

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 390

By Committee on Agriculture

2-7

1 AN ACT concerning farm wineries; relating to farm winery license;
2 authority of licensee; amending K.S.A. 2011 Supp. 41-308a and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 41-308a is hereby amended to read as
7 follows: 41-308a. (a) A farm winery license shall allow:

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

11 (2) the sale of wine, manufactured by the licensee, to licensed wine
12 distributors, retailers, clubs, drinking establishments, holders of temporary
13 permits as authorized by K.S.A. 41-2645, and amendments thereto, and
14 caterers;

15 (3) the sale, on the licensed premises *and at special events monitored*
16 *and regulated by the division of alcoholic beverage control* in the original
17 unopened container to consumers for consumption off the licensed
18 premises, of wine manufactured by the licensee;

19 (4) the serving free of charge on the licensed premises and at special
20 events, monitored and regulated by the division of alcoholic beverage
21 control, of samples of wine manufactured by the licensee or imported
22 under subsection (f), if the *licensed* premises are located in a county where
23 the sale of alcoholic liquor is permitted by law in licensed drinking
24 establishments;

25 (5) ~~if the licensee manufactured the wine, the sale of wine~~
26 ~~manufactured by the licensee for consumption on the licensed premises, if~~
27 **provided**, the licensed premises are located in a county where the sale of
28 alcoholic liquor is permitted by law in licensed drinking establishments.

29 ***Wine sold pursuant to this paragraph shall not be subject to the***
30 ***provisions of the club and drinking establishment act, K.S.A. 41-2601 et***
31 ***seq., and amendments thereto, and no drinking establishment license***
32 ***shall be required to make such sales;***

33 (5) (6) if the licensee is also licensed as a club or drinking
34 establishment, the sale of domestic wine, domestic fortified wine and other
35 alcoholic liquor for consumption on the licensed premises as authorized by
36 the club and drinking establishment act;

1 ~~(6)~~ (7) if the licensee is also licensed as a caterer, the sale of domestic
2 wine, domestic fortified wine and other alcoholic liquor for consumption
3 on the unlicensed premises as authorized by the club and drinking
4 establishment act;

5 ~~(7)~~ (8) the sale and shipping, in the original unopened container, to
6 consumers outside this state of wine manufactured by the licensee,
7 provided that the licensee complies with applicable laws and rules and
8 regulations of the jurisdiction to which the wine is shipped; and

9 ~~(8)~~ (9) the sale and shipping of wine within this state pursuant to a
10 permit issued pursuant to K.S.A. 2011 Supp. 41-350, and amendments
11 thereto.

12 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
13 310, and amendments thereto, by a farm winery licensee, the director may
14 issue not to exceed three winery outlet licenses to the farm winery
15 licensee. A winery outlet license shall allow:

16 (1) The sale, on the licensed premises *and at special events*
17 *monitored and regulated by the division of alcoholic beverage control* in
18 the original unopened container to consumers for consumption off the
19 licensed premises, of wine manufactured by the licensee;

20 (2) the serving on the licensed premises of samples of wine
21 manufactured by the licensee or imported under subsection (f), if the
22 premises are located in a county where the sale of alcoholic liquor is
23 permitted by law in licensed drinking establishments; and

24 (3) the manufacture of domestic table wine and domestic fortified
25 wine and the storage thereof; provided, that the aggregate quantity of wine
26 produced by the farm winery licensee, including all winery outlets, shall
27 not exceed 100,000 gallons per year.

28 (c) Not less than ~~60%~~ ~~10%~~ **60%** of the products utilized in the
29 manufacture of domestic table wine and domestic fortified wine by a farm
30 winery shall be grown in Kansas except when a lesser proportion is
31 authorized by the director based upon the director's findings and judgment.
32 The label of domestic wine and domestic fortified wine shall indicate that
33 a majority of the products utilized in the manufacture of the wine at such
34 winery were grown in Kansas.

35 (d) A farm winery or winery outlet may sell domestic wine and
36 domestic fortified wine in the original unopened container to consumers
37 for consumption off the licensed premises at any time between 6 a.m. and
38 12 midnight on any day except Sunday and between 12 noon and 6 p.m.
39 on Sunday. If authorized by subsection (a), a farm winery may serve
40 samples of ~~domestic wine, domestic fortified wine and~~ *wine manufactured*
41 *by the licensee and wine* imported under subsection (e) and serve and sell
42 domestic wine, domestic fortified wine and other alcoholic liquor for
43 consumption on the licensed premises at any time when a club or drinking

1 establishment is authorized to serve and sell alcoholic liquor. If authorized
2 by subsection (b), a winery outlet may serve samples of domestic wine,
3 domestic fortified wine and wine imported under subsection (e) at any
4 time when the winery outlet is authorized to sell domestic wine and
5 domestic fortified wine.

6 (e) The director may issue to the Kansas state fair or any bona fide
7 group of grape growers or wine makers a permit to import into this state
8 small quantities of wines. Such wine shall be used only for bona fide
9 educational and scientific tasting programs and shall not be resold. Such
10 wine shall not be subject to the tax imposed by K.S.A. 41-501, and
11 amendments thereto. The permit shall identify specifically the brand and
12 type of wine to be imported, the quantity to be imported, the tasting
13 programs for which the wine is to be used and the times and locations of
14 such programs. The secretary shall adopt rules and regulations governing
15 the importation of wine pursuant to this subsection and the conduct of
16 tasting programs for which such wine is imported.

17 (f) A farm winery license or winery outlet license shall apply only to
18 the premises described in the application and in the license issued and only
19 one location shall be described in the license.

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

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

23 (2) permit any employee of the licensee who is under the age of 21
24 years to work on the licensed premises at any time when not under the on-
25 premise supervision of either the licensee or an employee of the licensee
26 who is 21 years of age or over;

27 (3) employ any person under 21 years of age in connection with
28 mixing or dispensing alcoholic liquor; or

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

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

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

38 Sec. 2. K.S.A. 2011 Supp. 41-308a is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.