



2024 South Dakota Legislature

House Bill 1170

Introduced by: **Representative** Jensen (Phil)

1 **An Act to allow a licensed distiller to sell and ship distilled spirits directly to a**
2 **consumer.**

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

4 **Section 1. That a NEW SECTION be added to chapter 35-13:**

5 Both a licensed artisan distiller and a licensed distiller may each sell and ship the
6 licensed entity's distilled spirits to any individual in this state who is twenty-one years or
7 older.

8 Both a licensed artisan distiller and a licensed distiller may each sell and ship the
9 licensed entity's distilled spirits to any individual outside this state who is twenty-one years
10 or older, in a manner consistent with the laws of the state and political subdivision of the
11 sale and delivery.

12 Under this section, a licensed artisan distiller or a licensed distiller may not sell and
13 ship in excess of twenty-five thousand gallons in a calendar year and may not sell and
14 ship in excess of two liters of distilled spirits to any one individual in a calendar year.

15 To sell and ship under this section, the licensed artisan distiller or licensed distiller
16 must also meet the requirements in sections 2 and 3 of this Act.

17 **Section 2. That a NEW SECTION be added to chapter 35-13:**

18 To sell and ship directly to an individual pursuant to section 1 of this Act, the
19 licensed artisan distiller or licensed distiller must:

- 20 (1) Obtain a distilled spirits direct shipper license if selling and shipping a product to
21 an individual in South Dakota, or if selling and shipping a product from South
22 Dakota to an individual in another state;
23 (2) Use an approved carrier that checks identification and obtains an adult signature
24 for each shipment of the licensee's distilled spirits;
25 (3) Verify the age of the purchaser and the recipient of the licensee's distilled spirits;

- 1 (4) Label each shipped box containing the licensee's distilled spirits with a notice
2 stating that the box contains alcohol and that a signature of an individual twenty-
3 one years or older is required;
4 (5) Abide by per-person volume limits;
5 (6) Remit all applicable sales and excise taxes to the state of South Dakota or to the
6 destination state if shipping outside of South Dakota; and
7 (7) File regular reports with the Department of Revenue detailing all direct-to-
8 consumer shipments.

9 **Section 3. That a NEW SECTION be added to chapter 35-13:**

- 10 An applicant for an initial or renewal of the direct shipper license must:
11 (1) File an application with the Department of Revenue on a form prescribed by the
12 department;
13 (2) Pay a license fee of not more than one hundred dollars;
14 (3) Submit a copy of the applicant's current federal basic distilled spirits manufacturing
15 permit;
16 (4) Register each brand label offered for sale in this state, if not previously registered,
17 and pay all applicable brand registration fees pursuant to chapter 39-13;
18 (5) Hold a South Dakota sales and use tax license issued by the department; and
19 (6) Be current on the remittance of all applicable state and local taxes.
20 The department shall issue a distilled spirits direct shipper license to any applicant
21 who meets the requirements of this Act.

22 **Section 4. That a NEW SECTION be added to chapter 35-13:**

23 Each distilled spirits direct shipper license is valid from the first day of January
24 through the thirty-first day of December. However, the license is valid for an additional
25 three days if a proper application for a new license is in the possession of the department
26 before midnight on the thirty-first day of December when the license expires. The full fee
27 shall be charged for any license for a portion of the period.

28 **Section 5. That a NEW SECTION be added to chapter 35-13:**

29 The secretary shall promulgate rules, pursuant to chapter 1-26, establishing any
30 necessary application procedures for obtaining a distilled spirits direct shipper license as
31 allowed by this Act and establishing the fee for issuing a distilled spirits direct shipper

1 license. The rules must also establish form requirements for filing direct shipment reports
2 under section 2 of this Act. The direct-to-consumer shipment reports must include the
3 volume of distilled spirits shipped directly to individuals, destination states, sales volume
4 in dollars and the volume of taxes paid to South Dakota and other jurisdictions.