

South Dakota Training Supplement to the ServSafe® Alcohol Course (Effective 2015)



You must learn the content in this supplement in addition to what you've learned in the course. We highly recommend that you study this supplement after you have finished the training portion of the course, but before you take the examination.

The content of this supplement is used with permission from the South Dakota Department of Revenue.

Keep in mind that local ordinances may be more restrictive than state law, so check with your local officials regarding local ordinances.

Table of Contents

Training and Certification Requirements	2
Penalties for Selling Alcohol to a Person Under 21 Years Old	2
Penalties for Sellers/Servers	2
Penalties for Licensees	3
Legal Age to Serve	3
On-sale Premises	3
Off-sale Premises	3
Minors Attempting to Purchase Alcohol	4
Detaining Minors	4
Civil Liability	4
Obviously Intoxicated People	5
Hours of Sale	5
Days Alcohol May be Sold/Served	5

Training and Certification Requirements

South Dakota does not require individuals who sell and serve alcohol to be certified in responsible alcohol service. However, doing so can reduce penalties if a violation were to occur. The training program completed must be nationally recognized and approved by the South Dakota Department of Revenue.

Penalties for Selling Alcohol to a Person Under 21 Years Old

It is against the law in South Dakota for individuals to sell or furnish alcohol to anyone under the age of 21. There are various civil and criminal penalties for doing so.

Penalties for Sellers/Servers

It is a Class 1 misdemeanor to sell or give an alcoholic beverage to a person under the age of 18, unless:

- It is done in the immediate presence of a parent, guardian, or spouse who is at least 21 years old and
 - It is not done on premises that are licensed for the retail sale of alcoholic beverages.
 - It is not done at a special event for which an alcoholic beverage license has been issued.
- It is done by prescription or direction of a licensed practitioner or nurse of the healing arts for medical purposes.

It is a Class 2 misdemeanor to sell or give an alcoholic beverage to a person who is 18 years or older but less than 21 years of age (or allow them to consume one), unless:

- It is done in the immediate presence of a parent, guardian, or spouse who is at least 21 years old.
- It is done by prescription or the direction of a licensed practitioner or nurse of the healing arts for medicinal purposes.

Any person subject to the above charges may offer evidence to their defense if they:

- Made a reasonable attempt to investigate the age of the person by examining an age-bearing identification document that would have appeared to be valid to a reasonable and prudent person.
- Relied upon a false age-bearing identification document presented by a minor which was furnished by a state or local law enforcement agency for the purpose of attempting to illegally purchase an alcoholic beverage. In such cases, the seller cannot be convicted of illegally selling an alcoholic beverage to the underage person who presented it.

Penalties for Licensees

It is a Class 1 or Class 2 misdemeanor for a licensee to sell alcoholic beverages to a person under the age of 21. No criminal penalty can be imposed on the licensee if:

- The person making the sale is an employee or agent of the licensee.
- The employee or agent does not own a controlling interest in the licensee.
- The licensee or person having a controlling interest in the license was not present at the time of the sale.

The South Dakota Department of Revenue is required to impose civil penalties against licensees for selling alcohol to a person under the age of 21 even if it does not constitute a criminal offense. These sanctions may require the licensee to pay a fine if the licensee is found liable.

- \$500 for the first violation within two years.
- \$1000 for a second violation within two years.
- Suspended license for a third violation within two years.

These fines are issued if an employee or agent of the licensee is caught selling or serving alcohol to an underage person. The fine will be doubled if the employee has not been trained and certified through a nationally recognized program approved by the South Dakota Department of Revenue.

If the licensee is caught selling or serving alcohol to an underage individual, the establishment's license may be suspended upon the first offense.

Legal Age to Serve

On-sale Premises

The minimum age for selling alcoholic beverages at an on-sale premises depends upon its gross alcohol sales.

- If alcoholic beverages make up less than 50 percent of gross sales, then the minimum age to sell alcoholic beverages is 18 years old as long as there is an employee on the premises who is at least 21 years old. Employees under the age of 21 are not permitted to draw or mix drinks, or to tend bar.
- If alcoholic beverages make up 50 percent or more of gross sales, then the minimum age to sell alcoholic beverages is 21 years old.

