

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

930S0532

SENATE COMMERCE AND ENERGY
ENGROSSED NO. **SB 121** - 2/7/2011

Introduced by: Senators Nygaard, Fryslie, Maher, and Nelson (Tom) and Representatives Verchio, Jones, Kirkeby, Kopp, Nelson (Stace), and Turbiville

1 FOR AN ACT ENTITLED, An Act to authorize an alcoholic beverage retail license for certain
2 malt beverage and wine dealers.

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

4 Section 1. That § 35-4-2 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 Malt beverage retailers, being both package dealers and on-sale dealers, and retailers of wine
7 produced pursuant to chapter 35-12, being both package dealers and on-sale dealers—three
8 hundred twenty-five dollars;

9 Section 2. That § 35-2-25 be amended to read as follows:

10 35-2-25. No license granted pursuant to subdivisions 35-4-2(3), (4), (6), (12), (13), (16),
11 (17), and (17A) and section 1 of this Act and §§ 35-12-2 and 35-13-2 may be issued unless the
12 applicant has first obtained a sales tax license pursuant to chapter 10-45, or, if applicable, a use
13 tax license pursuant to chapter 10-46.

14 Section 3. That § 35-4-2.11 be amended to read as follows:



1 35-4-2.11. Fifty percent of all license and transfer fees received under the provisions of
2 subdivisions 35-4-2(16), (17), and (17A) and section 1 of this Act shall remain in the
3 municipality in which the licensee paying the fee is located, or if outside the corporate limits of
4 a municipality, then in the county in which the licensee is located. In addition, fifty percent of
5 wholesaler license fees received under subdivision 35-4-2(15) shall revert to the municipality
6 in which the licensee is located, or if outside the corporate limits of a municipality, then to the
7 county in which the licensee is located. The remainder of all license and transfer fees and
8 penalties received shall be credited to the state general fund.

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

10 35-4-79. No on-sale licensee may permit any person less than twenty-one years old to loiter
11 on the licensed premises or to sell, serve, dispense, or consume alcoholic beverages on such
12 premises. However, an on-sale licensee licensed pursuant to subdivision 35-4-2(4), (6), (11),
13 (12), (13), or (16) or section 1 of this Act may permit persons eighteen years old or older to sell
14 and serve or dispense alcoholic beverages if less than fifty percent of the gross business
15 transacted by that establishment is from the sale of alcoholic beverages and the licensee or an
16 employee that is at least twenty-one years of age is on the premises when the alcoholic beverage
17 is sold or dispensed. For the purposes of this section, the term, to sell and serve alcoholic
18 beverages, means to take orders for alcoholic beverages and to deliver alcoholic beverages to
19 customers as a normal adjunct of waiting tables. The term does not include tending bar or
20 drawing or mixing alcoholic beverages.

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

22 Section 5. That § 35-4-81.2 be amended to read as follows:

23 35-4-81.2. No licensee licensed under subdivisions 35-4-2(12), (16), (17), (17A), and (19)
24 and section 1 of this Act may sell, serve, or allow to be consumed on the premises covered by

- 1 the license, any alcoholic beverages between the hours of two a.m. and seven a.m. A violation
- 2 of this section is a Class 2 misdemeanor.