

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

508I0503

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 121 - 02/06/2003**

Introduced by: Senators de Hueck, Abdallah, Apa, Duenwald, Duniphan, Olson (Ed), Sutton (Dan), and Sutton (Duane) and Representatives Frost, Garnos, Juhnke, Konold, Lintz, McCaulley, Murschel, Nesselhuf, O'Brien, Sigdestad, and Teupel

1 FOR AN ACT ENTITLED, An Act to revise certain penalties for violations relating to alcoholic  
2 beverage licenses.

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

4 Section 1. That § 35-2-10 be amended to read as follows:

5 35-2-10. Any ~~license issued~~ licensee under this title may, ~~in compliance with chapter 1-26,~~  
6 ~~be revoked or suspended by the secretary~~ be ordered to pay a fine not to exceed five hundred  
7 dollars upon proof of a first violation within two years by the licensee, ~~his agents or employees,~~  
8 or any agent or employee of the licensee, or by the manager or contractual ~~operators~~ operator  
9 of a retail establishments and their agents or employees establishment, or any agent or employee  
10 of the retail establishment operating under a county or municipal license, of any provision of this  
11 title, ~~or any rule or regulation adopted by the secretary as provided in this title,~~ or violation of  
12 any ordinance or regulation of the political subdivision issuing the license relevant of alcoholic  
13 beverage control. Upon proof of a second violation within two years, the licensee may be  
14 ordered to pay a fine not to exceed one thousand dollars. Upon proof of a third violation within



1 two years, the licensee's license may, in compliance with chapter 1-26, be revoked or suspended.

2 For licensees with multiple alcoholic beverage licenses for the same premises, upon suspension  
3 or revocation of any license pursuant to this chapter, such licensee shall cease operation under  
4 all alcoholic beverage licenses held by such licensee for the same premises for the same period  
5 as the suspension or revocation.

6 Section 2. That chapter 35-2 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Any retail licensee shall have present on the premises during regular operating hours at least  
9 one employee or agent that has been certified by a nationally recognized training program  
10 approved by the Department of Revenue that provides instruction on techniques to prevent  
11 persons under the age of twenty-one years from purchasing or consuming alcoholic beverages.

12 Section 3. That § 35-2-10.1 be repealed.

13 ~~35-2-10.1. No retail license may be revoked or suspended because of a violation of any~~  
14 ~~statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage~~  
15 ~~to a person under the age of twenty-one years if the violation was committed by an employee or~~  
16 ~~agent of the licensee and:~~

17 ~~(1) The licensee did not see the violation occur;~~

18 ~~(2) The employee or agent has been certified by a nationally recognized training program~~  
19 ~~approved by the Department of Revenue that provides instruction on techniques to~~  
20 ~~prevent persons under the age of twenty-one years from purchasing or consuming~~  
21 ~~alcoholic beverages;~~

22 ~~(3) The licensee has a written policy requiring the licensee's employees or agents to~~  
23 ~~examine the driver's license or other age-bearing identification document of any~~  
24 ~~person who appears to be under the age of twenty-one years before selling or serving~~

1           any alcoholic beverage to that person, and the employee or agent has agreed in  
2           writing to abide by the policy;

3    ~~(4) The employee or agent has not been convicted of a similar violation within the past~~  
4           ~~twelve months; and~~

5    ~~(5) The licensee has not had any prior violation of any statute, ordinance, rule, or~~  
6           ~~regulation prohibiting the sale or service of an alcoholic beverage to a person under~~  
7           ~~the age of twenty-one years on the premise where the violation occurred in the~~  
8           ~~previous twelve months.~~