

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 05-0442.02 Karen Woods

SENATE BILL 05-095

SENATE SPONSORSHIP

Tupa,

HOUSE SPONSORSHIP

Buescher,

Senate Committees
State, Veterans & Military Affairs

House Committees
Business Affairs and Labor

HOUSE
3rd Reading Unamended
April 5, 2005

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PRODUCERS OF VINOUS LIQUORS.**

HOUSE
Amended 2nd Reading
April 4, 2005

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Amends the limited winery license provisions to allow persons who produce wine from grapes, fruit, and other agricultural products, including honey, in Colorado to be licensed as a limited winery. Clarifies provisions concerning crop utilization if the existing provisions are found unconstitutional. Enacts substitute provisions concerning crop utilization and production limitations if both such provisions are found unconstitutional.

Allows a licensed limited winery and a manufacturer that is licensed to manufacture vinous liquor to obtain a wine festival permit.

SENATE
3rd Reading Unamended
February 25, 2005

SENATE
Amended 2nd Reading
February 23, 2005

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Allows a licensed winery to affix the phrase "Colorado Grown" to bottles of wine of its own manufacture that contain wine produced from 100% Colorado agricultural products.

Makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-47-103 (15), Colorado Revised Statutes, is
3 amended, and 12-47-103 is further amended BY THE ADDITION OF A
4 NEW SUBSECTION to read:

5 **12-47-103. Definitions.** As used in this article and article 46 of
6 this title, unless the context otherwise requires:

7 (6.5) "COLORADO GROWN" MEANS WINE PRODUCED FROM ONE
8 HUNDRED PERCENT COLORADO-GROWN GRAPES, OTHER FRUITS, OR OTHER
9 AGRICULTURAL PRODUCTS CONTAINING NATURAL SUGAR, INCLUDING
10 HONEY, MANUFACTURED BY A WINERY THAT IS LOCATED IN COLORADO
11 AND LICENSED PURSUANT TO PART 3 OF THIS ARTICLE.

12 (15) "Limited winery" means any establishment manufacturing
13 not more than one hundred thousand gallons, or the metric equivalent
14 thereof, of vinous liquors annually which uses not less than seventy-five
15 percent Colorado-grown products in the manufacture of such vinous
16 liquors WITHIN COLORADO.

17 **SECTION 2.** 12-47-403 (1), (2) (a), and (2) (e), Colorado
18 Revised Statutes, are amended, and the said 12-47-403 is further amended
19 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
20 read:

21 **12-47-403. Limited winery license.** (1) A COLORADO limited
22 winery license shall be granted by the state licensing authority to an
23 applicant that certifies that it will manufacture NOT MORE THAN ONE

1 HUNDRED THOUSAND GALLONS, OR THE METRIC EQUIVALENT THEREOF, OF
2 vinous liquors and that it will utilize not less than fifty percent
3 Colorado-grown produce for the first five years of its winery operation
4 and not less than seventy-five percent thereafter. A limited winery
5 license shall also be granted to an applicant that certifies that it is
6 planting, or has contracted for the production from, Colorado vineyard or
7 fruit acreage that will produce in sufficient quantity to enable the
8 applicant to meet the percentage utilization requirement within five years.
9 Limited wineries shall be granted an exemption from these percentage
10 utilization requirements whenever the state licensing authority
11 determines, upon its own motion or at the request of a limited winery,
12 that weather conditions, pest infestations, plant disease epidemics, or
13 other natural causes have reduced the quantity or quality of
14 Colorado-grown produce to an extent that renders compliance with these
15 percentage utilization requirements infeasible, or that the price per ton of
16 a specific Colorado-grown grape offered to limited wineries for contract
17 exceeds one hundred twenty percent of the average of that grape's price
18 per ton, as derived from the average shown in the annual grape crop
19 report published by the California department of agriculture for Napa,
20 Sonoma, and Mendocino counties. In addition, whenever ninety percent
21 of the Colorado-grown produce harvest is less than seventy-five percent
22 of the combined manufacturing capacity of Colorado limited wineries, the
23 state licensing authority shall allow a proportionate reduction in the
24 percentage utilization requirements WITHIN COLORADO. Each limited
25 winery licensee shall annually certify to the state licensing authority its
26 compliance with this subsection (1) and shall be subject to revocation of
27 its license for false certification.

1 (2) A limited winery licensee is authorized:
2 (a) To manufacture ~~grape or fruit~~ vinous liquors;
3 (e) To conduct ~~tasting~~ TASTINGS and sell vinous liquors of its own
4 manufacture, as well as vinous liquors manufactured by other Colorado
5 limited wineries, on the licensed premises of the limited winery and up
6 to five other licensed premises, whether included in the license at the time
7 of the original license or by supplemental application;

