

Approved: _____

Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 26, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Philip Bradley, Kansas Licensed Beverage Association
Tuck Duncan, Kansas Wine & Spirits Wholesalers Association
Norm Jennings, Smoky Hills Vineyards and Winery
John Brewer, Wyldewood Cellars
Rebecca Rice
Greg Shipe, Davenport Orchards, Vineyards & Winery
Richard Bryan, Kansas Viticulture & Farm Winery Association
Michelle Meyer, Kansas Viticulture & Farm Winery Association
Pep Solberg-Selvan, Bluejacket Crossing Vineyard & Winery
Kip Peterson, Kansas Board of Regents

Others attending:

See attached list.

The Committee Minutes for February 14, 19, 20, 21, 26, and March 5 and 6, distributed on March 20, 2008, with no changes stand approved.

SB 696 - Designation of Salina area technical college

Chairman Brungardt opened the hearing on **SB 696**.

Kip Peterson, Kansas Board of Regents testified in favor of the bill. The bill is a technical renaming amendment, last year legislation was passed for technical schools to merge with community colleges or become independent, and statutory the name has to change from Salina Area Technical School to Salina Area Technical College.

Chairman Brungardt opened the hearing on **SB 696**.

Final Action:

SB 696 - Designation of Salina area technical college

Senator Ostemeyer moved to pass SB 696 out favorably.. Senator Reitz seconded the motion. The motion carried.

HB 2908 - Permits for farm wineries

Chairman Brungardt opened the hearing on **HB 2908**.

Phil Bradley, Kansas Licensed Beverage Association, (KLBA) spoke in favor of the bill. (Attachment 1) KLBA asks that the elements of **HB 2817** be amended into the bill, and that **SB 397** be amended into the bill. The elements of **HB 2817** would remove the requirement for 50% Kansas products to be used in the

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 26, 2008 in Room 526-S of the Capitol.

production of Kansas Micro brews. The ABC Director and authors do not object to this amendment. The elements of **SB 397** were passed in committee and the Senate on February 20th. This re-allows consumption of alcohol at National Guard armories and corrects the affirmative defense to require that the driver's license or identification card presented by the minor reasonably appear to contain a photograph of the minor purporting to establish that such minor was 21 years of age.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, appeared in favor of the bill. (Attachment 2) The Association asks that the committee approve the non-controversial provisions of the bill, extend sale to holders of temporary permits and the sale at farmers markets, and the sale of wine in its original, unopened container at the state fairgrounds during the fair by a person who has entered into an agreement with the state fair board for that purpose, add the amendment that would eliminate the township population requirement (to which the Alcoholic Beverage Control has no objection), and add the provisions of **SB 397** regarding armories.

Norm Jennings, Smoky Hills Vineyards and Winery, spoke in favor of the bill. (Attachment 3) The bill address the following issues:

- allows wineries to sell to temporary permit holders
- makes the labeling requirements the same as the federal requirements
- allows the Director of the ABC to issue a permit allowing for sales by the bottle at farmers' markets
- make the same fix to farm winery industry that was done for micro breweries last session
- allows for the temporary permit holder at the state fair to sell, buy the original unopened bottle, the wines that are sold by the glass

John Brewer, Wyldewood Cellars, appeared in support of the bill. (Attachment 4) Submitted the following points:

- All Kansas Farm Wineries would like to use 100% Kansas fruit, but there is not enough fruit to satisfy the consumer's demand
- Wine can be made from any fruit, not just grapes
- Federal law, the Kansas Wine designation is only allowed for grape wines with at least 76% Kansas grape content
- Oklahoma, Texas, and Colorado do not have a fruit requirement, and Missouri allows wineries to hold both Farm Winery and Manufactures licenses, which effectively eliminates their fruit requirement

Rebecca Rice appeared neutral on the bill. (Attachment 5) The new labeling language appears to require that 75% of each bottle must contain Kansas grown product because of federal labeling law requirements. The specific requirement of 60% has been eliminated and replaced by the non-specific "majority of the products" language which is modified by the more specific "labeling requirements" of the treasury department. A simple fix would be to simply strike the labeling language.

For multi-state and multi-national hotel and restaurant chains and for the licensing department of ABC, the continued enforcement of the residency requirement has caused additional and purposeless filings and required creation of corporate fictions to meet this requirement.

Greg Shipe, Davenport Orchards and Vineyards, appeared in opposition to the bill. (Attachment 6) Submitted the following points:

- 2 licenses in Kansas - Manufacturer license can use 0% Kansas grown product
- Farm Winery license must use at least 60% Kansas grown product
- Federal label law is very complex
- Multiple ownerships of wineries would allow for chain and franchised wineries. Retailers are not allowed to have the same

The recommendation that the sale of Kansas wine at the Kansas State fair be approved and the rest of the bill sent to the Kansas Department of Agriculture for the Kansas Grape and Wine Advisory Council to review with the whole Kansas wine and grape industry to get right or send the whole bill to KDA for review and possible work next year.

Richard Bryan, Kansas Viticulture and Farm Winery Association, spoke in opposition to the bill. (Attachment

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 26, 2008 in Room 526-S of the Capitol.

7) The bill would eliminate the requirement for at least 60% Kansas grown fruit in Kansas wine and oppose the amendment based on the following:

- The inclusion of Kansas grown fruit is required to maintain the Kansas identity in Kansas wine
- California produces more wine than the rest of the United States combined and requires 100% of the grapes used in California wine to be from California
- Missouri produces more wine than the other states surrounding Kansas, and requires 85% grapes used in Missouri wine be from Missouri

Would support the use of more Kansas product in Kansas wine.

Michelle Meyer, President, Kansas Viticulture and Farm Winery Association (KVFWA), spoke in opposition to the bill. (Attachment 8) The KVFWA proposes the elimination of the two amendments, specifically lines 14 thru 21 agriculture requirement and lines 34 and 35 multiple ownership,. The remaining amendments we support. KVFWA will support the bill only if the agriculture requirement is left intact and the allowance for multiple ownership is eliminated.

Pep Solberg-Selvan, Bluejacket Crossing & Vineyard & Winery, appeared in opposition to the bill. (Attachment 9) Mr. Solberg-Selvan stated his testimony covered his opinion.

Patrick Del app, appeared as an opponent at the Senate Agriculture Committee hearing, but was not able to attend the Senate Fed & State hearing; his testimony is included. (Attachment 10) Written testimony from the Senate Agriculture Committee hearing was presented in opposition to the bill by George Hoff, Stone Pillar Vineyard (Attachment 11) Dr. Everett DeHaven, Skyline Ridge Vineyards (Attachment 12), Francis Riley, Jr., Overland Park. (Attachment 13)

Chairman Brungardt closed the hearing on **HB 2908**

Final Action:

HB 2908 -Permits for farm wineries

Senator Vratil moved to reinsert the language stricken from the bill on page 2 lines 14 thru 17 on percentages. Senator Brownlee seconded the motion. The motion carried. (Attachment 14)

Senator Vratil moved to amend in the language from **HB 2817**. Senator Brownlee seconded the motion. The motion carried.

Senator Barnett moved to strike the language on page 3, line 3 section (f) on the Farmers' Market. Senator Reitz seconded the motion. The motion carried. (Attachment 15)

Senator Vratil moved to reinsert the language stricken from the bill on page 6 lines 34 and 35 on multiple ownership. Senator Barnett seconded the motion. The motion carried. (Attachment 16)

Senator Vratil moved to strike the language on unincorporated townships of a population of 5,000. Senator Francisco seconded the motion. The motion carried. (Attachment 17)

Senator Vratil moved to incorporate the provisions from **SB 397**. Senator Gilstrap seconded the motion. The motion carried.

Senator Barnett moved to pass **HB 2908** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

The meeting was adjourned at 11:46 am.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST**

DATE _____

NAME	REPRESENTING
WEEK DUNCAN	KZ Wine & Spirits who belong
Spencer Duncan	Capitol Connection
Phil BRADLEY	KLBA.
Jay Kramer	CARTER GROUP
Janice	
Rebecca Rice	KS Beer Wholesalers Assn
Neal Whitaker	KS Beer Wholesalers Assn
Austin Hayden	Hein Law Firm
Sean Miller	CAPITOL STRATEGIES
Casey Grady	SEN. BUNGARDT
Kevin Bercow	Wythebrook Cellars
Erik Wisner	KDA
Jessica Bowen	KDT
PEP SELBERG - SELVAN	BLUEJACKET CROSSING WINERY
SARAH BYRNE	ABC
Michelle Meyer	Holy Field Vineyard - Winery
RICHARD A BRYAN	KANSAS Viticulture Assn.
Gregory Shipe	KVFWA
Les Meyer	Holy Field Vineyard - Winery
Mark Taddiken	Senate
Dr. John Adam	Wythebrook Cellars
Whitney Danna	KSGGWA
Mr. M. D.	KGGWA



*Kansas
Licensed
Beverage
Association*

Supplemental Testimony on HB-2908 to the
Senate Federal & State Affairs Committee

Chairman Brungardt, and Senators of the Committee,

We support HB 2908 and ask for your favorable action and consideration.

Specifically on two items;

First, we ask that the elements of HB 2817 be amended into HB 2908.

This would remove the requirement for 50% Kansas products to be used in the production of Kansas Microbrews. The Director of the ABC has conducted research and can testify as to the unavailability of any of the required content domestically. And in addition it is extremely unlikely that they will be grown in KS in the future. I have attached his research on the back. Therefore we ask that the requirement be removed. I can report my understanding that the proponents, ABC Director, and authors do not object to this amendment. I have also attached HB 2817.

Second we ask that SB 397 be amended into HB 2908.

This committee passed SB 397 and the Senate passed it 40 yeas and 0 nays on February 20th. SB 397 re-allows consumption of alcohol at National Guard armories and corrects the affirmative defense to require that the driver's license or identification card presented by the minor reasonably appear to contain a photograph of the minor purporting to establish that such minor was 21 years of age. I have attached SB 397.

Again thank you for your attention and consideration. I am available for your questions.

Philip Bradley

*Philip Bradley
CEO*

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The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you.

March 26, 2008

Sen Fed & State

Attachment 1
3-26-08

-----Original Message-----

From: Tom_Groneman@kdor.state.ks.us [mailto:Tom_Groneman@kdor.state.ks.us]

Sent: Monday, March 10, 2008 1:38 PM

To: Phil Bradley

Subject: Microbrewery

Phil following is the information I received from Janna Dunbar, Dept of Commerce and Carole Jordan, Dept of Agriculture, regarding availability of products in Kansas needed for brewing beer. To date nothing has changed. **Kansas does not grow hops and the barley is not suitable for brewing. Also, Kansas does not have a malting facility.**

Tom,

I have been in contact with Dr. Fadi Aramouni, Ron Madl & Jim Schroyer at KSU on our microbrewery issues. The barley available in Kansas is very small; most of it is feed barley. The barley must be malted to make it higher in starch for the fermentation process. The barley is spread to sprout using water, dried and then sent to the breweries to be fermented for beer.

Jim Schroyer told me that Kansas produces 2 row & 6 row barley, there is more 2 row barley which is usually preferred by brewers. He didn't know acreage for each, but said that he hasn't seen any barley in Kansas this year. The barley grown in Kansas has too low of a test weight to be malted. Jim said that you must have a minimum of a 48 lb. test weight to malt most brewers want much higher, Kansas rarely makes 48#. If the test weight isn't at least 48, there isn't enough starch in the kernel to malt and in turn ferment.

My feeling is it would take much research to develop a barley to get a high enough test weight to grow here. Ron Madl & Jim Schroyer said malting wheat in Kansas was a possibility if a small malting facility was available.

