

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

668Y0369

## HOUSE COMMERCE AND ENERGY ENGROSSED NO. **SB 81** - 2/24/2017

Introduced by: Senators Kolbeck, Bolin, Ewing, Frerichs, Greenfield (Brock), Haverly, Jensen (Phil), Kennedy, Klumb, Langer, Netherton, Otten (Ernie), Partridge, Rusch, Solano, Stalzer, and Tapio and Representatives Willadsen, Chase, Glanzer, Haggar, Haugaard, Holmes, Johns, Lesmeister, Qualm, Soli, and York

1 FOR AN ACT ENTITLED, An Act to prohibit the manufacture, sale, or possession of alcohol

2 in a powdered, condensed, or other concentrated form under most circumstances.

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

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

5 35-1-1. Terms used in this title mean:

6 (1) "Alcoholic beverage," any distilled spirits, wine and malt beverages as defined in this  
7 title;

8 (2) "Bulk container," any package, or any container within which container are one or  
9 more packages;

10 (3) "Carrier," a person who for hire transports passengers and who sells or furnishes to  
11 passengers for consumption alcoholic beverages aboard any means of conveyance;

12 (3A) "Cider," any alcoholic beverage obtained by the fermentation of the juice of apples  
13 or pears that contains not less than one-half of one percent of alcohol by volume and



1 not more than ten percent of alcohol by weight, including flavored, sparkling, or  
2 carbonated cider;

3 (3B) "Controlling interest in," a controlling interest in the licensee is an ownership interest  
4 of ten percent or more;

5 (4) "Department," the Department of Revenue of the State of South Dakota;

6 (5) "Dispenser," a duly licensed physician, dentist, veterinarian, osteopath, podiatrist,  
7 chiropractor, or pharmacist; or a druggist, sanitarium, hospital, clinic, educational  
8 institution, industrial company, or industrial corporation who purchases alcohol for  
9 scientific and medicinal purposes only;

10 (6) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey,  
11 rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures  
12 thereof, for nonindustrial use containing not less than one-half of one percent of  
13 alcohol by weight;

14 (7) "Distiller," any person who owns, has a controlling interest in, operates, or aids in  
15 operating any distillery or other establishment for the production, rectifying,  
16 blending, or bottling of distilled spirits;

17 (8) "Malt beverage," a beverage made by the alcoholic fermentation of an infusion or  
18 decoction, or combination of both, in potable brewing water, of malted barley with  
19 hops, or their parts, or their products, and with or without other malted cereals, and  
20 with or without the addition of unmalted or prepared cereals, other carbohydrates or  
21 products prepared therefrom, and with or without the addition of carbon dioxide, and  
22 with or without other wholesome products suitable for human consumption  
23 containing not less than one-half of one percent of alcohol by weight;

24 (9) "Manufacturer," any person who owns, has a controlling interest in, operates, or aids

1 in operating any establishment for the brewing, production, bottling, or blending of  
2 malt beverages or wine;

3 (10) "Minibar," any closed container, either refrigerated or nonrefrigerated, access to the  
4 interior of which is restricted by means of a locking device which requires the use of  
5 a key, magnetic card, or similar device, or controlled by the licensee at all times;

6 (11) "Municipality," any incorporated city or town, and any unincorporated platted town  
7 having a United States post office. However, the subsequent withdrawal of a United  
8 States post office does not affect the right of established liquor licenses to be  
9 continued, renewed, or transferred and does not prevent the owner or bona fide lessee  
10 of the licensed premises from receiving a renewal or reissuance of such license;

11 (12) "Off-sale," the sale of any alcoholic beverage, for consumption off the premises  
12 where sold;

13 (13) "On-sale," the sale of any alcoholic beverage for consumption only upon the premises  
14 where sold;

15 (14) "On-sale dealer," any person who sells, or keeps for sale, any alcoholic beverage for  
16 consumption on the premises where sold;

17 (15) "Package," the bottle or immediate container of any alcoholic beverage;

18 (16) "Package dealer," any person other than a distiller, manufacturer, or wholesaler, who  
19 sells, or keeps for sale, any alcoholic beverage for consumption off the premises  
20 where sold;

21 (17) "Population," number of inhabitants as determined by the last preceding federal  
22 census;

23 (17A) "Powdered, condensed, or concentrated alcohol," an alcoholic product that is created  
24 using a process that reduces the alcohol to a concentrated form and that allows the

- 1           alcohol to be reconstituted with water or other liquid;
- 2   ~~(17A)~~ (17B) "Relative," any person who is a husband, wife, son, daughter, brother, sister,
- 3           father, mother, uncle, aunt, nephew, niece, brother-in-law, sister-in-law, father-in-
- 4           law, mother-in-law, son-in-law, or daughter-in-law;
- 5   (18) "Retail license," an on- or off-sale license issued under the provisions of this title;
- 6   (19) "Retailer," or "retail dealer," any person who sells alcoholic beverages for other than
- 7           resale;
- 8   (20) "Sale," the transfer, for a consideration, of title to any alcoholic beverage;
- 9   (21) "Secretary," the secretary of revenue of the State of South Dakota;
- 10   (22) "Solicitor," any person employed by a licensed wholesaler within this state, or by any
- 11           distiller or manufacturer within or without this state, who contacts a wholesaler or
- 12           retail dealer within this state for the purpose of selling, promoting, or advertising
- 13           alcoholic beverages or for any other reason connected with the alcoholic beverage
- 14           industry but does not include employees of wholesale or transporter licensees who
- 15           only deliver such beverages;
- 16   (23) "Transportation company," or "transporter," any common carrier or operator of a
- 17           private vehicle transporting or accepting for transportation any alcoholic beverages,
- 18           but not including transportation by carriers in interstate commerce where the
- 19           shipment originates outside of the state and is destined to a point outside of the state;
- 20   (24) "Wholesaler," any person who sells alcoholic beverages to retailers for resale;
- 21   (25) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage
- 22           purposes, and obtained by the fermentation of the natural sugar content of fruits or
- 23           other agricultural products containing sugar and containing not less than one-half of
- 24           one percent of alcohol by weight but not more than twenty-four percent of alcohol

1           by weight.

2           Section 2. That chapter 35-4 be amended by adding a NEW SECTION to read:

3           Unless specifically allowed in this section, the manufacture, sale or possession of alcohol  
4           in a powdered, condensed, or other concentrated form as defined in § 35-1-1 or the sale or  
5           possession of an alcoholic beverage that is reconstituted from alcohol in a powdered, condensed,  
6           or other concentrated form is prohibited.

7           The provisions of this section do not apply to the following:

- 8           (1)   Any hospital that possesses a product defined in subdivision 35-1-1(17A) and that  
9                possession is primarily used for conducting scientific research; or  
10          (2)   Any state institution, private college or university, or pharmaceutical or biotechnical  
11                company that possesses a product defined in subdivision 35-1-1(17A) and that  
12                possession is primarily used for conducting bona fide research.

13          A violation of this section is a Class 1 misdemeanor.