Steve Britzman, City Attorney, opinion on AR 48:02:11:02
April 24, 2020

AR 48:02:11:02. Restrictions on multiple alcoholic beverage licenses. Persons who hold more than one license for the on-sale consumption of alcoholic beverages may have machines placed for each license issued provided the following requirements are met:

1) Separate application, qualification, and fees are submitted and approved for each premises licensed for the on-sale consumption of alcoholic beverages;
2) Separate establishment licenses are issued by the lottery for each premises licensed for the on-sale consumption of alcoholic beverages;
3) **Separate and distinct physical facilities are maintained and utilized for the sale and consumption of alcoholic beverages for each establishment license approved by the lottery;**
4) **No more than one establishment license is issued to any person for the same legally described premises contained in the alcoholic beverage license.**

Source: 16 SDR 27, effective August 18, 1989.
General Authority: SDCL 42-7A-21(16).
Law Implemented: SDCL 42-7A-41.

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Subsections 3 and 4 require separate and distinct physical facilities to be maintained and used for the sale and consumption for each establishment license approved by the lottery. This would mean each establishment must be able to serve alcoholic beverages on its own premises from its own equipment, even if they are housed in the same building with another establishment.

Section 4 requires a separate establishment for each legally described premises. A legally described premises, in my opinion, means a separate legal description must pertain to each establishment licensed. A legal description can be created by a "recorded deed" which has been filed in the office of the Register of Deeds, or a plat which identifies each establishment with a separate description, such as Lot or Parcel A or Parcel B. A plat must also be recorded in the office of the Register of Deeds to create a legal description. Until a legal description is recorded, it cannot create a subdivision of an existing legal description.