



## **SOUTH DAKOTA DEPARTMENT OF REVENUE**

445 East Capitol Avenue • Pierre, SD 57501  
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### **IMPORTANT ALCOHOL STATUTES**

An alcohol licensee whose agents or employees sell or serve alcohol to a person under the legal age is subject to a mandatory civil penalty. The civil penalty is \$500 for a first offense and \$1,000 for a second offense within 24 months. The civil penalty is doubled if the agent of employee making the illegal sale has not been certified by an alcohol training program approved by the Department of Revenue. **SDCL 35-2-10.1**

It is a Class 2 Misdemeanor for any licensee to sell or give for use as a beverage any alcoholic beverage to any person who is eighteen years of age or older but less than twenty-one years of age unless:

- It is done in the immediate presence of a parent or guardian or spouse over twenty-one years of age
  - By prescription or direction of a duly licensed practitioner or nurse of the healing arts for medicinal purposes
- SDCL 35-9-1.1**

Anyone making an underage sale of alcohol may be subject to a driver's license suspension. **SDCL 35-9-7**

It is a Class 2 Misdemeanor for any person under the age of twenty-one to purchase, attempt to purchase, or possess or consume alcoholic beverages. **SDCL 35-9-2**

Any on-sale or off-sale licensee may permit persons eighteen years or older to sell or serve alcoholic beverages if less than fifty percent of the gross business transacted by the establishment is from the sale of alcoholic beverages, or the licensee or an employee of the licensee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or served. To sell or serve means tending bar or drawing, pouring, or mixing alcoholic beverages. Any person tending bar or drawing, pouring or mixing alcoholic beverages must be certified by a nationally recognized alcohol management program. **SDCL 35-4-79.4**

No retailer with any type of off-sale license may make any delivery of alcoholic beverages outside of the premises authorized by the license unless they qualify for and have obtained an off-sale delivery license. **SDCL 35-4-74; 35-4-127**

No retailer with an on-sale license shall serve alcoholic beverages outside of the legal premises authorized by the license. **SDCL 35-4-75**

No retail licensee may allow alcoholic beverages to be sold, served, or consumed between the hours of 2:00 a.m. and 7:00 a.m. Local ordinances may be more restrictive. **SDCL 35-4-81.2**

An alcohol licensee that violates any law or regulation governing licenses is subject to revocation or suspension of its alcohol license. **SDCL 35-2-10, 35-2-21**

The person named on the license must be the owner or actual lessee of the premises where the business is conducted and must be the sole owner of the business operated under the license. **SDCL 35-2-6.3**

No license may be reissued or transferred until all municipal and state sales and use tax incurred by the licensee have been paid and all property taxes which the licensee is liable for have been paid or are not delinquent. All taxes must be current, including unemployment tax. **SDCL 35-2-24**

Licensed retailers may only buy or receive alcoholic beverages from wholesalers properly licensed by the State of South Dakota. **SDCL 35-4-60**

Retail licensees must pay for malt beverages upon sale and delivery by a wholesaler. **ARSD 64:75:04:02**

Commercial bribery.

- No wholesaler or manufacturer may induce any retailer to purchase alcoholic beverages by giving to the retailer, or to any or representative of the retailer, a bonus, premium, gift, compensation, or any other concession of financial value. **ARSD 64:75:04:09**

Industry relations.

- The offering of a bonus, premium, gift, compensation, or concession of financial value, to induce the purchase of an alcoholic beverage is prohibited, except as specifically authorized by SDCL [35-4-130](#) and this chapter. The terms bonus, premium, gift, compensation, or concession of financial value refer to any article offered to a consumer which is in addition to the immediate container of an alcoholic beverage.
- A wholesaler may rotate alcoholic beverages which they sell provided products purchased from other industry members are not altered or disturbed. The setting or resetting of all or part of an alcoholic beverage retail premises is permitted if written notice is given forty-eight hours prior to the set or reset to each wholesaler serving the retailer. Pullups, filling of displays, and rotation is only allowed at the point of order taking or invoicing. Shelf stocking is prohibited.
- An industry member may provide a business licensed to sell alcoholic beverages at retail any type of device, equipment, or item intended to prevent the sale of alcoholic beverages to anyone not legally able to purchase the beverages.
- An industry member, for reasonable compensation, may provide a business licensed to sell alcoholic beverages at retail any type of device or equipment necessary to maintain the integrity of a malt beverage or cider product. The device or equipment may only be provided to the business for a maximum of fifteen days in a calendar year. Providing tap wagons or draft trailers is specifically prohibited. **ARSD 64:75:04:14**

A list of approved alcohol training programs can be found on the Department of Revenue's website at <https://dor.sd.gov/businesses/taxes/alcohol/#training> at the bottom of the page.

The alcohol license and sales tax license MUST be in the same name.