



# **KANSAS ADMINISTRATIVE REGULATIONS**

**Agency 14 - Division of Alcoholic Beverage Control**

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## Article 11 - FARM WINERIES

(Last amended in 1989)

**14-11-1.** Reserved.

**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.** Reserved.

**14-11-5. Licensed farm winery's warehouses to be separate.** Every licensed farm winery shall provide, at the licensee's own expense, a warehouse area to be situated on and to constitute a part of the farm winery's premises. The warehouse area shall be used solely and exclusively for the purpose of storage of domestic table wine manufactured by that winery. Domestic table wine shall not be stored in any other place, except as provided in K.A.R. 14-5-4.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-401, K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

**14-11-6. Opened containers of domestic table wine on the licensed premises.** A licensed farm winery that sells domestic table wine at retail shall not permit the original package or container of any domestic table wine to be opened in or on that portion of the licensed premises that is used for retail sales. The presence of any unsealed container or original package containing domestic table wine on the retail sales area of the licensed premises shall be considered as prima facie evidence of a violation of the act.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

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

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

**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 licensee prohibited from acting as bailee of domestic table wines for retail purchasers for delivery when sales are illegal.** No licensed farm winery that sells domestic table wine at retail shall take orders, or otherwise arrange sales of domestic table wine, for retail customers for the purpose of delivering the domestic table wine before the legal opening hour or 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. 1983 Supp. 41-717; effective May 1, 1984.)

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

**14-11-10a. Licensed farm wineries; sworn statement.** Every farm winery, before selling or offering to sell any domestic table wine to a licensed distributor, shall file with the director a written statement sworn by the licensee, in which it shall agree that:

(1) it will sell any of the brands or kinds of domestic table wine manufactured or distributed by it to any licensed distributor;

(2) all such sales will be made to all licensed distributors in this state at the same current price and without discrimination; and

(3) price lists showing the current prices will be filed by it in the office of the director each month.

If the licensee is an individual, that person must execute the agreement. If the licensee is a partnership, any partner may execute the agreement. If the licensee is a corporation, any director, officer, or manager who has authority to contract on behalf of the corporate licensee may execute the agreement.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

**14-11-10b. Licensed farm wineries; price listings.** (a) The price listings filed, with the director, by each farm winery under K.A.R. 14-11-10a, shall be the cash price for domestic table wine sold by the case. All price projections required to be filed by farm wineries with the director shall be based on the farm winery's cash price to distributors. A certified copy of each contract used for the sale of domestic table wine shall be filed with the director by the farm winery making those sales.

(b) Price listings for domestic wine in cases shall show:

(1) the place from which shipments will be made;

(2) the price, per case, for each size of original packages of each particular brand or kind of domestic table wine sold or offered for sale by the farm winery; and

(3) any other information that the director may require.

(c) (1) When the domestic wine is sold in bulk, the price list shall show one or more of the following:

(A) the cash price;

(B) the wholly deferred, or partly deferred, payment price; and

(C) transportation charges from the farm winery's warehouse or the point from which the farm winery will make shipment. The price listings shall not include the gallonage tax imposed by the act.

(2) Price listings for domestic table wines in bulk, posted by the barrel, shall also show:

(A) for each class and type of particular brand or brands, if any, under which the domestic table wines in bulk will be bottled, the age, price per proof gallon and original gauge in bond; and

(B) any other information that the director may require.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 41-1112, K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

**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. Sale of wine prohibited prior to filing price schedule; penalties.** No farm winery shall sell, offer for sale or deliver to any licensee any domestic table wine before the farm winery files a schedule of prices for that wine in the office of the director as required by K.A.R. 11-3-10b.

