

HOUSE BILL No. 2723

By Committee on Agriculture

2-4

AN ACT concerning alcoholic liquor; relating to farm wineries; amending K.S.A. 41-308a, 41-310 and 41-312 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

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

(1) The manufacture of domestic table wine and domestic fortified wine and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments and caterers;

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

(4) 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~~

(5) 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;

(6) *the donation of wine manufactured by the licensee to nonprofit, charitable or government-sponsored fundraising events;*

(7) *the serving of samples or sales, or both, of wine in the original unopened container manufactured by the licensee at industry seminars, festivals, the Kansas state fair, trade shows and charitable events, as long as such event is located within a facility and in such county that the use and sale of alcohol is permitted by law; and*

(8) *the sale of wine manufactured by the licensee by the glass, carafe or the opened bottle in a restaurant owned by the licensee if the restaurant is located on the farm winery or on property contiguous to the farm winery.*

(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

1 may issue not to exceed ~~two~~ five winery outlet licenses to the farm winery
2 licensee. *A farm winery is permitted to participate in a joint outlet which*
3 *shall not be considered in the farm winery outlet license limitation re-*
4 *quired by the subsection.* A winery outlet license shall allow:

5 (1) The sale, on the licensed premises in the original unopened con-
6 tainer to consumers for consumption off the licensed premises, of wine
7 manufactured by the licensee; and

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

12 (c) *Notwithstanding the availability of adequate quantities of fruit of*
13 *the quality and varital parameters, as on file with the farm winery,* not
14 less than 60% of the products utilized in the manufacture of domestic
15 table wine and domestic fortified wine by a farm winery shall be grown
16 in Kansas except when a lesser proportion is authorized by the director
17 based upon the director's findings and judgment. ~~The label of domestic~~
18 ~~wine and domestic fortified wine shall indicate that a majority of the~~
19 ~~products utilized in the manufacture of the wine at such winery were~~
20 ~~grown in Kansas.~~

21 (d) *Without forfeiting any rights or privileges, or both, allowed pur-*
22 *suant to this section or other provisions of law governing a farm winery,*
23 *or both,* a farm winery having a capacity of 50,000 gallons per year or
24 more which sells wine to any distributor shall be required to comply with
25 all provisions of article 4 of chapter 41 of the Kansas Statutes Annotated
26 and of K.S.A. 41-701 through 41-705 and 41-709, and amendments
27 thereto, in the same manner and subject to the same penalties as a
28 manufacturer.

29 (e) A farm winery or winery outlet may sell domestic wine and do-
30 mestic fortified wine in the original unopened container to consumers for
31 consumption off the licensed premises at any time between 6 a.m. and
32 12 midnight on any day except Sunday and between 12 noon and 6 p.m.
33 on Sunday. If authorized by subsection (a), a farm winery may serve sam-
34 ples of domestic wine, domestic fortified wine and wine imported under
35 subsection (f) and serve and sell domestic wine, domestic fortified wine
36 and other alcoholic liquor for consumption on the licensed premises at
37 any time when a club or drinking establishment is authorized to serve
38 and sell alcoholic liquor. If authorized by subsection (b), a winery outlet
39 may serve samples of domestic wine, domestic fortified wine and wine
40 imported under subsection (f) at any time when the winery outlet is au-
41 thorized to sell domestic wine and domestic fortified wine.

42 (f) The director may issue to the Kansas state fair or any bona fide
43 group of grape growers or wine makers a permit to import into this state

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

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

13 (h) No farm winery or winery outlet shall:

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

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

20 (3) employ any person under 21 years of age in connection with mix-
21 ing or dispensing alcoholic liquor; or

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

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

29 (j) This section shall be part of and supplemental to the Kansas liquor
30 control act.

31 Sec. 2. K.S.A. 41-310 is hereby amended to read as follows: 41-310.

32 (a) At the time application is made to the director for a license of any
33 class, the applicant shall pay the fee provided by this section.

34 (b) The annual fee for a manufacturer's license to manufacture al-
35 cohol and spirits shall be \$2,500.

36 (c) The annual fee for a manufacturer's license to manufacture beer
37 and cereal malt beverage shall be:

38 (1) For 1 to 100 barrel daily capacity or any part thereof, \$200.

39 (2) For 100 to 150 barrel daily capacity, \$400.

40 (3) For 150 to 200 barrel daily capacity, \$700.

41 (4) For 200 to 300 barrel daily capacity, \$1,000.

42 (5) For 300 to 400 barrel daily capacity, \$1,300.

43 (6) For 400 to 500 barrel daily capacity, \$1,400.

