

HOUSE BILL No. 2223

By Committee on Commerce, Labor and Economic Development

2-11

1 AN ACT concerning alcoholic beverages; relating to producer ~~permits~~
2 **licenses**; amending K.S.A. 2018 Supp. 41-308a and 41-355 and
3 repealing the existing sections.

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

6 Section 1. K.S.A. 2018 Supp. 41-308a is hereby amended to read as
7 follows: 41-308a. (a) A farm winery license shall allow:

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

11 (2) the sale of wine, manufactured by the licensee, to licensed wine
12 distributors, retailers, public venues, clubs, drinking establishments,
13 holders of temporary permits as authorized by K.S.A. 41-2645, and
14 amendments thereto, ~~and caterers~~ **and the manufacture for or sale of**
15 **wine to holders of producer ~~permits~~ licenses as authorized by K.S.A. 2018**
16 *Supp. 41-355, and amendments thereto;*

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

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

27 (5) the sale of wine manufactured by the licensee for consumption on
28 the licensed premises, provided, the licensed premises are located in a
29 county where the sale of alcoholic liquor is permitted by law in licensed
30 drinking establishments. Wine sold pursuant to this paragraph shall not be
31 subject to the provisions of the club and drinking establishment act, K.S.A.
32 41-2601 et seq., and amendments thereto, and no drinking establishment
33 license shall be required to make such sales;

34 (6) if the licensee is also licensed as a club or drinking establishment,

1 the sale of domestic wine, domestic fortified wine and other alcoholic
2 liquor for consumption on the licensed premises as authorized by the club
3 and drinking establishment act;

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

8 (8) the sale and shipping, in the original unopened container, to
9 consumers outside this state of wine manufactured by the licensee,
10 provided that the licensee complies with applicable laws and rules and
11 regulations of the jurisdiction to which the wine is shipped; and

12 (9) the sale and shipping of wine within this state pursuant to a permit
13 issued pursuant to K.S.A. 2018 Supp. 41-350, and amendments thereto.

14 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
15 310, and amendments thereto, by a farm winery licensee, the director may
16 issue not to exceed three winery outlet licenses to the farm winery
17 licensee. A winery outlet license shall allow:

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

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

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

30 (c) Not less than 30% of the products utilized in the manufacture of
31 domestic table wine and domestic fortified wine by a farm winery shall be
32 grown in Kansas except when a lesser proportion is authorized by the
33 director based upon the director's findings and judgment. The production
34 requirement of this subsection shall be determined based on the annual
35 production of domestic table wine and domestic fortified wine by the farm
36 winery.

37 (d) A farm winery or winery outlet may sell domestic wine and
38 domestic fortified wine in the original unopened container to consumers
39 for consumption off the licensed premises at any time between 6 a.m. and
40 12 midnight on any day. If authorized by subsection (a), a farm winery
41 may serve samples of wine manufactured by the licensee and wine
42 imported under subsection (e) and serve and sell domestic wine, domestic
43 fortified wine and other alcoholic liquor for consumption on the licensed

1 premises at any time when a club or drinking establishment is authorized
2 to serve and sell alcoholic liquor. If authorized by subsection (b), a winery
3 outlet may serve samples of domestic wine, domestic fortified wine and
4 wine imported under subsection (e) at any time when the winery outlet is
5 authorized to sell domestic wine and domestic fortified wine.

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

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

20 (g) No farm winery or winery outlet shall:

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

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

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

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

31 (h) Whenever a farm winery or winery outlet licensee is convicted of
32 a violation of the Kansas liquor control act, the director may revoke the
33 licensee's license and order forfeiture of all fees paid for the license, after a
34 hearing before the director for that purpose in accordance with the
35 provisions of the Kansas administrative procedure act.

36 (i) This section shall be a part of and supplemental to the Kansas
37 liquor control act.

38 Sec. 2. K.S.A. 2018 Supp. 41-355 is hereby amended to read as
39 follows: 41-355. (a) Any person engaged in business as a vineyard ~~or~~
40 ~~other type of agricultural producer with an annual harvest of~~ **with** not less
41 than 100 vines of sound, ripe grapes; ~~or other type of agricultural~~
42 ~~producer with an annual harvest of~~ **1,000 pounds of other sound, ripe**
43 ~~fruits or berries; or 100 pounds of honey~~ may apply to the director for an

1 *and be issued up to two annual ~~vineyard permit producer permits~~ licenses.*

2 (b) *A producer ~~permit~~ license shall apply only to the premises*
3 *described in the application and in the issued ~~permit~~ license.*

