

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

870Q0143

SENATE COMMERCE ENGROSSED NO. **SB 77** - 2/10/2009

Introduced by: Senators Gant, Abdallah, Adelstein, Dempster, Gray, Haverly, Heidepriem, Knudson, Maher, Merchant, Miles, Nelson, and Nesselhuf and Representatives Dreyer, Brunner, Curd, Cutler, Elliott, Fargen, Gosch, Greenfield, Jensen, Kirkeby, Kirschman, Krebs, Lederman, Lust, Moser, Novstrup (David), Nygaard, Peters, Rausch, Rave, Rounds, Solberg, Solum, Turbiville, and Verchio

1 FOR AN ACT ENTITLED, An Act to repeal the maximum the number of off-sale alcoholic
2 beverage licenses that may be issued to any person, corporation, or business entity.

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

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

5 35-4-4. No person, corporation, or business entity may hold or have an interest in more than
6 three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13). However, a person,
7 corporation, or business entity may hold or have an interest in three additional retail licenses
8 issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the
9 licensee's annual gross receipts from the sale of food at the location where the license is held.
10 ~~Any person, corporation, or business entity may hold or have an interest in additional retail~~
11 ~~licenses issued under subdivision 35-4-2(3) in municipalities of the first class if the licensee~~
12 ~~derives more than fifty percent of the licensee's annual gross receipts from the sale of food,~~



1 ~~prepared food, and food ingredients at the location where the license is held. Any such new~~
2 ~~licensee under subdivision 35-4-2(3) shall sell its alcoholic beverages, other than malt~~
3 ~~beverages, in an area which is separated by a physical barrier from the rest of the establishment.~~
4 ~~For the purposes of this section, a physical barrier includes a wall or fence erected for the sole~~
5 ~~purpose of separating the area in which the alcoholic beverages are sold from the rest of the~~
6 ~~establishment. For purposes of this section, location means one contiguous piece of real estate~~
7 ~~on which sales are generated by the licensee.~~

8 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any person, corporation, or business entity that holds or has an interest in a retail license
11 issued under subdivision 35-4-2(3) after June 30, 2009, and derives less than fifty percent of the
12 licensee's annual gross receipts from the sale of alcoholic beverages at the location where the
13 license is held shall sell its alcoholic beverages, other than malt beverages, in an area which is
14 separated by a physical barrier from the rest of the establishment. For the purposes of this
15 section, a physical barrier includes a wall or fence erected for the sole purpose of separating the
16 area in which the alcoholic beverages are sold from the rest of the establishment.