

ARTICLE 64:75**ALCOHOLIC BEVERAGES**

Chapter

- 64:75:01 Definitions and general provisions.
- 64:75:02 Licensing procedures.
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CHAPTER 64:75:01**DEFINITIONS AND GENERAL PROVISIONS**

Section

- 64:75:01:01 Definitions.
- 64:75:01:02 Trade name billings.
- 64:75:01:03 Inspection of records.
- 64:75:01:04 Repealed.
- 64:75:01:05 Filing of invoices.
- 64:75:01:06 Repealed.
- 64:75:01:07 Repealed.
- 64:75:01:08 Repealed.
- 64:75:01:09 Foreign dealer violations.

64:75:01:01. Definitions. Terms used in this article mean:

- (1) "Brand," the name commonly used on bottles or other containers and otherwise used to designate the alcoholic beverage sold;
- (2) "Broken case lots," alcoholic beverage of a quantity less than a case of any particular brand;
- (3) "Case," a carton or similar package containing individual retail containers as packaged by the manufacturer;
- ~~(4) "Cash," United States currency, check, and electronic fund transfers;~~
- ~~(5)~~ (4) "Consumer advertising specialties," can openers, bottle openers, place mats, glasses, coasters, napkins, matches, sacks, serving trays, and similar items containing brand advertising information or logos;
- ~~(6)~~ (5) "Department," the Department of Revenue;
- ~~(7)~~ (6) "Foreign dealer," any person authorized pursuant to SDCL title 35 or SDCL chapter 39-13 to import, transport or cause to be transported alcoholic beverages into this state for sale to a wholesale licensee;
- ~~(8)~~ (7) "Industry member," any manufacturer or wholesaler of alcoholic beverages;
- ~~(9)~~ (8) "Involuntary transfer," any sale, assignment, hypothecation, or other transfer of any stock or any interest whatsoever therein, which occurs by operation of law, including any change in ownership or control of such stock or any interest therein, resulting from death of the owner or holder thereof, from any judicial sale, from attachment or other legal process of like nature, from foreclosure of any pledge or other hypothecation, or from any other procedure or means whatsoever not requiring the assent of such owner or holder;

~~(10)~~ (9) "Person," any individual, firm copartnership, joint adventure, association, limited liability company, corporation, municipal corporation, estate, trust, business trust, receiver, the State of South Dakota and its political subdivisions, or any group or combination acting as a unit;

(10) "Retail consumer," any person purchasing alcoholic beverages from a licensed retailer of alcoholic beverages;

(11) "Stock," any outstanding stock whatsoever of any corporation, whether such stock is classed as common or preferred and regardless of whether such stock entitled the holder thereof to any voting rights in such corporation;

(12) "Tie in sales arrangement," any sale of alcoholic beverages by a wholesaler to a retailer, conditioned upon purchase or order of other alcoholic beverages;

(13) "Voluntary transfer," any sale, assignment, hypothecation, or other transfer of any stock, or any interest whatsoever therein, regardless as to whom the transfer is made, and whether or not such transfer is shown on the records of such corporation, which is other than an involuntary transfer;

(14) "Wholesaler," any person who sells alcoholic beverages to retailers for resale.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 30 SDR 58, effective November 5, 2003; 31 SDR 214, effective July 6, 2005; 45 SDR 83, effective December 18, 2018.

General Authority: SDCL 35-10-1(1)(5)(7)(8).

Law Implemented: SDCL 10-1-1(4)(22)(24), 35-10-1(1)(5)(7)(8).

CHAPTER 64:75:03

UNFAIR PRACTICES

Section

64:75:03:01 ~~Scope of chapter~~ Price schedule required for sales.

64:75:03:02 ~~Filing of price schedule~~ Maintenance of price schedule.

