

Arizona Liquor Control Law Reporter, Arizona, 4-205.04. Farm winery license; issuance; regulatory provisions; retail site; fee

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A. The director may issue a farm winery license to any person who meets the requirements of subsection C of this section. Each location that engages in producing or manufacturing these products must obtain a separate farm winery license.

The licensee may not transfer the farm winery license from person to person or from location to location.

B. An applicant for a farm winery license, at the time of filing the application for the license, shall accompany the application with the license fee. Persons holding a farm winery license shall report annually at the end of each calendar year, at such time and in such manner as the director may prescribe, the amount of wine produced or manufactured by them during the calendar year. In addition to any provision of this title, if the total amount of wine produced or manufactured during the year exceeds the amount permitted annually by the license, the licensee shall apply for and receive a producer's license only upon surrender of the farm winery license or licenses.

C. A person may be licensed as a farm winery to sell wine produced or manufactured if in a calendar year it produces at least two hundred gallons and not more than forty thousand gallons of wine and if the winery either holds a winery permit issued by the United States Alcohol and Tobacco Tax and Trade Bureau or has a contract pursuant to subsection E of this section for the production or manufacturing of wine from grapes or other fruit grown on at least five producing acres of land owned or controlled by the applicant and the land has been devoted to fruit growing for at least three consecutive calendar years. A licensed farm winery may make sales and deliveries of wine only as specifically provided in this section and as follows:

1. A licensed farm winery may make sales and deliveries of wine to wholesalers licensed to sell wine under this title.
2. A licensed farm winery may serve wine produced or manufactured on the premises for the purpose of sampling the wine. The wine may include wine produced pursuant to subsections D and E of this section.
3. A representative of the licensed farm winery may consume small amounts of the products of the licensed farm winery on the premises for the purpose of sampling the wine. The wine may include wine produced pursuant to subsections D and E of this section.
4. A licensed farm winery may sell to a consumer physically present on the premises wine produced or manufactured on the premises in the original container for consumption on or off the premises. The wine may include wine produced pursuant to subsections D and E of this section.
5. A licensed farm winery may purchase and sell wine produced by another licensed farm winery for consumption on or off the premises only if the retail sale is to a consumer physically present on the premises of the farm winery, except that the sales of wine produced by another winery may not exceed twenty per cent of the farm winery's sales by volume. The percentage limitation shall not apply to wine produced pursuant to subsections D and E of this section.
6. If the licensed farm winery is not otherwise engaged in the business of a distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor in any jurisdiction, the licensed farm winery may hold licenses prescribed in section 4-209, subsection B, paragraph 12 on the licensed farm winery premises or other retail premises. Except as provided in paragraph 5 of this subsection, the licensed farm winery shall purchase all other

spirituous liquor for sale at the on-sale retail premises from wholesalers that are licensed in this state, except that a licensed farm winery may:

- (a) Purchase wine from other farm wineries pursuant to paragraph 7 of this subsection.
- (b) Make deliveries of the wine that the farm winery produces to the farm winery's own commonly controlled retail licensed premises.

7. A licensed farm winery that produces not more than twenty thousand gallons of wine in a calendar year may make sales and deliveries of the wine that the licensed farm winery produces to on-sale and off-sale retailers.

8. Notwithstanding section 4-244, paragraphs 3 and 7, an on-sale or off-sale retailer may purchase and accept delivery of wine from a licensed farm winery pursuant to paragraph 7 of this subsection.

