



2023 South Dakota Legislature

Senate Bill 108

Introduced by: **Senator Nesiba**

1 **An Act to provide an educational exception to consumption prohibitions for persons**
 2 **over eighteen years of age who are required to taste an alcoholic beverage**
 3 **as part of a course.**

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

5 **Section 1. That § 35-1-14 be AMENDED:**

6 **35-1-14.** As used in this section, the term, postsecondary institution, includes any
 7 postsecondary institution, technical institute, or private college or university located within
 8 this state.

9 A postsecondary institution may produce up to two hundred gallons of distilled
 10 spirits, up to two hundred gallons of malt beverage, and up to two hundred gallons of wine
 11 each year, and securely store up to two hundred gallons of each at any given time, for
 12 purposes of research and offering bona fide educational courses instructing students in
 13 the production and serving of distilled spirits, malt beverage, or wine. A postsecondary
 14 institution is not deemed a manufacturer or retailer under this title. Only students enrolled
 15 in a course, faculty, researchers, or research participants directly involved in the purposes
 16 of this section may consume alcohol produced under this section.

17 The production and storage of alcohol under this section is exempt from any
 18 licensing required by this title, or any tax or fee imposed by this title. Any distilled spirits,
 19 malt beverage, or wine produced under this section may only be consumed for classroom
 20 instruction or research and may not be donated, sold, or offered for sale.

21 ~~No person under age twenty one may be a student in a course offered under this~~
 22 ~~section, nor may any person under the age of twenty one consume distilled spirits, malt~~
 23 ~~beverage, or wine produced under this section.~~

24 **Section 2. That § 35-9-1.1 be AMENDED:**

1 **35-9-1.1.** It is a Class 2 misdemeanor to sell or give for use as a beverage any
2 alcoholic beverage to any person who is eighteen years of age or older but less than
3 twenty-one years of age unless it is done in compliance with section 2 of this Act, in the
4 immediate presence of a parent or guardian or spouse over twenty-one years of age, or
5 by prescription or direction of a duly licensed practitioner or nurse of the healing arts for
6 medicinal purposes.

7 However, no licensee is civilly liable to any injured person or the injured person's
8 estate for any injury suffered, including any action for wrongful death, or property damage
9 suffered because of the sale or consumption of any alcoholic beverage in violation of the
10 provisions of this section.

11 **Section 3. That chapter 35-9 be amended with a NEW SECTION:**

12 Sections 35-9-1.1 and 35-9-2 do not apply when an alcoholic beverage is provided
13 to a student who:

14 (1) Is eighteen years of age or older;

15 (2) Is enrolled in an accredited college or university;

16 (3) Is a student in a culinary course; and

17 (4) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or
18 other similar malt or fermented beverage for instructional purposes during a class
19 that is part of the curriculum of an accredited college or university.

20 This section only applies if the alcoholic beverage tasted for instructional purposes
21 remains in the possession and control of an authorized instructor of the college or
22 university who is twenty-one years of age or older.

23 **Section 4. That § 35-9-2 be AMENDED:**

24 **35-9-2.** It is a Class 2 misdemeanor for any person under the age of twenty-one
25 years to purchase, attempt to purchase, or possess or consume alcoholic beverages, ~~or~~
26 except pursuant to § 35-9-1.1, section 2 of this Act, or when consumed in a religious
27 ceremony and given to the person by an authorized person, ~~or~~ or to misrepresent ~~his or her~~
28 the person's age with the use of any document for the purpose of purchasing or attempting
29 to purchase alcoholic beverages from any licensee licensed under this title.