

SENATE BILL No. 253

By Committee on Federal and State Affairs

2-16

1 AN ACT concerning alcoholic liquor; relating to farm wineries and winery
2 outlets; percentage of Kansas products, requirements; allowing
3 licensees to transfer and receive bulk wine and produce fortified wine;
4 amending K.S.A. 2020 Supp. 41-308a and 41-352 and repealing the
5 existing sections.
6

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

8 Section 1. K.S.A. 2020 Supp. 41-308a is hereby amended to read as
9 follows: 41-308a. (a) A farm winery license shall allow:

10 (1) The manufacture of domestic table wine and domestic fortified
11 wine in a quantity not exceeding 100,000 gallons per year and the storage
12 thereof;

13 (2) the sale of wine, manufactured by the licensee, to licensed wine
14 distributors, retailers, public venues, clubs, drinking establishments,
15 holders of temporary permits as authorized by K.S.A. 2020 Supp. 41-1201,
16 and amendments thereto, and caterers;

17 (3) the manufacture for and sale of wine to holders of producer
18 licenses as authorized by K.S.A. 2020 Supp. 41-355, and amendments
19 thereto. Wine manufactured for a producer licensee shall be included in the
20 farm winery licensee's annual production for purposes of subsection (c).
21 The label for any such wine manufactured by the farm winery licensee, as
22 filed with the alcohol and tobacco tax and trade bureau of the United
23 States department of the treasury, may be owned by either the farm winery
24 or the producer licensee for whom the wine was manufactured;

25 (4) the sale, on the licensed premises and at special events monitored
26 and regulated by the division of alcoholic beverage control in the original
27 unopened container to consumers for consumption off the licensed
28 premises, of wine manufactured by the licensee;

29 (5) the serving free of charge on the licensed premises and at special
30 events, monitored and regulated by the division of alcoholic beverage
31 control, of samples of wine manufactured by the licensee or imported
32 under subsection (e), if the licensed premises are located in a county where
33 the sale of alcoholic liquor is permitted by law in licensed drinking
34 establishments;

35 (6) the sale of wine manufactured by the licensee for consumption on
36 the licensed premises, provided, the licensed premises are located in a

1 county where the sale of alcoholic liquor is permitted by law in licensed
2 drinking establishments. Wine sold pursuant to this paragraph shall not be
3 subject to the provisions of the club and drinking establishment act, K.S.A.
4 41-2601 et seq., and amendments thereto, and no drinking establishment
5 license shall be required to make such sales;

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

10 (8) if the licensee is also licensed as a caterer, the sale of domestic
11 wine, domestic fortified wine and other alcoholic liquor for consumption
12 on the unlicensed premises as authorized by the club and drinking
13 establishment act;

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

18 (10) the sale and shipping of wine within this state pursuant to a
19 permit issued pursuant to K.S.A. 2020 Supp. 41-350, and amendments
20 thereto;

21 *(11) the transfer or receipt of wine in a bulk container or packaged*
22 *wine in bond to any bonded premises pursuant to 26 U.S.C. § 5362(b)(1)*
23 *and 27 C.F.R. § 24.280 through 24.284, as in effect on July 1, 2021;*

24 *(12) the transfer or receipt of wine in a bulk container in bond to a*
25 *distilled spirits plant for use in the manufacture of distilled spirits*
26 *pursuant to 26 U.S.C. § 5362(b)(2), (b)(3) and (c)(6) and 27 C.F.R. §*
27 *24.280 through 24.290, as in effect on July 1 2021;*

28 *(13) the receipt of distilled spirits in a bulk container pursuant to 26*
29 *U.S.C. § 5214(a)(5) and 27 C.F.R. § 19.402 through 19.407, as in effect on*
30 *on July 1, 2021; and*

31 *(14) the production of fortified wine with the addition of wine spirits*
32 *to domestic wine if the spirits added are produced from the same kind of*
33 *fruit that was used to produce the wine pursuant to 26 U.S.C. § 5382(b)*
34 *(2), as in effect on July 1, 2021.*

35 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
36 310, and amendments thereto, by a farm winery licensee, the director may
37 issue not to exceed three winery outlet licenses to the farm winery
38 licensee. A winery outlet license shall allow:

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

43 (2) the serving on the licensed premises of samples of wine

1 manufactured by the licensee or imported under subsection (e), if the
2 premises are located in a county where the sale of alcoholic liquor is
3 permitted by law in licensed drinking establishments; and

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

8 (c) Not less than 30% of the products utilized in the manufacture of
9 domestic table wine and domestic fortified wine by a farm winery shall be
10 grown in Kansas except when a lesser proportion is authorized by the
11 director based upon the director's findings and judgment. The production
12 requirement of this subsection shall be determined based on the annual
13 production of domestic table wine and domestic fortified wine by the farm
14 winery. *A farm winery licensee may import wine from outside Kansas for
15 use in the production of its domestic table wine and domestic fortified
16 wine and shall report such imports on forms prescribed by the director.*

