Wyldewood Cellars Winery

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Good morning Mr. Chairman and members of the committee. My name is Dr. John Brewer and I am the owner and President of Wyldewood Cellars, a Farm Winery based out of Mulvane, KS with outlets in Wichita, Paxico and Lawrence Ks.. I am submitting this testimony in support of SB 379 and SB390.

The main issue in the 60% grown-in state content removal debate is not the definition of Kansas Grape Wines or supporting Kansas Agriculture, but the definition of the Business Plan to be a "Kansas Farm Winery". The 60% grown in Kansas requirement allows grape growers to regulate the growth of the Kansas Wine Industry, determine what wines the Wineries can produce, and determine which Wineries will prosper. In the 17 years we have been in business, I have been able to buy enough Kansas grapes for only 200 gallons of grape wine.

In 2011, we had a 19 deg below zero night with 30 mile an hour winds. This killed all of the fruiting buds on our grapevines, so we got no crop from our 5 acre vineyard. No grapes were available in Kansas to make up for this. At the Kansas Grape Growers and Winemakers annual meeting in January, we solicited grape buying contracts for this year's crop. There were no grapes to be purchased from the 2012 crop.

To put the Kansas Wine Industry in perspective: in 2010 Kansas wineries sold about 75,000 gallons of wine, Missouri wineries sold about 750,000 gallons, and Gallo Winery sold over 7,500,000 gallons of just Chablis. (Kansas data from Kansas Ag Statistics report).
Grapes take 4-5 years of growth to begin fruit production. Using the Kansas Department of Agriculture 2010 report on vineyards and wineries, only 44% (about 32,000 gallons) of the grape wine produced was made with Kansas grapes. The non-bearing acres could contribute about 35,000 gallons a year once they mature (1 to 4 years). The wine industry in states that do not have a grown-in-state fruit requirement like Texas (over 200 wineries), Colorado (over 100 wineries), and Oklahoma (over 86 wineries) is growing at about 30% a year. For Kansas's wine industry to grow 30% and satisfy the 60% requirement, over 70% of the non-bearing vines would have to become full bearing vines next year. Clearly, this is not possible. The 60% grown in Kansas requirement severely limits responding to increased customer demands, industry growth, and increased tax revenues on increased sales. When there is an established demand for a product, people will invest the time and money to produce the product. Increased wine sales persuade people to establish vineyards, not regulations.

1. Wine is produced and labeled under Federal Law and sold under State Law.
2. Trade and Tax Bureau (TTB, was ATF) has a publication defining the materials and processes that may be used to produce wine.
3. Federal Law has specific requirements about what can be labeled as "Kansas Wine". For a wine to have the appellation of Kansas, it must contain 75% Kansas grown grapes.
4. Non-grape wines, such as elderberry, blackberry, etc., are not allowed to be labeled as Kansas wines, as Kansas is an appellation which is defined as the grape growing region.

Federal Law defines what a winery is, the alcoholic products that it can produce, and the origin of the fruit. By Federal definition, a winery is the facility where wine is produced and bottled. There is no requirement on the origin of the fruit to be a Federally Bonded Winery. Federal labeling laws are very specific about the geographic origin of the grapes used to produce wine, State, County, unique growing area (Napa Valley), and vineyard. Wines other than grape can only be designated as American, and some examiners won't allow even this (my elderberry wine can not be labeled as Kansas). By using the 60% rule, a small group of grape growers in Kansas want to restrict the Federal definition, and therefore the business model, of wineries, to a business model where Kansas wineries must use only Kansas grown grapes regardless of variety or quality. This model protects the Kansas grape growers but severely restricts the wineries from sales growth and profitability, due to a lack of quality grapes.

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Only 15 out of our 50 States have any restrictions on the Federal requirements for a winery and only about 10 states have grown-in-the-state grape or fruit requirements. Many States have removed their grown-in-state requirement as being a violation of Interstate Commerce.

As a registered Professional International Wine Judge, I have been judging for 17 years. I am intimately familiar with the wine industries in our country. California does not have a grown-in-state grape requirement, but does have over 6000 wineries, including the largest in the world. Gallo produces millions of gallons of wine a year. Under Kansas law, a winery's output is limited to 100,000 gallons per year, which is considered a small producer by the Federal Government. To compare, Missouri has 4 and Arkansas 2 wineries that produce well over 100,000 gallons of wine a year.

Let us be clear about one thing, all of the Kansas Winery owners that I know would like to use only Kansas grown grapes. This allows us to establish a unique regional identity for our wines and it is much cheaper due to transportation costs. However, we are businesses, not hobbies, and have to be able to produce enough wine to be a profitable business to pay our employees and taxes. To do this, we must have a reliable and consistent supply of our fruit. Restricting the source of our fruit to 60% grown-in-state, restricts the growth and profitability of our businesses. With employees, you can't just close the store and go on vacation when you run out of wine.

Several Kansas wineries are winning International Awards for their wines, and because of this, Kansas is beginning to get a reputation for producing quality wine. Wyldewood Cellars has won International Awards, including winning a National Competition to be the only wine served in the Olympic Village in the 2002 Winter Olympics. An International Wine Competition judges the wine in the bottle, and thereby the wine making ability of the winery, not the origin of the fruit. You have to have quality fruit to make quality wine.

As I understand the history, Kansas's 60% grown-in-state requirement was put in place for two reasons: 1. To help Kansas to grow grapes, and more importantly 2. to prevent a winery, like Gallo, from establishing a winery in Kansas, bringing in all of its grapes from California, and selling its wines directly to liquor stores and thereby bypassing the wholesale wine distributors. Federal law does not prevent this as State Law dictates how wine is sold. A Kansas wine manufacturer (the same Federal bonded winery as a farm winery) can bring fruit or grapes from anywhere, but can only sell to the wholesale wine distributors, not at retail like Farm Wineries. For a Kansas Farm winery to also have a Kansas wine manufacturer's license, it has to have separate facilities and record keeping for each license. This is not economically feasible. Texas is the second largest US wine market and has no grown-in-state requirement. Gallo still uses the wholesale wine distributors in Texas.

The 60% grown-in-state requirement has not helped Kansas agriculture, but the demand from successful wineries for more raw goods has. There is substantially more demand for Kansas grapes than there is supply. The 60% requirement restricts the growth of the Kansas wine industry to the investment that growers are willing to make in vineyards and a 4 -5 year wait until more Kansas grapes are available. Both grape growing and wine making are capital intensive, labor intensive, and technology intensive businesses. No winery of any size in California grows all of the grapes they use to produce wine. Louis Martini winery produces 650,000 gallons of wine per year but only grows enough grapes for 150,000 gallons of wine.

There is room in the Kansas Wine Industry for every winery business plan, from the 1000 gallon a year winery using only grapes they grow to the 100,000 gallon a year winery who buys grapes from a variety of grape growers. A successful wine industry is the result of a mutually beneficial partnership between growers and wineries to produce World Class Wines, not artificial growing requirements designed to limit and control the industry.

Thank you for the opportunity to submit this testimony in support of SB379 and SB390, and please pass these bills out of committee. Please contact me at 316 554-9463 with any questions. Thank you. Dr. John Brewer

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