

CHAPTER 2-4

PROVISIONS FOR SELLING, DISTRIBUTING AND CONSUMING ALCOHOL

2-4-1

PERSONS UNDER TWENTY-ONE (21) BARRED FROM ON-SALE PREMISES: EXCEPTIONS TO ORDINANCE

- A. No on-sale licensee may permit any person less than twenty-one (21) years old to loiter on the licensed premises or to sell, serve, dispense or consume alcoholic beverages on such premises. However, an on-sale licensee licensed pursuant to subdivision (4), (6), (11), (14) or (17) of SDCL §35-4-2 (as amended) may permit eighteen year olds to sell and serve or dispense alcoholic beverages if not less than fifty percent of the gross business transacted by that establishment is from the sale of alcoholic beverages and the licensee or an employee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or dispensed. For the purposes of this section, the term, "to sell and serve alcoholic beverages", means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. The term does not include tending bar or drawing or mixing alcoholic beverages.
- B. No off-sale licensee licensed under subdivision (18) of SDCL §35-4-2 may permit any person less than twenty-one years old to sell, serve or dispense alcoholic beverages on the licensed premises unless such sales of alcoholic beverages constitutes less than fifty percent of the gross business transacted by that establishment.
- C. An on-sale licensee issued a license pursuant to subdivision (17) of SDCL §35-4-2 whose sale of alcoholic beverages constitutes more than fifty percent of the gross business transacted by that establishment may erect a physical barrier to allow for multiple uses of the premises by persons of all ages provided persons under the age of twenty-one are not permitted access to the area reserved for the sale of malt beverages. For the purpose of this section, a physical barrier includes, but is not limited to, a wall, fence, rope, railing or other physical feature erected for the sole purpose of restricting the free flow of foot traffic and access to a certain area of a premises.
- D. No off-sale licensee licensed under subdivision (3) or (5) of SDCL §35-4-2 (as amended) may permit any person less than twenty-one (21) years old to sell, serve or dispense alcoholic beverages on the licensed premises.

Legislative History:

Ordinance No. 205, §3.a, 6/3/91.

Ordinance No. 472, 08-03-10.

2-4-2

SALE OR GIFT OF ALCOHOLIC BEVERAGE TO MINORS PROHIBITED

It shall be unlawful for any person to sell, give or furnish any alcoholic beverage to any person under the age of twenty-one (21) years.

Legislative History:

Ordinance No. 205, §3.b, 6/3/91.

2-4-3

PURCHASE OF AN ALCOHOLIC BEVERAGE BY A MINOR PROHIBITED

It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase an alcoholic beverage.

Legislative History:

Ordinance No. 205, §3.c, 6/3/91.

2-4-4

MISREPRESENTATION OF AGE

It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his age with the use of any document for the purpose of purchasing or attempting to purchase such alcoholic beverage from any licensee.

Legislative History:

Ordinance No. 205, §3.d, 6/3/91.

2-4-5

(OFF SALE) SELLING, SERVING OR DISPENSING ALCOHOLIC BEVERAGES BY A MINOR IS PROHIBITED: EXCEPTIONS TO ORDINANCE

It shall be unlawful for any (off-sale) licensee to permit any person less than twenty-one (21) years old to sell, serve or dispense alcoholic beverages on a licensed premises, except any person at least eighteen (18) years old may sell, serve or dispense alcoholic beverages on a licensed premises when such sales of alcoholic beverages constitute less than fifty percent of the gross business transacted by the establishment.

Legislative History:

Ordinance No. 205, §3.e, 6/3/91.

2-4-6

OFF-SALE LICENSEE TO PROHIBIT CONSUMPTION ON PROPERTY

It shall be unlawful for any licensee to make any delivery of alcoholic beverage outside of the premises as described in his license, and shall also be unlawful for any alcoholic beverage to be consumed in or about the said licensed premises, except as permitted by SDCL 35-4-10.2.

Legislative History:

Ordinance No. 205, §3.f, 6/3/91.

Ordinance No. 316, § 3/18/02.

Cross Reference:

SDCL 35-4-10.2.

