

SESSION OF 2009

SUPPLEMENTAL NOTE ON SENATE BILL NO. 212

As Amended by House Committee on
Federal and State Affairs

Brief*

SB 212, as amended, would modify the Kansas Liquor Control Act and address the subject of wine, with two new provisions.

- First, SB 212 would permit in-state and out-of-state wineries to directly ship wine to consumers in the State of Kansas upon obtaining a special order shipping license and payment of a \$50 fee to the Department of Revenue. Under the bill, the purchaser would be required to pay the purchase price, the liquor enforcement tax, and all shipping costs. The liquor enforcement tax would have to be paid on the purchase price and not the shipping costs. The bill would require the permit holder to collect the gallonage taxes and enforcement tax.
- Second, SB 212 also would allow a wine licensee to sell wine produced and bottled by a wine licensee at a bona fide farmer's market located at a site approved by the Director of the Division of Alcoholic Beverage Control. The licensee would be required to have an annual bona fide farmer's market sales permit. The licensee would be restricted to selling wine one day per week in the original unopened container.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would repeal KSA 2008 Supp 41-348 and 41-349 which authorize the shipment of wine by in-state and out-of-state wineries.

The bill would prohibit a holder of a special order shipping license from shipping more than 12 cases of wine to any consumer or address per calendar year. The holder of the license would be required to have the purchaser affirm that such purchaser is 21 years of age or older. The permit holder would have to verify the age of the purchaser by the physical examination of an approved government-issued form of identification or by utilizing an Internet-based age and identification service that is authorized by the Director of the Division of Alcoholic Beverage Control (ABC) or the Director's designee.

In addition, the bill would require every shipment of wine to be clearly marked "Alcoholic Beverages, Signature Required." The carrier delivering the wine would be responsible for obtaining a signature of a person who was at least 21 years of age or older.

Under the bill, "bona fide farmer's market" would mean any location of a farmer's market that is subject to inspection by the Department of Agriculture. The bill would authorize the Secretary of Revenue to adopt rules and regulations to implement the provisions of the Act.

The bill would allow licensed farm wineries to hold a manufacturer's license provided that no alcoholic liquor or cereal malt beverage manufactured by such farm winery would be sold at such licensee's premise or at any such licensee's winery outlet.

The bill would allow a winery outlet licensee to manufacture and store domestic table wine and domestic fortified wine such that the aggregate quantity of wine produced, including all winery outlets, does not exceed 100,000 gallons per year.

Background

Proponents of SB 212 included representatives of the Wine Institute and the Kansas Viticulture and Farm Winery Association. Neutral testimony was presented by representatives of the Kansas Licensed Beverage Association and the Kansas Association of Beverage Retailers. No opponents testified on the bill.

The Senate Committee of the Whole amended the bill to require the Director of ABC or such Director's designee to approve the forms of identification to establish that the person is 21 years of age or older. The Senate Committee of the Whole also amended the bill to repeal the statutes dealing with in-state and out-of-state shipment of wine.

Proponents of SB 218 included representatives from the Department of Commerce; Smoky Hill Vineyards and Winery; Sommerset Ridge Vineyard and Winery; Wyldewood Cellars Winery; Kansas Department of Agriculture; Kansas Viticulture and Farm Winery Association; and the Kansas Licensed Beverage Association.

Neutral testimony was submitted by the Director of the Division of Alcoholic Beverage Control.

The Senate Committee on Federal and State Affairs amended SB 218 to require wine sold at farmer's markets be in the original, unopened container.

The House Committee on Federal and State Affairs added provisions of SB 218 to SB 212, as well as further clarifying language and other language to preserve new and older sections of law if a court invalidates parts of the new law.

According to the fiscal note on the original SB 212 and SB 218, the Department of Revenue estimates administrative costs of \$13,500 to implement the provisions of the bill. The Department also indicates that the bill would increase revenues, but the revenue cannot be estimated.