- 64:75:03:03 ~~Alternate filing of price schedule~~ Price schedule contents.
- 64:75:03:04 ~~Amendment of price schedules~~ Effective date – Price changes.
- 64:75:03:05 ~~Discontinued merchandise~~ Repealed.
- 64:75:03:06 ~~New merchandise~~ Repealed.
- 64:75:03:07 ~~Effective date~~ Repealed.
- 64:75:03:08 ~~New licensees~~ Repealed.
- 64:75:03:09 ~~Preservation of price schedules~~ ~~Public record~~ Repealed.
- 64:75:03:10 Conformity to price schedule.
- 64:75:03:11 ~~Use of suggested price list~~ Repealed.
- 64:75:03:12 ~~Suggested resale prices not required~~ Repealed.
- 64:75:03:13 Repealed.
- 64:75:03:14 Repealed.
- 64:75:03:15 Repealed.

64:75:03:01 ~~Scope of chapter~~ Price schedule required for sales. ~~This chapter applies to all alcoholic beverages.~~ No licensed wholesaler may sell, offer for sale, solicit orders, or advertise any alcoholic beverages unless the wholesaler's price schedule currently in effect lists that alcoholic beverage.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005; 45 SDR 83, effective December 18, 2018.

General Authority: SDCL 35-10-1(1)(2)(4)(6).

Law Implemented: SDCL 35-4-52.

64:75:03:02. ~~Filing of price schedule~~ Maintenance of price schedule. ~~Each wholesaler must file with the secretary, in a form authorized by the secretary, a complete schedule of all prices~~

~~to be charged free on board, the municipality of shipment, for each brand of alcoholic beverages. The secretary may authorize the electronic filing of price schedules. The price schedule shall specify the unit price per case for alcoholic beverages of each brand and the unit price per bottle, or other container, for all alcoholic beverages of each brand sold in broken case lots. The size of the bottle or other container shall be specified. The price schedule shall be uniform for each case of each container size for each brand of liquor, regardless of the label or container design. Each wholesaler must maintain a price schedule for all alcoholic beverages available for sale by the wholesaler, subject to public inspection during regular business hours. The wholesaler shall preserve price schedules for a minimum of three years.~~

Source: SL 1975, ch 16, § 1; 3 SDR 10, effective September 1, 1976; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52, 35-10-1(6).

64:75:03:03. Alternate filing of price schedule. Price schedule contents. ~~Any trade journal in general use and circulation among wholesaler and retailer licensees in South Dakota may be used to publish a price schedule as required by § 64:75:03:02. If a trade journal is used, no filing with the secretary is necessary, provided that amendments in prices do not become effective before the next publication and schedules on discontinued merchandise complies with §§ 64:75:03:04 and 64:75:03:05. The price schedule shall at minimum identify the date and time the schedule was produced, and every product for sale, identified by brand and brand segment if applicable. For each product listed, the wholesaler must provide the case or unit price, number of bottles or containers per case or unit, and container or bottle volume. Any alcoholic beverages sold in broken case lots must be listed, providing price per bottle or container.~~

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)(10)~~ 35-10-1(6)(11).

Law Implemented: SDCL ~~35-10-1(6)(10)~~ 35-10-1(6)(11).

64:75:03:04. Amendment of price schedules Effective date – Price changes. ~~At any time after filing a price schedule, a wholesaler may amend the price schedule by filing an amendment in a form authorized by the secretary, specifically designating each item where a change in price is made and stating in each instance the price to be charged. The secretary may authorize the electronic filing of amendments. Amendments shall specify the date they are to be effective, which may not be less than 10 days after the filing of the amendment. The wholesaler's price schedule previously on file shall remain effective until the amendment becomes effective. Any amendment made to meet a competitive price may go into effect at the same time as the competitive price or at any time within the period for which that price is filed. An amendment filed to meet a competitive price must remain in effect for at least ten days, it may remain in effect for all or any remaining portion of the period for which the competitive price was filed. If the competitive price is not a post-down filing, the amended price may return to its originally scheduled price at the same time as the competitive price or after six months from the time the amendment was filed. A wholesaler may amend its price schedule at any time. Any time a wholesaler amends a price of one of its products, it must produce and preserve a new price schedule. Any amended price must remain in effect for at least ten days unless the continuation of the amended price would violate SDCL 35-4-129.~~

Source: SL 1975, ch 16, § 1; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52, 35-10-1(6)(11).

