wines, sacramental wine, and
- 21 distilled spirits produced from product provided to an artisan distiller by the
- 22 respective farm winery to be operated in conjunction with a farm winery established
- 23 pursuant to chapter 35-12--one hundred fifty dollars;
- 24 (20) Malt beverage retailers, being both package dealers and on-sale dealers, and retailers

1 of wine produced pursuant to chapter 35-12, being both package dealers and on-sale
2 dealers--three hundred twenty-five dollars; ~~and~~

3 (21) Retail on premises manufacturer--two hundred fifty dollars; and

4 (22) Off-sale delivery--one hundred fifty dollars.

5 Section 3. That § 35-4-66 be amended to read:

6 35-4-66. Alcoholic beverages, except malt beverages, may be transported only:

7 (1) By transporter licensees in the course of delivery to persons authorized under this
8 title to receive such alcoholic beverages;

9 (2) By distillers or wholesale licensees in the distiller's or wholesale licensee's own
10 vehicles, carrying the distiller's or wholesale licensee's own merchandise;

11 (3) By solicitor licensees, such transportation being limited to samples, sealed or
12 unsealed, of products for which orders are solicited;

13 (4) By individuals, interstate transportation being limited to alcoholic beverages in
14 quantities of one gallon or less, intrastate transportation not being restricted as to
15 quantity, but in either case the alcoholic beverages shall have been purchased by the
16 individuals for personal use only;

17 (5) By common carriers in interstate commerce if the shipment originates outside the
18 state and is destined for a point outside the state;

19 (6) By carrier licensees, as to that included in the stock in trade of the licensees;

20 (7) By established religious organizations, interstate transportation being limited to
21 alcoholic beverages in quantities of four gallons or less, intrastate transportation not
22 being restricted as to quantity, but in either case such alcoholic beverages shall have
23 been purchased by such established religious organizations for sacramental use only;

24 or

1 (8) By off-sale delivery licensees.

2 Section 4. That § 35-4-74 be amended to read:

3 35-4-74. ~~No~~ Except pursuant to the provisions of section 1 of this Act, no off-sale licensee

4 may make any delivery of alcoholic beverages outside of the premises described in the license.

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