

SENATE BILL No. 402

By Committee on Agriculture

1-30

AN ACT concerning intoxicating liquors; relating to farm wineries; amending K.S.A. 41-308a, 41-310 and 41-312 and repealing the existing sections.

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

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

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

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

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; ~~and~~

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

(6) *the donation of wine produced by farm wineries to nonprofit, charitable and government sponsored fundraising events;*

(7) *the serving of samples and the sale in the original unopened containers of wine manufactured by the licensee at festivals, trade shows and charitable events including the Kansas state fair, if the event is located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and*

(8) *the sale of wine manufactured by the licensee by the glass, carafe or the opened bottle in a restaurant owned by the licensee if the restaurant is located on the farm winery or on property contiguous to the farm winery.*

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director

1 may issue not to exceed ~~two~~ *five* winery outlet licenses to the farm winery
2 licensee. A winery outlet license shall allow:

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

6 (2) the serving on the licensed premises of samples of wine manu-
7 factured by the licensee or imported under subsection ~~(f)~~ *(e)*, if the prem-
8 ises are located in a county where the sale of alcoholic liquor is permitted
9 by law in licensed drinking establishments.

10 ~~(c) Not less than 60% of the products utilized in the manufacture of~~
11 ~~domestic table wine and domestic fortified wine by a farm winery shall~~
12 ~~be grown in Kansas except when a lesser proportion is authorized by the~~
13 ~~director based upon the director's findings and judgment. The label of~~
14 ~~domestic wine and domestic fortified wine shall indicate that a majority~~
15 ~~of the products utilized in the manufacture of the wine at such winery~~
16 ~~were grown in Kansas.~~

17 ~~—(d) A farm winery having a capacity of 50,000 gallons per year or more~~
18 ~~which sells wine to any distributor shall be required to comply with all~~
19 ~~provisions of article 4 of chapter 41 of the Kansas Statutes Annotated and~~
20 ~~of K.S.A. 41-701 through 41-705 and 41-709, and amendments thereto,~~
21 ~~in the same manner and subject to the same penalties as a manufacturer.~~

22 ~~—(e) A farm winery or winery outlet may sell domestic wine and do-~~
23 ~~mestic fortified wine in the original unopened container to consumers for~~
24 ~~consumption off the licensed premises at any time between 6 a.m. and~~
25 ~~12 midnight on any day except Sunday and between 12 noon and 6 p.m.~~
26 ~~on Sunday. If authorized by subsection (a), a farm winery may serve sam-~~
27 ~~ples of domestic wine, domestic fortified wine and wine imported under~~
28 ~~subsection ~~(f)~~ *(d)* and serve and sell domestic wine, domestic fortified~~
29 ~~wine and other alcoholic liquor for consumption on the licensed premises~~
30 ~~at any time when a club or drinking establishment is authorized to serve~~
31 ~~and sell alcoholic liquor. If authorized by subsection (b), a winery outlet~~
32 ~~may serve samples of domestic wine, domestic fortified wine and wine~~
33 ~~imported under subsection ~~(f)~~ *(d)* at any time when the winery outlet is~~
34 ~~authorized to sell domestic wine and domestic fortified wine.~~

35 ~~*(f)* *(d)* The director may issue to the Kansas state fair or any bona~~
36 ~~fide group of grape growers or wine makers a permit to import into this~~
37 ~~state small quantities of wines. Such wine shall be used only for bona fide~~
38 ~~educational and scientific tasting programs and shall not be resold. Such~~
39 ~~wine shall not be subject to the tax imposed by K.S.A. 41-501, and amend-~~
40 ~~ments thereto. The permit shall identify specifically the brand and type~~
41 ~~of wine to be imported, the quantity to be imported, the tasting programs~~
42 ~~for which the wine is to be used and the times and locations of such~~
43 ~~programs. The secretary shall adopt rules and regulations governing the~~

1 importation of wine pursuant to this subsection and the conduct of tasting
2 programs for which such wine is imported.

3 ~~(g)~~ (e) A farm winery license or winery outlet license shall apply only
4 to the premises described in the application and in the license issued and
5 only one location shall be described in the license.

6 ~~(h)~~ (f) No farm winery or winery outlet shall:

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

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

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

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

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

22 ~~(j)~~ (h) This section shall be part of and supplemental to the Kansas
23 liquor control act.

24 Sec. 2. K.S.A. 41-310 is hereby amended to read as follows: 41-310.

25 (a) At the time application is made to the director for a license of any
26 class, the applicant shall pay the fee provided by this section.

27 (b) The annual fee for a manufacturer's license to manufacture al-
28 cohool and spirits shall be \$2,500.

