

# Article 11 - FARM WINERIES

(Last amended in 2010)

**14-11-1. Definitions.** As used in this article and the liquor control act, unless the context clearly requires otherwise, the following terms shall have the meanings specified in this regulation:

(a) “Bonded wine premises” means a facility registered under the internal revenue code, 26 U.S.C. chapter 51, for the production, blending, cellar treatment, storage, bottling, or packing of wine.

(b) “Calendar year” means the period of time from January 1 through the following December 31.

(c) “Domestic fortified wine” has the meaning provided by K.S.A. 41-102, and amendments thereto.

(d) “Domestic table wine” has the meaning provided by K.S.A. 41-102, and amendments thereto.

(e) “Farmers’ market” means a regularly scheduled gathering of vendors, the primary purpose of which is to sell produce and other agricultural products directly to consumers.

(f) “Farm winery” has the meaning provided by K.S.A. 41-102, and amendments thereto.

(g) “Farm winery outlet” means a facility owned by the owner of a farm winery that is licensed by the director to manufacture, store, and sell the same brands of domestic table wine and domestic fortified wine as those of the farm winery.

(h) “Federal basic wine manufacturing permit” means a permit issued under the federal alcohol administration act, 27 U.S.C. chapter 8, to a bonded wine premises to produce wine.

(i) “Manufacturer” has the meaning provided by K.S.A. 41-102, and amendments thereto.

(j) “Standard case” means a package of original containers consisting of a total of 9,000 milliliters of wine of one brand or a combination of brands.

(k) “Wine” has the meaning provided by K.S.A. 41-102, and amendments thereto.

(l) “Winery” has the meaning provided by K.S.A. 41-350, and amendments thereto.

(Authorized by K.S.A. 2009 Supp. 41-350; implementing K.S.A. 2009 Supp. 41-308a; effective Sept. 17, 2010.)

**14-11-2.** (Authorized by K.S.A. 41-210; implementing K.S.A. 41-715; effective May 1, 1984; revoked Jan. 2, 1989.)

**14-11-3. Farm winery licensee shall not be employed by a licensed club.** No farm winery licensee, or the spouse of any licensee, shall be employed in the capacity of an officer or manager of a club which is licensed by the director and shall not be employed in connection with the mixing, serving, selling and dispensing of alcoholic liquor in such a club. Employees of farm winery licensees shall not purchase, or receive an order to deliver, any alcoholic liquors for a licensed private club.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-311(b)(4); effective May 1, 1984.)

**14-11-4. Registration of employees; salesperson permits.** (a) The licensee of each farm winery and farm winery outlet shall notify the director of the name of each employee who will sell or serve domestic wine, within five days after that employee begins work and upon each renewal of the license. The notification shall be submitted upon forms provided by the director.

(b) Each person engaged in the sale of domestic table wine or domestic fortified wine off the premises of a farm winery or farm winery outlet, or the taking or soliciting of orders for the sale of domestic table wine or domestic fortified wine on behalf of a farm winery or farm winery outlet, shall obtain a salesperson’s permit as required by K.S.A. 41-333 and amendments thereto. Each salesperson shall provide that person’s permit for inspection upon request by the director or any agent or employee of the director or secretary.

(Authorized by K.S.A. 41-210; implementing K.S.A. 2009 Supp. 41-308a, as amended by L. 2010, ch. 142, sec. 5, and K.S.A. 41-333; effective Sept. 17, 2010.)

**14-11-5. Licensed warehouses.** Each licensee of a farm winery or farm winery outlet shall provide, at the licensee's own expense, a warehouse area situated on and constituting a part of the farm winery's or farm winery outlet's premises. The warehouse area shall be used for the storage of domestic table wine and domestic fortified wine manufactured by that farm winery or farm winery outlet. Domestic table wine and domestic fortified wine shall not be stored in any other place.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-401 and K.S.A. 2009 Supp. 41-308a, as amended by L. 2010, ch. 142, sec. 5; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-6. Opened containers of domestic table wine or domestic fortified wine on the licensed premises.** The licensee of a farm winery or farm winery outlet that sells domestic table wine or domestic fortified wine at retail shall not permit the original package or container of any domestic table wine or domestic fortified wine to be opened on that portion of the licensed premises that is used for retail sales, except as needed for serving free samples.

