

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0406

## SENATE ENGROSSED NO. **HB1053** - 2/18/99

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

1 FOR AN ACT ENTITLED, An Act to revise the open container law.

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

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

4 35-1-9.1. It is a Class 2 misdemeanor for any person to have a package or any receptacle  
5 ~~containing an alcoholic beverage in his possession in a motor vehicle unless the seal of the~~  
6 ~~original package remains unbroken or the alcoholic beverage is so removed that no occupant of~~  
7 ~~the motor vehicle shall have access to it while the vehicle is in motion~~ occupying a motor vehicle  
8 located upon a public highway or the right-of-way of a public highway to consume any alcoholic  
9 beverage or have a package or any receptacle containing an alcoholic beverage in that person's  
10 possession unless the seal of the original package remains unbroken or the alcoholic beverage  
11 is so removed from the passenger area of the motor vehicle that no occupant of the motor  
12 vehicle has access to it.

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

14 (1) "Alcoholic beverage," any distilled spirits, wine, and malt beverage as defined in this  
15 section;

16 (2) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum,

1 brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for  
2 nonindustrial use containing any amount of alcohol;

3 (3) "Malt beverage," beer, ale, porter, stout, and other similar beverages of any name or  
4 description made by the alcoholic fermentation of an infusion or decoction, or  
5 combination of both, in potable brewing water, of malted barley with hops, or their  
6 parts, or their products, or from any substitute therefor, and with or without other  
7 malted cereals, and with or without the addition of unmalted or prepared cereals,  
8 other carbohydrates or products prepared therefrom, and with or without the addition  
9 of carbon dioxide, and with or without other wholesome products suitable for human  
10 consumption containing not less than one-half of one percent of alcohol by volume;  
11 and

12 (4) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage  
13 purposes, and obtained by the fermentation of the natural sugar content of fruits or  
14 other agricultural products containing sugar and containing not less than one-half of  
15 one percent of alcohol by weight but not more than twenty-four percent of alcohol by  
16 volume.

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

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

22 Section 5. It is not a violation of section 1 of this Act if a carrier defined in subdivision 35-1-  
23 1(3) is licensed pursuant to subdivision 35-4-2(9).

24 Section 6. It is not a violation of section 1 of this Act if any passenger possesses or consumes  
25 an alcoholic beverage in the living quarters of a motor home, house coach, or house trailer while

- 1 the vehicle is parked in a public or private facility specifically designed or designated to allow the
- 2 use of the vehicle's living quarters and the vehicle is not in motion.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 42

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Transportation Deferred to another day, AYES 8, NAYS 5.

5 1/25/99 Scheduled for Committee hearing on this date.

6 1/25/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 169

7 1/27/99 Motion to Amend, Passed. H.J. 219

8 1/27/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 220

9 1/28/99 First read in Senate and referred to Transportation. S.J. 243

10 2/9/99 Scheduled for Committee hearing on this date.

11 2/9/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 398

12 2/11/99 Senate Deferred to another day. S.J. 458

13 2/16/99 Senate Deferred to another day. S.J. 507

14 2/17/99 Senate Deferred to another day. S.J. 531

15 2/18/99 Motion to Amend, Passed. S.J. 567

16 2/18/99 Motion to Amend, Passed. S.J. 567

17 2/18/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 567