I have doubts about a malting facility being able to cash flow only on Kansas microbrewery needs, we would need either a superior product (it sounds doubtful, based on conversations with Jim & Ron) or be able to beat the price paid to NW USA growers. The proximity to some major brewers is helpful, but I have questions about the quality.

Janna

Link to HB 2817

<http://www.kslegislature.org/bills/2008/2817.pdf>

Link to SB 397

<http://www.kslegislature.org/bills/2008/397.pdf>



*Kansas
Licensed
Beverage
Association*

Testimony on
HB-2908, February 20, 2008

Senate Agriculture Committee

Chairman Taddiken, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

We support HB 2908 and ask for your favorable action.

The Farm Wineries and Microbreweries of Kansas have proceeded in parallel paths helping to grow an active and thriving cottage industry. They act as eco-devo incubators for a fine micro market of Kansas craftsmen. And in this bill on pg 2, line 14 it eliminates the minimum percent content. HB 2817 does the exact same thing for the micro-breweries and we ask that this as well as the other corrections be amended into this measure. The Director of the ABC has conducted research and can testify as to the unavailability of any of the required content domestically. And in addition it is extremely unlikely that they will be grown in KS in the future. Therefore we ask for the same consideration. I can report my understanding that the proponents, ABC Director, and authors do not object to the amendment.

We also support the other items of the balloon amendment as we understand them.

Again thank you for your attention and consideration. I am available for your questions.

*Philip Bradley
CEO*

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Philip Bradley

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION

Statement of
R.E. "Tuck" Duncan, General Counsel
March 26, 2008

The Kansas Wine & Spirits Wholesalers Association asks that the Federal and State Affairs Committee (1) approve the non-controversial provisions of HB 2908, (2) make the amendment below and (3) add the amendment that would eliminate the township population requirement (to which the Alcoholic Beverage Control has no objection), AND (4) add the provisions of SB397 regarding armories.

The Non-controversial provisions include:

- ◆ extending sale to *holders of temporary permits as authorized by K.S.A. 2007 Supp. 41-2645, and amendments thereto.* (p.1 line 20).
- ◆ sale at farmers markets. Please adopt the following amendment as it will conform the permit process to all other temporary permits now issued by the agency.

Page 3, Lines 3 to 10

3 (f) *the director may issue to a licensed farm winery a temporary permit to sell*
4 *its domestic wine, ~~labeled as set forth in subsection (e), by the bottle, at~~*
5 *farmers markets. ~~operated on a not for profit basis.~~ The permit shall be issued in*
6 *accordance with the provisions of KSA 41-347(b) and there shall be no limit on the*
7 *number of such permit. The permit shall state*
8 *the specific location of the farmers market and shall require that an agent*
9 *or representative from the farm winery be present, with the permit, at*
10 *the time of sale. A farm winery license or winery outlet license shall apply*
only to the premises described in the application and in the license issued
and only one location shall be described in the license.

- ◆ *sale of wine in its original, unopened container at the state fairgrounds during the fair by a person who has entered into an agreement with the state fair board for that purpose.* (p. 8, line 31).

Thank you for your attention to and consideration of these matters.

Sen Fed & State

Attachment 2

3-26-08

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION

Statement of
R.E. "Tuck" Duncan, General Counsel
March 19, 2008

The Kansas Wine & Spirits Wholesalers Association supports HB 2908.

We have no objection to extending sale to *holders of temporary permits as authorized by K.S.A. 2007 Supp. 41-2645, and amendments thereto.* (p.1 line 20).

We do not object to the removal of the requirement that not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas provided that the label of domestic wine and domestic fortified wine shall be in *accordance with labeling requirements established by the United States department of treasury.* But you should adopt the amendment attached for clarity. Treasury regulations Title 27: Alcohol, Tobacco and Firearms, part 4—labeling and advertising of wine, Section 4.25 *provides that:*

(a) *Definition* —(1) *American wine.* An American appellation of origin is: (i) The United States; (ii) a State; (iii) two or no more than three States which are all contiguous; (iv) a county (which must be identified with the word "county", in the same size of type, and in letters as conspicuous as the name of the county); (v) two or no more than three counties in the same States; or (vi) a viticultural area (as defined in paragraph (e) of this section).

(2) *Imported wine.* An appellation of origin for imported wine is: (i) A country, (ii) a state, province, territory, or similar political subdivision of a country equivalent to a state or county; or (iii) a viticultural area.

(b) *Qualification* —(1) *American wine.* An American wine is entitled to an appellation of origin other than a multicounty or multistate appellation, or a viticultural area, if:

(i) **At least 75 percent of the wine is derived from fruit or agricultural products grown in the appellation area indicated;** (ii) it has been fully finished (except for cellar treatment pursuant to §4.22(c), and blending which does not result in an alteration of class or type under §4.22(b)) in the United States, if labeled "American"; or, if labeled with a State appellation, within the labeled State or an adjacent State; or if labeled with a county appellation, within the State in which the labeled county is located; and (iii) it conforms to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in such place.

We support the sale of this agricultural alcohol product at farmers markets. This provision is similar to one in New York law. Please adopt the amendment attached as it will conform the permit process to all other temporary permits now issued by the agency.

We have no objection to the multiple ownership provision (p.6) and we support the sale *of wine in its original, unopened container* at the state fairgrounds during the fair by a person who has entered into an agreement with the state fair board for that purpose. (p. 8, line 31).

Thank you for your attention to and consideration of these matters.

Attached: What the Wine Label Tells You, Source: ttb.gov

41-303. Retailer's license, premises outside city. (a) The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises, if such premises are located in a township ~~having a population of more than 5,000~~. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city. ~~If any license has been issued under the provisions of this section in a township having a population of more than 5,000 and thereafter such township population decreases or has decreased to 5,000 or less, such licenses shall continue to be valid and the licensees shall be eligible for renewal of such licenses at the appropriate time if they are otherwise qualified.~~

No such license shall be issued to any applicant under this section unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this section.

(b) If a license has been issued under the provisions of this section ~~in a township having a population of more than 5,000 and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall continue to be valid and may be renewed at the appropriate time even though the licensee does not reside in the city to which the area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been annexed.~~

(c) Any retail license issued prior to the effective date of this act for premises not located in an incorporated city or in a township having a population of more than 5,000 shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this subsection.

History: L. 1949, ch. 242, § 19; L. 1965, ch. 315, § 1; L. 1967, ch. 275, § 1; L. 2000, ch. 166, § 1; L. 2004, ch. 94, § 2; L. 2005, ch. 201, § 5; November 15.

HB 2908
Amendments

Page 2
Lines 14 to 21

14 (c) ~~Not less than 60% of the products utilized in the manufacture of~~
15 ~~domestic table wine and domestic fortified wine by a farm winery shall~~
16 ~~be grown in Kansas except when a lesser proportion is authorized by the~~
17 ~~director based upon the director's findings and judgment. The label of~~
18 ~~domestic wine and domestic fortified wine shall be indicate, in accordance~~
19 ~~with labeling requirements established by the United States department~~
20 ~~of treasury. that a majority of the products utilized in the manufacture of~~
21 ~~the wine at such winery were grown in Kansas.~~

Page 3
Lines 3 to 10

3 (f) *the director may issue to a licensed farm winery a temporary permit to sell*
4 *its domestic wine, ~~labeled as set forth in subsection (e),~~ by the bottle, at*
5 *farmers markets. ~~operated on a not for profit basis. The permit shall be issued in~~*
6 *accordance with the provisions of KSA 41-347(b) and there shall be no limit on*
7 *the number of such permit. The permit shall state*
8 *the specific location of the farmers market and shall require that an agent*
9 *or representative from the farm winery be present, with the permit, at*
10 *the time of sale. A farm winery license or winery outlet license shall apply*
11 *only to the premises described in the application and in the license issued*
12 *and only one location shall be described in the license.*

**TTB's
ALCOHOL RESPONSIBILITIES**

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is a multi-mission Treasury Department bureau responsible for regulatory compliance in the alcohol and tobacco industries, and for the collection of firearms and ammunition excise tax.

As part of its alcohol responsibilities, TTB:

- ❖ Approves labels and monitors advertising.
- ❖ Regulates labeling, marking, packaging and branding of all distilled spirits, wine and beer sold in the United States.
- ❖ Regulates production in the United States and the importation of all alcohol beverages, including distilled spirits, malt beverages and wine.
- ❖ Ensures to the best of its ability that an alcohol beverage label accurately reflects the contents in the container.
- ❖ Approves the designation of American viticultural areas (AVAs).
- ❖ Checks alcohol beverages for compliance with Food and Drug Administration (FDA) decisions concerning food additives and colorings.

WINE LABEL REGULATIONS
In the Code of Federal regulations (CFR)

Read more about the following regulations online at:

www.ttb.gov/regulations

- Alcohol Content** 27 CFR 4.36
- American Viticultural Areas** 27 CFR Part 9
- Appellations of Origin** 27 CFR 4.25
- Brand Name** 27 CFR 4.33
- Declaration of Sulfites** 27 CFR 4.32(e)
- Estate Bottled** 27 CFR 4.26
- Foreign Nongeneric Names Which Are Distinctive Designations of Specific Grape Wines** 27 CFR 12.31
- Health Warning Statement** 27 CFR Part 16
- Name and Address** 27 CFR 4.35
- Net Contents** 27 CFR 4.37
- Varietal designations** 27 CFR 4.23, 4.28, 4.91, 4.92, 4.93
- Vintage date** 27 CFR 4.27



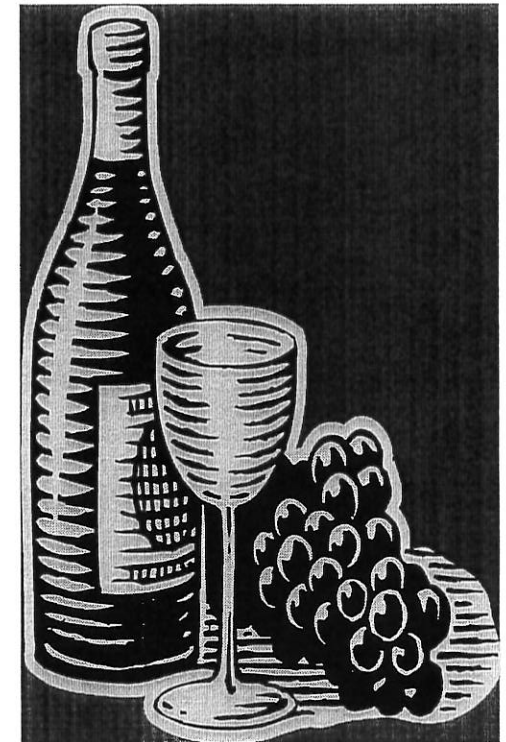
TTB P 5190.1 (07/2006)

DEPARTMENT OF THE TREASURY

**ALCOHOL AND TOBACCO
TAX AND TRADE
BUREAU**

**WHAT YOU SHOULD KNOW
ABOUT**

GRAPE WINE LABELS



TTB
A proud past... A focused future

WHAT THE WINE LABEL TELLS YOU

As consumers become more adventuresome in their wine selections, they look to the label for more information. What makes one wine different from another? What is the dominant grape in the wine? Where were they grown? Although TTB regulations are quite detailed and only apply to wine of at least seven percent alcohol, this pamphlet contains enough basic information to assist the consumer in making an informed choice when buying wine. This pamphlet discusses wine made from grapes. Wine may be also made from other fruit and agricultural products.

BRAND

The brand name is a name used by the bottler to identify the product. Any brand name is acceptable if it does not mislead the consumer.

