

2021 Kansas Statutes

41-308a. Farm winery license; winery outlet license; rights of licensee; percentage of Kansas products. (a)

A farm winery license shall allow:

- (1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;
- (2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, public venues, clubs, drinking establishments, holders of temporary permits as authorized by K.S.A. 41-1201, and amendments thereto, and caterers;
- (3) the manufacture for and sale of wine to holders of producer licenses as authorized by K.S.A. 41-355, and amendments thereto. Wine manufactured for a producer licensee shall be included in the farm winery licensee's annual production for purposes of subsection (c). The label for any such wine manufactured by the farm winery licensee, as filed with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, may be owned by either the farm winery or the producer licensee for whom the wine was manufactured;
- (4) the sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;
- (5) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;
- (6) the sale of wine manufactured by the licensee for consumption on the licensed premises, provided, the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Wine sold pursuant to this paragraph shall not be subject to the provisions of the club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto, and no drinking establishment license shall be required to make such sales;
- (7) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;
- (8) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;
- (9) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped;
- (10) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 41-350, and amendments thereto;
- (11) the transfer or receipt of wine in a bulk container or packaged wine in bond to any bonded premises pursuant to 26 U.S.C. § 5362(b)(1) and 27 C.F.R. § 24.280 through 24.284, as in effect on July 1, 2021;
- (12) the transfer or receipt of wine in a bulk container in bond to a distilled spirits plant for use in the manufacture of distilled spirits pursuant to 26 U.S.C. § 5362(b)(2), (b)(3) and (c) (6) and 27 C.F.R. § 24.280 through 24.290, as in effect on July 1, 2021;
- (13) the receipt of distilled spirits in a bulk container pursuant to 26 U.S.C. § 5214(a)(5) and 27 C.F.R. § 19.402 through 19.407, as in effect on on* July 1, 2021; and

(14) the production of fortified wine with the addition of wine spirits to domestic wine if the spirits added are produced from the same kind of fruit that was used to produce the wine pursuant to 26 U.S.C. § 5382(b)(2), as in effect on July 1, 2021.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

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

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

(c) (1) Not less than 30% 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 production requirement of this subsection shall be determined based on the annual production of domestic table wine and domestic fortified wine by the farm winery.

(2) On and after July 1, 2021, the percentage of products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery required to be grown in Kansas shall be not less than 15%.

(3) The provisions of this subsection shall expire on January 1, 2023.

(d) A farm winery licensee may import wine from outside Kansas for use in the production of its domestic table wine and domestic fortified wine and shall report such imports on forms prescribed by the director.

(e) 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. If authorized by subsection (a), a farm winery may serve samples of wine manufactured by the licensee and wine imported under subsection (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 (f) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(f) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(g) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(h) No farm winery or winery outlet shall:

- (1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;
 - (2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;
 - (3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor;
 - (4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony; or
 - (5) transfer wine in a bulk container to the premises of a brewery pursuant to 26 U.S.C. § 5411 and 27 C.F.R. § 25.23, as in effect on July 1, 2021.
 - (i) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.
 - (j) For purposes of this section, the terms in subsections (a)(11) through (a)(14) and (h)(5), if not otherwise defined in K.S.A. 41-102, and amendments thereto, mean the same as such terms are defined in title 27, chapter I, subchapter A of the code of federal regulations, as in effect on July 1, 2021.
 - (k) This section shall be a part of and supplemental to the Kansas liquor control act.
- History:** L. 1983, ch. 161, § 3; L. 1985, ch. 170, § 25; L. 1987, ch. 182, § 141; L. 1988, ch. 165, § 1; L. 1990, ch. 178, § 1; L. 1992, ch. 201, § 2; L. 1998, ch. 191, § 3; L. 2005, ch. 201, § 14; L. 2006, ch. 206, § 5; L. 2007, ch. 178, § 2; L. 2008, ch. 126, § 1; L. 2009, ch. 114, § 4; L. 2010, ch. 142, § 5; L. 2012, ch. 144, § 11; L. 2012, ch. 144, § 12; L. 2018, ch. 99, § 3; L. 2019, ch. 57, § 12; L. 2021, ch. 107, § 4; May 27.