

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

297X0277

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1092** - 01/28/2016

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 or walkway
8 subject to a public right-of-way abutting a licensed premises, ~~provided that the license holder~~
9 ~~derives more than fifty percent of its gross receipts from the sale of prepared food for~~
10 ~~consumption on the licensed premises.~~ The sidewalk or walkway subject to a public right-of-
11 way shall be immediately adjacent to and abutting the licensed premises. This section does not
12 apply to any federal-aid eligible highway unless approved in accordance with the applicable
13 requirements for the receipt of federal aid.

14 Nothing ~~contained~~ in this section prevents the governing body from imposing conditions or



1 restrictions that it deems appropriate.

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