(Authorized by K.S.A. 41-210; implementing 2009 Supp. 41-308a; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-7. Retail sales and deliveries.** (a) Retail sales of domestic table wine and domestic fortified wine by a farm winery or farm winery outlet shall be made only on the licensed premises. Deliveries of domestic table wine and domestic fortified wine sold at retail by a farm winery or farm winery outlet shall be made only on the licensed premises for consumption off the premises.

(b) Any farm winery may deliver domestic table wine and domestic fortified wine to either of the following:

(1) The licensed premises of any of the following:

(A) A club;

(B) a drinking establishment;

(C) a wine distributor; or

(D) a retailer; or

(2) the principal place of business of a caterer.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-210 and K.S.A. 2009 Supp. 41-308a; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-8.** (Authorized by K.S.A. 41-210; implementing K.S.A. 41-715; effective May 1, 1984; revoked Jan. 2, 1989.)

**14-11-9. Farm winery or farm winery outlet licensee prohibited from warehousing domestic table wine or domestic fortified wine for consumers.** No farm winery or farm winery outlet that sells domestic table wine or domestic fortified wine at retail shall take orders, or otherwise arrange sales of the wine, for consumers for the purpose of delivering the wine before the legal opening hour, after the legal closing hour, or on any day when sales at retail are prohibited.

(Authorized by K.S.A. 41-210; implementing K.S.A. 2009 Supp. 41-712; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-10.** Reserved.

**14-11-10a.** (Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Sept. 17, 2010.)

**14-11-10b.** (Authorized by K.S.A. 41-1118; implementing K.S.A. 41-1112, K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Sept. 17, 2010.)

**14-11-10c.** (Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Jan. 2, 1989.)

**14-11-10d.** (Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Sept. 17, 2010.)

**14-11-11.** (Authorized by K.S.A. 41-1118, implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Nov. 29, 2010.)

**14-11-12.** (Authorized by K.S.A. 41-210; implementing K.S.A. 41-702, K.S.A. 1983 Supp. 41-308a; effective May 1, 1984; revoked Jan. 2, 1989.)

**14-11-13.** (Authorized by K.S.A. 41-211; implementing K.S.A. 41-714, as amended by L. 1983, Ch. 161, Sec. 17; effective May 1, 1984; revoked May 1, 1985.)

**14-11-14.** (Authorized by K.S.A. 41-211; implementing K.S.A. 1984 Supp. 41-714; effective May 1, 1984; amended May 1, 1985; revoked Sept. 17, 2010.)

**14-11-15. Public display of domestic table wine or domestic fortified wine.** (a) Domestic table wine or domestic fortified wine intended for retail sale for purposes of consumption shall not be placed on public display in any place or at any other location than the licensed premises of any of the following:

- (1) A farm winery;
- (2) a farm winery outlet;
- (3) a retail liquor store;
- (4) a farmers' market for which a bona fide farmers' market sales permit has been issued; or
- (5) a special event approved and monitored by the director.

(b) Any farm winery licensee may, if approved by the director upon receipt of a written request, display domestic table wine or domestic fortified wine at state or county fairs or other agricultural shows if all of the following conditions are met:

- (1) No free samples are dispensed.
- (2) No retail sales are made at the fair or show.
- (3) No orders are taken for subsequent sales.

(Authorized by K.S.A. 41-211; implementing K.S.A. 2009 Supp. 41-714; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-16. Farm wineries and farm winery outlets selling at retail; marking prices; price or inventory control tags; shelf markings.** Any licensee of a Kansas farm winery or farm winery outlet that sells domestic table wine and domestic fortified wine at retail may mark the retail selling price on the glass portion of the original container by using a crayon, grease pencil, or other similar means.

Licensees may affix, to an original container, a price or inventory control paper or tag, or both. Luminous or fluorescent paper, or any similar paper, may be used for price or inventory control tags.

Farm winery and farm winery outlet licensees may place on a wall, or on a freestanding device, a list of items available and the price per item or case. In addition, licensees may place price information on point-of-sale materials.

