



2021 South Dakota Legislature

House Bill 1123

Introduced by: **Representative Cwach**

1 **An Act to permit in-state alcohol manufacturers to deliver alcoholic beverages to**
 2 **state customers under certain conditions and to declare an emergency.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **35-12-18.1. Delivery permitted--Conditions for delivery--Penalty--**
 6 **Limitation.**

7 Notwithstanding § 35-12-18, an employee of a licensed farm winery who is at least
 8 twenty-one years of age may deliver to a customer at the customer's residence, at a time
 9 not prohibited by § 35-4-81.2, alcoholic beverages that are purchased by the customer in
 10 person, by phone, or by internet from the farm winery's off-sale premises, in accordance
 11 with applicable law, for twenty-five dollars or more if the customer's residence is located
 12 within the jurisdictional boundaries of the governing body that licensed the farm winery.
 13 The delivery of the alcoholic beverages may only be accepted by the customer or other
 14 person at the customer's residence who is at least twenty-one years of age. Immediately
 15 prior to the delivery being accepted, the employee of the farm winery delivering the
 16 alcoholic beverages shall obtain the signature of the person accepting delivery and require
 17 that person display a valid age-bearing photo identification document issued by this state,
 18 another state, or the federal government verifying that the person is at least twenty-one
 19 years of age. Documentation verifying the identification of the person accepting the
 20 delivery shall be retained by the licensed farm winery for one year.

21 In addition to any other penalty allowed by law, any licensed farm winery who
 22 delivers alcoholic beverages to a person under twenty-one years old is subject to a civil
 23 penalty by the department of one thousand dollars for a first offense and two thousand
 24 dollars for a second or subsequent offense. Any money collected by the department
 25 pursuant to this section shall be deposited in the general fund.

1 The quantity of alcoholic beverages sold pursuant to this section may not exceed
2 the total production limits for the license as specified in § 35-12-13.

3 **Section 2.** That a NEW SECTION be added:

4 **35-12-19.1. Delivery permitted--Conditions for delivery--Penalty--**
5 **Limitation.**

6 Notwithstanding § 35-12-19, an employee of a licensed artisan distiller who is at
7 least twenty-one years of age may deliver to a customer at the customer's residence, at
8 a time not prohibited by § 35-4-81.2, alcoholic beverages that are purchased by the
9 customer in person, by phone, or by internet from the artisan distiller's off-sale premises,
10 in accordance with applicable law, for twenty-five dollars or more if the customer's
11 residence is located within the jurisdictional boundaries of the governing body that
12 licensed the artisan distiller. The delivery of the alcoholic beverages may only be accepted
13 by the customer or other person at the customer's residence who is at least twenty-one
14 years of age. Immediately prior to the delivery being accepted, the employee of the farm
15 winery delivering the alcoholic beverages shall obtain the signature of the person
16 accepting delivery and require that person display a valid age-bearing photo identification
17 document issued by this state, another state, or the federal government verifying that the
18 person is at least twenty-one years of age. Documentation verifying the identification of
19 the person accepting the delivery shall be retained by the licensed artisan distiller for one
20 year.

21 In addition to any other penalty allowed by law, any licensed artisan distiller who
22 delivers alcoholic beverages to a person under twenty-one years old is subject to a civil
23 penalty by the department of one thousand dollars for a first offense and two thousand
24 dollars for a second or subsequent offense. Any money collected by the department
25 pursuant to this section shall be deposited in the general fund.

26 The quantity of alcoholic beverages sold pursuant to this section may not exceed
27 the total production limits for the license as specified in § 35-13-13.

28 **Section 3.** That a NEW SECTION be added:

29 **35-15-5.1. Delivery permitted--Conditions for delivery--Penalty--Limitation.**

30 Notwithstanding § 35-15-5, an employee of a licensed microbrewery who is at least
31 twenty-one years of age may deliver to a customer at the customer's residence, at a time
32 not prohibited by § 35-4-81.2, alcoholic beverages that are purchased by the customer in
33 person, by phone, or by internet from the microbrewery's off-sale premises, in accordance

1 with applicable law, for twenty-five dollars or more if the customer's residence is located
2 within a seventy-five mile radius of the microbrewery's off-sale premises. The delivery of
3 the alcoholic beverages may only be accepted by the customer or other person at the
4 customer's residence who is at least twenty-one years of age. Immediately prior to the
5 delivery being accepted, the employee of the microbrewery delivering the alcoholic
6 beverages shall obtain the signature of the person accepting delivery and require that
7 person display a valid age-bearing photo identification document issued by this state,
8 another state, or the federal government verifying that the person is at least twenty-one
9 years of age. Documentation verifying the identification of the person accepting the
10 delivery shall be retained by the licensed microbrewery for one year.

11 In addition to any other penalty allowed by law, any licensed microbrewery who
12 delivers alcoholic beverages to a person under twenty-one years old is subject to a civil
13 penalty by the department of one thousand dollars for a first offense and two thousand
14 dollars for a second or subsequent offense. Any money collected by the department
15 pursuant to this section shall be deposited in the general fund.

16 The quantity of alcoholic beverages sold pursuant to this section may not exceed
17 the total production limits for the license as specified in § 35-15-1.

18 **Section 4.** The provisions of this Act are repealed on July 1, 2022.

19 **Section 5.** Whereas, this Act is necessary for the immediate preservation of the public peace,
20 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
21 and effect from and after its passage and approval.