

As Amended by House Committee

Session of 2019

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,
35 the sale of domestic wine, domestic fortified wine and other alcoholic
36 liquor for consumption on the licensed premises as authorized by the club

1 and drinking establishment act;

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

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

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

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

16 (1) 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 (2) the serving on the licensed premises of samples of wine
21 manufactured by the licensee or imported under subsection (e), if the
22 premises are located in a county where the sale of alcoholic liquor is
23 permitted by law in licensed drinking establishments; and

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

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

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

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

4 (e) 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
9 amendments thereto. The permit shall identify specifically the brand and
10 type of wine to be imported, the quantity to be imported, the tasting
11 programs for which the wine is to be used and the times and locations of
12 such programs. The secretary shall adopt rules and regulations governing
13 the importation of wine pursuant to this subsection and the conduct of
14 tasting programs for which such wine is imported.

15 (f) 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 only
17 one location shall be described in the license.

18 (g) 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 on-
23 premise supervision of either the licensee or an employee of the licensee
24 who is 21 years of age or over;

25 (3) employ any person under 21 years of age in connection with
26 mixing 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 (h) 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 a
32 hearing before the director for that purpose in accordance with the
33 provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

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

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

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

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

39 ~~(f)~~(g)(j) (1) *Each producer-permit license holder shall maintain*
40 *records of all sales made under the permit license, including sales of*
41 *agricultural products to a farm winery and sales to consumers, and*
42 *maintain records of all purchases of wine manufactured by such farm*
43 *winery, for at least three years after the date of the sale or purchase.*

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

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

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

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

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

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

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

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

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

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