VINTAGE DATE

A vintage date on the label indicates the year in which the grapes were harvested. If a vintage date is shown on the label at all, an appellation of origin smaller than a country must also be shown. If an American or imported wine uses a state, county or their foreign equivalent as an appellation of origin, 85 percent of the grapes must be from that year; if a viticultural area or the foreign equivalent is used, the percentage is raised to 95 percent.

APPELLATION OF ORIGIN

Appellation of origin is another name for the place in which the dominant grapes used in the wine were grown. It can be the name of a country, state, county or geographic region called a viticultural area or their foreign equivalents.

A country, state or county appellation or their foreign equivalent on the label means that at least 75 percent of the wine is produced from grapes grown in the place named.

VITICULTURAL AREA

An American viticultural area is a defined grape-growing region with soil, climate, history and geographic features which set it apart from the surrounding areas.

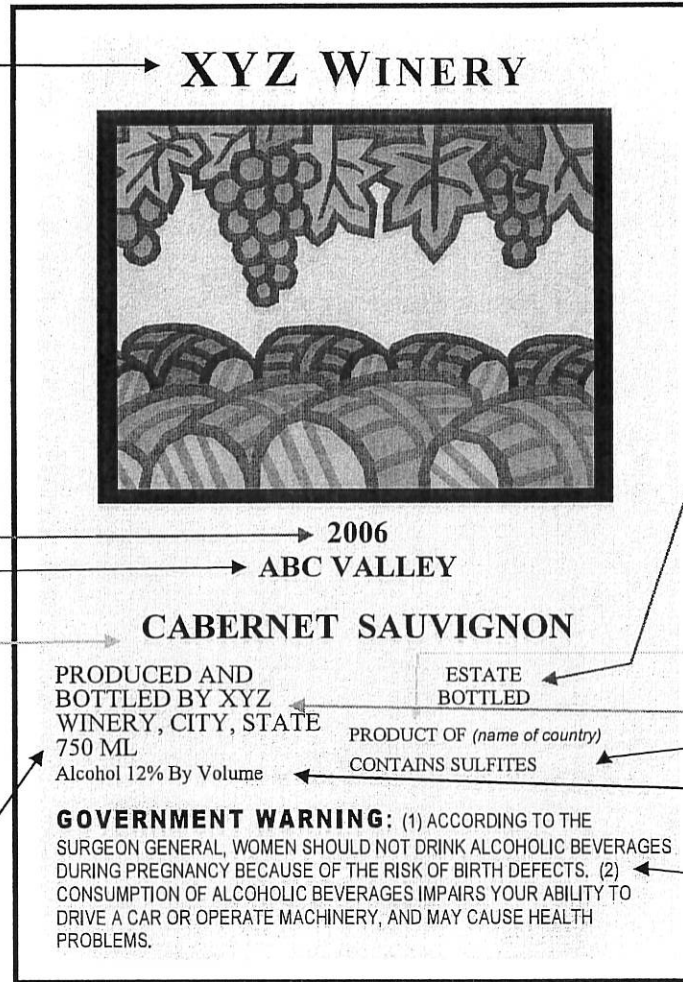
A viticultural area appellation on the label indicates that 85 percent or more of the wine was produced from grapes grown in the named area.

NET CONTENTS

The net contents of wine is stated in the metric system of measure and is the amount of product in the container.

VARIETAL DESIGNATIONS

Varietal designations are the names of the dominant grapes used in the wine. Cabernet Sauvignon, Chardonnay, Zinfandel, and Merlot are examples of grape varieties. A varietal designation on the label requires an appellation of origin and means that at least 75 percent of the grapes used to make the wine are of that variety, and that the entire 75 percent comes from the stated appellation of origin. (Except "*Vitis labrusca*" grapes, such as Concord, which require 51 percent).



ESTATE BOTTLED

"Estate Bottled" means that 100 percent of the wine came from grapes grown on land owned or controlled by the winery, which must be located in a viticultural area. The winery must crush and ferment the grapes, finish, age, process and bottle the wine on their premises. The winery and the vineyard must be in the same viticultural area.

NAME AND ADDRESS

The name or trade name and address(es) of the bottler or importer must appear on the label. Domestic wines will state "Bottled By:" followed by the name and address of the bottler. Imported wines will state "Imported By:" followed by the name and address of the importer.

Domestic wines may have this statement further qualified with terms such as "Produced", meaning that not less than 75 percent of the wine was fermented at the stated address, or "Vinted", which means that the wine was subjected to cellar treatment at the stated address.

COUNTRY OF ORIGIN

A country of origin statement is required on all imported wines. For example, "Product of (insert name of country)".

ALCOHOL CONTENT

A statement of alcohol content in percent by volume appears on most labels. As an alternative some bottlers prefer to label wine with an alcohol content between 7 and 14 percent as "Table Wine" or "Light Wine."

DECLARATION OF SULFITES

Required on any wine intended for interstate commerce that contains 10 or more parts per million (ppm) sulfur dioxide. Not required for wines only sold in intrastate commerce.

HEALTH WARNING STATEMENT

Required on all alcoholic beverages containing .5% or more alcohol by volume. "GOVERNMENT WARNING" must appear in capital letters and bold type. The remainder of the statement may not appear in bold type. The statement must be separate and apart from all other information.

GENERAL REQUIREMENTS

All mandatory information is required to be shown in readily legible printing and on a contrasting background. All mandatory statements on a 750ml bottle, except the alcohol content statement, must appear in printing no smaller than 2mm. The alcohol content statement is required to be from 1-3mm in height regardless of container size.

OTHER DESIGNATIONS

Wine labels are not required to bear a varietal designation. Other designations may be used to identify the wine. Examples are Red Wine, White Wine, Table Wine.

Some imported wines are designated with a distinctive name which is permissible only on specific wines from a particular place or region within the country of origin, for example, Asti Spumanti from Italy and Bordeaux from France.



Testimony

March 26, 2008

To: The Honorable Pete Brungardt, Chair
and Members of Senate Federal & State Affairs Committee

From: Norman M. Jennings

RE: HB2908

Mr. Chairman and members of the committee, thank you for the opportunity to offer this testimony. As you have heard over the past few years the grape and wine industries in Kansas have the potential to be a major contributors to the state agritourism and value-added agricultural industries, as well as state tax revenue sources. As our industry grows, we discover the changes that need to be made in Kansas laws to allow us to operate in similar fashion as wineries of other states. It is important to note that these items are in no way a radical departure from the ways wineries are allowed to operate in many other states.

HB 2908 addresses the following issues that when implemented will have a positive impact on our industry growth.

1. Allows wineries to sell to temporary permit holders. This fixes the logistics problem that keeps the wines that are not currently available at retail from being offered at the state fair. Currently the temporary permit holder must buy from a retailer with a wholesaler license. As only two wineries are available through retail stores, this leaves most Kansas wines out of the state fair and similar venues.
2. Makes the labeling requirements the same as the federal requirements. Example being a wine can not be called a Kansas wine if it contains less than 75% of Kansas grown fruit.
3. Allows the Director of the ABC to issue a permit allowing for sales by the bottle at farmers markets. There are some wineries that grow fruit and sell at farmers markets. They sell their fruits, vegetables, jellies, etc... and would like to be able to sell their wines at the same venues. This provision is similar to that used in other states including New York.
4. Make the same fix to farm winery industry that was done for micro breweries last session in that they would be allowed to have more than one winery license and manufacturing location.
5. Allows for the temporary permit holder at the state fair to sell, buy the original unopened bottle, the wines that are sold by the glass.

Winery Location:

Smoky Hill Winery
212 W. Golf Link Road
Salina, KS 67401

Telephone: 785-825-2515
FAX: 785-823-5231
www.kansaswine.com

Outlet Locations:

Wilson, KS
Smoky Hill Winery Outlet
I-70 and Hwy 232

Wichita, KS
Under the Cork
New Market Square

Sen Fed & State

Attachment 3
3-26-08

The items above are fully supported by the Kansas Grape Growers and Wine Maker Association. This association currently represents the majority of commercial growers and farm wineries in Kansas. The bill as published did contain language on page 2 lines 14 to 17 of section 1-c that the association is neutral toward. This language strikes the requirement to utilize a minimum of 60% Kansas fruit. As noted above, such wines are not allowed to be labeled as a Kansas wine and also can not be given a vintage date. Our association did not request this action/language (due to our neutral position), rather it has been included by the lobbying efforts of another individual that has/will testify before this committee.

The association is neutral (some desiring a change and others do not) on the issue for the following reasons. Some believe that keeping the law as it is will foster increased acreage of Kansas fruit and protect the investments made in existing vineyards. Some are worried that if removed wineries will use lower priced fruit from other states whenever available. Some feel it is vital to derive a regional identity of wines that are crafted from the fruits that grow best in our region. We desire the growth of both the grape and the winery industry. Because grapes are a perennial crop that requires 4 years to produce, we can never match supply with demand. When blessed with growth substantially above what the vineyard acreage will allow, some do not want the industry to suffer and not be able to satisfy this growth demand. As well, some want to be able to plant grapes and open their winery right away, utilizing out-of-state fruit to realize some sales while their vineyards become established. It is a fact that two wineries have not been established because they could not get in-state fruit to start-up, nor could they wait for 5 years to start gathering income. On the one hand, removal of the requirement does not force someone to use out-of-state fruit, whereas the reverse can not be said about the current provision. As well there are no provisions to account for pricing and quality issues, nor are their protections against someone (could be from another state) buying the grapes a winery relies on and hence putting that winery out of business. All these differing opinions and fears are the reasoning that our association remains neutral on this issue.

We support the amendment proposed by Tuck Duncan to clean-up some of the language, as he proposed in recent written testimony.

We thank the committee for hearing this bill and offer to answer any questions you may have at this time.

Sincerely,



Norman M. Jennings

President – Smoky Hill Vineyards & Winery
Vice President - Kansas Grape Growers & Wine Makers Association
Chairman – Grape & Wine Advisory Council



TESTIMONY

TO: The Honorable Mark Taddiken, Chair
And Members of the Senate Committee on Agriculture

FROM: Whitney Damron
On behalf of the
Kansas Grape Growers and Winemakers Association

RE: HB 2908 – Permits for Farm Wineries

DATE: March 19, 2008

Good morning Chairman Taddiken and Members of the Senate Committee on Agriculture. I am Whitney Damron and I appear before you today on behalf of the Kansas Grape Growers and Winemakers Association in support of HB 2908, which makes several changes we believe, will be positive for the wine industry in Kansas and the consumer.

Mr. Norm Jennings, the President of Smoky Hills Vineyards & Winery presented testimony in support of HB 2908 before the House Agriculture and Natural Resources Committee. Mr. Jennings serves as the Vice President of the Kansas Grape Growers and Wine Makers Association and is the chair of the Grape and Wine Advisory Council. He regrets he could not be here today, but he is out of the country at this time.

In his testimony to the House Committee, Mr. Jennings noted that the changes to current law contained in HB 2908 are not a radical departure from the ways wineries are allowed to operate in many states and if adopted, will help Kansas wineries maintain a competitive stature with other states with a farm winery industry.

HB 2908 addresses several areas that when implemented, will have a positive impact on the grape and farm winery industry in Kansas, including:

- Allow wineries to sell to temporary permit holders. This amendment fixes the logistics problem that keeps the wines that are not currently available at retail from being offered at the Kansas State Fair. Currently the temporary permit holder must buy from a retailer with a wholesaler license. As only two wineries are available through retail stores, this leaves most Kansas wines out of the state fair and similar venues.

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*Senate Agriculture
Committee*

3-19-08

Attachment 1

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- Makes the labeling requirements for Kansas farm wineries consistent with Federal labeling requirements. Example being a wine cannot be called a Kansas wine if it contains less than 75 percent of Kansas grown fruit.
- Allows the Director of the Alcoholic Beverage Control to issue a permit allowing for sales by the bottle at farmer's markets. This provision is similar to what is allowed in New York.
- Make the same statutory fix for farm wineries that was done for microbreweries last year that would allow more than one winery license and manufacturing location.
- Allow for the temporary permit holder at the state fair to sell, by the original unopened bottle, the wines that are sold by the glass.

