



2025 South Dakota Legislature

House Bill 1079

HOUSE COMMERCE AND ENERGY ENGROSSED

Introduced by: Representative Kull

- 1 **An Act to increase the number of off-sale licenses from two to three in municipalities**
2 **of one thousand or less.**

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

4 **Section 1. That § 35-4-10 be AMENDED:**

5 **35-4-10.** No more than ~~two~~ three off-sale licenses issued pursuant to subdivisions
6 35-4-2(3) and (5) may be issued under this chapter to operate in a municipality of one
7 thousand or less ~~and not exceeding~~. Above this population limit, no more than one license
8 may be issued for every additional fifteen hundred of population or fraction thereof. The
9 number of off-sale licenses may not be less than the total number of licenses allowable as
10 of July 1, 1981, ~~and that which~~ have never been revoked or not reissued.

11 For the purposes of this section, ~~population is~~ "population" means an amount equal
12 to the population estimates published by the United States Census Bureau for each even-
13 numbered year, except for the decennial year. For a decennial year, population is equal
14 to the amount determined by the decennial federal census.

15 ~~No license issued pursuant to this section that exceeds the number of licenses that~~
16 ~~would have been issued upon the decennial federal census may be denied or revoked~~
17 ~~solely by reason that the license issued exceeds the number of licenses authorized by the~~
18 ~~decennial federal census~~ If a license issued pursuant to this section exceeds the number
19 of licenses permissible in accordance with the decennial federal census, the license may
20 not be revoked or denied renewal solely because issuance of the license exceeded the
21 permissible number.

22 **Section 2. That § 35-4-11.1 be AMENDED:**

23 **35-4-11.1.** If not previously fixed by ordinance or continuing resolution, the board
24 of county commissioners ~~shall~~ must, before the second of September in each year,
25 determine the number of on-sale and off-sale licenses it will approve for the ensuing

1 calendar year and the fees to be charged for the various classifications of licenses. The
2 number of licenses issued pursuant to subdivision 35-4-2(6) may not exceed three for the
3 first one thousand of population and may not exceed one for each additional fifteen
4 hundred of population or fraction thereof. The number of licenses issued pursuant to
5 subdivision 35-4-2(3) may not exceed ~~two~~ three for the first one thousand of population
6 and may not exceed one for each additional fifteen hundred of population or fraction
7 thereof. ~~No~~ A county off-sale license may not be issued for a retailer located within three
8 miles of the exterior boundary of an incorporated municipality. The population includes
9 only those residing within the county, but outside the incorporated municipalities and
10 improvement districts, created pursuant to chapter 7-25A, within the county. ~~No~~ A
11 licensee regularly licensed to do business on July 1, 1981, may not be denied reissuance
12 of a license in subsequent years solely by reason of any limitations, based upon population
13 quotas, of the number of licenses authorized or established under the provisions of this
14 title. Licenses issued to concessionaires, and lessees of ~~the State of South Dakota~~ this
15 state, within the boundaries of state parks, prior to January 1, 1983, may be subtracted
16 when calculating the total number of licenses permitted in this section.