

March 27, 2012

SB379 Opposition

House Federal & State Affairs Committee

Dear Chairman and Committee,

Recently I was asked by a Representative:

How would you respond to this situation. This person would like to own a winery, but weather and other conditions can hurt this person not being able to grow there business.

This is my response to the question and the specifics that were provided:

Thank you for your message. I have given your question considerable thought. I realize this issue is complicated. Even some in the industry get mixed up and confused. I will try to be as clear and straight forward as possible while still answering the numerous issues brought up in the letter you received. I apologize for the length, but though confusing, this is a very important issue and I want to give complete information.

The kindest thing I can say about the letter you received is that the points being raised are disputable and in some instances unsupportable.

I, along with my father (Les Meyer) have a long history of growing grapes in Kansas. We started with 400 grapevines in 1986. We now have 16 acres of grapes in production and our vineyard supplies our winery. We have a true "value added" agricultural product; just like the Farm Winery law intended. Our winery is the oldest in the state; established in 1994, and we are grateful for the recognition our wines have received. How is it that we have been able to do this? We make realistic plans, we work hard and we believe that Kansas wine should be made with Kansas grapes.

I have been fighting this exact issue (the de-coupling of Agriculture from the Farm Winery License by elimination or lowering of the 60% Kansas grapes) since 2004. Many times the legislature has spoken in committee votes and in floor action to say that the link to Kansas produced fruit in the Kansas Farm Winery license is vital to the intent of this license. The 2012 legislative session marks the third time I have been put in the position of defending the Farm Winery law. Prior to 2004, my father and I, as well as many members of the Kansas Viticulture & Farm Winery Association (KVFWA) were founding members of the Kansas Grape Grower's & Winemaker's Association (KGGWA). In 2004, the KGGWA leadership at the time, put forth legislation to try and eliminate the Ag content (60%) from the Farm Winery Law. The bill was put forth as a bill the KGGWA members endorsed. The KGGWA never discussed the bill with

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their members or voted on it at that time (2004). When we discovered this, three of us (I, my father and Greg Shipe/Davenport Winery, Eudora) went to Topeka to testify against the bill. Within a week the KGGWA leadership sent us letters of reprimand and our membership in that organization was ended. Immediately after this, a group of us that had been rejected, founded the KVFWA and our mission has always included the promotion and the advancement of viticulture (growing grapes) in Kansas. We believe in keeping the Farm in the Farm Winery as well as advancing the industry. I am a founding member and current president of the KVFWA.

Since 2004, our association has continued to defend the Farm Winery License. After the 2004 split of the original group, the 2 groups (KVFWA & KGGWA) participated in formal mediation and the result of the mediation was signed by all parties. Part of that agreement was that neither group would put forth legislation without first bringing the legislative issue to the Grape & Wine Advisory Council. The council meets four times a year and is appointed by the Secretary, Department of Agriculture. I am on the Council. The current bill, endorsed by the KGGWA, was not brought before the council. Nor was the issue of the bill brought to the membership, discussed at the KGGWA annual meeting in January or voted on by the membership. Shortly after the annual meeting the KGGWA leadership met and voted to endorse the bill. I know this because we have KVFWA members with dual membership in both associations. I have talked to them, and other members of the KGGWA who overwhelmingly do not agree with the KGGWA's decision to endorse SB379. In fact, when the bill surfaced, the KVFWA made calls to all Farm Winery licensees' in the state to gather an accurate picture of the industry. Several of them knew nothing about the bill, some were complacent and some advocated against the bill. A few were supporters.

There is a forum for interested winemakers and grape growers to communicate. It is called the "grape list." I am on the list and have seen requests from people wanting to buy grapes. Likewise, I have also seen people respond to these requests offering grapes for sale. It is unfair and untrue to say that there aren't enough fruit & grapes. I even heard a grape grower testify in the Senate hearing that a winery wouldn't buy their grapes because they said it was cheaper to get juice from somewhere else. If the people advocating for this bill had started growing grapes in 2004 when this legislation was first introduced, as was the intent of the Legislature that passed Farm Winery licenses, they would have several harvests and tons of grapes under their belt by now. Perhaps they have a different business model than I have and different than the Farm Winery legislation granted. I do not wish to tell someone how to run their business. But the people who don't want to use Kansas grapes DO have other choices.

