

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

345I0679

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 154 - 02/05/2003

Introduced by: Senators Bogue, Abdallah, Diedrich (Larry), LaPointe, McCracken, and Reedy and Representatives Peterson (Bill), Dykstra, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to authorize certain interstate shipments of wine, to
2 establish certain penalties, and to collect sales tax.

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

4 Section 1. Notwithstanding any other provision of law, any person who is at least twenty-one
5 years of age may purchase and receive wine from another state as provided in this section if the
6 wine is not in distribution in this state and the wine comes from a winery that is located in a state
7 that affords South Dakota wineries an equal reciprocal shipping privilege, or a winery located
8 in South Dakota. The person shall place an order with a licensee as defined in subdivision
9 35-4-2(3) or (5). The licensee shall order the wine through a wholesaler licensed pursuant to
10 subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of wine. The licensee shall
11 inform the purchaser of the cost of the wine, the amount of any tax that would apply to the
12 purchase pursuant to subdivision 35-5-3, the amount of sales tax that would apply, and the
13 amount of charges for freight and handling. The licensee shall collect the total amount due from
14 the customer before ordering the wine through the wholesaler. After receiving the order for the
15 wine from the licensed retailer the wholesaler shall arrange for the wine to be shipped directly



1 to the licensee who placed the order for the purchaser. Wine purchased pursuant to this Act may
2 only be delivered and received by the purchaser from a licensee as defined in subdivision
3 35-4-2(3) or (5).

4 Section 2. If the wholesaler orders twelve or less cases of a particular brand of wine for an
5 individual purchaser in one calendar year pursuant to this section, no registration fee pursuant
6 to chapter 39-13 may be imposed.

7 Section 3. No person may receive more than twelve cases of wine, containing no more than
8 nine liters per case, in any calendar year for personal use from another state under this Act. No
9 person who receives wine under this Act may resell any of the wine. However, if the delivery of
10 the wine does not result in a completed sale to the person who placed the original order, the
11 licensee may sell the wine in the ordinary course of business. It is a Class 2 misdemeanor for any
12 person to receive more than twelve cases of wine during a calendar year in violation of this Act.
13 It is a Class 2 misdemeanor for any person to resell or attempt to resell any wine obtained
14 pursuant to this Act. The Department of Revenue shall promulgate rules pursuant to chapter
15 1-26 to provide for the reporting and tracking of information related to the sale of wine under
16 this Act and to prescribe forms for the implementation of this Act.

17 Section 4. Any licensee who holds a farm winery license pursuant to § 35-12-2 may ship no
18 more than twelve cases of wine per person per calendar year. A case may contain no more than
19 nine liters per case in any one shipment. Any wine sold may only be for personal use and not for
20 resale. The wine may only be sold directly to a resident of another state if the state to which the
21 wine is sent allows residents of the state to receive wine sent from outside that state.

22 Section 5. No person in the business of selling alcoholic beverages in another state or country
23 may ship or cause to be shipped any alcoholic beverage to any South Dakota resident who does
24 not hold a license issued pursuant to chapter 35-4. The department shall, for the first offense,

1 send a certified letter to any person who violates this section and order such person to cease and
2 desist any shipments of alcoholic beverages to South Dakota residents. Any subsequent violation
3 of this section is a Class 6 felony.

4 Section 6. No person may deliver any alcoholic beverage to any person who does not hold
5 a license issued pursuant to chapter 35-4. A violation of this section is a Class 1 misdemeanor.