

AN ACT

ENTITLED, An Act to permit farm wineries to hold an off-sale package wine license.

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

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

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

- (1) Distillers ---- four thousand dollars. However, no license fee is required for manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or dispose of alcohol for any use other than an industrial use, the license fee required by this section shall be allocated to and payable for the portion of the year the manufacturer devoted to such other use for each calendar month or fraction thereof while so engaged, but in no case less than one-twelfth of said license fee;
- (2) Wholesalers of alcoholic beverages ---- five thousand dollars;
- (3) Off-sale ---- not to exceed five hundred dollars in municipalities of the first class, four hundred dollars in municipalities of the second class, and three hundred dollars in municipalities of the third class;
- (4) On-sale ---- in municipalities of various classes: municipalities of the first class, not less than one dollar for each person residing within the municipality as measured by the last preceding federal census, the renewal fee for such license is fifteen hundred dollars; municipalities of the second class, no more than twelve hundred dollars; municipalities of the third class, no more than nine hundred dollars;
- (5) Off-sale licenses issued to municipalities under local option ---- two hundred fifty dollars;
- (6) On-sale licenses issued outside municipalities ---- except as provided in § 35-4-11.9, not less than the maximum that the municipality to which the applicant is nearest is charging

for a like license in that municipality, the renewal fee shall be the same as is charged for a like license in the nearest municipality. However, if the nearest municipality is more than fifteen miles from the on-sale license, the fee shall be established pursuant to § 35-4-11.10. 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 maximum amount that could be charged as if the municipality had not been authorized to obtain on-sale licenses pursuant to § 35-3-13. However, if the nearest municipality is a municipality of the first class and is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be more than one hundred fifty percent of the minimum a municipality not so authorized may charge for a like license. The renewal fee shall be the same as could be charged for a like license in the nearest municipality;

- (7) Solicitors ---- twenty-five dollars;
- (8) Transportation companies ---- twenty-five dollars;
- (9) Carrier ---- one hundred dollars, which fee shall entitle the licensee to sell or serve alcoholic beverages on all conveyances they operate within the state;
- (10) Dispensers ---- ten dollars;
- (11) On-sale dealers at publicly operated airports ---- two hundred fifty dollars;
- (12) On-sale dealers in wine for Sunday ---- 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 such license, in municipalities of the first class, is fifteen hundred dollars; the renewal fee for such license, in municipalities of the second class, is no more than twelve hundred dollars; the renewal fee for such license, in municipalities of the third class, is no more than nine hundred dollars;

- (14) Manufacturers of malt beverages ---- five hundred dollars;
- (15) Wholesalers of malt beverages ---- four hundred dollars;
- (16) Malt beverage retailers, being both package dealers and on-sale dealers ---- two hundred fifty dollars;
- (17) Malt beverage package dealers ---- one hundred fifty dollars;
- (18) On-sale dealers in light wine containing not more than six percent alcohol by weight for each day of the week between the hours of seven o'clock a.m. and two o'clock a.m. to nonprofit corporations established pursuant to chapter 7-27 ---- two hundred dollars; and
- (19) Off-sale package wine dealers in table wines, sparkling wines, and sacramental wine to be operated in conjunction with a farm winery established pursuant to chapter 35-12 ---- one hundred fifty dollars.

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

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

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

35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county commissioners shall on or before the first of September in each year determine the number of on-sale licenses it will approve for the ensuing calendar year and the fees to be charged for the various classifications of licenses. The number of licenses issued may not exceed three for the first one thousand of population and may not exceed one for each additional fifteen hundred of population or fraction thereof, the population to include only those residing within the county but outside the incorporated municipalities and improvement districts, created pursuant to chapter 7-25A, within the county. However, any license issued in an improvement district prior to July 1, 2000, shall be included when calculating the total number of licenses that may be issued by the county where the

improvement district is located. No licensee regularly licensed to do business on July 1, 1981, may be denied reissuance of a license in subsequent years solely by reason of any limitations, based upon population quotas, of the number of licenses authorized or established under the provisions of this title. Licenses issued to concessionaires, and lessees of the State of South Dakota, within the boundaries of state parks, prior to January 1, 1983, may be subtracted when calculating the total number of licenses permitted in this section. The quotas established in this section do not apply to licenses issued pursuant to subdivisions 35-4-2(16), (17), and (19).

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

35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3), (5), and (19), may sell, or allow to be sold, alcoholic beverages between the hours of twelve midnight and seven a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine on Memorial Day or Christmas Day. In addition, no off-sale licensee may sell, or allow to be sold, alcoholic beverages on Sunday unless the municipality or the county by ordinance allows such sales on Sunday.

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

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

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I certify that the attached Act  
originated in the

SENATE as Bill No. 162

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 162  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State