In addition to the Farm Winery License there is also a Manufacturing License. The Manufacturing License requires NO Kansas agriculture content and has no cap on production. Recently the Legislature passed a law so that Wineries are also allowed to hold both a Farm Winery license and a Manufacturing license. If someone has a Farm Winery license and cannot meet the agriculture requirement the current law allows for a variance request. The variance is a simple letter request that a farm winery can make to the Director of Alcohol Beverage Control. It is my understanding that a variance has never been denied to a farm winery and as recently as the past month a variance was approved by the Director, in this case, for loss of production due to drought. In 2007 variances were granted and it wasn't even necessary to request a variance from

Alcohol Beverage Control. The Director at the time, Thomas Groneman, sent letters to all license holders and granted a variance to everyone because of the devastating Easter freeze. It is simply untrue that variances weren't granted in 2007 when everyone suffered the ill effects of Mother Nature. I am sure that the Alcohol Beverage Control office probably has a record of the letter sent to license holders. There are options and it isn't necessary to change the law. The Farm Winery license was introduced to provide incentive for Kansas farms to diversify their crops (grow grapes and fruit) and make a value added Kansas agricultural product (wine). It was intended to foster agriculture. If new winemakers or current licensee's don't want to spend the effort on a vineyard and/or do not want to purchase Kansas raised fruit, and they refuse to apply for a variance, then they have the option of a wine Manufacturing license. It seems ridiculous to say that the law should change because people just say they can't get enough grapes. Questions that would seem reasonable include: How many vines have you planted and when? How have you tried to acquire fruit? Who have you contacted? Does your plan include growing any fruit? What does your business plan allow for fruit acquisition? Do you have the ability to crush and tank fruit? The most obvious solution would seem to be, if you need more grapes, then plant more grapes.

Regarding neighboring states; it is untrue to say that neighboring states have no fruit requirement. Both Nebraska and Missouri have an 85% fruit requirement and both of those states have a thriving industry. In fact, Kansas, with only a 60% requirement, is extremely low. Many also have multiple wine license options as we do. Wine is regional; it is all about where the grapes are grown. I have never heard of a French wine that made a name for its self because the grapes came from Italy. The identity of a wine comes from the grapes and the specific place/vineyards the wines come are grown, it is known in the industry as "terroir." What kind of an identity will Kansas Wine ever have if wines are being manufactured here from imported, out of state or out of country concentrate, not even juice? It could only hurt the legitimate Farm Wineries who work hard maintaining their vineyards and produce international award winning wines.

Finger pointing at a "small number of wineries near Kansas City", sounds like sour grapes to me, especially when there is opposition to this bill from all over the state. Why do we enjoy having large, established vineyards? It wasn't always so. It is mainly because we planted, nourished, sacrificed, worked and cared for them. We planted them with a goal...to make a real Kansas Wine product. It is not protectionist to work hard and sacrifice for many years to have a large vineyard. We all make choices and we chose to develop an "estate" wine. That is wine made with grapes that you grow and have control over from the ground up. WE welcome the new fledgling wineries and they can do the same thing. We would ask, and help, them to grow their own vineyard instead of taking precious time year after year trying to cut corners that would destroy a perfectly reasonable Farm Winery law. The KVFWA winery members all grow grapes and even most all of the fruit used are their own grapes. The KVFWA members who buy grapes have taken the time to develop long lasting trusted relationships with the growers they do business with. If you really want mediocrity, then that is what will happen with the destruction of the farm winery law.

There is also the issue of a potential legal challenge if the Farm Winery law strays too far away

from agriculture. I value the Farm Wineries many benefits that are the incentive to use Kansas grown fruit, which include having a tasting room and the right to self-distribute. Your own Office of the Revisor brief (attached) is very specific in the potential for a challenge if ANY reduction is made in the Ag. requirement.

Finally, in answer to the specific question asked: This person would like to own a winery, but weather and other conditions can hurt this person not being able to grow their business.

Answer: Other than the available variance option, it sounds like any other farmer/grape grower. We all deal with weather. If you want a farm winery, then don't put the cart before the horse. Plant a vineyard and continue to expand it and grow the grapes you claim you cannot buy. Or apply for a Wine Manufacturer License. I suggest one should create their own future instead of changing the rules to comply with what work you are unwilling to do. We and many others are willing to help you solve why you can't grow your business. Somehow we have managed to do it for almost 18 difficult but wonderful years...and you know what? I planted my vineyard first.

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