

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

916C0864

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1296** - 2/18/99

Introduced by: Representatives Fitzgerald, Brown (Jarvis), Duniphan, Earley, Peterson, and Volesky and Senators Munson (David), Everist, Frederick, and Lawler

1 FOR AN ACT ENTITLED, An Act to restrict certain criminal liability for alcoholic beverage
2 licensees and to provide for administrative sanctions.

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

4 Section 1. A licensee, licensed pursuant to subdivision 35-4-2(3), (4), (5), (6), (11), (12),
5 (13), (16), (17), or (18), is not in violation of § 35-4-78, and no criminal penalty may be imposed
6 on the licensee if:

7 (1) The person making the sale in violation of § 35-4-78 is an employee or agent of the
8 licensee;

9 (2) The employee or agent does not own a controlling interest in the licensee; and

10 (3) The licensee or person having a controlling interest in the licensee is not present at the
11 time of the sale.

12 Section 2. If a sale is in violation of § 35-4-78 and does not constitute a criminal offense
13 against the licensee, the state's attorney for the county in which the sale took place may as part
14 of any proceeding against the person making the sale request that the court require the licensee
15 to pay a fine in accordance with this Act.

16 Section 3. Upon a request from the state's attorney and notice to the licensee, the court shall

1 conduct a hearing to determine if the licensee is liable under this Act, and upon a finding that the
2 licensee is liable, the court may order the licensee to pay a fine not to exceed:

- 3 (1) Three hundred dollars upon the first violation within two years;
- 4 (2) Five hundred dollars upon the second violation within two years; and
- 5 (3) One thousand dollars for the third violation within two years.

6 Section 4. For the purpose of this Act, a controlling interest in the licensee means an
7 ownership interest of ten percent or more.

1 **BILL HISTORY**

- 2 2/1/99 First read in House and referred to committee assignment waived. H.J. 287
- 3 2/2/99 Referred to Judiciary. H.J. 319
- 4 2/8/99 Scheduled for Committee hearing on this date.
- 5 2/10/99 Scheduled for Committee hearing on this date.
- 6 2/10/99 Judiciary Deferred to another day.
- 7 2/12/99 Scheduled for Committee hearing on this date.
- 8 2/17/99 Scheduled for Committee hearing on this date.
- 9 2/17/99 Judiciary Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 564