

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

761L0679

HOUSE BILL NO. 1194

Introduced by: Representatives O'Brien, Garnos, and Rounds and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to require notification to certain retail licensees of
2 prohibited alcohol sales to persons below the age of twenty-one prior to any subsequent
3 violation.

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

5 Section 1. That § 35-2-10.1 be amended to read as follows:

6 35-2-10.1. No retail license may be revoked or suspended because of a violation of any
7 statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage
8 to a person under the age of twenty-one years if the violation was committed by an employee
9 or agent of the licensee and the licensee has not had more than two violations of any statute,
10 ordinance, rule, or regulation prohibiting the sale or service of an alcoholic beverage to a person
11 under the age of twenty-one years on the premises where the violation occurred in the previous
12 twenty-four months.

13 If the licensee meets the requirements of the conditions provided by this section, the
14 secretary shall impose a civil penalty of five hundred dollars for a first violation and one
15 thousand dollars for a second violation. However, if the employee or agent has not been certified
16 by a nationally recognized training program, approved by the Department of Revenue and



1 Regulation, that provides instruction on techniques to prevent persons under the age of
2 twenty-one years from purchasing or consuming alcoholic beverages, the secretary shall impose
3 a civil penalty of one thousand dollars for a first violation and two thousand dollars for a second
4 violation.

5 A second or subsequent civil penalty may only be imposed against a licensee if a person
6 under the age of twenty-one was served alcohol after the licensee has been notified of the first
7 violation. The secretary may not impose a civil penalty for a second violation or revoke or
8 suspend a license for any succeeding violation unless the violation occurred subsequent in time
9 to the completion of prosecution and conviction of a licensee or the licensee's agent or employee
10 for the prior violation or the imposition of the civil penalty upon the licensee by the secretary,
11 whichever occurs first.

12 A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the
13 imposition of a civil penalty.