

## HOUSE BILL No. 2811

By Committee on Federal and State Affairs

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9 AN ACT concerning wines; authorizing sale and shipping within, into  
10 and out of the state under certain circumstances; amending K.S.A.  
11 2005 Supp. 41-308a and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) Notwithstanding any other provision of law to the  
15 contrary, a person who is currently licensed in this or any other state to  
16 manufacture wine and obtains a wine direct shipper license as provided  
17 in this section may ship wine directly to a resident of this state who is at  
18 least 21 years of age for such resident's personal use and not for resale.

19 (b) Before shipping any wine to a resident of this state pursuant to  
20 this section, a person shall first:

21 (1) File an application for a wine direct shipper license with the di-  
22 vision of alcoholic beverage control;

23 (2) pay to the division a \$100 license fee;

24 (3) provide to the division a true copy of the person's current alco-  
25 holic beverage license issued in this or any other state; and

26 (4) obtain from the division a wine direct shipper license.

27 (c) A wine direct shipper licensee shall:

28 (1) Not ship more than 24 nine-liter cases of wine annually to any  
29 resident of this state for such person's personal use and not for resale.

30 (2) Not ship to any address in an area identified by the division as an  
31 area where the sale at retail of alcoholic liquor in the original package is  
32 not allowed pursuant to the Kansas liquor control act.

33 (3) Ensure that all containers of wine shipped directly to a resident  
34 in this state are conspicuously labeled with the words "CONTAINS AL-  
35 COHOL: SIGNATURE OF PERSON AGE 21 OR OLDER RE-  
36 QUIRED FOR DELIVERY."

37 (4) If located outside this state, report annually to the division the  
38 total amount of wine shipped into the state during the preceding calendar  
39 year.

40 (5) If located outside this state, annually pay to the department of  
41 revenue all gallonage taxes and excise taxes due on sales to residents of  
42 this state during the preceding calendar year, the amount of such taxes  
43 to be calculated as if wine were manufactured and the sale were made in

1 this state.

2 (6) If located within this state, provide to the division any additional  
3 information the division deems necessary beyond that already required  
4 for the license held by the person to ensure compliance with this section.

5 (7) Permit the division or the department of revenue to perform an  
6 audit of the wine direct shipper licensee's records upon request.

7 (8) Be deemed to have consented to the jurisdiction of the division,  
8 the department of revenue, any other state agency and the Kansas courts  
9 concerning enforcement of this section and any related laws and rules  
10 and regulations.

11 (d) A wine direct shipper licensee annually may renew its license with  
12 the division by paying a \$50 renewal fee and providing the division a true  
13 copy of its current alcoholic beverage license issued in this or another  
14 state.

15 (e) After notice and an opportunity for hearing in accordance with  
16 the provisions of the Kansas administrative procedure act and upon a  
17 finding that the licensee has violated the provisions of this section or rules  
18 and regulations adopted hereunder, the director may suspend or revoke  
19 a wine direct shipper license or may impose a civil penalty as provided in  
20 K.S.A. 41-328, and amendments thereto.

21 (f) Shipment of wine directly to a consumer in this state by a person  
22 who does not hold a current wine direct shipper license issued by the  
23 division is a crime. Any person who knowingly makes, participates in,  
24 transports, imports or receives such a shipment is guilty of a class B  
25 misdemeanor.

26 (g) The secretary may adopt rules and regulations to effectuate the  
27 purposes of this section.

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

30 Sec. 2. K.S.A. 2005 Supp. 41-308a is hereby amended to read as  
31 follows: 41-308a. (a) A farm winery license shall allow:

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

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

36 (3) the sale, on the licensed premises in the original unopened con-  
37 tainer to consumers for consumption off the licensed premises, of wine  
38 manufactured by the licensee;

39 (4) the serving free of charge on the licensed premises and at special  
40 events, monitored and regulated by the division of alcoholic beverage  
41 control, of samples of wine manufactured by the licensee or imported  
42 under subsection (f), if the premises are located in a county where the  
43 sale of alcoholic liquor is permitted by law in licensed drinking establish-

1 ments; ~~and~~

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

6 (6) *the sale and shipping, in the original unopened container, of wine*  
7 *manufactured by the licensee to consumers outside the state, provided*  
8 *that the licensee complies with all relevant laws and rules and regulations*  
9 *of the jurisdiction into which the wine is shipped.*

10 (b) Upon application and payment of the fee prescribed by K.S.A.  
11 41-310, and amendments thereto, by a farm winery licensee, the director  
12 may issue not to exceed three winery outlet licenses to the farm winery  
13 licensee. A winery outlet license shall allow:

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

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

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

28 (d) A farm winery having a capacity of 100,000 gallons per year or  
29 more which sells wine to any distributor shall be required to comply with  
30 all provisions of article 4 of chapter 41 of the Kansas Statutes Annotated  
31 and of K.S.A. 41-701 through 41-705 and 41-709, and amendments  
32 thereto, in the same manner and subject to the same penalties as a  
33 manufacturer.

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

1 may serve samples of domestic wine, domestic fortified wine and wine  
2 imported under subsection (f) at any time when the winery outlet is au-  
3 thorized to sell domestic wine and domestic fortified wine.

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

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

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

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

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

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

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

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

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

36 Sec. 3. K.S.A. 2005 Supp. 41-308a is hereby repealed.

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