

2020 South Dakota Legislature

House Bill 1265**AMENDMENT 1265A FOR THE INTRODUCED BILL**

1 **An Act to revise provisions regarding off-sale delivery licenses for the delivery of**
2 **alcoholic beverages together with food products.**

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

4
5 **~~Section 1. That § 35-4-127 be AMENDED:~~**

6 ~~35-4-127. Off-sale delivery license.~~

7 ~~A licensee licensed pursuant to subdivision 35-4-2(3) or (5) may apply for an off-sale delivery~~
8 ~~license as provided by subdivision 35-4-2(23) to deliver alcoholic beverages to a consumer~~
9 ~~within the boundaries of the municipality that issued the off-sale license. The alcoholic~~
10 ~~beverage for delivery shall be purchased in person and on-site at the licensee's off-sale~~
11 ~~premises. The minimum purchase of alcoholic beverages shall be one hundred fifty dollars.~~
12 ~~The delivery shall be made during hours of operation pursuant to § 35-4-81.2 by an employee~~
13 ~~of the licensee who is at least twenty-one years old. The employee shall obtain the signature~~
14 ~~of a person twenty-one years old or older before delivery of the shipment. The employee shall~~
15 ~~request that the person signing for the delivery display a valid age-bearing photo identification~~
16 ~~document issued by this state, another state, or the federal government verifying that the~~
17 ~~person is twenty-one years old or older. Documentation verifying the identification of the~~
18 ~~person signing for the delivery shall be retained by the licensee for one year.~~

19 ~~Any licensee who delivers alcoholic beverages to a person under twenty-one years old is~~
20 ~~subject to a civil penalty of one thousand dollars for a first offense and two thousand dollars~~
21 ~~for a second or subsequent offense. Any money collected pursuant to this section shall be~~
22 ~~deposited in the general fund.~~

23 **Section 1.** That a NEW SECTION be added:

1 **35-4-127.1. Off-sale delivery with food license.**

2 A licensee licensed pursuant to subdivision 35-4-2(3) or (5) may apply for an off-
3 sale delivery license with food as provided by subdivision 35-4-2(24) to deliver alcoholic
4 beverages together with food and good ingredients as defined in § 10-45-1 to a consumer
5 within the boundaries of the municipality that issued the off-sale license. The order for the
6 delivery of alcoholic beverages shall be placed with the off-sale delivery licensee before
7 noon on the day of delivery.

8 The delivery shall be made during hours of operation pursuant to § 35-4-81.2 by
9 an employee of the licensee who is at least twenty-one years old. The employee shall
10 obtain the signature of a person twenty-one years old or older before delivery of the
11 shipment. The employee shall request that the person signing for the delivery display a
12 valid age-bearing photo identification document issued by this state, another state, or the
13 federal government verifying that the person is twenty-one years old or older.
14 Documentation verifying the identification of the person signing for the delivery shall be
15 retained by the licensee for one year.

16 Any licensee who delivers alcoholic beverages to a person under twenty-one years
17 old is subject to a civil penalty of one thousand dollars for a first offense and two thousand
18 dollars for a second or subsequent offense. Any money collected pursuant to this section
19 shall be deposited in the general fund.

20 **Section 2.** That § 35-4-2 be AMENDED:

21 **35-4-2. Classes of licenses enumerated--Fees.**

22 The classes of licenses, with the fee of each class, are as follows:

- 23 (1) ~~Repealed by SL 2018, ch 223, § 13;~~
- 24 (2) ~~Wholesalers of alcoholic beverages--five thousand dollars;~~
- 25 (3) ~~Off-sale--not less than three hundred dollars. The renewal fee for the license may~~
26 ~~not exceed five hundred dollars;~~
- 27 (4) ~~On-sale--not less than one dollar for each person residing within the municipality~~
28 ~~as measured by the last preceding federal census. The renewal fee for the license~~
29 ~~may not exceed fifteen hundred dollars;~~
- 30 (5) ~~Off-sale licenses issued to municipalities under local option--not less than two~~
31 ~~hundred fifty dollars;~~
- 32 (6) ~~On-sale licenses issued outside municipalities--not less than the amount the nearest~~
33 ~~municipality to the applicant is charging for a like license. The renewal fee shall be~~
34 ~~the same as is charged for a like license in the nearest municipality. If the~~

- 1 municipality to which the applicant is nearest holds an on-sale license, pursuant to
2 § 35-3-13 and does not charge a specified fee, then the fee shall be the minimum
3 amount that could be charged as if the municipality had not been authorized to
4 obtain on-sale licenses pursuant to § 35-3-13. The renewal fee shall be the same
5 as could be charged for a like license in the nearest municipality;
- 6 (7) Repealed by SL 2018, ch 213, § 46;
- 7 (8) Transportation companies--twenty-five dollars;
- 8 (9) Carrier--one hundred dollars. The fee licenses all conveyances the licensee operates
9 in this state;
- 10 (10) Repealed by SL 2018, ch 213, § 46;
- 11 (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;
- 12 (12) Wine and cider retailers, being both package dealers and on-sale dealers--five
13 hundred dollars;
- 14 (13) Convention facility on-sale--not less than one dollar for each person residing within
15 the municipality as measured by the last preceding federal census. The renewal fee
16 for the license may not exceed fifteen hundred dollars;
- 17 (14) Repealed by SL 2018, ch 224, § 11;
- 18 (15) Wholesalers of malt beverages--four hundred dollars;
- 19 (16) Malt beverage and wine produced by a farm winery licensee, being both package
20 dealers and on-sale dealers--three hundred dollars;
- 21 (17) Repealed by SL 2018, ch 213, § 46;
- 22 (17A) Repealed by SL 2018, ch 213, § 46;
- 23 (18) Repealed by SL 2018, ch 213, § 46;
- 24 (19) Repealed by SL 2018, ch 213, § 46 and ch 222, § 11;
- 25 (20) Repealed by SL 2018, ch 213, § 46;
- 26 (21) Retail on premises manufacturer--two hundred fifty dollars;
- 27 (22) Repealed by SL 2018, ch 223, § 13;~~and~~
- 28 (23) Off-sale delivery--one hundred fifty dollars; and
- 29 (24) Off-sale delivery with food--one hundred fifty dollars.