These provisions contained HB 2908 are fully supported by the Kansas Grape Growers and Winemakers Association.

As drafted, HB 2908 also contains language on page two that strikes the requirement that a Kansas winery utilize 60 percent Kansas fruit. The Association is neutral on that proposed language. Our association supports the Kansas wine industry. However, grapes are a perennial crop that requires four years to produce. Limitations on content can serve to limit entry into this industry. For example, someone who wanted to enter into this industry with their own grapes would be required to wait for up to four years to grow grapes to make into wine. By allowing the use of out-of-state fruit could allow someone to begin production now while their vines are being planted, cultivated and brought into production. In summary, the members of the Kansas Grape Growers and Winemakers Association can see both sides to this issue and have taken a neutral position on this language.

Finally, the Association has reviewed Tuck Duncan's proposed amendments and we are in support of their inclusion in this bill.

On behalf of the Association, I thank you for your consideration of our comments here today and respectfully request your support of HB 2908.

WBD



March 20, 2008

The Honorable Mark Taddiken
Senate Committee on Agriculture
State Capitol Building, Room 222-E
Topeka, Kansas 66612

Re: HB 2908 – Farm Wineries

Dear Chairman Taddiken:

On behalf of the Kansas Grape Growers and Winemakers Association, I wish to express our appreciation to you and your committee for holding hearings on HB 2908 earlier this week. As you witnessed from the presentations by the conferees on this bill, there is a divergence of opinion on this legislation and the farm winery industry in general.

As your committee contemplates this legislation, I thought it might be helpful for me to provide you and your committee with a few additional comments.

As noted in testimony, there are currently 15 farm wineries licensed with the State of Kansas. The organization I represent has ten of those wineries as members. The other wine association in Kansas is the Kansas Viticulture and Farm Winery Association. As I understand it, their association has two members at this time.

In 2007, there was an unsuccessful effort to merge these two organizations together. The differences of industry opinion evidenced before your committee are reflective of the differences that kept these two organizations from merging. The former generally being considered generally more progressive and willing to accept growth and change in the industry based upon market conditions and what is happening in other winemaking states while the latter organization embraces a more traditional approach to the farm wine industry that is hesitant to change current law in order to emphasize the importance of “Kansas” in “Kansas wines.”

I do not mean or intend to disparage either organization with these remarks. I simply wish to highlight the differences of opinions and approach taken to the Kansas wine industry expressed by representatives of these two associations.

In regard to the bill, as I noted in my remarks, the Kansas Grape Growers and Winemakers Association does not take a position on the 60 percent threshold issue that is proposed to be eliminated, as we have members on both sides.

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The Honorable Mark Taddiken
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March 20, 2008

We do, however, support the provisions of HB 2908 that would allow a farm winery to have more than one winery location. I believe there may have been some confusion by the conferees as to what this provision does. It is not about having multiple locations to sell or market a product, but rather would allow a farm winery to have multiple vineyards and processing locations, which may also include retail outlets. This would require much more of an investment by the winery than simply an additional retail outlet as discussed by several of the conferees. We believe this would enhance the farm winery industry in Kansas by allowing for more investment in winemaking infrastructure and production.

Finally, as noted in our testimony, we are supportive of the amendments proposed by Mr. Tuck Duncan of the Kansas Wine and Spirits Wholesalers and we would also support the proposals made by Dr. Phil Bradley with the Kansas Licensed Beverage Association.

The Kansas Grape Growers and Winemakers Association believe the changes to the Kansas farm winery laws contained in HB 2908 will lead to further expansion of the wine industry in our state and we would respectfully encourage your Committee to favorably report HB 2908 to the floor of the Senate for further consideration.

Sincerely,



Whitney Damron

CC: The Members of the Senate Committee on Agriculture

Wyldewood Cellars Winery

P.O. Box 45 Mulvane, Kansas 67110 (316) 554-9463 (316) 554-9191

Good morning, Mr. Chairman and members of the committee. I am Dr. John A. Brewer owner of Wyldewood Cellars Winery and I am here to testify in support of HB2908. I would like to submit the following bullet points as additional testimony.

1. All Kansas Farm Wineries would like to use 100% Kansas fruit, but there is not enough Kansas fruit to satisfy the consumer's demand for Kansas made wine, which is less than 1% of the wine that is sold in Kansas.
2. Wine can be made from any fruit, not just grapes. There is more non-grape wine made in Kansas than grape wine.
3. By Federal law, the Kansas Wine designation is only allowed for grape wines with at least 76% Kansas grape content. Even 100% Kansas grown non-grape wines can not be labeled as Kansas wine.
4. Growing fruit for a wine industry is Production Agriculture not a "Retirement Lifestyle".
5. The Wine Manufacturers license restricts the sale of Kansas's wine to wholesalers only and eliminates the Agri-Tourism component of retail sales of Kansas's wine, essential for profitability and growing an industry.
6. The 60% Kansas grown fruit requirement for a Farm Winery is an arbitrary restriction that has limited the growth of existing wineries and the establishment of new wineries. Most major wine producing states do not have such a restriction and those that do are eliminating it. Kansas can not require Gallo to have a Kansas grown content for the wine it sells in Kansas. Oklahoma, Texas and Colorado do not have a fruit requirement, and Missouri allows wineries to hold both Farm Winery and Manufactures licenses, which effectively eliminates their fruit requirement.
7. Farm wineries that want to retain the 60% Kansas Fruit requirement may be doing so to control competition by limitint the size and number of the wineries in Kansas. Their business plan is that a person should have to grow grapes for several years before they can start a winery, and all of their wine must be made from their own fruit. Less than 5% of the wineries in the US grow all of the fruit they use to make wine.
8. For a Wine Agricultural and Agri-Tourism Industry to be created, Kansas's winery law needs to emulate the law of major wine producing states, since they are our competition, and remove unnecessary restrictions that limit our industry.

Thank you for your time and interest and please support HB2908 to improve the Kansas Wine Industry.

Dr. John A. Brewer

Wyldewood Cellars Winery

P.O. Box 45 Mulvane, Kansas 67110 (316) 554-9463 (316) 554-9191

TO: Senate Agriculture

FOR: Testimony in Support of HB2908

Good morning Chairman and members of the committee. I am Dr. John A. Brewer owner of Wyldewood Cellars and I am here to testify in support of HB2908. Wyldewood Cellars has four sales locations, 44 full time employees, and provides over \$300,000 annually in direct taxes to Kansas (gallonage, liquor enforcement, sales, and property taxes). We purchase fruit from over 40 growers and produce over 55% of the wine made in Kansas. Wyldewood Cellars' wines have earned over 400 International Wine Awards, including numerous double and triple gold, and our Spiced Elderberry Wine won a national competition to be the only wine served in the Olympic Village in the 2002 Winter Olympics. As a result of our many awards, I was invited to be the first Professional International Wine Judge in Kansas. Other Kansas wineries have also won numerous International Wine Awards.

Governor Sebelius's recent statement, about not making wine in Kansas, highlighted the problems that the Kansas wine industry is experiencing. The modifications to the Farm Winery Law proposed by HB2908 will help the Farm Wineries bring their products to market and educate the public that there is a Kansas Wine Industry, which produces World Class Wines.

The ability to sell to temporary permit holders corrects an oversight. At present, farm wineries can sell directly to clubs and drinking establishments, but have to sell to a liquor store, who then sells to the temporary permit holders. This restricted the number of wineries that could be represented at the State Fair and severely limits temporary permit holders' use of Kansas wines.

To be able to produce a profit, a winery has to sell most of its products at retail. Retail outlets are expensive to maintain all year and must be licensed for at least nine months. Most of our wineries cannot afford this, but they need the outlet for retail sales, since their tasting room is often at the vineyard and not in a retail location. The Farmers' Market permit would allow affordable, controlled, short term retail outlets at existing retail locations.

Last year, microbreweries were allowed to hold multiple licenses. Farm wineries need the same ability so we can combine capital with existing expertise to grow our industry and provide for the transition of the business to the next generation or other investors. Also multiple licenses would allow multiple fermentation facilities across the state which encourages the use of local fruit. Having to haul fruit for three hours in 100 degree heat to get to the fermentation facility substantially degrades the quality of the fruit. Local processing is good for both the winery and the fruit grower and stimulates interest in local growers.

Adding the ability for the State Fair Wine Garden permit holder to sell wine in unopened containers allows more wineries to be represented at the State Fair and allows the permit holder to generate additional profits for the State Fair. Most of our wineries are not large enough to be distributed or sell through the liquor stores in Hutchinson. The wine exhibit at the State Fair generates a huge amount of

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public interest in Kansas wines, but the fair goers are told they may have to drive halfway across the State to purchase a particular wine. The ability to sell in unopened containers solves this problem and promotes Kansas wine.

The 60% Kansas grown requirement has not helped encourage Kansas agriculture in fruit crops, but has restricted the establishment of new wineries and the growth of existing wineries. After 13 years in business, we still are not able to buy more than a few hundred pounds of grapes in Kansas in any given year. Our best grape purchase year allowed us to make about 75 gallons of wine. Fruit growers routinely contact me about becoming an approved elderberry supplier. They see the market that we have created for elderberries and are willing to invest their money to become a part of that market. The same holds true for grapes. The 60% regulation requires growers to invest for up to five years before a market has been established. Very few people are willing to do this.

Today it is easier for a winery located in California, Chili or Australia to sell their wine in Kansas, than it is for a Kansas Winery. An International Wine consortium has no production restrictions and automatically has up to 700 package retail liquor stores in Kansas to sell their product to the public, if they wish to enter our market. Our Kansas wineries are competing for market share with Gallo (who sells one out of four bottles of wine in the U.S.) and five major wine producers that sell 85% of all wine in sold in our country. We believe that it is in the State of Kansas' interest to allow our locally owned wineries and vineyards the opportunity to compete in this international market without undo state restrictions. Kansas can not require out of state wineries to use 60% Kansas grown fruit in the wine they sell in Kansas. Most states do not have an in-state fruit requirement. For example, Texas, Oklahoma and Colorado do not have an in-state fruit requirement. Texas has 155 wineries, Oklahoma has 54 wineries, and Colorado has over 80. The Kansas wine industry is ten years older than Oklahoma's, and we still have less than 20 wineries.

Everyone agrees that it would not be in the best interest of the grape growers to require vineyards to sell 60% of their annual harvest to Kansas wineries. This would severely limit their ability to sell grapes to wineries in Oklahoma, Missouri, or other states. It would also eliminate their more profitable markets of selling to individuals that come to the vineyard and pick grapes for their own amateur winemaking purposes (referred to as you-pick-um) and for the sale of table grapes. Pierce's disease is devastating vineyards in California and Texas thereby creating new markets for Kansas grapes. Vineyards are rightfully allowed all these profitable markets without restrictions to maximize their return on investment to reward them for their risk.

Our friends in the Oklahoma wine industry have confirmed two points that are very important. First, wines produced from grapes grown within the state are always more valuable than a wine made from grapes grown in California, or another state. Federal labeling requirements specify that a wine must contain at least 76% grapes grown within a state to be labeled as coming from that state. Wine labeled as being from Kansas grown grapes of fruit can be sold for a higher price and allows the winery to in turn pay the vineyard more. A Kansas vineyard will also have substantially less freight overhead to pay in order to transport their grape produce to the buying winery. A tourist to Kansas will buy mementos of their trip. Each year, thousands of Kansas related sweatshirts are sold for \$15 to \$30 each. Visitors will also pay a premium to buy Kansas produced wine as a souvenir of their trip here. Spark's winery sells their Oklahoma grown chardonnay wine for 30% more than their California grown chardonnay wine.