The penalty for any violation of the requirements of this regulation shall be suspension or revocation of the license or the imposition of a fine.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

**14-11-11. Domestic table wine rationing; requirements.** Each licensed farm winery that sells its wine to distributors in the state of Kansas shall immediately notify the director if that winery does not have a sufficient supply of domestic table wine, of any of the brands or kinds which it manufactures and distributes, to fill and ship all orders of each licensed distributor who possesses a franchise for that farm winery's brands in this state, in the sequence and order in which those purchase orders are received and within 45 calendar days from the date on the order of the licensed distributor. Such a farm winery shall submit, for the approval or rejection of the director, an equitable plan of distribution of all domestic table wine that is in short supply. The failure of such a farm winery to notify the director or to submit a plan of distribution shall be grounds for the suspension or revocation of the license of that farm winery or for the imposition of a monetary fine.

(Authorized by K.S.A. 41-1118, implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

**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. Prohibited statements and restrictions in the advertising of domestic table wine.** (a) Advertisements of domestic table wine shall not contain:

(1) any statement, design, device, or representation of, or relating to, any guaranty which is false or likely to mislead the consumer;

(2) any statement, design, device, or representation which is obscene, indecent, undignified or in bad taste;

(3) any statement concerning the brand of alcoholic liquor that is inconsistent with any statement of the labeling;

(4) any statement of, or relating to, the price of domestic table wine, except a reference to the authorized discount on case sales, if the advertisement is directed to the public;

(5) any statement, design, or device representing that the use of any domestic table wine has curative or therapeutic effects, if the statement is untrue specifically or tends to create a misleading impression;

(6) any statement, design, device, or representation relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer;

(7) any statement that the product is produced, blended, made, bottled, packed, or sold under or in accordance with any authorization, law, or regulation of any municipality, county, state, federal, or foreign government unless this statement is required or specifically authorized by the laws or regulations of that government. If a municipal, county, state or federal permit number is stated, this permit number shall not be accompanied by any additional statement relating to it;

(8) any statement that domestic table wine was manufactured in, or imported from, a place or country other than that of its actual origin, or that it was produced or processed by one who was not in fact the actual producer or processor;

(9) any statement, design, device or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, the American flag, any state flag or of any emblem, seal, insignia, or decoration associated with any flag or the armed forces of the United States. Advertisements shall not contain any statement, device, design, or pictorial representation of, or concerning, any flag, seal, coat of arms, crest, or other insignia that is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for or under the supervision of, or in accordance with the specifications of, a government, organization, family, or individual with whom the flag, seal, coat of arms, crest, or insignia is associated;

(10) any statement, design, or device that, directly or by implication, concerns age or maturity of any brand or lot of domestic table wine unless a statement of age appears on the label of the advertised product. If a statement, design, or device concerning age or maturity is contained in any advertisement, it shall include, in direct conjunction with and with substantially equal conspicuousness, all parts of the statement concerning age and percentages, if any, which appear on the label.

(b) Licensed farm wineries may advertise the farm winery's products by brand name.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1984 Supp. 41-714; effective May 1, 1984; amended May 1, 1985.)

**14-11-15. Public display of domestic table wine regulated.** Domestic table 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. Licensed farm wineries may, if approved by the director upon receipt of a written request, display domestic table wines at state or county fairs or other agricultural shows if no free samples are dispensed, no retail sales are made at the fair or show, and no orders are taken for subsequent sales.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984.)

**14-11-16. Farm wineries that sell at retail; marking price on original packages; use of price or inventory control tags, or both; shelf markings; and price marking on point of sale materials.** Kansas farm wineries that sell domestic table wine at retail may mark the retail selling price on the glass portion of the original container by means of crayon, grease pencil, or other similar method. Price marking on the container's label, Kansas ID stamps, or federal strip shall be prohibited. Licensees may affix, to an original container, a price or inventory control paper tag or both. Luminous, fluorescent or similar paper may be used for price or inventory control tags.

Farm winery licensees having authorized coolers or refrigerators may place on the refrigerator or cooler or on a nearby wall the list of cold items available and the price per item or case. In addition, licensees may place price information on point of sale materials as authorized and defined by K.A.R. 14-10-1.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984.)

**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.)