2-4-7

SALE OF BEER IN KEGS: RECORDS AND MARKINGS REQUIRED

No keg or malt beverages may be sold at retail in the City of Brandon unless the licensee who sold such keg records the name and address of the person to whom the keg is sold and has provided for the identification of the keg. Each licensee shall maintain such sales records for one year and shall make such records available to any law enforcement agency upon request.

Legislative History:

Ordinance No. 205, §3.G, 6/3/91.

2-4-8

EXCEPTIONS TO AGE RESTRICTION

Passing, consuming or furnishing alcoholic beverage by or to a person under the age of twenty-one (21) years of age may be permitted when:

- A. The alcoholic beverage is prescribed by or under the direction of a duly licensed practitioner or nurse of the healing art for medical purposes; or,
- B. The alcoholic beverage is consumed in a religious ceremony and given to said person under the age of twenty-one (21) by an authorized person.

Legislative History:

Ordinance No. 205, §4, 6/3/91.

2-4-9

HOURS/DAYS FOR ON-SALE/OFF-SALE SERVICE: CLOSING OF PREMISES OF ON-SALE DEALER

Every on-sale dealer shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within fifteen (15) minutes the licensed premises will be closed. At 2:00 a.m. every such on-sale dealer shall have cleared his premises of all persons except employees and shall lock all doors to said premises, and shall turn out all lights thereon except a nightlight approved by the City. Such nightlight shall burn from 2:00 a.m. until daylight of the following day. Each such on-sale dealer and his employees shall leave the place of business or premises by 2:30 a.m. and shall keep the same closed and locked until 7:00 a.m. on the following morning, provided, however, that the said dealer may, upon first advising the police and informing who will be present, enter said premises at any time for the purpose of reasonable maintenance of said premises. For the purpose of this section, "reasonable maintenance" shall be construed to mean only such maintenance as is necessary to prevent the deterioration or destruction of said premises or any fixtures thereof and cannot be delayed until the hour of 7:00 a.m. the following morning. The purpose of this section is that said premises shall be wholly vacant during said closed period, except as hereinbefore provided.

Legislative History:

Ordinance No. 205, §5.a, 6/3/91.

2-4-10

PERMIT FOR FOOD SERVICE LICENSEES TO HAVE EMPLOYEES ON PREMISES AFTER CLOSING

Section §2-4-9 shall not apply to any on-sale dealer which has applied for and received a special permit to allow employees to remain inside the licensed premises for the preparation of food served on the premises during hours it is open for business. This permit will be issued by the City, but only to a dealer whose sales of food constitute fifty percent or more of its gross sales, and then only upon the showing of necessity for the preparation of food after 2:00 a.m. If this permit is granted, all alcoholic beverages shall be locked or otherwise made inaccessible to the employees on the premises after 2:00 a.m. The fee for this permit will be determined at the discretion of the City.

Legislative History:

Ordinance No. 205, §5.b, 6/3/91.

2-4-11

Deleted by Ordinance 235, July 5, 1995

Days to legally sell alcoholic beverages will be determined by State law.

Legislative History:
Ordinance No. 205, §5.c, 6/3/91.
Ordinance No. 235, 7/6/95.

2-4-12

Deleted by Ordinance 235, July 5, 1995

Days to legally sell alcoholic beverages will be determined by State law.

Legislative History:
Ordinance No. 205, §5.d, 6/3/91.
Ordinance No. 235, 7/6/95.

2-4-13

**MALT BEVERAGE SALES BY PACKAGE LIQUOR LICENSE
HOLDERS**

Holders of a Packaged Off/Sale Liquor license may sell malt beverages on Sundays without applying for a separate license.

Legislative History:
Ordinance No. 293, 8/17/00.

2-4-14

SUNDAY HOURS OF SALE

Any licensed off-sale dealer of alcoholic beverages may sell or allow to be sold alcoholic beverages on Sunday between the hours of 7:00 a.m. and 12:00 a.m.

Legislative History:
Ordinance No. 251, 7/16/96
Ordinance No. 430, 1/14/09

Authority:
SDCL 35-4-81.1