Second, Oklahoma vineyards not only sell all of their production, but also command a higher price than

California grapes for their own grape production, because there are numerous Oklahoma wineries vying for the limited production.

There is enormous potential for growth in the Kansas wine and grape growing industries. The percentage of Kansas wine consumed by Kansas consumers is less one percent of all the wine sold in the state. In contrast Washington State consumers purchase 40% of their wine from wineries in their state. Based upon what our surrounding states are accomplishing, the Kansas wine market could support up to five times the present number of wineries. We look forward to the day when tourists brag about the numerous Kansas wineries they have visited, when Kansas liquor stores have whole departments dedicated to Kansas produced wines, and when our Governor can brag about the size of the Kansas wine industry

Thank you for your time and interest and please support HB2908 to improve the Kansas Wine Industry.

Dr. John A. Brewer



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**REBECCA RICE
ATTORNEY AT LAW**

**TESTIMONY PRESENTED
TO
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

**re: HB 2908
March 25, 2008
by: Rebecca Rice**

Mr. Chairman and Members of the Committee:

My name is Rebecca Rice and I appear before you today as an individual and not on behalf of any client.

I am a neutral conferee on HB 2908. However, I have concerns regarding the intent of the bill and the actual proposed changes. I did not raise these concerns with the House Ag committee as the House hearing was held with less than 24 hours notice within a day or two of when the bill was printed.

On page 2, lines 17 through 21, the bill deletes the requirement that all product manufactured must contain 60% Kansas grown product. In the past, ABC has interpreted that requirement to not require 60% of each bottle be from Kansas product. Because each bottle was not required to contain 60% Kansas product, the next sentence regarding labels was interpreted as being in conflict with both federal labeling law and the Kansas requirement that 60% of the total manufactured had to be from Kansas product but not each bottle.

The new labeling language appears to require that 75% of each bottle must contain Kansas grown product because of federal labeling law requirements. The specific requirement of 60% has been eliminated and replaced by the non-specific "majority of the products" language which is modified by the more specific "labeling requirements" of the treasury department.

I do not think that is the intention of the proponents. A simple fix would be to simply strike the labeling language. It is unnecessary to declare that farm wineries must abide by federal labeling requirements.

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On a different topic I am requesting an amendment to the licensing requirements for hotels and drinking establishments. The amendment would delete the residency requirement found in K.S.A. 41-2623(a)(3). The proposed amendment is attached.

Sen Fed & State

Attachment 5
3-26-08

In 2001, Kansas lost a case in federal district court regarding residency requirements for distributors [*Glazer's Wholesale Drug Company, Inc. vs. State of Kansas*, 2145 F. Supp. 2d 1234 (2001)]. ABC continues to enforce the various residency requirements for other classes licensees.

A 2006 AG opinion (AG *Opin.* 06-12) stated that residency requirements for other license categories would likely be found unconstitutional as well.

Although we disagree with the District Court's assessment that the distributor's license residency requirement served only an economic protectionism purpose and not a core concern of the Twenty-first Amendment, passage of the 2001 amendments removing the residency requirement for distributors, thereby allowing the Glazer's decision to stand, together with enactment of a statute to address the background facilitation concerns raised in Glazer's, have significantly weakened the State's ability to argue the constitutionality of residency requirements for other license applicants under the Liquor Control Act.

For multi-state and multi-national hotel and restaurant chains and for the licensing department of ABC, the continued enforcement of the residency requirement has caused additional and purposeless filings and required creation of corporate fictions to meet this requirement.

To address the court decision in *Glazer's*, the legislature adopted K.S.A. 41-313(b) that requires non-resident license applicants to agree to waive any jurisdictional rights to non-Kansas courts thereby stating that Kansas courts are the appropriate venue for any action arising in Kansas. I believe that this language is sufficient to address any interest the state may have for requiring licensee residency therefore removing the need for the same. If any additional changes besides the deletion of the residency requirement are required to implement intent of this amendment, it might be to remove the limiting word "corporations" in the title of the statute:

K.S.A. 41-313. Licensing of **corporations**; conditions; appointment of agent to receive service of process; consent to jurisdiction and forum of Kansas courts.

While I believe K.S.A. 41-313 (b) applies to all applicants – corporate and non-corporate (statute is attached) - removing "corporations" from the title might eliminate confusion which is always welcome in the liquor statutes.

Thank you for your consideration.

41-2623. Qualifications for license.

(a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311 and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

~~(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.~~

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) On and after January 1, 1988, a license for a class B club or drinking establishment may be granted to a person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) of K.S.A. 41-311 and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person described in subsection (a)(11) of K.S.A. 41-311 and amendments thereto.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

History: L. 1965, ch. 316, § 23; L. 1969, ch. 245, § 1; L. 1978, ch. 186, § 7; L. 1985, ch. 170, § 32; L. 1987, ch. 182, § 75; L. 1992, ch. 201, § 6; May 7

41-313. Licensing of corporations; conditions; appointment of agent to receive service of process; consent to jurisdiction and forum of Kansas courts. (a) No corporation, either organized under the laws of this state, any other state or a foreign country, shall be issued a manufacturer's, distributor's, microbrewery or farm winery license unless the corporation has first procured a certificate of authority from the secretary of state to do business in this state as provided by law, appointed a citizen of the United States, and resident of Kansas, as its agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority of the corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director with respect to the agent's character. The agent shall at all times be maintained by the corporation.

In addition, any corporation organized under the laws of any other state or foreign country, as a condition precedent to the issuance to it of any license, shall file with the secretary of state of the state of Kansas, a duly authorized and executed power of attorney, authorizing the secretary of state to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the corporation. (b) Every nonresident applicant on applying for a license or permit under this act, and as a condition precedent to obtaining such license or permit, shall file with the secretary of state of this state its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such applicant in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the resident agent specified in subsection (a), and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant. The written consent shall state that the courts of this state have jurisdiction over the person of such applicant and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by the applicant shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the applicant and if a corporation, by the president and secretary of the corporate applicant, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

History: L. 1949, ch. 242, § 29; L. 1983, ch. 161, § 7; L. 1987, ch. 182, § 24; L. 2001, ch. 55, § 3; Apr. 5.

41-311. Qualifications for licensure.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2003 Supp. 41-311b, and amendments thereto.

Testimony in opposition of HB2908
Bullet points

GREG SHIPE

Good morning Chairman and members of the committee. My name is Greg Shipe, owner of Davenport Orchards, Vineyard and Winery, Eudora, Ks.

There are two winery licenses in Kansas,

- * Manufacturer license can use 0% Kansas grown product.
- * Farm Winery license must use at least 60% Kansas grown product.

*Farm wineries must stay linked to Kansas agriculture for the Farm Winery statutes to have meaning.

*Paragraph C on page 2, lines 14 to 21 are misleading. Two subjects in paragraph which are not related but when put together gives the impression that Federal Law rules on Kansas Farm Winery requirement to use Kansas grown product. Federal label law is very complex.

*Multiple ownerships of wineries would allow for chain and franchised wineries. Retailers are not allowed to have the same.

The heart of the Farm Winery Statutes is Kansas grown grapes.

North America was mentioned in "The World Atlas of Wine" (2007) by Hugh Johnson and Jancis Robinson pg 288. This book was published in the UK. It was mentioned that wines express their origins, the place where they were grown. The book also mentioned that Kansas had 583 acres of grapes and 15 wineries. The number of acres of grapes alone has a potential of 233,200+ gallons of wine per year.

**Option 1. I would recommend that the sale of Kansas wine at the Kansas State fair be approved and the rest of the bill sent to the Kansas Department of Agriculture for the Kansas Grape and Wine Advisory Council to review with the whole Kansas wine and grape industry to get it right.

**Option 2. Send the whole bill to KDA for review and possible work next year.

Thank You,
Greg Shipe
Davenport Orchards and Vineyards
1394 E 1900 Rd
Eudora, Ks. 66025
785-542-2278
Cell 785-218-8217

Testimony in opposition of HB2908

Good morning Chairman and members of the Committee. My name is Gregory Shipe. I own Davenport Orchards, Vineyards and Winery located in Eudora, Kansas. I am here to testify in opposition to HB2908.

1. This bill is a marketing ploy for foreign states' products.
2. This bill would allow multiple ownership of wineries and would expand the market many times. This is a way products from foreign states could circumvent the wholesalers and distributors.
3. This bill would wipe out true Farm Wineries by doing away with the current 60% Kansas product requirement. The wholesale lobbyist said he would try to get rid of the Farm Winery statute if we did not retain the connection to agriculture. All wine producers would have to get a MANUFACTURER'S license from the Kansas Alcoholic Beverage Control Division. A MANUFACTURER'S license is like a BREWERY license and a FARM WINERY license is like a MICRO BREWERY license. The latter two have latitude and perks meant to encourage Kansas agriculture.

The wineries that favor this bill introduced a very similar bill in 2004 that split the Kansas Grape Growers and Wine Makers Association (KGGWA) into two groups. One group was committed to making wine from Kansas grown grapes and fruit, and the other group wanted to get rid of the requirement to use 60% Kansas grown product. The Bill was defeated in 2004.

The current bill passed the House without opposition because the agricultural implications of the bill were unclear. KGGWA members and other growers were assured that the 60% rule would not be touched, and yet that wording has been struck from the prospective bill. (See HB 2908, and "Brief" in the Supplemental Note on House Bill No. 2908.)

Paragraph C on page 2, lines 14 to 21 of HB 2908 is misleading. Not only is the 60% Kansas grown product statement deleted, but the Kansas Alcoholic Beverage Control Director's supervision is removed as well. Adding wording regarding U.S. Treasury Department/Tax and Trade Bureau labeling requirements is essentially a ruse—TTB labeling law is meant to describe accurately what is in the bottle and where it came from; it does not dictate any sort of percentages with regard to Kansas grown product content. For example, if you make wine in Kansas and want to label it "Kansas Table Wine" then 75% of the product in the bottle has to be grown in Kansas. If only 60% is Kansas product, you can only legally label it "Table Wine" without the geographic designation, because the percentage is too low to meet Federal labeling guidelines. If you label it "Table Wine" you don't need any Kansas grown product at all. Therefore a Kansas Farm winery could use grapes or juice purchased outside Kansas and still be fine by this Bill as long as they did not call it a "Kansas Table Wine". You can see how removing the 60% requirement would have a devastating effect on grape and fruit growers in the state.

What could happen if this bill passes? With multiple ownership, investors could open 100 wineries and claim a Farm Winery license. Each Farm Winery is allowed 4 points of sale. So 100 times 4 equals 400 points of sale, or outlets. There are only 700+ liquor stores in Kansas. The wine could be labeled "Table Wine" or "American Table Wine" with grapes or juice purchased wholly from foreign states. The wineries would not need to purchase anything from Kansas growers because the 60% requirement was removed.

Marketing wine is difficult because there are literally thousands of different brands available, and liquor stores are unable to carry all the different brands. Under the provisions of this bill, a California or New York vineyard that had an overabundance of grapes or juice to sell could unload it to the multiple-owner

*Senate Agriculture Committee
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Kansas Farm Wineries and the wine from such wineries would be sold without going through the wholesalers/distributors.

A winery that can't get Kansas grown products or doesn't want to use Kansas grown products can get a MANUFACTURER'S license. A Manufacturer's license is available through the TTB (Alcohol and Tobacco Tax and Trade Bureau) and ABC (Kansas Alcoholic Beverage Control Division) and allows the licensee to make wine using no Kansas products at all. If those licensees have objections to other rules under the Manufacturer's license (no tasting allowed, must distribute through wholesalers), then they should work to change the Manufacturer's rules and leave the Farm Winery 60% rule alone for those of us who choose to abide by the spirit of the law.

