

Committee: House Commerce and Energy

Friday, February 21, 2020 10:00 AM

Roll Call

Present: Rep. Beal, Rep. Chris Johnson, Rep. Milstead, Rep. Miskimins, Rep. Perry,
Rep. Wangsness, Rep. Weis, Rep. Willadsen, Rep. Zikmund, Rep. Sullivan,
Rep. Gosch, and Rep. Rounds
Excused: Rep. McCleerey

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Rounds

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 19TH

Moved by: Perry
Second by: Miskimins
Action: Prevailed by voice vote

MOTION: AMEND HB 1231

1231A

On page 1, line 1, of the Introduced bill, delete "modify " and insert "subject premium cigars to a "
On page 1, line 1, of the Introduced bill, delete " provisions pertaining to premium cigars" and insert "
cap"
On page 1, line 4, of the Introduced bill, after "Dakota:" delete "Section 1. That a NEW SECTION be
added:
"
On page 1, line 5, of the Introduced bill, after "added:" delete "Tax on sale of premium cigars."
On page 1, line 5, of the Introduced bill, after "cigars." delete "
In lieu of the tax levied by § 10-50-61, a tax of fifty cents per premium cigar sold is imposed and shall
be added to the amount of tax otherwise imposed under § 10-45-2 on the sale of any
premium cigar.
For purposes of this section, the term, premium cigar, has the same meaning as provided in § 10-50-
1."
On page 2, line 16, of the Introduced bill, delete " and " and insert ", "
On page 2, line 16, of the Introduced bill, after "upon " insert "a dealer without a physical presence in
this state who sells, ships, or transports a premium cigar to a consumer in this state,
and upon "
On page 2, line 17, of the Introduced bill, delete " thereof, at the" and insert " of tobacco products.
The"
On page 2, line 18, of the Introduced bill, after "of " insert "tax imposed under this section is "
On page 2, line 18, of the Introduced bill, after "of" delete " such"
On page 2, line 18, of the Introduced bill, after "such " insert "the "
On page 2, line 18, of the Introduced bill, after "products" insert ", except a premium cigar is subject
to a cap of fifty cents per premium cigar"
On page 2, line 19, of the Introduced bill, after "imposed " insert "upon a dealer without a physical
presence in this state "
On page 2, line 19, of the Introduced bill, delete " the" and insert " an order for a premium cigar is
placed by or for a consumer in this state and upon a"
On page 2, line 19, of the Introduced bill, after "wholesaler " insert "at the time the distributor or
wholesaler "
On page 2, line 25, of the Introduced bill, delete "Notwithstanding the provisions of this section, no
tax is imposed under this section upon any premium cigar that is subject to sales tax
pursuant to § 10-45-2. 10" and insert

On page 2, line 26, of the Introduced bill, after "§ 10-45-2.10" delete the period

On page 2, line 27, of the Introduced bill, after "10-45-2.10.

Any " insert "dealer without a physical presence in this state, "

On page 2, line 27, of the Introduced bill, after "distributor" insert the comma

Moved by: Willadsen

Second by: Chris Johnson

Action: Prevailed by voice vote

HB 1231 : authorize premium cigars to be shipped and transported and modify tax provisions pertaining to premium cigars.

Proponents: Jeremy Pankratz, Premier Cigar Association

MOTION: DEFER HB 1231 UNTIL MONDAY, FEBRUARY 24TH, 2020

MOTION: AMEND HB 1265

1265A

On page 1, line 2, of the Introduced bill, after "beverages" insert " together with food products"

On page 1, line 4, of the Introduced bill, after "Dakota:" delete "Section 1. That § 35-4-127 be AMENDED:

"

On page 1, line 5, of the Introduced bill, after "AMENDED:" delete "35-4-127. "

On page 1, line 5, of the Introduced bill, after "35-4-127. " delete "Off-sale delivery license. "

On page 1, line 5, of the Introduced bill, after "license. " delete "

A licensee licensed pursuant to subdivision 35-4-2(3) or (5) may apply for an off-sale delivery license as provided by subdivision 35-4-2(23) to deliver alcoholic beverages to a consumer within the boundaries of the municipality that issued the off-sale license. The alcoholic beverage for delivery shall be purchased in person and on-site at the licensee's off-sale premises. The minimum purchase of alcoholic beverages shall be one hundred fifty dollars. The delivery shall be made during hours of operation pursuant to § 35-4-81. 2 by an employee of the licensee who is at least twenty-one years old. The employee shall obtain the signature of a person twenty-one years old or older before delivery of the shipment. The employee shall request that the person signing for the delivery display a valid age-bearing photo identification document issued by this state, another state, or the federal government verifying that the person is twenty-one years old or older. Documentation verifying the identification of the person signing for the delivery shall be retained by the licensee for one year.

