

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

297X0277

HOUSE BILL NO. 1092

Introduced by: Representatives Willadsen, Hunhoff (Jean), Kirschman, and Stevens and
Senators Hunhoff (Bernie) and Tidemann

1 FOR AN ACT ENTITLED, An Act to revise requirements for local permits for the sale and
2 consumption of alcoholic beverages on certain property abutting licensed establishments.

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

4 Section 1. That § 35-4-77.1 be amended to read:

5 35-4-77.1. Notwithstanding the provisions of § 35-4-75, the governing body of the
6 municipality charged with the approval of alcoholic beverage license issuance may, by
7 ordinance, permit the sale and consumption of alcoholic beverages on a sidewalk, parking space,
8 or walkway subject to a public right-of-way abutting a licensed premises, ~~provided that the~~
9 ~~license holder derives more than fifty percent of its gross receipts from the sale of prepared food~~
10 ~~for consumption on the licensed premises~~. The sidewalk, parking space, or walkway subject to
11 a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This
12 section does not apply to any federal-aid eligible highway unless approved in accordance with
13 the applicable requirements for the receipt of federal aid.

14 Nothing ~~contained~~ in this section prevents the governing body from imposing conditions or
15 restrictions that it deems appropriate.



1 The sidewalk, parking space, or walkway subject to a public right-of-way where the sale and
2 consumption of alcoholic beverages is permitted does not constitute a public place as defined
3 in § 35-1-5.3, if the sidewalk, parking space, or walkway subject to a public right-of-way has
4 been properly authorized for sale and consumption of alcoholic beverages pursuant to this
5 section. The hours of authorized sale and consumption on the sidewalk, parking space, or
6 walkway subject to a public right-of-way as provided by this section shall be consistent with the
7 hours permitted for the on-sale license.

8 A violation of any provision of Title 35 by an alcoholic beverage license holder conducting
9 business on a sidewalk, parking space, or walkway subject to a public right-of-way pursuant to
10 this section constitutes a violation of Title 35 as if the violation had occurred in or on the
11 licensed premises.