17 (d) A farm winery or winery outlet may sell domestic wine and
18 domestic fortified wine in the original unopened container to consumers
19 for consumption off the licensed premises at any time between 6 a.m. and
20 12 midnight on any day. If authorized by subsection (a), a farm winery
21 may serve samples of wine manufactured by the licensee and wine
22 imported under subsection (e) and serve and sell domestic wine, domestic
23 fortified wine and other alcoholic liquor for consumption on the licensed
24 premises at any time when a club or drinking establishment is authorized
25 to serve and sell alcoholic liquor. If authorized by subsection (b), a winery
26 outlet may serve samples of domestic wine, domestic fortified wine and
27 wine imported under subsection (e) at any time when the winery outlet is
28 authorized to sell domestic wine and domestic fortified wine.

29 (e) The director may issue to the Kansas state fair or any bona fide
30 group of grape growers or wine makers a permit to import into this state
31 small quantities of wines. Such wine shall be used only for bona fide
32 educational and scientific tasting programs and shall not be resold. Such
33 wine shall not be subject to the tax imposed by K.S.A. 41-501, and
34 amendments thereto. The permit shall identify specifically the brand and
35 type of wine to be imported, the quantity to be imported, the tasting
36 programs for which the wine is to be used and the times and locations of
37 such programs. The secretary shall adopt rules and regulations governing
38 the importation of wine pursuant to this subsection and the conduct of
39 tasting programs for which such wine is imported.

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

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

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

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

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

9 (4) employ any person in connection with the manufacture or sale of
10 alcoholic liquor if the person has been convicted of a felony; *or*

11 (5) *transfer wine in a bulk container to the premises of a brewery*
12 *pursuant to 26 U.S.C. § 5411 and 27 C.F.R. § 25.23, as in effect on July 1,*
13 *2021.*

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

19 (i) *For purposes of this section, the terms in subsections (a)(11)*
20 *through (a)(14) and (g)(5), if not otherwise defined in K.S.A. 41-102, and*
21 *amendments thereto, mean the same as such terms are defined in title 27,*
22 *chapter I, subchapter A of the code of federal regulations, as in effect on*
23 *July 1, 2021.*

24 (j) This section shall be a part of and supplemental to the Kansas
25 liquor control act.

26 Sec. 2. K.S.A. 2020 Supp. 41-352 is hereby amended to read as
27 follows: 41-352. (a) Any manufacturer or supplier of alcoholic liquor or
28 cereal malt beverage, whether licensed in this state or any other state, *or a*
29 *holder of a distilled spirits plant permit issued by the alcohol and tobacco*
30 *tax and trade bureau of the United States department of treasury* may
31 apply for an annual packaging and warehousing facility permit. The
32 application shall be on a form prescribed by the director and shall include
33 all information the director deems necessary.

34 (b) A packaging and warehousing facility permit shall allow *the*:

35 (1) ~~The~~ Transfer of alcoholic liquor or cereal malt beverage to the
36 licensed premises of a packaging and warehousing facility for the purpose
37 of packaging or storage, or both;

38 (2) ~~the~~ sale and transfer from the licensed premises of a packaging
39 and warehousing facility to the licensed premises of a spirits, wine or beer
40 distributor licensed in Kansas or to a Kansas supplier; ~~and~~

41 (3) ~~the~~ transfer from the licensed premises of a packaging and
42 warehousing facility to another state; *and*

43 (4) *receipt and transfer of alcoholic liquor in a bulk container from*

1 *any manufacturer or supplier of alcoholic liquor or cereal malt beverage,*
2 *whether licensed in this state or any other state, for purposes of packaging*
3 *in cans or bottles.*

4 (c) The annual fee for a packaging and warehousing facility permit
5 shall be \$2,500.

6 (d) Each brand and label of alcoholic liquor or cereal malt beverage
7 that is intended for sale to distributors in Kansas and is transported,
8 packaged or stored at a licensed packaging and warehousing facility must
9 be registered in accordance with the provisions of K.S.A. 41-331, and
10 amendments thereto.

11 (e) The tax imposed pursuant to K.S.A. 41-501, and amendments
12 thereto, shall be paid on alcoholic liquor or cereal malt beverage imported
13 into this state under a packaging and warehousing facility permit only if
14 the alcoholic liquor or cereal malt beverage is sold to a distributor for sale
15 at wholesale in this state and shall be paid by the distributor who purchases
16 the alcoholic liquor or cereal malt beverage for sale at wholesale.

17 (f) *For purposes of this section, the terms in subsections (a) and (b)*
18 *(4), if not otherwise defined in K.S.A. 41-102, and amendments thereto,*
19 *mean the same as such terms are defined in title 27, chapter I, subchapter*
20 *A of the code of federal regulations, as in effect on July 1, 2021.*

21 (g) This section shall be a part of and supplemental to the Kansas
22 liquor control act.

23 Sec. 3. K.S.A. 2020 Supp. 41-308a and 41-352 are hereby repealed.

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