4 (c) *A ~~vineyard producer permit~~ license shall authorize the sale in the*
5 *original, unopened container and the serving by the drink of wine on the*
6 *premises specified in the ~~permit~~ license. A ~~vineyard producer permit~~*
7 *license also shall authorize the ~~permit~~ license holder to conduct wine*
8 *tastings in accordance with K.S.A. 2018 Supp. 41-308d, and amendments*
9 *thereto, on the premises specified in the ~~permit~~ license. All wine sold or*
10 *served by the ~~permit~~ license holder shall be produced, in whole or in part,*
11 *using sound, ripe grapes, fruits, berries or honey grown or produced by*
12 *the ~~permit~~ license holder and, shall be manufactured by a farm winery and*
13 *shall be purchased by the ~~permit~~ license holder from such farm winery.*

14 (e)(d) *Any wine not consumed on the premises shall be disposed of*
15 *by the ~~permit~~ license holder or, prior to its removal from the property,*
16 *securely re-sealed and placed in a tamper-proof, transparent bag ~~which~~*
17 *that is sealed in a manner that makes it visibly apparent if the bag is*
18 *subsequently opened.*

19 (d)(e) *Permits Licenses issued under this section shall be valid for*
20 *one year ~~two years~~ from the date of issuance.*

21 (f) *If the producer licensee is also licensed as a club or drinking*
22 *establishment, the producer's license shall allow the sale of domestic*
23 *wine, domestic fortified wine and other alcoholic liquor for*
24 *consumption on the licensed premises as authorized by the club and*
25 *drinking establishment act. If the producer licensee is also licensed as*
26 *a cereal malt beverage licensee, the producer's license shall allow the*
27 *sale of cereal malt beverage and beer not exceeding 6% alcohol by*
28 *volume for consumption on the licensed premises as authorized by the*
29 *Kansas cereal malt beverage act.*

30 (e)(f)(g) *The ~~annual~~ fee for a ~~vineyard producer permit~~ license shall*
31 *be ~~\$100~~ \$200.*

32 (h) *The officers, directors, shareholders or managers of a*
33 *producer licensee shall meet the qualifications of K.S.A. 41-311(a), and*
34 *amendments thereto.*

35 (i) *The producer licensee shall secure a license bond under the*
36 *liquor control act in an amount of \$500, conditioned on the faithful*
37 *compliance of all of the provisions of the law, rules and regulations*
38 *relating to the payment of the liquor drink tax due under Kansas law,*
39 *and with all of the provisions of the law, rules and regulations relating*
40 *to the payment of the Kansas liquor enforcement tax due under*
41 *Kansas law.*

42 (f)(g)(j) (l) *Each producer ~~permit~~ license holder shall maintain*
43 *records of all sales made under the ~~permit~~ license, including sales of*

1 *agricultural products to a farm winery and sales to consumers, and*
2 *maintain records of all purchases of wine manufactured by such farm*
3 *winery, for at least three years after the date of the sale or purchase.*

4 (2) *The records required by this subsection shall be available for*
5 *inspection by the director; any agent or employee of the director; the*
6 *secretary or any law enforcement officer.*

7 (3) *Each record of a sale or purchase required by this subsection*
8 *shall be maintained on the premises specified in the ~~permit~~ license for at*
9 *least 90 days after such sale or purchase.*

10 (4) *Any record of a sale or purchase required by this subsection may*
11 *be stored electronically and maintained off the premises specified in the*
12 *~~permit~~ license after 90 days have passed since such sale or purchase.*

13 ~~(h)~~(k) The secretary may adopt rules and regulations as necessary to
14 implement the provisions of this section.

15 (l) **Wine produced by the farm winery for the producer licensee**
16 **shall be counted toward the minimum Kansas content requirement.**
17 **The label for such wine as filed with the trade and tax bureau, United**
18 **States department of the treasury, may be owned either by the**
19 **producer or the farm winery.**

20 (m) (1) **Nothing in this section shall be construed to prohibit a**
21 **person from possessing alcoholic liquor or cereal malt beverage not**
22 **purchased from the licensee on the premises licensed pursuant to this**
23 **section.**

24 (2) **Nothing in this section shall prevent a licensee from adopting**
25 **a policy prohibiting the possession of alcoholic liquor or cereal malt**
26 **beverage not purchased from the licensee on the licensee's premises**
27 **licensed pursuant to this section.**

28 ~~(g)~~(n) This section shall be a part of and supplemental to the
29 Kansas liquor control act.

30 Sec. 3. K.S.A. 2018 Supp. 41-308a and 41-355 are hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its
32 publication in the statute book.