

LEGISLATIVE BILL 592

Approved by the Governor May 30, 2019

Introduced by Briese, 41.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-103.13 and 53-123.13, Reissue Revised Statutes of Nebraska, and section 53-123.11, Revised Statutes Cumulative Supplement, 2018; to redefine a term; to change provisions relating to farm wineries; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 53-103.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-103.13 Farm winery means any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least sixty ~~seventy-five~~ percent of the finished product is grown in this state or which meets the requirements of section 53-123.13.

Sec. 2. Section 53-123.11, Revised Statutes Cumulative Supplement, 2018, is amended to read:

53-123.11 (1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;

(b) Sell wines produced at the farm winery at retail for consumption on the premises;

(c) ~~(c)~~(i) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (i) ~~(A)~~ securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) ~~(B)~~ provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine. ~~(ii)~~ If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

(d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;

(e) Allow sampling and sale of the wine at the farm winery and at four ~~one~~ branch outlets ~~outlet~~ in the state in reasonable amounts;

(f) Sell wines produced at the farm winery to other Nebraska farm winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such regulations existed on January 1, 2008;

(g) Purchase distilled spirits from licensed microdistilleries in Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm winery wine to be used in the production of fortified wine at the purchasing licensed farm winery; and

(h) Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility if the holder of the farm winery license notifies the commission of the location of the facility and maintains, at the farm winery and at the facility, a separate perpetual inventory of the product stored at the facility. Consumption of alcoholic liquor at the facility is strictly prohibited.

(2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

(3) A farm winery may manufacture and sell hard cider on its licensed premises. A farm winery shall not otherwise distribute the hard cider it manufactures except by sale to a wholesaler licensed under the Nebraska Liquor Control Act.

(4) A holder of a farm winery license may obtain a special designated license pursuant to section 53-124.11.

(5) A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

Sec. 3. Section 53-123.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-123.13 (1) If the operator of a farm winery is unable to produce or purchase sixty ~~seventy-five~~ percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the sixty-percent ~~seventy-five-percent~~ requirement prescribed in section 53-103.13 for one year.

(2) It shall be within the discretion of the commission to waive the sixty-percent ~~seventy-five-percent~~ requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

(3) If the operator of a farm winery is granted a waiver, any product purchased as concentrated juice from grapes or other fruits from outside of Nebraska, when reconstituted from concentrate, may not exceed in total volume along with other products purchased the total percentage allowed by the waiver.

(4) Any product purchased under the waiver or as part of the forty ~~twenty-five~~ percent of allowable product purchased that is not Nebraska-grown for the production of wine shall not exceed the forty ~~twenty-five~~ percent volume allowed under state law if made from concentrated grapes or other fruit, when reconstituted. The concentrate shall not be reduced to less than twenty-two degrees Brix in accordance with 27 C.F.R. 24.180.

Sec. 4. Original sections 53-103.13 and 53-123.13, Reissue Revised Statutes of Nebraska, and section 53-123.11, Revised Statutes Cumulative Supplement, 2018, are repealed.