

SENATE BILL No. 379

By Committee on Agriculture

2-6

Proposed Amendments for SB 379
February 17, 2012
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Office of Revisor of Statutes

1 AN ACT concerning farm wineries; amending K.S.A. 2011 Supp. 41-308a
2 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2011 Supp. 41-308a is hereby amended to read as
6 follows: 41-308a. (a) A farm winery license shall allow:

7 (1) The manufacture of domestic table wine and domestic fortified
8 wine in a quantity not exceeding 100,000 gallons per year and the storage
9 thereof;

10 (2) the sale of wine, manufactured by the licensee, to licensed wine
11 distributors, retailers, clubs, drinking establishments, holders of temporary
12 permits as authorized by K.S.A. 41-2645, and amendments thereto, and
13 caterers;

14 (3) the sale, on the licensed premises in the original unopened
15 container to consumers for consumption off the licensed premises, of wine
16 manufactured by the licensee;

17 (4) the serving free of charge on the licensed premises and at special
18 events, monitored and regulated by the division of alcoholic beverage
19 control, of samples of wine manufactured by the licensee or imported
20 under subsection (f), if the premises are located in a county where the sale
21 of alcoholic liquor is permitted by law in licensed drinking establishments;

22 (5) if the licensee is also licensed as a club or drinking establishment,
23 the sale of domestic wine, domestic fortified wine and other alcoholic
24 liquor for consumption on the licensed premises as authorized by the club
25 and drinking establishment act;

26 (6) if the licensee is also licensed as a caterer, the sale of domestic
27 wine, domestic fortified wine and other alcoholic liquor for consumption
28 on the unlicensed premises as authorized by the club and drinking
29 establishment act;

30 (7) the sale and shipping, in the original unopened container, to
31 consumers outside this state of wine manufactured by the licensee,
32 provided that the licensee complies with applicable laws and rules and
33 regulations of the jurisdiction to which the wine is shipped; and

34 (8) the sale and shipping of wine within this state pursuant to a permit
35 issued pursuant to K.S.A. 2011 Supp. 41-350, and amendments thereto.

36 (b) Upon application and payment of the fee prescribed by K.S.A. 41-

1 310, and amendments thereto, by a farm winery licensee, the director may
2 issue not to exceed three winery outlet licenses to the farm winery
3 license. A winery outlet license shall allow:

4 (1) The sale, on the licensed premises in the original unopened
5 container to consumers for consumption off the licensed premises; of wine
6 manufactured by the licensee;

7 (2) the serving on the licensed premises of samples of wine
8 manufactured by the licensee or imported under subsection (f), if the
9 premises are located in a county where the sale of alcoholic liquor is
10 permitted by law in licensed drinking establishments; and

11 (3) the manufacture of domestic table wine and domestic fortified
12 wine and the storage thereof; provided, that the aggregate quantity of wine
13 produced by the farm winery licensee, including all winery outlets, shall
14 not exceed 100,000 gallons per year.

(c)(1) Not less than 10% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

15 (e) ~~Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.~~

(2) The Kansas department of agriculture shall estimate the size of the grape harvest for each upcoming year. If a winery can show, based on the estimate, that there will not be sufficient grapes to meet wine production needs, the 10% grapes grown in Kansas rule shall not apply.

16 (f) ~~"Production" means to use non-alcoholic juice or other physical product to distill, rectify, ferment, brew, make, mix, concoct or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling and the preparation for sale within a licensed physical structured winery operation within the state of Kansas boundaries.~~

(d)

(e)

17 (g) ~~The labeling of domestic wine and domestic fortified wine shall follow the label laws approved by the federal government.~~

(f)

18 (h) ~~A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e)(f) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e)(f) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.~~

(g)

19 (i) ~~The director may issue to the Kansas state fair or any bona fide~~

1 group of grape growers or wine makers a permit to import into this state
 2 small quantities of wines. Such wine shall be used only for bona fide
 3 educational and scientific tasting programs and shall not be resold. Such
 4 wine shall not be subject to the tax imposed by K.S.A. 41-501, and
 5 amendments thereto. The permit shall identify specifically the brand and
 6 type of wine to be imported, the quantity to be imported, the tasting
 7 programs for which the wine is to be used and the times and locations of
 8 such programs. The secretary shall adopt rules and regulations governing
 9 the importation of wine pursuant to this subsection and the conduct of
 10 tasting programs for which such wine is imported.

(h)

11 ~~(f)(2)~~ A farm winery license or winery outlet license shall apply only
 12 to the premises described in the application and in the license issued and
 13 only one location shall be described in the license.

(i)

14 ~~(g)(4)~~ No farm winery or winery outlet shall:

15 (1) Employ any person under the age of 18 years in connection with
 16 the manufacture, sale or serving of any alcoholic liquor;

17 (2) permit any employee of the licensee who is under the age of 21
 18 years to work on the licensed premises at any time when not under the on-
 19 premise supervision of either the licensee or an employee of the licensee
 20 who is 21 years of age or over;

21 (3) employ any person under 21 years of age in connection with
 22 mixing or dispensing alcoholic liquor; or

23 (4) employ any person in connection with the manufacture or sale of
 24 alcoholic liquor if the person has been convicted of a felony.

(j)

25 ~~(h)(4)~~ Whenever a farm winery or winery outlet licensee is convicted
 26 of a violation of the Kansas liquor control act, the director may revoke the
 27 licensee's license and order forfeiture of all fees paid for the license, after a
 28 hearing before the director for that purpose in accordance with the
 29 provisions of the Kansas administrative procedure act.

(k)

30 ~~(i)(2)~~ This section shall be part of and supplemental to the Kansas
 31 liquor control act.

32 Sec. 2. K.S.A. 2011 Supp. 41-308a is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
 34 publication in the statute book.