- 1 (7) For 500 or more barrel daily capacity, \$1,600.
2 As used in this subsection, “daily capacity” means the average daily
3 barrel production for the previous 12 months of manufacturing operation.
4 If no basis for comparison exists, the licensee shall pay in advance for the
5 first year’s operation a fee of \$1,000.
- 6 (d) The annual fee for a manufacturer’s license to manufacture wine
7 shall be \$500.
- 8 (e) The annual fee for a microbrewery license or a farm winery li-
9 cense shall be \$250.
- 10 The annual fee for a winery outlet license shall be \$50.
11 *The annual fee for a farm winery restaurant license shall be \$125.*
- 12 (f) The annual fee for a spirits distributor’s license for the first and
13 each additional distributing place of business operated in this state by the
14 licensee and wholesaling and jobbing spirits shall be \$1,000.
- 15 (g) The annual fee for a wine distributor’s license for the first and
16 each additional distributing place of business operated in this state by the
17 licensee and wholesaling and jobbing wine shall be \$1,000.
- 18 (h) The annual fee for a beer distributor’s license, for the first and
19 each additional wholesale distributing place of business operated in this
20 state by the licensee and wholesaling or jobbing beer and cereal malt
21 beverage shall be \$1,000.
- 22 (i) The annual fee for a nonbeverage user’s license shall be:
- 23 (1) For class 1, \$10.
24 (2) For class 2, \$50.
25 (3) For class 3, \$100.
26 (4) For class 4, \$200.
27 (5) For class 5, \$500.
- 28 (j) In addition to the license fees prescribed by subsections (b), (c),
29 (d), (f), (g), (h) and (i):
- 30 (1) Any city in which the licensed premises are located may levy and
31 collect an annual occupation or license tax on the licensee in an amount
32 not exceeding the amount of the annual license fee required to be paid
33 under this act to obtain the license, but no city shall impose an occupation
34 or privilege tax on the licensee in excess of that amount; and
- 35 (2) any township in which the licensed premises are located may levy
36 and collect an annual occupation or license tax on the licensee in an
37 amount not exceeding the amount of the annual license fee required to
38 be paid under this act to obtain the license, but no township shall impose
39 an occupation or privilege tax on the licensee in excess of that amount;
40 the township board of the township is authorized to fix and impose the
41 tax and the tax shall be paid by the licensee to the township treasurer,
42 who shall issue a receipt therefor to the licensee and shall cause the tax
43 paid to be placed in the general fund of the township.

- 1 (k) The annual fee for a retailer's license shall be \$250.
- 2 (l) In addition to the license fee prescribed by subsection (k):
- 3 (1) Any city in which the licensed premises are located shall levy and
4 collect an annual occupation or license tax on the licensee in an amount
5 not less than \$100 nor more than \$300, but no other occupation or excise
6 tax or license fee shall be levied by any city against or collected from the
7 licensee; and
- 8 (2) any township in which the licensed premises are located shall levy
9 and collect an annual occupation or license tax on the licensee in an
10 amount not less than \$100 nor more than \$300; the township board of
11 the township is authorized to fix and impose the tax and the tax shall be
12 paid by the licensee to the township treasurer, who shall issue a receipt
13 therefor to the licensee and shall cause the tax paid to be placed in the
14 general fund of the township.
- 15 (m) The license year for a license shall commence on the date the
16 license is issued by the director and shall end one year after that date.
- 17 Sec. 3. K.S.A. 41-312 is hereby amended to read as follows: 41-312.
- 18 (a) No person holding a manufacturer's or distributor's license shall be
19 permitted to receive any retailer's, microbrewery or farm winery license.
20 No person holding a retailer's, microbrewery or farm winery license shall
21 be permitted to receive any manufacturer's or distributor's license or
22 another retailer's; ~~or microbrewery or farm winery~~ license.
- 23 (b) *A farm winery licensee may own an interest in another farm winery
24 as long as such ownership interest is less than 50%.*
- 25 New Sec. 4. (a) Notwithstanding any other provision of law, an adult
26 resident or holder of an alcoholic beverage license in this state or a state
27 which affords Kansas licensees or adult residents an equal reciprocal ship-
28 ping privilege may ship, for personal use and not for sale, not more than
29 two cases (18 liters) of wine per year to any adult resident of this state.
30 Delivery of a shipment pursuant to this section shall not be deemed to
31 constitute a sale in this state.
- 32 (b) No shipper located outside this state may advertise in this state
33 the availability of wine by shipment to residents of this state pursuant to
34 the section.
- 35 (c) The shipping containers for all wine shipped directly to residents
36 shall be conspicuously labeled as follows: "Alcoholic beverage: Do not
37 deliver to anyone under 21 years of age or is visibly intoxicated."
- 38 (d) *The provisions of this section shall be part of and supplemental to
39 the Kansas liquor control act.*
- 40 Sec. 5. K.S.A. 41-308a, 41-310 and 41-312 are hereby repealed.
- 41 Sec. 6. This act shall take effect and be in force from and after its
42 publication in the statute book.
- 43