

## 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 amending K.S.A. 2018 Supp. 41-308a and 41-355 and repealing the  
3 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 holders of producer permits as~~  
15 *authorized by K.S.A. 2018 Supp. 41-355, and amendments thereto;*

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

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

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

33 (6) if the licensee is also licensed as a club or drinking establishment,  
34 the sale of domestic wine, domestic fortified wine and other alcoholic  
35 liquor for consumption on the licensed premises as authorized by the club  
36 and drinking establishment act;

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

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

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

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

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

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

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

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

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

1 wine imported under subsection (e) at any time when the winery outlet is  
2 authorized to sell domestic wine and domestic fortified wine.

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

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

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

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

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

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

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

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

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

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

41 (b) *A producer permit shall apply only to the premises described in*  
42 *the application and in the issued permit.*

43 (c) *A ~~vineyard~~ producer permit shall authorize the sale in the original,*

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

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

15 ~~(d)~~(e) Permits issued under this section shall be valid for one year  
16 from the date of issuance.

17 ~~(e)~~(f) The annual fee for a ~~vineyard~~ *producer* permit shall be \$100.

18 ~~(f)~~(g) (1) *Each producer permit holder shall maintain records of all*  
19 *sales made under the permit, including sales of agricultural products to a*  
20 *farm winery and sales to consumers, and maintain records of all*  
21 *purchases of wine manufactured by such farm winery, for at least three*  
22 *years after the date of the sale or purchase.*

23 (2) *The records required by this subsection shall be available for*  
24 *inspection by the director, any agent or employee of the director, the*  
25 *secretary or any law enforcement officer.*

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

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

32 (h) The secretary may adopt rules and regulations as necessary to  
33 implement the provisions of this section.

34 ~~(g)~~(i) This section shall be a part of and supplemental to the Kansas  
35 liquor control act.

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

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