64:75:03:05. Discontinued merchandise. ~~A wholesaler may file a price schedule amendment reducing the price for a case or designated container size of a brand of alcoholic beverages where the wholesaler is discontinuing the merchandising of the case or designated container size of the brand, provided such case or container size of the brand was previously offered for sale by the wholesaler for a period of 6 months or more and the wholesaler will not offer the same for sale for a period of 12 months subsequent to the closing inventory sale thereof. The approximate number of cases of such discontinued merchandise must also be filed.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:06. New merchandise. ~~The price schedule on new merchandise of any brand not previously sold by a wholesaler may be effective the date the amendment is filed.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:07. Effective date. ~~Any amendment filed to a price schedule is effective on the date indicated. However, any person may file a written notice of protest to the change with the secretary within five days from the date of the filing of the amendment. The secretary may hear and determine any objection to the amendment. If no order is given by the secretary prior to the end of the waiting period, the protest to the amendment is rejected and the amendment approved.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:08. New licensees. ~~Before commencement of business under a wholesale license, a licensed wholesaler shall file a price schedule with the secretary. The price schedule is effective immediately upon filing. Repealed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:09. Preservation of price schedules -- Public record. ~~Each price schedule shall be preserved by the secretary in a form that readily and conveniently discloses all prices to be charged. Whenever amendments to any price schedule become so numerous that the schedule is confusing, the secretary shall require the filing of a new and complete price schedule that strictly follows the price schedule and amendments currently on file. Each price schedule shall be open at convenient times for public inspection. Repealed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:11. Use of suggested price list. ~~If a wholesaler distributes to any retailer a suggested retail price list, a current copy shall be kept on file with the department. Each suggested price list shall have prominently imprinted thereon, in bold face type: "USE OF SUGGESTED RESALE PRICES BY RETAILERS IS ENTIRELY VOLUNTARY. THESE PRICES ARE NEITHER APPROVED OR DISAPPROVED BY THE DEPARTMENT OF REVENUE AND REGULATION."~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:12. Suggested resale prices not required. ~~No wholesaler may state or infer that suggested resale prices are required either by state or federal law or by any rule of the department~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1.~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

CHAPTER 64:75:04

INTERPRETIVE RULES

Section

- 64:75:04:01 ~~Scope of chapter~~ Invoice required.
- 64:75:04:02 ~~Terms of payment~~ Wholesale payment terms – Malt beverage exception.
- 64:75:04:03 ~~Check as payment~~ Retail delinquency.
- 64:75:04:04 ~~Bad checks~~ Notice of delinquency.

64:75:04:05 ~~Retail delinquency~~ Disputed delinquency.

64:75:04:05.01 Sales to delinquent retailers prohibited.

64:75:04:05.02 Notice of satisfaction.

64:75:04:06 Granting financial assistance to licensees.

64:75:04:07 Repealed.

64:75:04:08 Repealed.

64:75:04:09 Commercial bribery.

64:75:04:10 Alcoholic beverages as samples -- Consumer advertising specialties.

64:75:04:11 Repealed.

64:75:04:12 Sale and delivery in entirety.

64:75:04:13 Advertising.

64:75:04:14 ~~Certain inducements prohibited~~ Industry relations.

64:75:04:14.01 Retail consumer rebate programs.

64:75:04:14.02 Retail loyalty and reward programs.

64:75:04:15 Repealed

64:75:04:16 Repealed.

64:75:04:17 Miscellaneous disposition of alcoholic beverages.

64:75:04:18 New placement items -- Special marking required.

64:75:04:19 Prohibited without special marking.

64:75:04:20 Invoicing of samples.

64:75:04:21 Authorized bottle and container sizes.

64:75:04:22 Repealed.

64:75:04:23 Drop shipment to retailers.

