

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

495R0080

## HOUSE BILL NO. 1002

Introduced by: Representatives Turbiville and Lederman and Senators Nelson, Maher, Olson (Russell), and Tieszen at the request of the Interim Committee on Alcoholic Beverage Control and Licensing Laws

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the days and hours  
2 that alcoholic beverages may be sold on a licensed premise and who may sell, serve, or  
3 dispense alcoholic beverages on a licensed premise.

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

5 Section 1. That § 35-4-81 be amended to read as follows:

6 35-4-81. No on-sale or off-sale licensee, licensed under subdivisions 35-4-2(3), (4), (5), (6),  
7 (9), (11), ~~and (12)~~, (13), (16), (17), (17A), (18), and (19), may sell, serve, or allow to be  
8 consumed on the premises covered by the license, alcoholic beverages between the hours of two  
9 a.m. and seven a.m. ~~or on Sunday after two a.m., on Memorial Day after two a.m., or at any time~~  
10 ~~on Christmas Day~~. A violation of this section is a Class 2 misdemeanor.

11 Section 2. That § 35-4-81.1 be repealed.

12 ~~—35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3), (5), and (19), may~~  
13 ~~sell, or allow to be sold, alcoholic beverages between the hours of twelve midnight and seven~~  
14 ~~a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine on Memorial Day~~



1 ~~or Christmas Day. In addition, no off-sale licensee may sell, or allow to be sold, alcoholic~~  
2 ~~beverages on Sunday unless the municipality or the county by ordinance allows such sales on~~  
3 ~~Sunday.~~

4 Section 3. That § 35-4-81.2 be repealed.

5 ~~— 35-4-81.2. No licensee licensed under subdivisions 35-4-2(16) and (17) may sell, serve, or~~  
6 ~~allow to be consumed on the premises covered by the license, any malt beverage between the~~  
7 ~~hours of two a.m. and seven a.m. No licensee licensed under subdivision 35-4-2(12) may sell,~~  
8 ~~serve, or allow to be consumed on the premises covered by the license, any wine between the~~  
9 ~~hours of two a.m. and seven a.m. A violation of this section is a Class 2 misdemeanor.~~

10 Section 4. That § 35-4-79 be amended to read as follows:

11 35-4-79. No on-sale licensee may permit any person less than twenty-one years old to loiter  
12 on the licensed premises or to sell, serve, dispense, or consume alcoholic beverages on such  
13 premises. However, an on-sale licensee licensed pursuant to subdivision 35-4-2(4), (6), (11),  
14 (12), (13), or (16) may permit persons eighteen years old or older to sell and serve or dispense  
15 alcoholic beverages if ~~not~~ less than fifty percent of the gross business transacted by that  
16 establishment is from the sale of ~~food~~ alcoholic beverages and the licensee or an employee that  
17 is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or  
18 dispensed. For the purposes of this section, the term, "to sell and serve alcoholic beverages,"  
19 means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers  
20 as a normal adjunct of waiting tables. The term does not include tending bar or drawing or  
21 mixing alcoholic beverages.

22 A violation of this section is a Class 2 misdemeanor.

23 Section 5. That § 35-4-79.1 be amended to read as follows:

24 35-4-79.1. No off-sale licensee licensed under subdivision 35-4-2(3), (5), (17), or (17A) may

1 permit any person less than twenty-one years old to sell, serve, or dispense alcoholic beverages  
2 on the licensed premises unless such sales of alcoholic beverages constitutes less than fifty  
3 percent of the gross business transacted by that establishment. If alcoholic beverage sales  
4 constitute less than fifty percent of the gross business transacted by the establishment, the  
5 licensee may permit persons less than twenty-one years old to sell, serve, or dispense alcoholic  
6 beverages if the licensee or an employee that is at least twenty-one years of age is on the  
7 premises when the alcoholic beverage is sold or dispensed.

8 Section 6. That § 35-4-79.3 be repealed.

9 ~~— 35-4-79.3. No off-sale licensee licensed under subdivision 35-4-2(3) or (5) may permit any~~  
10 ~~person less than twenty-one years old to sell, serve, or dispense alcoholic beverages on the~~  
11 ~~licensed premises.~~