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

After page 1, line 22, of the Introduced bill, insert "

Section 1. That a NEW SECTION be added:

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

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

The delivery shall be made during hours of operation pursuant to § 35-4-81.2 by an employee of the licensee who is at least twenty-one years old. The employee shall obtain the signature of a person twenty-one years old or older before delivery of the shipment. The employee shall request that the person signing

for the delivery display a valid age-bearing photo identification document issued by this state, another state, or the federal government verifying that the person is twenty-one years old or older. Documentation verifying the identification of the person signing for the delivery shall be retained by the licensee for one year.

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

"

After page 1, line 22, of the Introduced bill, insert "

Section 2. That § 35-4-2 be AMENDED:

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

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

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

- (23) Off-sale delivery--one hundred fifty dollars; and
- (24) Off-sale delivery with food--one hundred fifty dollars.

"

Moved by: Beal
 Second by: Perry
 Action: Prevailed by voice vote

HB 1265 : revise provisions regarding off-sale delivery licenses for the delivery of alcoholic beverages.

Presented by: Representative Tim Rounds
 Proponents: Larry Nelson, HyVee
 Opponents: Matt Krogman, SD License Beverage Dealers and Gaming Association
 Jason Evans, Department of Revenue

MOTION: AMEND THE PENDING AMENDMENT

1265B

On the previously adopted amendment (1265A), On page 2, line 4, delete "good " and insert "food "
 On the previously adopted amendment (1265A), On page 2, line 4, delete "§" and insert " subdivision"
 On the previously adopted amendment (1265A), On page 2, line 4, after "10-45-1" insert "(5)"

Moved by: Milstead
 Second by: Sullivan
 Action: Prevailed by voice vote

MOTION: DEFER HB 1265 TO THE 41ST LEGISLATIVE DAY

Moved by: Milstead
 Second by: Perry
 Action: Prevailed by roll call vote (8-4-1-0)

Voting Yes: Beal, Chris Johnson, Milstead, Miskimins, Perry, Wangsness, Weis, and Zikmund

Voting No: Willadsen, Sullivan, Gosch, and Rounds

Excused: McCleerey

MOTION: AMEND HB 1283

1283B

On page 1, line 1, of the Introduced bill, delete "revise the liability of a guarantor" and insert "require notice of a cross default clause"

After page 1, line 2, of the Introduced bill, insert "

Section 1. That a NEW SECTION be added:

56-1-29. Cross-default clause—Notice.

If a loan agreement contains a cross-default clause, the lender shall, at the time of signing, provide the borrower and any co-signor with a separate notice that:

- (1) Reprints the cross-default clause in its entirety, in at least 10-point bold type;
- (2) Contains a plain-language summary of the rights and duties created by the clause; and

(3) Provides for a signature line wherein the borrower acknowledges that the borrower has been made aware of the provision by the lender and that the borrower comprehends and knowingly accepts the potential consequences of the clause.

A cross-default clause that is not supported by the notice requirements of this section is void and unenforceable.

"

Moved by: Gosch
Second by: Weis
Action: Prevailed by voice vote

HB 1283 : revise the liability of a guarantor.

Presented by: Representative Kevin Jensen (Handout(s) 1, 2, 3)
Opponents: Brett Koenecke, South Dakota Bankers Association, Pierre
Dean Krogman, Independent Community Bankers Association
Bret Afdahl, Department of Labor and Regulation

MOTION: DEFER HB 1283 TO THE 41ST LEGISLATIVE DAY

Moved by: Willadsen
Second by: Miskimins
Action: Prevailed by roll call vote (7-5-1-0)

Voting Yes: Milstead, Miskimins, Perry, Wangsness, Willadsen, Zikmund, and Rounds

Voting No: Beal, Chris Johnson, Weis, Sullivan, and Gosch

Excused: McCleerey

MOTION: ADJOURN

Moved by: Gosch
Second by: Weis
Action: Prevailed by voice vote

Jean Denton, Committee Secretary

/s/ TIM ROUNDS
Tim Rounds, Chair