29 (c) The annual fee for a manufacturer's license to manufacture beer
30 and cereal malt beverage shall be:

31 (1) For 1 to 100 barrel daily capacity or any part thereof, \$200.

32 (2) For 100 to 150 barrel daily capacity, \$400.

33 (3) For 150 to 200 barrel daily capacity, \$700.

34 (4) For 200 to 300 barrel daily capacity, \$1,000.

35 (5) For 300 to 400 barrel daily capacity, \$1,300.

36 (6) For 400 to 500 barrel daily capacity, \$1,400.

37 (7) For 500 or more barrel daily capacity, \$1,600.

38 As used in this subsection, "daily capacity" means the average daily
39 barrel production for the previous 12 months of manufacturing operation.
40 If no basis for comparison exists, the licensee shall pay in advance for the
41 first year's operation a fee of \$1,000.

42 (d) The annual fee for a manufacturer's license to manufacture wine
43 shall be \$500.

1 (e) The annual fee for a microbrewery license or a farm winery li-
2 cense shall be \$250.

3 The annual fee for a winery outlet license shall be \$50.

4 *The annual fee for a farm winery restaurant shall be \$125.*

5 (f) The annual fee for a spirits distributor's license for the first and
6 each additional distributing place of business operated in this state by the
7 licensee and wholesaling and jobbing spirits shall be \$1,000.

8 (g) The annual fee for a wine distributor's license for the first and
9 each additional distributing place of business operated in this state by the
10 licensee and wholesaling and jobbing wine shall be \$1,000.

11 (h) The annual fee for a beer distributor's license, for the first and
12 each additional wholesale distributing place of business operated in this
13 state by the licensee and wholesaling or jobbing beer and cereal malt
14 beverage shall be \$1,000.

15 (i) The annual fee for a nonbeverage user's license shall be:

16 (1) For class 1, \$10.

17 (2) For class 2, \$50.

18 (3) For class 3, \$100.

19 (4) For class 4, \$200.

20 (5) For class 5, \$500.

21 (j) In addition to the license fees prescribed by subsections (b), (c),
22 (d), (f), (g), (h) and (i):

23 (1) Any city in which the licensed premises are located may levy and
24 collect an annual occupation or license tax on the licensee in an amount
25 not exceeding the amount of the annual license fee required to be paid
26 under this act to obtain the license, but no city shall impose an occupation
27 or privilege tax on the licensee in excess of that amount; and

28 (2) any township in which the licensed premises are located may levy
29 and collect an annual occupation or license tax on the licensee in an
30 amount not exceeding the amount of the annual license fee required to
31 be paid under this act to obtain the license, but no township shall impose
32 an occupation or privilege tax on the licensee in excess of that amount;
33 the township board of the township is authorized to fix and impose the
34 tax and the tax shall be paid by the licensee to the township treasurer,
35 who shall issue a receipt therefor to the licensee and shall cause the tax
36 paid to be placed in the general fund of the township.

37 (k) The annual fee for a retailer's license shall be \$250.

38 (l) In addition to the license fee prescribed by subsection (k):

39 (1) Any city in which the licensed premises are located shall levy and
40 collect an annual occupation or license tax on the licensee in an amount
41 not less than \$100 nor more than \$300, but no other occupation or excise
42 tax or license fee shall be levied by any city against or collected from the
43 licensee; and

1 (2) any township in which the licensed premises are located shall levy
2 and collect an annual occupation or license tax on the licensee in an
3 amount not less than \$100 nor more than \$300; the township board of
4 the township is authorized to fix and impose the tax and the tax shall be
5 paid by the licensee to the township treasurer, who shall issue a receipt
6 therefor to the licensee and shall cause the tax paid to be placed in the
7 general fund of the township.

8 (m) The license year for a license shall commence on the date the
9 license is issued by the director and shall end one year after that date.

10 Sec. 3. K.S.A. 41-312 is hereby amended to read as follows: 41-312.

11 (a) No person holding a manufacturer's or distributor's license shall be
12 permitted to receive any retailer's, microbrewery or farm winery license.
13 No person holding a retailer's, ~~microbrewery or farm winery~~ license shall
14 be permitted to receive any manufacturer's or distributor's license or
15 another retailer's, microbrewery or farm winery license.

16 (b) *A farm winery licensee may own an interest in another farm win-*
17 *ery as long as such ownership interest is less than 50%.*

18 Sec. 4. K.S.A. 41-308a, 41-310 and 41-312 are hereby repealed.

19 Sec. 5. This act shall take effect and be in force from and after its
20 publication in the statute book.

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