

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

382U0164

## HOUSE BILL NO. 1095

Introduced by: Representatives Hoffman, Feinstein, Greenfield, Heinert, May, Nelson, Olson (Betty), Russell, and Schoenfish and Senators Maher, Frerichs, Kirkeby, and Monroe

1 FOR AN ACT ENTITLED, An Act to exempt persons that have not been drinking from charges  
2 of open container in a motor vehicle.

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

4 Section 1. That § 35-1-9.1 be amended to read as follows:

5 35-1-9.1. It is a Class 2 misdemeanor for any person occupying a motor vehicle located upon  
6 a public highway or the right-of-way of a public highway to consume any alcoholic beverage  
7 or have a package or any receptacle containing an alcoholic beverage in that person's possession  
8 unless the seal of the original package remains unbroken or the alcoholic beverage is so  
9 removed from the passenger area of the motor vehicle that no occupant of the motor vehicle has  
10 access to it. However, no person may be charged pursuant to this section unless the law  
11 enforcement officer has probable cause to believe that alcohol has been consumed by some  
12 occupant of the vehicle and a chemical analysis of the occupant's breath or blood discloses there  
13 is alcohol in the person's body.