Other than the exception above, it is a Class 2 misdemeanor for an on-sale licensee to allow any person under 21 years old to loiter, sell, serve, dispense, or consume alcoholic beverages on their licensed premises.

Off-sale Premises

The minimum age for selling alcoholic beverages at an off-sale premises depends upon its gross alcohol sales.

- If alcoholic beverages make up less than 50 percent of gross sales, then the minimum age to sell alcoholic beverages is 18 years old. There is no requirement to have an employee 21 or older on duty.
- If alcoholic beverages make up 50 percent or more of gross sales, then the minimum age to sell alcoholic beverages is 21 years old.

Minors Attempting to Purchase Alcohol

It is a Class 2 misdemeanor for any person under 21 years old to:

- Purchase, attempt to purchase, possess or consume alcoholic beverages unless it is consumed in a religious ceremony and given to the minor by an authorized person.
- Misrepresent their age with the use of any document for the purpose of purchasing or attempting to purchase alcoholic beverages from any licensee.

A person under 21 years old who purchases, possesses, or consumes an alcoholic beverage or attempts to do these things using false identification may lose their driver's license for a period:

- Not less than 30 days and not more than one year for the first offense.
- Not less than 60 days and not more one year for the second and all subsequent offenses.

It is illegal for a person less than 21 years old to loiter on the licensed premises of an on-sale alcohol licensee.

It is a Class 1 misdemeanor for any person 21 years or older to purchase or acquire alcoholic beverages from a retail establishment and give or resell them to any person under the age of 21. This offense is punishable by a maximum of one year in jail and/or a \$2,000 fine.

Detaining Minors

Licensees and employees may detain a person under 21 years old on the licensed premises if he or she:

- Illegally purchased or has attempted to purchase alcoholic beverages.
- Possesses alcoholic beverages.
- Used a document to misrepresent their age to purchase or attempt to purchase alcoholic beverages from the licensee.

The person can be detained in order to:

- Request identification and verify it.
- Make a reasonable inquiry as to whether the person is attempting to purchase alcohol as a minor.
- Inform law enforcement that a person has been detained and to surrender that person to a law enforcement officer.
- Inform a law enforcement officer, parent, or guardian of the minor's detention and surrender custody of the minor to them.

The person must be detained in a reasonable manner and for a reasonable length of time.

Licensees that intend to detain minors must post a notice to that effect in a conspicuous location within the licensed premises. The notice must state that any person who the merchant reasonably believes is under the age of 21 and who has purchased alcoholic beverages may be detained and surrendered to a law enforcement officer.

Civil Liability

Licensees are not civilly liable for property damage, injuries, or wrongful death caused by any person who became intoxicated from the sale or consumption of alcoholic beverages. This includes people under the age of 21.

Obviously Intoxicated People

It is illegal to sell alcoholic beverages to any person who is obviously intoxicated. A violation is considered a Class 1 Misdemeanor.

Hours of Sale

Alcoholic beverages can be sold and served in both on-sale and off-sale premises between the hours of 7:00 a.m. and 2:00 a.m.

Days Alcohol May be Sold/Served

Establishments with the following licenses may sell seven days a week, including Sundays, Memorial Day, and Christmas Day:

- Off-sale malt beverage license (PB)
- Off-sale malt beverage and South Dakota farm wines license (PF)
- On/off-sale malt beverage (RB)
- On/off-sale malt beverage and on/off-sale South Dakota wines license (BW)
- On/off-sale wine license (RW)

Off-sale package liquor license (PL):

- May sell Monday through Saturday.
- May sell spirits, wine, and malt beverages on Sundays and/or Memorial Day if the local governing body has passed ordinances allowing it.
- They may not sell on Christmas Day.

On-sale liquor (RL) and on-sale liquor in full-service restaurant (RR):

- May sell Monday through Saturday.
- May sell spirits, wine, and malt beverages on Sundays if approved by the local governing body.
- May sell spirits, wine, and malt beverages on Memorial Day if the local governing body has passed an ordinance allowing it.
- May not sell on Christmas Day.

Hunting preserve (HP): (Can only serve paying guests)

- May sell Monday through Saturday only from September 1 through March 31.
- May sell spirits, wine, and malt beverages on Sundays if approved by the local governing body.
- May not sell on Christmas Day.