

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

717E0623

SENATE BILL NO. 162

Introduced by: Senators Diedrich (Larry), Brosz, Brown (Arnold), Daugaard, Vitter, and Whiting and Representatives Pitts, Begalka, Brown (Richard), Clark, Fryslie, Hanson (Gary), Hargens, Holbeck, Jensen, Lintz, and Murschel

1 FOR AN ACT ENTITLED, An Act to permit farm wineries to hold an off-sale package wine
2 license.

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

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

- 6 (1) Distillers ---- four thousand dollars. However, no license fee is required for
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
9 dispose of alcohol for any use other than an industrial use, the license fee required by
10 this section shall be allocated to and payable for the portion of the year the
11 manufacturer devoted to such other use for each calendar month or fraction thereof
12 while so engaged, but in no case less than one-twelfth of said license fee;
- 13 (2) Wholesalers of alcoholic beverages ---- five thousand dollars;
- 14 (3) Off-sale ---- not to exceed five hundred dollars in municipalities of the first class, four

1 hundred dollars in municipalities of the second class, and three hundred dollars in
2 municipalities of the third class;

3 (4) On-sale ---- in municipalities of various classes: municipalities of the first class, not
4 less than one dollar for each person residing within the municipality as measured by
5 the last preceding federal census, the renewal fee for such license is fifteen hundred
6 dollars; municipalities of the second class, no more than twelve hundred dollars;
7 municipalities of the third class, no more than nine hundred dollars;

8 (5) Off-sale licenses issued to municipalities under local option ---- two hundred fifty
9 dollars;

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

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

- 1 (8) Transportation companies ---- twenty-five dollars;
- 2 (9) Carrier ---- one hundred dollars, which fee shall entitle the licensee to sell or serve
3 alcoholic beverages on all conveyances they operate within the state;
- 4 (10) Dispensers ---- ten dollars;
- 5 (11) On-sale dealers at publicly operated airports ---- two hundred fifty dollars;
- 6 (12) On-sale dealers in wine for Sunday ---- five hundred dollars;
- 7 (13) Convention facility on-sale ---- not less than one dollar for each person residing within
8 the municipality as measured by the last preceding federal census, the renewal fee for
9 such license, in municipalities of the first class, is fifteen hundred dollars; the renewal
10 fee for such license, in municipalities of the second class, is no more than twelve
11 hundred dollars; the renewal fee for such license, in municipalities of the third class,
12 is no more than nine hundred dollars;
- 13 (14) Manufacturers of malt beverages ---- five hundred dollars;
- 14 (15) Wholesalers of malt beverages ---- four hundred dollars;
- 15 (16) Malt beverage retailers, being both package dealers and on-sale dealers ---- two
16 hundred fifty dollars;
- 17 (17) Malt beverage package dealers ---- one hundred fifty dollars; ~~and~~
- 18 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
19 for each day of the week between the hours of seven o'clock a.m. and two o'clock
20 a.m. to nonprofit corporations established pursuant to chapter 7-27 ---- two hundred
21 dollars; and
- 22 (19) Off-sale package wine dealers in table wines, sparkling wines, and sacramental wine
23 to be operated in conjunction with a farm winery established pursuant to chapter 35-
24 12 ---- one hundred fifty dollars.

1 Section 2. That § 35-4-6 be amended to read as follows:

2 35-4-6. Except as provided in subdivisions 35-4-2(16)~~and~~, (17), and (19), off-sale licenses
3 ~~shall~~ may be issued under this chapter only to operate within ~~municipalities~~ a municipality.

4 Section 3. That § 35-4-11.1 be amended to read as follows:

5 35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county
6 commissioners shall on or before the first of September in each year determine the number of
7 on-sale licenses it will approve for the ensuing calendar year and the fees to be charged for the
8 various classifications of licenses. The number of licenses issued may not exceed three for the
9 first one thousand of population and may not exceed one for each additional fifteen hundred of
10 population or fraction thereof, the population to include only those residing within the county
11 but outside the incorporated municipalities and improvement districts, created pursuant to
12 chapter 7-25A, within the county. However, any license issued in an improvement district prior
13 to July 1, 2000, shall be included when calculating the total number of licenses that may be issued
14 by the county where the improvement district is located. No licensee regularly licensed to do
15 business on July 1, 1981, may be denied reissuance of a license in subsequent years solely by
16 reason of any limitations, based upon population quotas, of the number of licenses authorized
17 or established under the provisions of this title. Licenses issued to concessionaires, and lessees
18 of the State of South Dakota, within the boundaries of state parks, prior to January 1, 1983, may
19 be subtracted when calculating the total number of licenses permitted in this section. The quotas
20 established in this section do not apply to licenses issued pursuant to subdivisions 35-4-2(16)
21 ~~and~~, (17), and (19).

22 Section 4. That § 35-4-81.1 be amended to read as follows:

23 35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3)~~and~~, (5), and (19), may
24 sell, or allow to be sold, alcoholic beverages between the hours of twelve o'clock p.m. and seven

1 ~~o'clock~~ a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine on
2 Memorial Day or Christmas Day. In addition, no off-sale licensee may sell, or allow to be sold,
3 alcoholic beverages on Sunday unless the municipality or the county by ordinance allows such
4 sales on Sunday.

5 Section 5. That chapter 35-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The holder of a farm winery license may also hold on the premises where the wine is
8 produced, an off-sale license issued pursuant to subdivision 35-4-2(19).