

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

400V0286

## SENATE BILL NO. 39

Introduced by: The Committee on Transportation at the request of the Department of  
Transportation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation of  
2 certain open containers of alcoholic beverages.

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

4 Section 1. That § 35-1-5.7 be amended to read as follows:

5 35-1-5.7. Notwithstanding the provisions of § 35-1-5.6, a licensee that is licensed to sell  
6 wine on-sale may permit a customer to bring a sealed and unopened bottle of wine onto the  
7 licensed premises for consumption by the customer while eating a meal that was prepared by  
8 the licensee and that was served at a table on the licensed premises. The licensee may charge  
9 a corkage fee for serving wine supplied by a customer. The customer may carry out the  
10 unconsumed portion of the bottle of wine if it is securely resealed by the licensee with a cork  
11 or other similar cap and placed in a sealed bag or other container. The licensee shall also attach  
12 the receipt for the meal and any corkage fee to the bag or container. ~~A bottle of wine that is~~  
13 ~~recorked and sealed as provided in this section is not a violation of the provisions of § 35-1-9.1~~  
14 ~~if the cork and the seal have not been disturbed.~~

15 Section 2. That § 35-1-9.3 be amended to read as follows:



1 35-1-9.3. It is not a violation of § 35-1-9.1 if:

- 2 (1) An alcoholic beverage is located in a locked glove compartment of the motor vehicle;
- 3 (2) An open alcoholic beverage is behind the last upright seat of a motor vehicle that is
- 4 not equipped with a trunk or in an area not normally occupied by the driver or
- 5 passengers;
- 6 (3) ~~Ⓐ~~ An open alcoholic beverage is possessed by a passenger in a motor vehicle
- 7 maintained and used primarily for the transportation of persons for compensation
- 8 operated by a carrier defined in subdivision 35-1-1(3) is and licensed pursuant to
- 9 subdivision 35-4-2(9). The driver of such carrier is prohibited from possessing in the
- 10 driver compartment of the vehicle a package or receptacle containing an alcoholic
- 11 beverage if the original package seal has been broken.

12 Section 3. That § 35-1-9.4 be amended to read as follows:

13 35-1-9.4. A licensee that is licensed to sell wine on-sale may permit a customer to carry out

14 the unconsumed portion of a bottle of wine if the customer purchased the bottle of wine from

15 the licensee and consumed a portion of it with a meal that was prepared and served by the

16 licensee at a table on the licensed premises. The licensee shall securely reseal the bottle of wine

17 with a cork or other similar cap and place the bottle in a sealed bag or other container. The

18 licensee shall also attach a receipt for the meal and the wine to the bag or container. ~~A bottle of~~

19 ~~wine that is recorked and sealed as provided in this section is not a violation of the provisions~~

20 ~~of § 35-1-9.1 if the cork and the seal have not been disturbed.~~