(Authorized by K.S.A. 41-210 and K.S.A. 41-211; implementing K.S.A. 41-210, K.S.A. 41-211, and K.S.A. 2009 Supp. 41-714; effective May 1, 1984; amended Sept. 17, 2010.)

**14-11-17 through 14-11-21.** (Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984; revoked Jan. 2, 1989.)

**14-11-22. Special order shipping; license requirements.** (a) Each owner or operator of a winery located either within this state or in another state wishing to ship wine directly to consumers in Kansas shall first obtain a special order shipping license from the secretary.

(b) Each application for a special order shipping license shall be submitted upon a form prescribed by the director, contain all information that the director deems necessary, and include the following:

- (1) A copy of the winery's federal basic wine manufacturing permit;
- (2) the appropriate license and registration fees; and
- (3) a bond, pursuant to K.S.A. 41-317(b) and amendments thereto.

(c) The application of any winery may be rejected by the director for any of the following reasons:

- (1) The application does not include all information that the director deems necessary.
- (2) The application does not include a copy of the winery's federal basic wine manufacturing permit.
- (3) The application does not include the appropriate license and registration fees.
- (4) The application does not include the required bond.
- (5) The applicant or its owners, officers, agents, or managers have violated a provision of the liquor control act or these regulations relating to special order shipping.
- (6) The applicant or its owners, officers, agents, or managers are currently delinquent in payment of any gallonage tax, enforcement tax, or any fees or fines to the state of Kansas.
- (7) The applicant or its owners, officers, agents, or managers previously held a license issued under the liquor control act or the club and drinking establishment act, and when that license expired or was surrendered, the licensee was delinquent in payment of any gallonage tax, enforcement tax, or any fees or fines to the state of Kansas.
- (8) The applicant has had a liquor license revoked for cause in Kansas or another state.
- (9) The applicant or its owners, officers, agents, or managers are currently delinquent in payment of any tax, fees, or fines to any state or to the United States.

(d) The special order shipping license shall be valid for two years from the date of issuance. The owner or operator of a winery wishing to renew its special order shipping license shall submit its renewal application to the department at least 30 days before the expiration of its current license.

(Authorized by and implementing K.S.A. 2009 Supp. 41-350, as amended by L. 2010, ch. 142, sec.10; effective Nov. 29, 2010.)

**14-11-23. Special order shipping.** (a) No holder of a special order shipping license, and no owner, employee, or agent of the licensee, shall sell, give, or deliver wine to a person under 21 years of age.

(b) No licensee shall ship wine that was not manufactured by the licensee to a consumer in Kansas.

(c) For each shipment of wine to be sent directly to a consumer in Kansas, the licensee shall complete an invoice or sales slip containing all of the following information:

- (1) The name, address, and license number of the winery;
- (2) the name and address of the purchaser;
- (3) the date of the purchase;
- (4) the quantity and size of each brand of wine purchased;
- (5) the subtotal of the cost of the wine and the total price of the shipment, including enforcement tax and shipping charge;

(6) a statement that the purchaser's age was verified and that the purchaser is at least 21 years of age; and

(7) the type of photo identification examined and the internet-based age and identification service utilized.

(d) For each sale of wine to be shipped directly to a consumer in Kansas, the licensee shall collect gallonage tax as required by K.S.A. 41-501 and amendments thereto.

(e) Each licensee, other than a licensed Kansas farm winery or manufacturer, shall file gallonage tax returns and remit these taxes annually. These returns and remittances shall be submitted on or before the 15th day of January for the preceding calendar year. The gallonage tax returns shall be accompanied by an annual sales report, which shall be submitted on a form prescribed by the director and shall reflect all sales made under the license during that calendar year.

(f) Each licensee shall file enforcement tax returns and shall submit returns showing zero sales if no wine was sold under the license during that tax period.

(g) Each licensee of a Kansas farm winery or farm winery outlet that also holds a special order shipping license shall maintain separate records and file separate returns for its special order shipping license. The licensee of each farm winery or farm winery outlet shall remit these taxes separately from the taxes collected and reported under any other license or permit held by the farm winery or farm winery outlet.

