

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0493

HOUSE COMMERCE AND ENERGY ENGROSSED NO. **HB 1146** - 2/7/2018

Introduced by: Representatives Kettwig, Barthel, Bartling, Chase, Duvall, Greenfield (Lana), Hawley, Howard, Johnson, Lesmeister, Lust, May, McCleerey, Mickelson, Mills, Otten (Herman), Pischke, Reed, Rozum, Willadsen, and Zikmund and Senators Sutton, Frerichs, Greenfield (Brock), Maher, Soholt, and Youngberg

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the consumption of
2 alcoholic beverages by passengers aboard vehicles operated by licensed carriers.

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

4 Section 1. That § 35-1-5.6 be amended to read:

5 35-1-5.6. It is a Class 2 misdemeanor for any person to consume any alcoholic beverage
6 upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from
7 the on-sale dealer. However, this provision does not apply to any passenger aboard a vehicle
8 operated by a licensed carrier.

9 Section 2. That chapter 35-1 be amended by adding a NEW SECTION to read:

10 Notwithstanding the provisions of § 35-1-5.6, a licensed carrier may permit a passenger to
11 bring sealed and unopened alcoholic beverages purchased from a South Dakota retailer aboard
12 the vehicle for consumption by the passenger aboard the vehicle operated by the carrier. Nothing
13 in this section may be construed to permit a licensed carrier to violate any other provision under



1 this title.

2 Section 3. That subdivision (3) of § 35-1-1 be amended to read:

3 (3) "Carrier," a person who for hire transports passengers and who sells or furnishes to
4 passengers for consumption alcoholic beverages aboard any means of conveyance or
5 allows passengers to consume the passenger's own alcoholic beverages aboard the
6 conveyance;

7 Section 4. That subdivision (9) of § 35-4-2 be amended to read:

8 (9) Carrier--one hundred dollars, which fee ~~entitles the licensee to sell or serve alcoholic~~
9 ~~beverages on~~ licenses all conveyances the licensee operates ~~within the~~ in this state
10 ~~unless restricted by local ordinance~~;

11 Section 5. That § 35-4-66 be amended to read:

12 35-4-66. Alcoholic beverages, except malt beverages, may be transported only:

13 (1) By ~~transporter licensees~~ licensed transporters in the course of delivery to persons
14 authorized under this title to receive ~~such~~ the alcoholic beverages;

15 (2) By distillers or ~~wholesale licensees~~ licensed wholesalers in the distiller's or wholesale
16 licensee's own vehicles, carrying the distiller's or wholesale licensee's own
17 merchandise;

18 (3) By ~~solicitor licensees, such~~ licensed solicitors, the transportation being limited to
19 samples, sealed or unsealed, of products for which orders are solicited;

20 (4) By individuals, interstate transportation being limited to alcoholic beverages in
21 quantities of one gallon or less, intrastate transportation not being restricted as to
22 quantity, but in either case the alcoholic beverages shall have been purchased by the
23 individuals for personal use only;

24 (5) By common carriers in interstate commerce if the shipment originates outside the

1 state and is destined for a point outside the state;

2 (6) By ~~carrier licensees~~ licensed carriers, as to that included in the stock in trade of the
3 licensees or purchased by passengers for personal use while on the conveyance;

4 (7) By established religious organizations, interstate transportation being limited to
5 alcoholic beverages in quantities of four gallons or less, intrastate transportation not
6 being restricted as to quantity, but in either case ~~such~~ the alcoholic beverages shall
7 have been purchased by ~~such~~ the established religious organizations for sacramental
8 use only; or

9 (8) By off-sale delivery licensees.