



KANSAS ADMINISTRATIVE REGULATIONS

Agency 14 - Division of Alcoholic Beverage Control

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Article 24 - WINERY SHIPPING PERMITS

(Initial regulations adopted in 2007)

14-24-1. Definitions. As used in this article, unless the context clearly requires otherwise, the following terms shall have the meanings specified in this regulation:

(a) "Director" has the meaning specified in K.S.A. 41-102, and amendments thereto.

(b) "Large winery shipping permit" means a shipping permit issued pursuant to K.S.A. 41-349, and amendments thereto, to a wine manufacturer licensed in another state that manufactures at least 100,000 gallons of wine each year.

(c) "Small winery shipping permit" means a shipping permit issued pursuant to K.S.A. 41-348, and amendments thereto, to an entity that meets the following conditions:

(1)(A) Is a farm winery licensed in Kansas; or

(B) is a wine manufacturer licensed in another state; and

(2) manufactures no more than 100,000 gallons of wine each year.

(d) "Wine distributor" means any person licensed pursuant to K.S.A. 41-306a, and amendments thereto, to sell or offer for sale wine to any person authorized by law to sell wine at retail.

(e) "Winery shipping permit" means either a large winery shipping permit or a small winery shipping permit. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-2. Shipping record to accompany each shipment of wine. Each holder of a winery shipping permit shall complete a shipping record form approved by the director for each shipment of wine. The shipping record shall be distributed as follows:

(a) The permit holder shall retain the original with the permit holder's business records for at least three years and shall make the original shipping record and the business records available for audit by the director of taxation or director's designee.

(b) The permit holder shall attach a copy to the annual report of sales filed with the director of taxation if the permit holder is located outside the state of Kansas.

(c) The permit holder shall attach the following copies to the outside of the shipment:

(1) Two copies for the Kansas retailer. The retailer shall submit one copy with the retailer's liquor enforcement tax return. The retailer shall retain the other copy for at least three years and shall make the copy available for audit by the director of taxation or the director's designee;

(2) one copy to be given to the purchaser when the purchaser picks up the shipment from the retailer; and

(3) one copy for the Kansas distributor if the shipment is made through a Kansas distributor. The distributor shall retain this copy for at least three years and shall make the copy available for audit by the director of taxation or the director's designee. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-3. Disposition of wine shipment not removed from retailer's premises. (a) The retailer shall notify the purchaser upon receipt of the wine shipment ordered by the purchaser. If the purchaser fails to pick up the wine shipment and pay the handling fee and liquor enforcement tax due pursuant to statute, the retailer shall notify the director. The wine shipment and the shipping record shall be picked up by the director or the director's designee and shall become the property of the director. The retailer shall document in writing the efforts that the retailer made to contact the purchaser. The retailer shall not be entitled to a handling fee, and no liquor enforcement tax shall be calculated or reported by the retailer.

(b) Wine that has become the property of the director as specified in subsection (a) shall, at the discretion of the director, be either destroyed or sold at auction. Wine sold at auction may be purchased only by a retailer licensed under the Kansas liquor control act. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-4. Gallonage tax returns and payments by out-of-state permit holders. Each out-of-state permit holder shall annually submit the following to the director on or before January 15 of the next calendar year:

(a) A tax return reporting all shipments subject to the gallonage tax, on forms approved by the director; and

(b) payment of the gallonage tax on all shipments. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-5. Calculation and payment of the liquor enforcement tax. (a) Each Kansas retailer shall calculate and collect from the purchaser the liquor enforcement tax on each wine shipment when the shipment is delivered to the purchaser. The liquor enforcement tax shall be calculated on the total charges paid by the purchaser to both the holder of the winery shipping permit and the retailer, including the following charges:

(1) The price of the wine and all handling and shipping charges paid to the permit holder, as shown on the shipping record; and

(2) the handling charge paid to the retailer.

(b) The retailer shall identify the total amount of tax collected on each shipment and remit this amount to the Kansas department of revenue pursuant to K.S.A. 79-4103, and amendments thereto. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-6. Report of sales by permit holders. (a) Each in-state permit holder shall report information about the permit holder's sales each month to the director of taxation on forms approved by the director. Each report shall be due on or before the 15th day of the month following the end of each month.

(b) Each out-of-state permit holder shall annually report information about the permit holder's sales to the director of taxation on forms approved by the director. Each report shall be due on or before January 15 of the next calendar year. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)