64:75:04:24 Group wine tasting.

64:75:04:25 Claim of loss by wholesalers.

64:75:04:01. ~~Scope of chapter~~ Invoice required. ~~This chapter applies to all alcoholic beverages. Every sale of alcoholic beverages shall be recorded by the wholesaler on an invoice containing the name of the wholesaler, the name of the retailer licensee, date of sale, quantity of alcoholic beverages sold, price of alcoholic beverages sold, brand, size of container, and date of delivery.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005; 45 SDR 83, effective December 18, 2018.

General Authority: SDCL 35-10-1(1-14) 35-10-1(2)(6)(11).

Law Implemented: SDCL 35-4-52.

64:75:04:02. ~~Terms of payment~~ Wholesale payment terms – Malt beverage exception. ~~No wholesale licensee, its subsidiary or affiliate corporation, or any officer, director, stockholder, employee or partner thereof, may give or advance money or credit to any retailer. No sale or delivery of alcoholic beverages may be made to any retailer except on terms which require payment by the purchaser within 30 days. Every delivery of alcoholic beverages shall be accompanied by an invoice of sale or a delivery slip giving the date of delivery of such alcoholic beverages. The first day of such credit period is the day following the date of invoice and the 30-day credit period expires at midnight the thirtieth day following the date of invoice, after which payment is delinquent. No remittance by mail is delinquent if the envelope bears the postmark of the thirtieth day following the date of invoice.~~

~~If all retail licensees, doing business in the same trade area, are not open for business for any period of time of 7 consecutive days or more, the provisions of this rule relating to the determination of the 30-day credit period do not apply. The period of time for making final payment on the accrued~~

~~obligations of a retailer is extended for the same period of time as all retail licensees are not open for business.~~

~~Notwithstanding the above, the sale or delivery of malt beverages may be made to a retailer for cash only. In addition to the actual cost of malt beverages, retailers shall pay to the wholesaler not less than the brewery cost of any redeemable containers used. The cash only requirement does not apply to municipally operated establishments or establishments operating pursuant to SDCL 35-4-19 and SDCL 35-4-21 to 35-4-23, inclusive, if the municipality retains the obligation to make payment for the malt beverages directly to a wholesaler. No wholesaler may offer a retailer payment terms that provide a payment period in excess of 30 days from delivery of the alcoholic beverages. The delivery date of the alcoholic beverages is the first day of the 30-day payment period.~~

Notwithstanding other provisions in this section, malt beverages must be paid for upon sale and delivery. Acceptable payment methods are United States currency, a correctly dated check payable at the bank upon presentation on the next banking day, or an electronic funds transfer. In addition to the purchase price of the malt beverages, retailers shall pay to the wholesaler not less than the brewery cost of any redeemable containers used. The requirement for payment upon sale and delivery does not apply to municipally operated establishments or establishments operating pursuant to SDCL 35-4-19 and SDCL 35-4-21 to 35-4-23, inclusive, if the municipality retains the obligation to make payment for the malt beverages directly to a wholesaler.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005; 45 SDR 83, effective December 18, 2018.

General Authority: SDCL 35-10-1(6)(11).

Law Implemented: SDCL 35-4-52, 35-10-1(6)(11).

64:75:04:03. ~~Check as payment~~ Retail delinquency. ~~A correctly dated check payable at the bank upon presentation the next banking day is considered cash. A retailer who has not remitted payment within the 30-day payment period is delinquent. Payment remitted in the mail must be received by the wholesaler within the payment period or postmarked within the 30-day payment period to be considered timely. Any insufficient funds check received as payment for a retail account is considered delinquent. Any form of payment otherwise unsuccessful or dishonored is considered delinquent.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52.