The heart of the Farm Winery statute is the Kansas grown grapes and fruit. This gives a Kansas identity (Terroir) to wine made in the state, a taste of Kansas. I can't imagine promoting wine made from a foreign state's products—Come to Kansas, drink California/New York/Nebraska wine?

I suggest that the bill be sent to the Kansas Grape and Wine Advisory Council for evaluation. This bill was introduced without the input of the entire industry. The Kansas Grape and Wine Advisory Council is the place for this to take place before any bill is introduced to the legislators. The Council meets with the Secretary of Agriculture four times a year.

Thank You,

Gregory Shipe
Vice Chair of the Kansas Grape and Wine Advisory Council
Douglas County Extension Council member
Kaw Valley Farm Tour member
Davenport Orchards and Vineyards
Eudora, Kansas 66025
785-542-2278
cell 785-218-8217

March 26, 2008

To: Senate Federal & State Affairs Committee

RE: Opposition to HB 2908

Mr. Chairman and members of the committee:

HB 2908 would eliminate the requirement for at least 60 percent Kansas grown fruit in Kansas wine. We oppose this amendment based on the following:

The inclusion of Kansas grown fruit is required to maintain the Kansas Identity in Kansas wines.

California produces more wine than the rest of the United States *combined*. They require 100 percent of the grapes used in California wine to be from California.

Missouri produces more wine than the other states surrounding Kansas *combined*. They require 85 percent of the grapes used in Missouri wine to be from Missouri.

American Viticulture Area (AVA) is a federal designation requiring 85 percent local products. Some Kansas wineries are looking into creating this designation to further emphasize Kansas grown products.

In short, we oppose the elimination of the required 60 percent rule in the current Kansas Farm Winery Act. In fact, we support the use of **more** Kansas product in our wine.

Thank you for your time and attention.

Richard A. Bryan
Kansas Viticulture and Farm Winery Association

March 17, 2008

To: Senate Agriculture Committee

RE: HB2908

Mr. Chairman and members of the committee:

My name is Richard A. Bryan from Linwood, Kansas. I am a Certified wine Specialist by The Society of Wine Educators, chairman of the Education & Evaluation Committee of the Kansas Viticulture and Farm Winery Association (KVFWA) and a regional wine judge.

I am here to oppose HB 2908, specifically page 2 lines 14 to 17 of KSA 14-308a, eliminating the use of Kansas grown product from The Kansas Farm Winery Act.

The inclusion of a state's material is integral in establishing and maintaining that State's Identity in any end product. The state of California dictates 100 percent of the grapes used to make wine labeled California must be from California. Closer to home, Missouri requires 85 percent Missouri grapes in their Missouri labeled wine. California produces more wine than the rest of the United States combined. Missouri is the 10th largest in the U.S. and produces more wine than Oklahoma, Colorado, and Iowa combined; great examples of the success of locally produced products.

More local distinction is established by using the American Viticulture Area (AVA) designation. This federally designated area requires that at least 85 percent of the fruit used in making labeled wine comes from this specific area. Kansas is looking into application for a "Flint Hills" AVA and members of the KVFWA are researching a "Kaw Valley" AVA.

In short, we oppose the elimination of the required 60 percent rule in the current Kansas Farm Winery Act. In fact we support the use of more Kansas products in our wine.

Thank you for your time and attention.

Richard A Bryan
Linwood, Kansas
Kansas Viticulture and Farm Winery Association

Senate Agriculture Committee
3-19-08
Attachment 7

Production of Wine from 7/06 to 6/07*

State (alphabetical)	Gallons	State (by rank)	Gallons	Rank	% Change
Alabama	no data	California	589,632,004	1	-17%
Alaska	no data	New York	28,551,434	2	-1%
Arizona	52,140	Washington	20,264,144	3	3%
Arkansas	no data	Oregon	4,905,231	4	46%
California	589,632,004	New Jersey	1,691,943	5	4%
Colorado	287,474	Florida	1,667,618	6	1%
Connecticut	80,182	Kentucky	1,260,615	7	4%
DC	no data	Michigan	1,233,247	8	28%
Delaware	no data	Ohio	1,194,311	9	12%
Florida	1,667,618	Missouri	1,077,875	10	12%
Georgia	123,494	North Carolina	989,944	11	29%
Hawaii	no data	Virginia	966,423	12	12%
Idaho	577,878	Pennsylvania	813,034	13	7%
Illinois	333,329	Indiana	716,425	14	32%
Indiana	716,425	New Mexico	628,775	15	17%
Iowa	186,816	Idaho	577,878	16	9%
Kansas	71,028	Wisconsin	514,756	17	24%
Kentucky	1,260,615	Texas	443,005	18	-57%
Louisiana	no data	Illinois	333,329	19	-3%
Maine	26,874	Colorado	287,474	20	39%
Maryland	266,629	Maryland	266,629	21	16%
Massachusetts	101,494	Tennessee	225,114	22	10%
Michigan	1,233,247	Iowa	186,816	23	36%
Minnesota	79,031	Georgia	123,494	24	-9%
Mississippi	no data	Massachusetts	101,494	25	4%
Missouri	1,077,875	Connecticut	80,182	26	-16%
Montana	30,864	Minnesota	79,031	27	34%
Nebraska	75,320	Nebraska	75,320	28	45%
Nevada	no data	Kansas	71,028	29	67%
New Hampshire	no data	South Dakota	68,323	30	296%
New Jersey	1,691,943	Arizona	52,140	31	63%
New Mexico	628,775	Oklahoma	36,719	32	-2%
New York	28,551,434	West Virginia	33,475	33	-12%
North Carolina	989,944	Montana	30,864	34	204%
North Dakota	no data	Maine	26,874	35	-20%
Ohio	1,194,311	Alabama	no data		
Oklahoma	36,719	Alaska	no data		
Oregon	4,905,231	Arkansas	no data		
Pennsylvania	813,034	DC	no data		
Rhode Island	no data	Delaware	no data		
South Carolina	no data	Hawaii	no data		
South Dakota	68,323	Louisiana	no data		
Tennessee	225,114	Mississippi	no data		
Texas	443,005	Nevada	no data		

State (alphabetical)	Gallons	State (by rank)	Gallons	Rank	% Change
Utah	no data	New Hampshire	no data		
Vermont	no data	North Dakota	no data		
Virginia	966,423	Rhode Island	no data		
Washington	20,264,144	South Carolina	no data		
West Virginia	33,475	Utah	no data		
Wisconsin	514,756	Vermont	no data		
Wyoming	no data	Wyoming	no data		
Other (non-specific data compiled from states listed as no data above)	2,081,535	Other (non-specific data compiled from states listed as no data above)	2,081,535		10%
Total Wine Production	661,288,503		661,288,503		-15%
Liters	2,502,976,984				

* Statistics gathered from the US Tax & Trade Bureau

Testimony on HB2908 to The State and Federal Affairs Committee

by the Kansas Viticulture and Farm Winery Association (KVFWA)

The KVFWA OPPOSES::

1. The amendment proposed in lines 14 thru 21 that would eliminate the requirement by Kansas Farm Wineries to use at least 60% of Kansas grown product.
 - Wineries are already required to follow the federal labeling law
 - Wineries that don't adhere to the use of 60% Kansas grown fruit can get a manufacturing license and there is no need to change the farm winery law for this to happen.
 - Farm Wineries should remain agricultural entities whereby they make a value added product from grapes that are Kansas grown.
 - Retain Kansas identity for Kansas wines.
2. The amendment in lines 34 & 35 that would permit a person to own multiple Kansas Farm Wineries.
 - There is no protection for single owner wineries to offset the restraint of trade threat posed by the potential emergence of a wine manufacturing oligopoly this amendment would allow.
 - There is no need for multiple ownership when Farm Wineries are already allowed 4 retail points of sale and are also allowed to self distribute directly to retail liquor stores.

The KVFWA SUPPORTS those remaining amendments to HB2908 that: (a) would allow a farm winery to sell wine, manufactured by the winery, to holders of temporary permits to sell and serve alcoholic liquor; (b) would allow for sales of bottles of wine at farmers markets that are operated on a not-for-profit basis; and (c) would allow the temporary permit holders at the State Fair to sell, in its original unopened container, wine that is being sold by the glass.

The KVFWA PROPOSES the elimination of the two amendments; specifically lines 14 thru 21/ agriculture requirement and lines 34 & 35/multiple ownership. The remaining amendments we support. We will support HB2908 only if the agriculture requirement is left intact and the allowance for multiple ownership is eliminated.

Michelle Meyer

President, Kansas Viticulture and Farm Winery Association (KVFWA)

Testimony on HB2908 to The state and Federal Affairs Committee
by Holy-Field Vineyard and Winery, Basehor, Kansas; owned by Les Meyer and Michelle Meyer

Holy-Field Vineyard and Winery OPPOSES:

1. The amendment in its entirety proposed in lines 14 thru 21 that would eliminate the requirement that wine produced by Kansas Farm Wineries use at least 60% Kansas grown grapes.
2. The amendment proposed in lines 34 & 35 that would permit a person to own multiple Kansas Farm Wineries.

-Kansas farm wineries should remain an agricultural enterprise for vineyards to add value to the grapes they grow in the form of wine.

-Keep Kansas identity in Kansas wine.

-Wineries that don't want to use 60% Kansas grown fruit can get a manufacturer's license.

-There is no need for multiple ownership when Farm Wineries are already allowed 4 retail points of sale and are also allowed to self distribute to retail liquor stores.

Holy-Field Vineyard and Winery SUPPORTS those remaining amendments to HB2908 that would allow for the sale of wine to temporary permits holders, would allow for sales at farmer's markets and allow temporary permit holders at the State Fair to sell unopened wine (wine that is also being sold by the glass).

Testimony in opposition to HB2908

1. Good day to the Chairman and members of the Senate Committee on Agriculture. Our names are Michelle Meyer and Les Meyer; we are daughter and father and together we own Holy-Field Vineyard & Winery in Basehor, Kansas. We are also members of the Kansas Viticulture and Farm Winery Association (KVFWA).

We are against the proposed legislation to take away the 60% Kansas grown grape rule from the Kansas Farm Winery statute. The Farm Winery Law is agriculture in nature. It was designed for grape growers to add value to their product (grapes) in the form of wine and allows for the sale of that value added product at the Farm Winery. If the grapes are not grown in Kansas then there is no FARM in FARM WINERY and that threatens our livelihood as a legitimate Farm Winery who is proud of their Kansas grown product. We do not want to be a manufacturer. Those who do not want to adhere to the growing rule and use Kansas grapes can be manufacturers. There are those in Kansas who aren't growing or using Kansas grapes; but they don't want to be a manufacturer because it does not have the same benefits as being a Farm Winery. Instead of applying for a manufacturing license, these people are trying to manipulate the Farm Winery license to benefit themselves. We were at a similar hearing to this one in 2004; for this same reason. At that time, a lobbyist for the wholesalers stated that if there isn't any Kansas grown rule then there is no FARM in FARM WINERY and the law would be obsolete. As we recall, that same lobbyist also said that Farm Wineries should decide what they want to be; either a Farm Winery or a Manufacturer. We want to be a Farm Winery. If the Farm Winery law becomes obsolete, then there will be legitimate Farm Wineries; like ourselves, who will be put out of business.

