State of South Dakota

NINETY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2016

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HOUSE BILL NO. 1092

Introduced by: Representatives Willadsen, Hunhoff (Jean), Kirschman, and Stevens and Senators Hunhoff (Bernie) and Tidemann

FOR AN ACT ENTITLED, An Act to revise requirements for local permits for the sale and
consumption of alcoholic beverages on certain property abutting licensed establishments.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-77.1 be amended to read:

5 35-4-77.1. Notwithstanding the provisions of § 35-4-75, the governing body of the 6 municipality charged with the approval of alcoholic beverage license issuance may, by 7 ordinance, permit the sale and consumption of alcoholic beverages on a sidewalk, parking space, 8 or walkway subject to a public right-of-way abutting a licensed premises, provided that the 9 license holder derives more than fifty percent of its gross receipts from the sale of prepared food 10 for consumption on the licensed premises. The sidewalk, parking space, or walkway subject to 11 a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This 12 section does not apply to any federal-aid eligible highway unless approved in accordance with 13 the applicable requirements for the receipt of federal aid. 14 Nothing contained in this section prevents the governing body from imposing conditions or

15 restrictions that it deems appropriate.



The sidewalk, <u>parking space</u>, or walkway subject to a public right-of-way where the sale and consumption of alcoholic beverages is permitted does not constitute a public place as defined in § 35-1-5.3, if the sidewalk, <u>parking space</u>, or walkway subject to a public right-of-way has been properly authorized for sale and consumption of alcoholic beverages pursuant to this section. The hours of authorized sale and consumption on the sidewalk, <u>parking space</u>, or walkway subject to a public right-of-way as provided by this section shall be consistent with the hours permitted for the on-sale license.

8 A violation of any provision of Title 35 by an alcoholic beverage license holder conducting 9 business on a sidewalk, <u>parking space</u>, or walkway subject to a public right-of-way pursuant to 10 this section constitutes a violation of Title 35 as if the violation had occurred in or on the 11 licensed premises.