64:75:04:04. ~~Bad checks~~ Notice of delinquency. ~~If a check is returned for insufficient funds and is not made good by the retailer within 48 hours, no wholesaler may sell the retail licensee any goods for either cash, credit, or check until the insufficient fund check is made good. Following the expiration of the payment period or upon determination of the delinquency, a wholesaler shall provide written notice of the delinquency to the retail dealer. The written notice of delinquency may be delivered by U.S. mail, using electronic means, or in person to the retail establishment. The written notice of delinquency must state at a minimum the amount due, the delivery date, and the date the account became delinquent.~~

The notice shall also include the following language: “If this delinquency is not resolved within five days of the date of this notice, it will be reported to the Department of Revenue. Be advised, delinquent retailers are prohibited from purchasing alcoholic beverages from any wholesaler until any delinquency is resolved and cleared from the records of the Department.”

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-10-1(6).

64:75:04:05. ~~Retail delinquency~~ Disputed delinquency. ~~If any retail dealer becomes delinquent in the payment of any account due for merchandise purchased, the wholesale licensee seller shall report that fact within 24 hours to the department. No retail dealer who becomes delinquent is permitted to purchase merchandise for cash or otherwise from any wholesale licensee until the delinquent account has been paid in full and the delinquent account has been cleared from the records of the department. No retail licensee may buy alcoholic beverages for retail sale from another retail licensee. Any retail licensee who knowingly sells alcoholic beverages for retail sale to another retail licensee is subject to license suspension or revocation. A retailer that receives a notice of delinquency may dispute the delinquency to the wholesaler. The retailer must dispute the delinquency within five days of the date of the notice. Any dispute raised by a retailer after this period will not prevent the wholesaler from reporting the delinquency to the department.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-2-10, 35-4-52.

64:75:04:05.01 Sales to delinquent retailers prohibited. Wholesalers shall notify the department of a retail delinquency following the deadline to dispute the delinquency. The wholesaler

shall provide the department a copy of the delinquency notice and method of delivery. No wholesaler may sell alcoholic beverages to a retailer who is delinquent.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52, 35-10-1(6).

64:75:04:05.02 Notice of satisfaction. Any wholesaler who has reported a retail delinquency shall notify the department within forty-eight hours of resolution of that delinquency.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52, 35-10-1(6).

64:75:04:14. ~~Certain inducements prohibited~~Industry relations. The offering of a bonus, premium, gift, compensation, or concession of financial value, whether in money or otherwise, to induce the purchase of an alcoholic beverage is prohibited, except as specifically authorized by SDCL 35-4-130 and this chapter. The terms bonus, premium, gift, compensation, or concession of financial value refer to any article offered to a consumer which is in addition to the immediate container of an alcoholic beverage. ~~These terms include a consumer sales promotion contest if a purchase is necessary to obtain the concession but do not include or prohibit the offering of a refund of thirty six dollars or less to a consumer submitting information, including proof of purchase of a designated quantity of a brand of alcoholic beverages, in accordance with the provisions of an advertisement. The redemption of a merchandise and coupon plan must be made solely by the manufacturer to the consumer. Nothing in this section may be construed to permit such redemptions by the wholesaler or retailer to the consumer. The rebate may apply to any container size or combination of containers but may not apply to more than one case.~~

A wholesaler may rotate alcoholic beverages which they sell provided products purchased from other industry members are not altered or disturbed. The setting or resetting of all or part of an

alcoholic beverage retail premises is permitted if written notice is given forty-eight hours prior to the set or reset to each wholesaler serving the retailer. Pullups, filling of displays, and rotation is only allowed at the point of order taking or invoicing. Shelf stocking is prohibited.

An industry member may provide to a business licensed to sell alcoholic beverages at retail any type of device, equipment, or item intended to prevent the sale of alcoholic beverages to anyone not legally able to purchase the beverages.

An industry member, for reasonable compensation, may provide to a business licensed to sell alcoholic beverages at retail any type of device or equipment necessary to maintain the integrity of a malt beverage or cider product. The device or equipment may only be provided to the business for a maximum of fifteen days in a calendar year. Providing tap wagons or draft trailers is specifically prohibited.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 7 SDR 75, effective February 8, 1981; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 14 SDR 95, effective January 10, 1988; 21 SDR 219, effective July 1, 1995; 30 SDR 89, effective December 10, 2003; 31 SDR 214, effective July 6, 2005; 33 SDR 226, effective June 27, 2007; 38 SDR 214, effective June 21, 2012; 45 SDR 83, effective December 18, 2018.

