

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

960P0580

HOUSE ENGROSSED NO. **HB 1203** - 2/4/2008

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Dreyer, McLaughlin, Pederson (Gordon), Pitts, and Tidemann and Senators Albers, Katus, McCracken, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to provide for the sale or consumption of alcoholic
2 beverages upon property adjoining licensed premises.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 35-4-75, the governing body of the municipality
7 charged with the approval of alcoholic beverage license issuance may, by ordinance, permit the
8 sale and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-
9 of-way abutting a licensed premises, provided that the license holder derives more than fifty
10 percent of its gross receipts from the sale of prepared food for consumption on the licensed
11 premises. The sidewalk or walkway subject to a public right-of-way shall be immediately
12 adjacent to and abutting the licensed premises.

13 Any ordinance adopted by the governing body of a municipality pursuant to this section
14 shall require the alcoholic beverage license holder to provide a barrier encompassing the portion



1 of the sidewalk or walkway subject to a public right-of-way upon which the municipality
2 permits the sale and consumption of alcoholic beverages. Nothing contained in this section
3 prevents the governing body from imposing additional conditions or restrictions that it deems
4 appropriate.

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

11 A violation of any provision of Title 35 by an alcoholic beverage license holder conducting
12 business on a sidewalk or walkway subject to a public right-of-way pursuant to this section
13 constitutes a violation of Title 35 as if the violation had occurred in or on the licensed premises.