(h) Each licensee shall maintain, on the licensed premises, a copy of the invoice or sales slip for each shipment of wine sent directly to a consumer in Kansas for at least three years from the date of sale. The copies shall be made available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 and K.S.A. 2009 Supp. 41-350; implementing K.S.A. 41-211 and K.S.A. 2009 Supp. 41-350; effective Sept. 17, 2010.)

**14-11-24. Bona fide farmers' market sales permit.** A farm winery licensee may sell domestic table wine and domestic fortified wine manufactured by the licensee at a farmers' market only after obtaining a bona fide farmers' market sales permit from the director.

(a) Each farm winery licensee intending to sell wine at a farmers' market shall submit an application to the director for a bona fide farmers' market sales permit. Each application shall be submitted on a form prescribed by the director and shall include all information the director deems necessary. The application shall indicate the location of the farmers' market and the day of the week on which the applicant intends to sell wine.

(b) No bona fide farmers' market sales permit shall be issued if the local governing body has not approved the sale of alcoholic liquor at retail for the proposed location of the farmers' market.

(c) No bona fide farmers' market sales permit shall be issued for any farmers' market located on state property or within 200 feet of any school, college, or church.

(d) The director may reject an application for a bona fide farmers' market sales permit for either of the following reasons:

(1) The application does not include all information the director deems necessary.

(2) The applicant or its owners, officers, agents, or managers are currently delinquent in payment of any gallonage tax, enforcement tax, or any fees or fines to the state of Kansas.

(e) Each bona fide farmers' market sales permit shall be valid for one year from the date of issuance. Each farm winery licensee wishing to renew its bona fide farmers' market sales permit shall submit its renewal application to the department at least 30 days before the expiration of its current permit.

(f) No holder of a bona fide farmers' market sales permit shall sell domestic table wine or domestic fortified wine at a farmers' market on any day of the week other than the day specified in the application or at any farmers' market other than the one specified in the application.

(g) Domestic table wine and domestic fortified wine shall be sold at a farmers' market only in the original, unopened container. The serving of samples of domestic table wine or domestic fortified wine at a farmers' market shall be prohibited.

(h) Any of the following may sell domestic table wine and domestic fortified wine at a farmers' market:

- (1) The holder of a bona fide farmers' market sales permit;
- (2) a member of the permit holder's family who is at least 21 years of age; or
- (3) an employee of the permit holder who is at least 21 years of age and is reported to the director as an employee, on a form prescribed by the director.

(i) Each person selling domestic table wine and domestic fortified wine under a bona fide farmers' market sales permit shall possess a salesperson's permit as required by K.S.A. 41-333 and amendments thereto. The person shall produce the permit upon request by the director or any agent or employee of the director or secretary upon request.

(j) Each farm winery selling wine at a farmers' market shall display its bona fide farmers' market sales permit in a conspicuous place in its farmers' market sales area.

(k) For each sale of domestic table wine or domestic fortified wine at a farmers' market, the holder of a bona fide farmers' market sales permit shall collect liquor enforcement tax as required by K.S.A. 79-4101 and amendments thereto. The permittee shall file enforcement tax returns and remit payment according to the provisions of the liquor enforcement tax act, K.S.A. 79 4101 et seq. and amendments thereto.

(l) Each licensee of a Kansas farm winery that also holds a bona fide farmers' market sales permit shall maintain separate records and file separate returns for its bona fide farmers' market sales permit. The farm winery licensee shall remit enforcement taxes collected from sales at the farmers' market separately from the taxes collected and reported under its farm winery license.

(Authorized by K.S.A. 41-210, K.S.A. 2009 Supp. 41-351, and K.S.A. 79-4106; implementing K.S.A. 41-211 and K.S.A. 2009 Supp. 41-351; effective Sept. 17, 2010.)

**14-11-25. Licensee of farm winery also licensed as manufacturer.** (a) A farm winery licensee may request a license as a manufacturer by submitting an application to the director.

