

Alcoholic Beverage Control
109 SW 9th Street, 5th Floor
PO Box 3506
Topeka KS 66601-3506



Phone: 785-296-7015
Fax: 785-296-7185
Kdor_abc.email@ks.gov
www.ksrevenue.org
Laura Kelly, Governor

MEMORANDUM

TO: Rep. Sean Tarwater, Chairman, House Committee on Commerce, Labor and Economic Development

FROM: Debbi Beavers, Director, Alcoholic Beverage Control Division

DATE: February 19, 2019

SUBJECT: Neutral Testimony on HB 2223

Mr. Chairman:

Thank you for the opportunity to testify. ABC is neutral on this bill, but does have several suggested amendments if the committee wishes to recommend the bill favorably for passage.

This bill makes several changes to the existing statute regarding vineyard permits. It changes the name to a producer permit, offering the opportunity for vineyards and other agricultural producers to qualify to obtain a producer's permit instead of limiting it to vineyards. Minimum quantities of grape vines, pounds of fruit and honey are established in the bill as the only qualification to obtain a producer's permit.

Section 1 adds the ability for a farm winery to sell wine to a producer permit holder, which is not currently authorized.

Section 2, subsection (c) specifies that the wine sold by the permit holder shall be produced in whole or in part using the fruit or honey sold to the farm winery by the permit holder. As currently written, there is no minimum amount of the producer permit holder's agricultural products required to be used in the manufacture of wine.

The bill also adds the necessary requirement for record keeping. The current vineyard permit has no record keeping or reporting requirements. The bill requires records for all sales made under

the permit, including sales of agricultural products to the farm winery, sales to consumers and purchases from the farm winery. Records are subject to inspection by the ABC, the secretary or any law enforcement officer. This requirement is standard for all liquor licensees, 90 days on the licensed premises. After 90 days, records may be stored electronically or off of the licensed premises for three years.

ABC has four concerns:

1. ABC respectfully requests that qualifications be added for permit holders mirroring those of regular liquor licensees. Currently, there is no background check requirement for a permit holder. Therefore, permit holders could be convicted felons (which are prohibited from ownership in a liquor license) and ABC would not know.
2. Since there is no minimum requirement for the amount of the producer permit holder's agricultural products that must be used in wine produced for them, a producer permit holder could conceivably market and sell wine that only contains a nominal or trace amount of its own product. ABC would suggest that wine produced for the permit holder be required to contain at least 30% of the producer permit holder's agricultural products.
3. There is no requirement for a bond to be posted and the permit holder will have liquor enforcement tax and liquor drink tax accounts.
4. Nothing in the liquor control act authorizes a farm winery to manufacture wine for another licensee or permit holder. ABC believes that an additional amendment would be required to K.S.A. 41-308a, allowing farm wineries to do this as a right of their license.

Thank you for your consideration of our concerns.