## **State of South Dakota**

## NINETY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2016

297X0277

## HOUSE LOCAL GOVERNMENT ENGROSSED NO. HB 1092 - 01/28/2016

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

1 FOR AN ACT ENTITLED, An Act to revise requirements for local permits for the sale and

2 consumption of alcoholic beverages on certain property abutting licensed establishments.

3 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 or walkway 8 subject to a public right-of-way abutting a licensed premises, provided that the license holder 9 derives more than fifty percent of its gross receipts from the sale of prepared food for 10 consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-11 way shall be immediately adjacent to and abutting the licensed premises. This section does not 12 apply to any federal-aid eligible highway unless approved in accordance with the applicable 13 requirements for the receipt of federal aid.

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Nothing contained in this section prevents the governing body from imposing conditions or

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Insertions into existing statutes are indicated by <u>underscores</u>. Deletions from existing statutes are indicated by <del>overstrikes</del>. 1 restrictions that it deems appropriate.

2 The sidewalk or walkway subject to a public right-of-way where the sale and consumption 3 of alcoholic beverages is permitted does not constitute a public place as defined in § 35-1-5.3, 4 if the sidewalk or walkway subject to a public right-of-way has been properly authorized for sale 5 and consumption of alcoholic beverages pursuant to this section. The hours of authorized sale 6 and consumption on the sidewalk or walkway subject to a public right-of-way as provided by 7 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 or walkway subject to a public right-of-way pursuant to this section

10 constitutes a violation of Title 35 as if the violation had occurred in or on the licensed premises.