General Authority: SDCL ~~35-10-1(6)~~ 35-10-1(3)(6).

Law Implemented: SDCL 35-10-1(6) 35-10-1(3)(6).

64:75:04:14.01 Retail consumer rebate programs. Notwithstanding the provisions of 64:75:04:14, manufacturers may offer rebates to retail consumers. The rebate terms shall provide for consumer redemption of the rebate between the manufacturer and retail consumer only. The retailer may not act as the intermediary for the manufacturer or the consumer. The rebate program proceeds may not exceed \$36. The rebate may apply to any container size or combination of containers, but may not apply to more than one case.

General Authority: SDCL 35-10-1(3)(6)(11).

Law Implemented: SDCL 35-2-10.

64:75:04:14.02 Retail loyalty and reward programs.

Retailers may offer loyalty and reward programs to retail consumers. These programs are not permitted for manufacturers or wholesalers of alcoholic beverages. All costs and expenses related to retail loyalty and reward programs shall be borne entirely by the retailer. Any redemption of loyalty or reward program benefits or proceeds shall comply with the provisions of SDCL 35-4-129.

General Authority: SDCL 35-10-1(3)(6)(11)

Law Implemented: SDCL 35-4-130.

CHAPTER 64:75:08

MALT BEVERAGES -- UNFAIR PRACTICES

Repealed.

Section

~~64:75:08:01 — Repealed.~~

~~64:75:08:02 — Repealed.~~

~~64:75:08:03 — Repealed.~~

~~64:75:08:04 — Repealed.~~

~~64:75:08:05 — Repealed.~~

~~64:75:08:06 — Repealed.~~

~~64:75:08:07 — Repealed.~~

~~64:75:08:08 — Repealed.~~

~~64:75:08:09 — Repealed.~~

~~64:75:08:10 — Repealed.~~

~~64:75:08:11 — Repealed.~~

~~64:75:08:12 — Conformity to price schedule.~~

~~64:75:08:13 — Maintenance of price schedule.~~

~~**64:75:08:12. Conformity to price schedule.** Each wholesaler shall strictly conform to the prices set forth in the wholesaler's price schedule during the sale of malt beverages to any retailer. No wholesaler may make a sale of malt beverages to any retailer at a price that is more or less than specified in the price schedule.~~

~~—— **Source:** 37 SDR 69, effective October 19, 2010.~~

~~—— **General Authority:** SDCL 35-10-1.~~

~~—— **Law Implemented:** SDCL 35-10-1(6).~~

~~**64:75:08:13. Maintenance of price schedule.** Each wholesaler must maintain a complete schedule in a form authorized by the secretary of each price to be charged freight on board and the municipality of shipment, for each brand and brand segment of malt beverages. The price schedule shall be uniform for each package of each container size for each brand segment of malt beverage, regardless of the label or container design. The price schedule shall specify:~~

~~—— (1) The unit price per package for malt beverages of each brand and brand segment;~~

~~—— (2) The unit price per bottle, can, or other container for each malt beverage sold; and~~

~~—— (3) The size of the bottle, can, or other container in each package.~~

~~—— Each wholesaler must maintain its current price schedule at its principal place of business and leave the price schedule open to inspection by the secretary during normal business hours. Each price schedule used within the last year must be dated and kept at the principal place of business and be made available for inspection.~~

~~—— For purposes of this section, the term "brand segment" means: a sub-category of malt beverage under the main brand.~~

~~—— **Source:** 37 SDR 69, effective October 19, 2010.~~

~~General Authority: SDCL 35-10-1.~~

~~Law Implemented: SDCL 35-10-1(6).~~

~~Example: If ABC is the brand, ABC Light, ABC Dry, and ABC Light Wheat would be the brand segments.~~