(b) Each application for a manufacturer's license shall be submitted upon forms prescribed by the director, shall contain all information the director deems necessary, and shall include the following:

- (1) The appropriate license fee pursuant to K.S.A. 41-310(c), and amendments thereto;
- (2) a bond pursuant to K.S.A. 41-317(b), and amendments thereto; and
- (3) the registration fee pursuant to K.S.A. 41-317(a), and amendments thereto.

(c) The director may reject an application for a manufacturer's license for any of the following reasons:

- (1) The application does not include all information the director deems necessary.
- (2) The application does not contain the appropriate license fee, bond, or registration fee.
- (3) The applicant or its owners, officers, agents, or managers are currently delinquent in payment of any gallonage tax, enforcement tax, or any fees or fines to the state of Kansas.

(d) Each farm winery licensee shall maintain separate storage facilities, production records, and sales records from those of the manufacturer.

(e) No alcoholic liquor or cereal malt beverage manufactured by the manufacturer shall be sold at or under any of the following:

- (1) The licensed premises of any farm winery;
- (2) the licensed premises of any farm winery outlet;
- (3) a bona fide farmers' market; or
- (4) any special order shipping license.

(f) No alcoholic liquor or cereal malt beverage manufactured by the manufacturer shall be displayed or sampled in any sales area or tasting area of the farm winery premises.

(g) Each farm winery licensee that also holds a manufacturer's license shall file separate gallonage tax returns for its manufacturer's license. The farm winery licensee shall remit gallonage taxes separately from the taxes reported under its manufacturer's license.

(h) Each farm winery licensee that also holds a manufacturer's license shall submit a monthly sales report with each manufacturer license's gallonage tax return. The report shall be submitted on a form prescribed by the director and shall reflect all sales made under the manufacturer's license during that month.

(i) Each farm winery licensee that also possesses a manufacturer's license shall be subject to the record retention and reporting requirements of both license types.

(Authorized by K.S.A. 41-210 and K.S.A. 79-4106; implementing K.S.A. 41-211, K.S.A. 2009 Supp. 41-305, K.S.A. 2009 Supp. 41-317; effective Sept. 17, 2010.)

**14-11-26. Label approval required.** Before offering for sale in this state any domestic table wine or domestic fortified wine, a farm winery or farm winery outlet shall submit each label and a "certificate of label approval" from the federal tax and trade bureau to the director. No domestic table wine or domestic fortified wine shall be sold in this state unless the label and the "certificate of label approval" have been submitted to the director.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-211; effective Sept. 17, 2010.)

**14-11-27.** (Authorized by K.S.A. 41-210; implementing K.S.A. 41-211, K.S.A. 2009 Supp. 41-308a; effective Sept. 17, 2010; revoked Dec. 27, 2010.)

**14-11-28. Sales to minors prohibited.** No farm winery licensee, farm winery outlet licensee, holder of a special order shipping license, holder of a bona fide farmers' market sales permit, or any owner, employee, or agent of any of these individuals shall sell, give, or deliver domestic table wine or domestic fortified wine to any person under 21 years of age.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-211; effective Sept. 17, 2010.)

**14-11-29. Record retention; reporting requirements.** (a) Each farm winery licensee, farm winery outlet licensee, holder of a bona fide farmers' market sales permit, or holder of a special order shipping license shall maintain records of all sales made under the license or permit for at least three years after the date of sale. The records required by this subsection shall be available for inspection by the director, any agent or employee of the director, or the secretary upon request.

(1) Each record required by the regulation shall be maintained on the premises of the farm winery or farm winery outlet for at least 90 days after the sale.

(2) Any record required by this regulation may be stored electronically and maintained off the licensed premises.

(b) Each farm winery licensee shall submit a monthly sales report with each gallonage tax return. The report shall be submitted on a form prescribed by the director and shall reflect all sales made under any license or permit issued under the liquor control act and held by the farm winery licensee during that month.

(Authorized by K.S.A. 41-210, K.S.A. 2009 Supp. 41-350, as amended by L. 2010, ch. 142, sec. 10, and K.S.A. 2009 Supp. 41-351; implementing K.S.A. 41-211 and K.S.A. 2009 Supp. 41-350, as amended by L. 2010, ch. 142, sec. 10; effective Sept. 17, 2010.)