

AN ACT

ENTITLED, An Act to revise the open container law.

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

Section 1. That § 35-1-9.1 be amended to read as follows:

35-1-9.1. It is a Class 2 misdemeanor for any person occupying a motor vehicle located upon a public highway or the right-of-way of a public highway to consume any alcoholic beverage or have a package or any receptacle containing an alcoholic beverage in that person's possession unless the seal of the original package remains unbroken or the alcoholic beverage is so removed from the passenger area of the motor vehicle that no occupant of the motor vehicle has access to it.

Section 2. Terms used in § 35-1-9.1 mean:

- (1) "Alcoholic beverage," any distilled spirits, wine, and malt beverage as defined in this section;
- (2) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use containing any amount of alcohol;
- (3) "Malt beverage," beer, ale, porter, stout, and other similar beverages of any name or description made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, or from any substitute therefor, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent of alcohol by volume; and
- (4) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage purposes, and obtained by the fermentation of the natural sugar content of fruits or other

agricultural products containing sugar and containing not less than one-half of one percent of alcohol by weight but not more than twenty-four percent of alcohol by volume.

Section 3. It is not a violation of section 1 of this Act if an alcoholic beverage is located in a locked glove compartment of the motor vehicle.

Section 4. It is not a violation of section 1 of this Act if an open alcoholic beverage is behind the last upright seat of a motor vehicle that is not equipped with a trunk or in an area not normally occupied by the driver or passengers.

Section 5. It is not a violation of section 1 of this Act if a carrier defined in subdivision 35-1-1(3) is licensed pursuant to subdivision 35-4-2(9).

An Act to revise the open container law.

=====
I certify that the attached Act
originated in the

HOUSE as Bill No. 1053

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1053

File No. _____

Chapter No. _____

=====
Received at this Executive Office
this _____ day of _____ ,

19____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 19____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19____
at _____ o'clock __ M.

Secretary of State

By _____
Ass. Secretary of State