8 (2.3) IN ORDER TO ENCOURAGE AND MAINTAIN THE INTEGRITY AND
9 AUTHENTICITY OF COLORADO'S VITICULTURAL IDENTITY, SUPPORT THE
10 WINE-GRAPE AND FRUIT GROWING INDUSTRIES IN COLORADO, AND INFORM
11 THE CONSUMER OF THE SOURCE OF GRAPES AND FRUIT USED BY COLORADO
12 LIMITED WINERIES TO PRODUCE VINOUS LIQUORS, THE LIQUOR
13 ENFORCEMENT DIVISION SHALL, AFTER CONSULTATION WITH THE
14 COLORADO WINE INDUSTRY AND OTHER INTERESTED PARTIES FROM THE
15 ALCOHOL BEVERAGE INDUSTRY, WITHIN ONE YEAR AFTER THE EFFECTIVE
16 DATE OF THIS SUBSECTION (2.3), ENACT RULES FOR THE IMPLEMENTATION,
17 STANDARDIZATION, AND ENFORCEMENT OF APPELLATION LABELING
18 REQUIREMENTS THAT ARE CONSISTENT WITH, AND, WITH RESPECT TO THE
19 ORIGIN OF THE GRAPES AND OTHER FRUIT USED TO MANUFACTURE THE
20 VINOUS LIQUOR, MORE INFORMATIVE THAN CURRENTLY REQUIRED BY
21 FEDERAL WINE LABELING REGULATIONS, 27 CFR, CHAPTER 1, PART 4,
22 "LABELING AND ADVERTISING OF WINE" AND RELATED REGULATIONS.
23 COLORADO'S LABELING REGULATIONS SHALL APPLY TO A MANUFACTURER
24 LICENSED PURSUANT TO SECTION 12-47-402, C.R.S., OR A COLORADO
25 LIMITED WINERY LICENSED UNDER THIS SECTION IN THE MANUFACTURE OF
26 THE VINOUS LIQUOR CONTAINED IN THE LABELED BOTTLE. HONEY WINE,
27 INCLUDING HONEY WINE FLAVORED WITH FRUIT, HERBS, OR SPICES, SHALL

1 BE EXEMPT FROM THE LABELING REQUIREMENTS INCLUDED IN THIS
2 SECTION.

3 (2.7) (a) A WINERY MAY AFFIX THE PHRASE "COLORADO GROWN"
4 TO BOTTLES OF WINE DESCRIBED IN SECTION 12-47-103 (6.5).

5 (b) EFFECTIVE JULY 1, 2006, IT SHALL BE UNLAWFUL FOR A
6 COLORADO WINERY TO MAKE ANY MISLEADING STATEMENT [REDACTED]
7 ON ITS PRODUCT LABELS SUGGESTING THAT THE GRAPES, FRUIT, OR OTHER
8 AGRICULTURAL PRODUCTS FERMENTED TO MAKE [REDACTED] VINOUS LIQUOR
9 ARE FROM COLORADO. [REDACTED] [REDACTED] THIS PARAGRAPH (b)
10 SHALL NOT BE CONSTRUED TO APPLY TO THE WINERY'S NAME OR ADDRESS
11 OR TO AN APPELLATION ALLOWED UNDER FEDERAL REGULATIONS.

12 **SECTION 3.** 12-47-403.5 (1), (2), (6), (7), and (8), Colorado
13 Revised Statutes, are amended to read:

14 **12-47-403.5. Wine festival permit.** (1) A wine festival permit
15 application may be filed with the state licensing authority by any limited
16 winery licensee OR BY ANY MANUFACTURER LICENSEE THAT IS LICENSED
17 TO MANUFACTURE VINOUS LIQUORS. The applicant shall specify the
18 licensed premises for the first of the wine festivals to be held, which
19 application shall be filed at least ten business days before such festival is
20 to be held. The applicant shall include a twenty-five dollar annual
21 processing fee with the application filed with the state licensing authority.
22 Such fee shall entitle the permittee to use the wine festival permit for
23 twelve months from AFTER the date of issuance, so long as such permittee
24 notifies the state licensing authority and the appropriate local licensing
25 authority of the location of all other wine festivals under this permit at
26 least ten business days before any such festival is to be held. A wine
27 festival permit shall entitle the permittee to hold no more than nine wine

1 festivals during the twelve-month period.

2 (2) The applicant shall be the limited winery licensee filing the
3 application, but any wine festival permit that is issued as a result of such
4 application shall be considered to be jointly held by the permittee and the
5 participating limited winery licensees OR MANUFACTURER LICENSEES
6 THAT ARE LICENSED TO MANUFACTURE VINOUS LIQUORS.

7 (6) The permittee and participating limited winery licensees are
8 authorized to use the licensed premises jointly to conduct wine tastings
9 and sell any vinous liquors manufactured by a Colorado limited winery
10 OR MANUFACTURER LICENSED TO MANUFACTURE VINOUS LIQUORS. No
11 wine festival permit shall authorize the permittee to use the licensed
12 premises for more than seventy-two hours for any one wine festival.

13 (7) If a violation of this article occurs during a wine festival and
14 the limited winery licensee responsible for the violation can be identified,
15 such licensee may be charged and the appropriate penalties shall apply.
16 If the responsible party cannot be identified, the state licensing authority
17 may send a written notice to every licensee identified on the permit
18 application and may fine each the same dollar amount, which amount
19 shall not exceed twenty-five dollars per licensee or two hundred dollars
20 in the aggregate. No joint fine levied pursuant to this subsection (7) shall
21 apply to the revocation of the limited winery licensee's license under
22 section 12-47-601.

23 (8) A joint fine levied pursuant to subsection (7) of this section
24 shall not create or increase civil liability under section 12-47-801 (3) for
25 a participating limited winery licensee or create joint liability for such a
26 licensee.

27 **SECTION 4. Repeal.** 35-29.5-106, Colorado Revised Statutes,

1 is repealed.

2 **SECTION 5. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.