

35-2-5.3. Local licensing authority--Denying reissuance of on-sale license not actively used.

The governing body of a **municipality or county may deny reissuance** of any on-sale license issued pursuant to subdivision **35-4-2(4)**, (6), or (13) to the same licensee or the licensee's transferee if the license has not been actively used by the applicant during the two years preceding the date of the current application. For purposes of this section, the term "actively used" means:

- (1) The licensed premises was open to the public during regular business hours for the sale and consumption of distilled spirits for at least sixty days during the two preceding years; or
- (2) The licensed premises is open five days per year and open to the public during a special event that has at least twenty-five thousand visitors.

The number of licenses held by a municipality pursuant to chapter **35-3** may not be less than the total number of licenses available to be issued as of July 1, 2010.

Source: SL 1975, ch 227; SL 2007, ch 206, § 1, eff. Jan. 1, 2009; SL 2010, ch 181, § 1; SL 2018, ch 213, § 20; SL 2024, ch 147, § 1.

35-4-2. Classes of licenses enumerated--Fees.

The classes of licenses, with the fee of each class, are as follows:

- (1) Repealed by SL 2018, ch 223, § 13;
- (2) Wholesalers of alcoholic beverages--five thousand dollars;
- (3) Off-sale--not less than three hundred dollars. The renewal fee for the license may not exceed five hundred dollars;
- (4) **On-sale--not less than one dollar for each person residing within the municipality as measured by the last preceding federal census. The renewal fee for the license may not exceed fifteen hundred dollars;**
- (5) Off-sale licenses issued to municipalities under local option--not less than two hundred fifty dollars;
- (6) On-sale licenses issued outside municipalities--not less than the amount the nearest municipality to the applicant is charging for a like license. The renewal fee shall be the same as is charged for a like license in the nearest municipality. If the municipality to which the applicant is nearest holds an on-sale license, pursuant to § **35-3-13** and does not charge a specified fee, then the fee shall be the minimum amount that could be charged as if the municipality had not been authorized to obtain on-sale licenses pursuant to § **35-3-13**. The renewal fee shall be the same as could be charged for a like license in the nearest municipality;
- (7) Repealed by SL 2018, ch 213, § 46;
- (8) Transportation companies--twenty-five dollars;
- (9) Carrier--one hundred dollars. The fee licenses all conveyances the licensee operates in this state;
- (10) Repealed by SL 2018, ch 213, § 46;
- (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;
- (12) Wine and cider retailers, being both package dealers and on-sale dealers--five hundred dollars;

- (13) Convention facility on-sale--not less than one dollar for each person residing within the municipality as measured by the last preceding federal census. The renewal fee for the license may not exceed fifteen hundred dollars;
- (14) Repealed by SL 2018, ch 224, § 11;
- (15) Wholesalers of malt beverages--four hundred dollars;
- (16) Malt beverage and wine produced by a farm winery licensee, being both package dealers and on-sale dealers--three hundred dollars;
- (17) Repealed by SL 2018, ch 213, § 46;
- (17A) Repealed by SL 2018, ch 213, § 46;
- (18) Repealed by SL 2018, ch 213, § 46;
- (19) Repealed by SL 2018, ch 213, § 46 and ch 222, § 11;
- (20) Repealed by SL 2018, ch 213, § 46;
- (21) Retail on premises manufacturer--two hundred fifty dollars;
- (22) Repealed by SL 2018, ch 223, § 13; and
- (23) Off-sale delivery--one hundred fifty dollars.

Source: SDC 1939, § 5.0203; SL 1945, ch 17, § 2; SL 1947, ch 19; SDC Supp 1960, § 5.0204 (13), (14) as enacted by SL 1961, ch 14; SL 1964, ch 9; SL 1965, ch 12; SL 1966, ch 10; SDC Supp 1960, § 5.0204 (15) as enacted by SL 1967, ch 6; SL 1968, ch 2, § 1; SL 1970, ch 206, § 1; SL 1970, ch 207, § 1; SL 1971, ch 211, §§ 40, 41, 121; SL 1973, ch 236, § 1; SL 1975, ch 228; SL 1981, ch 270, § 1; SL 1985, ch 291, §§ 1, 3, 4A; SL 1986, ch 300; SL 1987, ch 261, § 16; SL 1988, ch 292, § 1B; SL 1989, ch 312; SL 1990, ch 296; SL 1993, ch 265; SL 1994, ch 285, § 1; SL 1995, ch 207, § 2; SL 2001, ch 194, § 1; SL 2003, ch 190, § 1; SL 2003, ch 191, § 1; SL 2006, ch 194, § 12; SL 2008, ch 182, § 1; SL 2008, ch 183, § 1; SL 2009, ch 48, § 3; SL 2011, ch 172, § 1; SL 2014, ch 175, § 1; SL 2014, ch 176, § 1; SL 2017, ch 166, § 1; SL 2017, ch 169, § 2; SL 2018, ch 213, § 46; SL 2018, ch 215, § 4; SL 2018, ch 219, § 1; SL 2018, ch 222, § 11; SL 2018, ch 223, § 13; SL 2018, ch 224, § 11.

§ 112.22 ACTION BY COUNCIL.

The city may require any applicant to appear personally, at any meeting of the City Council, and to answer any questions which may be asked pertaining to himself or herself or his or her place of business, which may, in any way, pertain to the carrying on of the business applied for.

(Prior Code, § 12-203)