



March 28, 2012

Dear Kansas State Representative –

My name is Brooke Balderson and I am writing on behalf of Oz Winery in Wamego, Kansas. Noah Wright, my head winemaker and business partner, and I am submit this testimony highly supporting SB379. Thank you for taking the time to thoroughly investigate this bill.

I am the fourth generation of my family to own and operate a business in the state of Kansas. Oz Winery has been in business since 2007. We have seen a great deal of success in the past four and half years - ranging from high foot traffic and great sales in our storefront to receiving calls from all over the United States on a weekly basis from liquor stores wanting to carry our product. We have been featured nationwide on Anderson Cooper's 360 on CNN and WE TV in the season opener of "My Fair Wedding." In 2011, I was given the honor of being named Kansas's Women-Owned Business of the Year for manufacturing (production of wine). We have a very loyal customer base all over the country and receive countless emails and phone calls from customers wanting to know where they can purchase our wine locally. But their "locally" ranges from Long Island, New York to Portland, Oregon to Wisconsin, Iowa and Montana. Because of the current rules and regulations for Kansas Farm Wineries, we quite simply cannot produce the amount of wine needed to supply the demand for our product, short of planting thousands of acres of grapes.

We are eager to grow and develop and promote Kansas wineries, however, our growth potential has been severally limited due to the handcuffing of certain laws. This is one of the reasons why we are so in favor of removing the 60-40 law from the books. This major change alone, would drastically improve our ability to grow as a business, subsequently allowing us to employ more individuals, pay more taxes, etc.

Quite simply, the 60-40 law is absurd and is beyond comprehension in terms of logic. And reducing it to merely 10% makes no more sense. No other business industry in the state of Kansas has such strict guidelines. Bakeries, steel plants, and breweries do not have to have 60% of their products come from Kansas origins. For example, Oz Winery sells jams from a company near Kansas City. These jams and jellies have a wide range of flavors and ingredients...everything from plum to apricot, sour cherry, mango and even a pineapple salsa.

While I do know that some of these fruits can grow in Kansas...I highly doubt the mangoes and pineapples do. However, on the website, their tag line is listed as "a Kansas gourmet product..."

I understand that the State's argument might be that there is a difference between jams and jellies versus alcohol. However, when evaluating Kansas micro breweries, another alcohol product, they are considered Kansas made despite the fact that they are not forced to use Kansas grown hops, barley or wheat in their beer production – even though Kansas is the Wheat State!

There is absolutely no logical or sane reason why Kansas Farm Wineries should be held to this

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strict standard when no other industry is.

I think something the State of Kansas needs to evaluate is the term "made in Kansas." It seems to me, that depending upon the product the definition of "made in Kansas" has a wide range of possible explanations. For a Kansas Farm Winery, this term means that the wine was grown, fermented and bottled in the state of Kansas. For the Kansas jams and jellies, it simply means it was mixed and cooked in Kansas. For breweries it means that it was brewed and bottled in Kansas. There is no consistency with the terminology "made in Kansas". And for Farm Wineries the definition is the most extreme. I must wonder, why? And whom does this extreme definition benefit?

In Oregon a business that has a winery license must "principally produce wine" in Oregon. The Oregon Liquor Control Commission does not specifically define "principally produce" but it does state that wineries are required to have a "significant amount of venting, bottling, or blending in Oregon." The regulation continues to state, "It does not preclude importing wine in bulk from a different state; however, some element of the wine-making production must be performed in Oregon."

If this approach was used with Kansas wineries, the growth potential would be astronomical. The only limitation would be the business itself, not the state regulations. The biggest proponent for allowing this is quite simply the increased tax revenue and employment opportunities for the state of Kansas. I won't speak for other Kansas Wineries, but I have a hunch that they too would benefit greatly from this. In addition, it would encourage new wineries to start business.

Please don't misunderstand that our desire to eliminate the 60-40 law means we don't want to buy and ferment with Kansas grown grapes. We do! If there were thousands of acres of grapes in the State of Kansas this topic wouldn't even be of issue or concern. However, bottom line – there are NOT enough grapes! What am I to do when I have agreements with Kansas grape growers to purchase their grapes to have them at the last minute, back out of that arrangement? What happens to my business when I contact a Kansas grape grower and offer to purchase grapes to have their response be "I don't have any to sell you."?

Another perspective that illustrates the absurdity of 60-40 is the Kansas weather. In any given year that Kansas experiences unusual weather patterns (remember, we are in Kansas!) the fruit crop is threatened. In fact, just 4 years ago the entire grape crop was destroyed by a late spring freeze. And the summer of 2011 was so hot; the amount of fruit that did survive was a fraction of what was available in 2010. Yes, there is the possibility that the director of the ABC could waive the 60% requirement on any given year due to weather, as he has done in the past. But such inconsistencies severely damage my ability as a business owner to maintain quality consistent products. If one year I'm forced to buy only fruit that grows in Kansas and then the next year I'm forced to purchase from out of state how can I produce a wine that is consistent

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from year to year and provides a product that reaches the quality of wine that my customers expect? Furthermore, if we have to purchase from only Kansas vineyards and the growers know this – there is no competition for them to strive for top notch quality grapes. We are forced to purchase whatever fruit is available, whether it is of good quality or not.

Despite these facts, the most damaging effect of the 60-40 rule is the harsh restriction on growth that it presents for Kansas Wineries. There are a number of States within the country that have a positive reputation for wine making and the wine business. Among these states are California, Oregon, New York, Iowa and Missouri. The rules and regulations for wine making in these states differ greatly from those of Kansas. These other states have rules and regulations in place to assist the growth of the wineries and the wine industry within their state. It should be noted that a good handful of these states are also known for grape growing. Yet, despite the fact that grapes grow well within their state, they have no state requirements on how much product is grown in that state. Some of the Kansas grape growers argue that if 60-40 is not implemented and wineries are allowed to bring in out-of-state product then it will hurt their industry. There is no evidence or documentation that this will happen. None. It has not happened in any other state, and it will not happen in Kansas.

I encourage you to evaluate why these strict laws are still in place? Who benefits from the laws? Currently, it is one or two grape growers. It certainly isn't the businesses or the state. In fact, the current laws HURT the business and subsequently the state. Changing the laws won't hurt anybody, but will benefit lots. Some of the grape growers and the three-tier distribution system's lobbyists will try and tell you that they'd be hurt. But there is absolutely no empirical evidence that corroborates their false claims. Don't let the unjustifiable and irrational fear of a few irreparably damage the Kansas wine industry.

I would like to thank you for the opportunity to submit this testimony in support of SB379. It seems to me that there is a massive disconnect between the State of Kansas and the majority of the wineries in the state. Hopefully, with the passing of SB379 that gap can begin to decrease. If there is any other information I can provide that would be helpful, please let me know! I can be reached at Oz Winery, 785-456-7417.

Sincerely,

Brooke Balderson
Managing Member

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