

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

508I0503

## SENATE BILL NO. 121

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 by the manager or contractual ~~operators~~ operator of a retail establishments and their agents  
9 ~~or employees~~ establishment operating under a county or municipal license, of any provision of  
10 this title, ~~or any rule or regulation adopted by the secretary as provided in this title,~~ or violation  
11 ~~of any~~ ordinance or regulation of the political subdivision issuing the license relevant of alcoholic  
12 beverage control. Upon proof of a second violation within two years, the licensee may be  
13 ordered to pay a fine not to exceed seven hundred and fifty dollars. Upon proof of a third  
14 violation within two years, the licensee may be order to pay a fine not to exceed one thousand



1 dollars. Upon proof of a fourth violation within two years, the licensee's license may, in  
 2 compliance with chapter 1-26, be revoked or suspended. For licensees with multiple alcoholic  
 3 beverage licenses for the same premises, upon suspension or revocation of any license pursuant  
 4 to this chapter, such licensee shall cease operation under all alcoholic beverage licenses held by  
 5 such licensee for the same premises for the same period 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.~~