Holy-Field Vineyard & Winery has set a standard for quality since we opened in 1994. (Please see attached list of awards, articles and pictures of medals). We are widely recognized in the national and international wine community for producing award winning KANSAS wines.. We believe it is important to grow Kansas grapes and develop a real identity for Kansas grown wines. We know wine judges who can recognize Holy-Field wine in a blind tasting; this comes from the fact that we grow it and it is unique to our vineyard.

We also oppose the amendment that would permit a person to own multiple Kansas farm wineries. There is no good reason for multiple winery ownership . Under the current law farm wineries are allowed 3 additional outlets in addition to the farm winery for a total of 4 points of sale. The question is why do we need this amendment. The need for multiple ownership needs to be established before this provision is made.

Please do not allow the 60% Kansas grown rule to be removed from the Farm Winery law; it will hurt more people than it will benefit. Kansas wine should be made from Kansas grapes; the vineyards come first, then the wine. We started our vineyard in 1986 and the winery opened in 1994. We are a proud Kansas Farm Winery that grows our own grapes. Help us keep the agriculture in Kansas wine.

Thank you,
Michelle Meyer
Les Meyer
Holy-Field Vineyard & Winery
Basehor, Kansas

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Attachment 9*

March 26, 2008

TO: Kansas Senate Federal and State Affairs Committee

Opposition to HB 2908

Mr. Chairman and members of the committee:

I feel there needs to be a clear standard for the production of Kansas wines from Kansas Grown grapes.

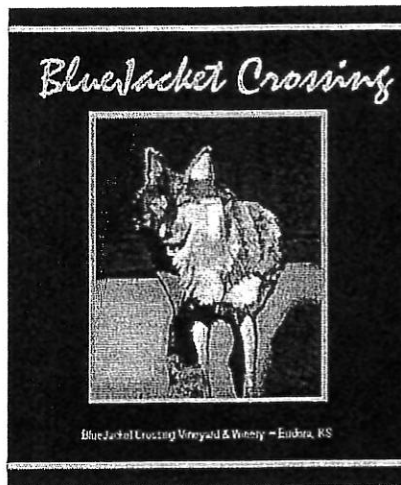
For the past 6 years we have worked full time to plant & cultivate vines to make Kansas Wine.

Without Kansas grown products, Kansas loses its ability to represent our regional Identity.

After this considerable expense in both time and money, we will open our winery this spring proudly featuring Kansas Wines produced from our Kansas vineyards.

Thank you.

'Pep' Solberg-Selvan
Bluejacket Crossing Vineyard & Winery



Bluejacket Crossing Vineyard & Winery
1969 NORTH 1250 ROAD
EUDORA, KS 66025
BLUEJACKETCROSSING@GMAIL.COM

Mr. Chairman and members of the Committee

Subject: Opposition to elimination of 60% minimum Kansas grapes in Kansas wine as proposed by bill # HB2908.

My name is 'Pep' Solberg-Selvan from Bluejacket Crossing Vineyard & Winery. I was born, raised and educated as a native Kansan. For 30 years I had a business in the San Francisco Bay Area. Years ago, while visiting my family in Eudora, I took a great risk and stopped at the local farm winery. After decades of drinking excellent quality wines in beautiful rural settings, I expected very little at this modified toolshed/ tasting room. I would only sample his best dry red wine. It was excellent...different but excellent. As a result of this experience, we moved back to Kansas to help my aging parents and start a vineyard.

Six years ago we started our vineyard. There were virtually no Kansas grapes available for sale that were not already under contract to other wineries. For the past six years we have worked full time to plant and cultivate the vines necessary to produce a quality Kansas wine.

As has been the case in most other states, there needs to be a specific and clear standard for the production of Kansas wines made from a majority of Kansas grapes. Without that, Kansas wines lose their ability to represent a regional identity. It is relatively easy to make wine...especially average quality wine. Our goal is to produce a Kansas raised wine that over time would earn an excellent reputation.

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Attachment 8

Testimony presented at Senate Agriculture Committee
on 3-19-08
by
Patrick Del app, Topeka, Kansas

FARM WINERY

HB-2809 2908

My name is Patrick DeLapp. I have a small interest in a vineyard near a Salina and hopefully a much larger one when I find the right property in Shawnee/Douglas county area.

I am Opposed to several of the recommended changes to State law concerning Farm Winery

Problems I see with it with I will detail later are as follows:

:Elimination of the 60% rule the fruit one uses for vine must be from Kansas
(Page 2, line 14 thru 20)

:Allowing a person to have more than one beneficial interest in a Farm Winery
(Page 6, line 34 thru 35)

As I see it, the Farm Winery law in Kansas was developed to encourage the cultivation and making of wine on a family farm.

Benefits were given which included treating the equipment needed to make Wine the same as the a Farmers Tractor, Combine, or plow used in the production or growing of his crop. Those benefits I'm referring to were no sales tax on the purchase of these items and no personal property tax on the equipment.

The tax advantage has been reduced somewhat by a change in State law in 2006. That change allows Manufactures, Goodyear, Boeing etc. to buy equipment to upgrade or to open, or relocate a manufacturing plant in Kansas. It did not eliminate all the taxes for equipment, they still are required to pay taxes on equipment bought before this 2006 law went into effect.

Another benefit, was Farm Wineries, are exempt from Zoning requirements. The Farm Winery does not have to located in Industrial or Commercial zoned area. (Attorney General Opinion)

Problem: Allowing a person who currently has a beneficial interest in a farm winery to have more than 1 farm winery license.

Current law prohibits this, and it should stay that way. This is about helping the farmer and small wine makers. It not about big business trying to pretending they are something they are not. If this passes as standing it would be entirely possible to have 20 winery outlets stores or y stores controlled by the same persons or persons. Heck, would it even be possible to have a shared Winery by leasing part of the manufacturing building to another license entity, lets say about 500 square feet, and calling it a different farm winery.

Don't let them do this !

Problem: Elimination of the 60% rule of using Kansas fruit.

Under current law the Director of Alcoholic Beverage Control has the right to waive this 60%

*Senate Agriculture Committee
3-19-08
Attachment 5*

requirement, if in his finding and judgment its warranted.

But he does not want to waive that requirement just because the "Farm Winery's" can't grow fast enough if its requiring the use of 60% Kansas fruit. The law as I see is meant to encourage the growing of grapes in Kansas, and farm winery's. It's a suppose to be partnership. Ideally done by the same person.

If the farm Winery's, complaint is that they can't get enough grapes in Kansas they can do many things to correct this problem.

1. Buy more land and plant more grape vines
2. Enter into a contract with grape growers. To share cost of the grape vine, insecticides, Fungicides, fertilizer, labor, etc. (No one I know of, has such a contract, or has been offered such a contract with a Farm Winery)

It takes at least 3 years of work before you should harvest any grapes. In reality it will be 5 years before your grape vines are producing well. The grape grower has a lot of time and money involve before he sees any return on his efforts.

The Farm Winery can change their type wine in a matter of 3-4 months. Growers can't change the type of grapes they are growing that fast it more like 5 years with growers.

A ring of truth is the statement that "Having a vineyard is a good way to turn a large fortune into a small one"

If they want more grapes they need to share the risks.

Don't allow a reduction of the 60% rule of Kansas grapes, and don't allow a person to hold more than one beneficial interest in a farm winery license.



Patrick DeLapp
1013 SW 11th
Topeka, KS 66604
(785) 357-6007

Mark Taddiken - Kansas 2908 Please forward to other committee members

From: George Hoff <farmergeorge05@yahoo.com>
To: <taddiken@senate.state.ks.us>
Date: 3/16/2008 12:11 PM
Subject: Kansas 2908 Please forward to other committee members

WVH Only

Testimony on House Bill 2908
to
The Senate Agriculture Committee
By
George Hoff

As young farmers who have recently started a vineyard with aspirations of operating a winery that produces Kansas Wine from grapes that we grow on our farm, we are in opposition to the ammendment proposed lines 14 through 21. We feel that it does not support growth in the industry from an agricultural standpoint. It is our intention to produce a product of Kansas and we feel that this legislation will take the farming out of farm winery. We are Fifth generation farmers in the state and are working to preserve our agricultural past, as well as future generations. It would not be in the interest of growth of local producers to allow more outside resources to be imported. We are also opposed to lines 34 &35, it is our belief that this could hurt the market share of Farm Wineries, in that it allows loop holes for larger corperations to abuse the farm winery laws. We do support those remaining ammendments to HB-2908 that: (a) would allow a farm winery to sell wine, manufactured by the winery, to holders of temporary permits to sell and serve alcoholic liquor; (b) would allow for sales of bottles of wine at farmers markets that are operated on a not-for-profit basis; and (c) would allow the temporary permit holders at the State Fair to sell, in its original, unopened container, wine that is being sold by the glass.

George Hoff
Stone Pillar Vineyard

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Written Only
1

DeHaven Deposition on HB 2908

Date: 3/12/2008

The Kansas Legislature
Deposition, in regards to HB 2908

From Everett DeHaven, Ph.D.
A Kansas Grape Grower

I would like to thank you, a head of time, for your willingness to consider my concerns. Over 50 years ago, I grew up on a Truck farm near Abilene, Kansas with my father and grandfather growing fruits and vegetables. Both of my grandfathers were Kansas farmers as well as 3 out of 4 of my great grandfathers. In brief, I am aware of the labor, the costs, and the joys of Kansas farming. Presently, I have over 800 grape vines in development on a small farm in Saline County. Over 600 vines will be 6 years old this year and I have sold some grapes in past years to 2 big Kansas wineries: Smoky Hill Winery and Wyldwood Winery.

My concern with House Bill 2908 is in **keeping** the "**60% of Kansas fruit**" requirement in the law. There are 3 reasons why Kansas should keep this 60/40 requirement in "farm wineries". One issue centers on "Retail/Wholesale Manufacturers" vs. "Farm Wineries" who can get tax breaks and not have to go through the same laws/rules as a "major manufacturer." The second issue is Kansas government supporting Kansas farmers with sufficient time to develop and establish a viable, agricultural crop/industry that was destroyed by the state and federal government during prohibition days. And the third issue is taking incentives away from present and future wineries from expanding their own and others' vineyards.

By eliminating this 60% requirement of "farm wineries" purchasing Kansas grown fruit, a Kansas winery can ship in as much fruit/grapes from out of state as desired. If a "farm winery" **wants more grapes/fruit to expand** their production of their product, they should plant more acreage in vines or whatever fruit that they are wanting. If a "farm winery" is primarily just **wanting to buy more grapes/fruit to expand** their production, then they ought to operate as a manufacturer and fit within those tax codes and regulation requirements. There is a difference between being a grape grower and a winemaker. A "farm winery" should be at least nearly a 50% agricultural operation rather than something like 5% of their operation in agricultural endeavors and 95% of their business in processing and retailing.

In regards to the second issue, Kansas has been held behind other states in the development of viticulture due to Kansas laws. Old records indicate that

(continued)

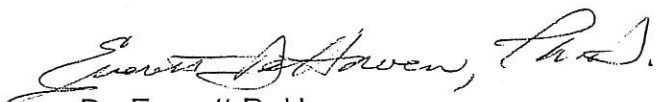


Sen Fed & State

Attachment 12
3-26-08

nearly every Kansas county had a vineyard before prohibition days and many farmers were then pressured to destroy their vines. Because of inexperience with growing different grape varieties, Kansas grape growers are still experimenting to determine what is best for our state's weather conditions, etc. And unlike wheat/bread, the consumer often buys wine based on the variety of the fruit (e.g., Merlot), partially because it has been marketed well for many years. Eliminating the 60% requirement to buy Kansas grapes places a disincentive for wineries to buy Kansas grapes/fruit. Why buy a French Hybrid variety from Kansas, such as Frontenac, that survives the very cold temperatures in Kansas when a winery can buy a European variety, such as Zinfandel, that has already been highly marketed with well established vineyards in California or other countries? In brief, taking this 60/40 requirement out of the law creates a disadvantage to Kansas grape growers' young market. Furthermore, it fosters more risks to all of the small Kansas vineyards. This is because it takes about 5 years to establish a full production vineyard. And the costs and risks of attaining this 5 year agricultural goal when there is a questionable market may become the new type of "**prohibition**" to hit Kansas grape growers. We will be again pressured to grow something else.

