



2021 South Dakota Legislature  
**Senate Bill 109**  
**ENROLLED**

AN ACT

**ENTITLED An Act to authorize certain interstate shipments of distilled spirits, to provide for the collection of taxes, and to establish certain penalties.**

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

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

**35-13A-1. Purchase of distilled spirits not in distribution in state--Ordering procedures--Delivery.**

Notwithstanding any other provision of law, any person who is at least twenty-one years of age may purchase and receive distilled spirits from another state as provided in this section if the distilled spirits are not in distribution in this state. The person may place an order with a licensee as defined in subdivision 35-4-2(3) or (5). The licensee shall order the distilled spirits through a wholesaler licensed pursuant to subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of the distilled spirits. The licensee shall inform the purchaser of the cost of the distilled spirits, the amount of any tax that would apply to the purchase pursuant to § 35-5-3, the amount of sales tax that would apply, and the amount of charges for freight and handling. The licensee shall collect the total amount due from the customer before ordering the distilled spirits through the wholesaler. After receiving the order for the distilled spirits from the licensed retailer, the wholesaler shall arrange for the distilled spirits to be shipped directly to the licensee who placed the order for the purchaser. Distilled spirits purchased pursuant to this Act may only be delivered and received by the purchaser from a licensee as defined in subdivision 35-4-2(3) or (5).

**Section 2.** That a NEW SECTION be added:

**35-13A-2. No registration fee for certain annual purchase totals.**

If the wholesaler orders three or less cases of a particular brand of distilled spirits for an individual purchaser in one calendar year pursuant to this Act, no registration fee pursuant to chapter 39-13 may be imposed.

**Section 3.** That a NEW SECTION be added:

**35-13A-3. Limit on distilled spirits received from another state for personal use--Resale prohibited--Certain licensee sales allowed--Violation a misdemeanor--Department of Revenue to promulgate rules.**

No person may receive for personal use more than three cases of distilled spirits, containing no more than nine liters per case, in any calendar year from another state under this chapter. No person who receives distilled spirits under this Act may resell any of the distilled spirits. However, if the delivery of the distilled spirits does not result in a completed sale to the person who placed the original order, the licensee may sell the distilled spirits in the ordinary course of business. It is a Class 2 misdemeanor for any person to receive more than three cases of distilled spirits during a calendar year in violation of this Act. It is a Class 2 misdemeanor for any person to resell or attempt to resell any distilled spirits obtained pursuant to this Act. The Department of Revenue shall promulgate rules, pursuant to chapter 1-26, to provide for the reporting and tracking of information related to the sale of distilled spirits under this Act and to prescribe forms for the implementation of this Act.

An Act to authorize certain interstate shipments of distilled spirits, to provide for the collection of taxes, and to establish certain penalties.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
Senate as Bill No. 109

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2021 at \_\_\_\_\_ M.

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

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

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

The attached Act is hereby  
approved this \_\_\_\_ day of  
\_\_\_\_\_, A.D., 2021

Attest:

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

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

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

Attest:

Filed \_\_\_\_\_, 2021  
at \_\_\_\_\_ o'clock \_\_ M.

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

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

Senate Bill No. 109  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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