If "farm wineries" are allowed to sell wine totally made from all or primarily grapes/fruit from other states/countries, then this law potentially destroys this rapidly growing agricultural type of crop. If a licensed "farm winery," why take the risks of expanding your vineyards or supporting other Kansas grape growers in their vineyard expansion if you can buy cheap grapes/fruit some where else? Eliminating the 60/40 rule, hurts the "little Kansan" who plants a few acres on grandpa's farm and who is likely to spend much of his/her money in Kansas. And yet, he/she can lose money due to the low prices that wineries may offer due to cheap "left-over's" from out of state. It hurts the wheat farmer who wants to diversify the type of crops he/she grows because of the many risks and the high costs of getting a vineyard established. Why make such a risky investment in a new, Kansas agricultural crop, if there are no market supports for it? Do we really want semi-truck loads of perhaps chemically filled grapes/fruit from south of our country's border being brought into Kansas and sold to a few big, "farm wineries" who have agricultural tax breaks?



Dr. Everett DeHaven
Skyline Ridge Vineyards
100 North Skyline
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Written Only

Testimony on House Bill 2908
to
The Senate Agriculture Committee
by Francis C. Riley, Jr.

I OPPOSE the following amendment to KSA 14-308a proposed by HB 2908:

~~"(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate, in accordance with labeling requirements established by the United States department of treasury, that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas."~~

(ref: HB 2908, page 2, lines 14 through 21)

Casual reading of this amendment to KSA 14-308a would seem to indicate that the proposal to eliminate the 60% Kansas source content requirement and replace it with a vague reference to Federal labeling regulations would continue to ensure that the majority of products used to produce wine at a Kansas farm winery were grown in Kansas. This is NOT the case. Federal labeling regulations would require that the majority of wine be from Kansas grown products only when the label's appellation of origin explicitly states "Kansas", and then it is required, in the case of grape wine, that at least 75% of the wine be produced from products (e.g., grapes) grown in the place named (e.g., Kansas). Under the proposed legislation, a "farm winery", following Federal labeling regulations, would be free to use up to 100% of non-Kansas grown product to produce its wine by simply labeling the wine as "American" or with some similar non-distinctive appellation. This is a significant loophole for operations whose business model is to manufacture wine irrespective of the origin of the products used to produce it. It should also be noted that wineries offering wine for public sale must already follow Federal labeling requirements, so, in this area, the amendment is redundant and unnecessary

The primary intent and purpose of the Kansas Farm Winery statute is to encourage and promote Kansas AGRICULTURE. The Kansas Farm Winery law should not be used to facilitate the manufacture of an alcoholic beverage using non-Kansas source products. Removing the 60% Kansas content requirement benefits only those individuals in the state who wish to manufacture wine under the guise of operating "farm" wineries by enabling them, through clever labeling, to use without restriction non-Kansas products in the manufacture of their wine. Individuals or groups who wish to make wine and not be subject to the restrictions (and benefits) of the Kansas Farm Winery law may do so by obtaining a manufacturer's license. Making wine is easy, but operating a farm winery, where the winemaker either grows his own grapes or sources his grapes locally, is a difficult challenge, and needs the benefits and encouragement provided by the present Kansas Farm Winery law.

In summary, I ask that the Senate Agriculture Committee not support the amendment to KSA 14-308a cited above.

Sincerely,

Francis C. Riley, Jr.
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1 (8) the sale and shipping of wine within this state pursuant to a permit
2 issued pursuant to K.S.A. 2007 Supp. 41-348, and amendments thereto.

3 (b) Upon application and payment of the fee prescribed by K.S.A.
4 41-310, and amendments thereto, by a farm winery licensee, the director
5 may issue not to exceed three winery outlet licenses to the farm winery
6 licensee. A winery outlet license shall allow:

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

10 (2) the serving on the licensed premises of samples of wine manu-
11 factured by the licensee or imported under subsection (f), if the premises
12 are located in a county where the sale of alcoholic liquor is permitted by
13 law in licensed drinking establishments.

14 (c) ~~Not less than 60% of the products utilized in the manufacture of~~
15 ~~domestic table wine and domestic fortified wine by a farm winery shall~~
16 ~~be grown in Kansas except when a lesser proportion is authorized by the~~
17 ~~director based upon the director's findings and judgment.~~ The label of
18 domestic wine and domestic fortified wine shall indicate, *in accordance*
19 *with labeling requirements established by the United States department*
20 *of treasury*, that a majority of the products utilized in the manufacture of
21 the wine at such winery were grown in Kansas.

22 (d) 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 (e) and serve and sell domestic wine, domestic fortified wine
29 and other alcoholic liquor for consumption on the licensed premises at
30 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 (e) at any time when the winery outlet is
34 authorized to sell domestic wine and domestic fortified wine.

35 (e) The director may issue to the Kansas state fair or any bona fide
36 group of grape growers or wine makers a permit to import into this state
37 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 (f) *The director may issue to a licensed farm winery a permit to sell*
4 *its domestic wine, labeled as set forth in subsection (c), by the bottle, at*
5 *farmers markets operated on a not-for-profit basis. The permit shall state*
6 *the specific location of the farmers market and shall require that an agent*
7 *or representative from the farm winery be present, with the permit, at*
8 *the time of sale.* A farm winery license or winery outlet license shall apply
9 only to the premises described in the application and in the license issued
10 and only one location shall be described in the license.

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

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

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

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

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

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

27 (i) This section shall be part of and supplemental to the Kansas liquor
28 control act.

29 Sec. 2. K.S.A. 2007 Supp. 41-311 is hereby amended to read as fol-
30 lows: 41-311. (a) No license of any kind shall be issued pursuant to the
31 liquor control act to a person:

32 (1) Who has not been a citizen of the United States for at least 10
33 years, except that the spouse of a deceased retail licensee may receive
34 and renew a retail license notwithstanding the provisions of this subsec-
35 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and
36 is a United States citizen or becomes a United States citizen within one
37 year after the deceased licensee's death;

38 (2) who has been convicted of a felony under the laws of this state,
39 any other state or the United States;

40 (3) who has had a license revoked for cause under the provisions of
41 the liquor control act, the beer and cereal malt beverage keg registration
42 act or who has had any license issued under the cereal malt beverage laws
43 of any state revoked for cause except that a license may be issued to a

1 provisions of the probate code; or (B) if the stock in any such corporation
2 is the subject of any trust and any trustee or beneficiary of the trust who
3 is 21 years of age or older is ineligible to receive a distributor's license,
4 the trustee, within 14 months after the effective date of the trust, shall
5 sell the stock to a person eligible to receive a distributor's license and
6 hold and disburse the proceeds in accordance with the terms of the trust.
7 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
8 glect to sell any stock as required by this subsection, the stock shall revert
9 to and become the property of the corporation, and the corporation shall
10 pay to the legal representatives, heirs, devisees or trustees the book value
11 of the stock. During the period of 14 months prescribed by this subsec-
12 tion, the corporation shall not be denied a distributor's license or have its
13 distributor's license revoked if the corporation meets all of the other
14 requirements necessary to have a distributor's license;

15 (2) a copartnership, unless all of the copartners are eligible to receive
16 a distributor's license;

17 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
18 to receive a license under this act for any reason, except that the provi-
19 sions of subsection (a)(6) shall not apply in determining whether a ben-
20 eficiary would be eligible for a license; or

21 (4) a person who has a beneficial interest in a manufacturer, retailer,
22 farm winery or microbrewery licensed under this act.

23 (e) No nonbeverage user's license shall be issued to a corporation, if
24 any officer, manager or director of the corporation or any stockholder
25 owning in the aggregate more than 25% of the stock of the corporation
26 would be ineligible to receive a nonbeverage user's license for any reason
27 other than citizenship and residence requirements.

28 (f) No microbrewery license or farm winery license shall be issued to
29 a:

30 (1) Person who is not a resident of this state;

31 (2) person who has not been a resident of this state for at least four
32 years immediately preceding the date of application;

33 (3) person who has a beneficial interest in a manufacturer or distrib-
34 uter licensed under this act ~~or a person who currently has a beneficial~~
35 ~~interest in a farm winery;~~

36 (4) person, copartnership or association which has a beneficial inter-
37 est in any retailer licensed under this act or under K.S.A. 41-2702, and
38 amendments thereto;

39 (5) copartnership, unless all of the copartners are qualified to obtain
40 a license;

41 (6) corporation, unless stockholders owning in the aggregate 50% or
42 more of the stock of the corporation would be eligible to receive such
43 license and all other stockholders would be eligible to receive such license

HOUSE BILL No. 2908

By Committee on Agriculture and Natural Resources

2-15

Balloon Amendment - 03/19/08 - Sen. Lee
RS - HB2908Lee.pdf (JThompson)

Sen Fed & State
Attachment 17
3-26-08

9 AN ACT concerning ~~farm wineries, relating to~~ permit requirements;
10 amending K.S.A. 2007 Supp. 41-308a, 41-311 and 41-2645 and re-
11 pealing the existing sections. **41-303**

intoxicating liquors and
beverages; relating to retailer's
licenses; farm winery licenses;

13 *Be it enacted by the Legislature of the State of Kansas:* ←

Insert K.S.A. 2007
Supp. 41-303 (attached)
and renumber remaining
sections accordingly

14 Section 1. K.S.A. 2007 Supp. 41-308a is hereby amended to read as
15 follows: 41-308a. (a) A farm winery license shall allow:

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

19 (2) the sale of wine, manufactured by the licensee, to licensed wine
20 distributors, retailers, clubs, drinking establishments, *holders of tempo-*
21 *rary permits as authorized by K.S.A. 2007 Supp. 41-2645, and amend-*
22 *ments thereto*, and caterers;

23 (3) the sale, on the licensed premises in the original unopened con-
24 tainer to consumers for consumption off the licensed premises, of wine
25 manufactured by the licensee;

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

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

36 (6) if the licensee is also licensed as a caterer, the sale of domestic
37 wine, domestic fortified wine and other alcoholic liquor for consumption
38 on the unlicensed premises as authorized by the club and drinking estab-
39 lishment act;

40 (7) the sale and shipping, in the original unopened container, to con-
41 sumers outside this state of wine manufactured by the licensee, provided
42 that the licensee complies with applicable laws and rules and regulations
43 of the jurisdiction to which the wine is shipped; and

Sec. 1. K.S.A. 2007 Supp. 41-303 is hereby amended to read as follows: 41-303. (a) The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises ~~(--if--such--premises--are located--in-a-township)~~ having a population of more than 5,000. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city. If any license has been issued under the provisions of this section ~~in-a-township-having-a--population--of more-than-5,000-and-thereafter-such-township-population-decreases or--has--decreased-to-5,000-or-less,~~ such licenses shall continue to be valid and the licensees shall be eligible for renewal of such licenses at the appropriate time if they are otherwise qualified.

No such license shall be issued to any applicant under this section unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this section.

(b) If a license has been issued under the provisions of this section ~~in-a-township-having-a-population-of-more-than-5,000~~ and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall

continue to be valid and may be renewed at the appropriate time (even though the licensee does not reside in the city to which the area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been annexed.)

(c) Any retail license issued under the provisions of this section prior to ~~the effective date of this act for premises not located in an incorporated city or in a township having a population of more than 5,000~~ July 1, 2008, shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this subsection.