9. A licensed farm winery that produces not more than twenty thousand gallons of wine in a calendar year may make sales and deliveries of wine that the licensed farm winery produces to consumers off of the licensed premises and that is ordered by telephone, mail, fax or catalogue, through the internet or by other means if all of the following apply:

- (a) The purchaser of the wine provided the licensed farm winery with verification of the purchaser's legal age to purchase alcohol.
- (b) The shipping container in which the wine is shipped is marked to require the signature on delivery of an adult who is of legal age to purchase alcohol and delivery confirmation.
- (c) The wine is for personal use only and not for resale.
- (d) The wine is delivered by the licensed farm winery or shipped by the licensed farm winery by a common carrier to a residential or business address other than a premises licensed pursuant to this title.
- (e) The purchaser could have carried the wine lawfully into or within this state.
- (f) The delivery is made by a person who is at least twenty-one years of age.
- (g) The farm winery shall collect payment for the price of the spirituous liquor no later than at the time of delivery.

10. A licensed farm winery may make sales and deliveries as expressly permitted by sections 4-203.03, 4-203.04 and 4-244.04.

D. On application by one or more persons, the director may approve applications for grouping two or more farm winery licenses at one location under a plan of alternating proprietorships if a licensed winery has received approval of the alternating proprietorship by the United States Alcohol and Tobacco Tax and Trade Bureau and the participating wineries operate under the regulations and guidelines that are issued by the United States Alcohol and Tobacco Tax and Trade Bureau. Each participating winery shall be responsible for filing all reports that relate to its wine production or manufacturing with the United States Alcohol and Tobacco Tax and Trade Bureau and the department.

E. A person otherwise qualified to receive a farm winery license may enter into a custom crush arrangement where a licensed winery produces or manufactures wine from grapes or other fruit supplied by the person. The winery receiving the fruit shall be licensed by the United States Alcohol and Tobacco Tax and Trade Bureau and the department and shall be responsible for filing all reports that relate to its wine production or manufacturing with the United States Alcohol and Tobacco Tax and Trade Bureau and the department. Each person supplying the grapes or other fruit shall first apply for and receive a farm winery license and shall report all volumes of wine from its custom crush arrangements to the department, which shall not be allocated to the gallonage of the receiving winery.

F. On application by a farm winery licensee, the director may authorize a farm winery licensee to operate up to two remote tasting and retail premises if:

1. The wine sold at the premises is limited to wine produced or manufactured by the licensed farm winery and wines produced or manufactured by other licensed farm wineries, including wines produced or manufactured

pursuant to subsections D and E of this section. The farm winery may sell wine to a consumer physically present on the premises for consumption on or off the premises. Sales of wines not produced or manufactured by the farm winery shall be limited to no more than twenty per cent of the total sales by volume at that location. The percentage limitation shall not apply to wine produced pursuant to subsections D and E of this section.

2. The farm winery licensee:

(a) Remains responsible for the premises.

(b) Obtains approval for the premises from the local governing body before submitting an application to the department. A copy of an order from the local governing body recommending approval of the premises must be filed with the department as part of the application.

(c) Does not sublease the premises.

(d) Has an agent who is a natural person who meets the qualifications of licensure in this state.

(e) Meets the qualifications for a license pursuant to section 4-203, subsection A.

G. A farm winery licensee may hold a craft distillery license issued pursuant to section 4-205.10. The farm wine and craft distillery licensee may only produce distilled spirits up to a gallonage of one thousand gallons in a calendar year from fruit processed at the winery for the primary purpose of making wine. The farm wine and craft distillery licensee is subject to all other requirements of this section and section 4-205.10. The farm winery may provide sampling and sales of the distilled spirits pursuant to section 4-205.10, subsection C, paragraphs 2 and 3 on the same premises as the wine sampling and retail sales.

H. The farm winery is liable for any violation committed in connection with any sale or delivery of the wine. The rules adopted by the director pursuant to section 4-203, subsection J shall apply to the delivery of wine under subsection C, paragraph 9 of this section. An act or omission of any person who makes a sale or delivery of wine for a licensee under subsection C, paragraph 9 of this section is deemed to be an act or omission of the licensee for the purposes of section 4-210, subsection A, paragraph 9.

I. A farm winery that sells or delivers wine pursuant to this section shall:

1. Pay to the department of revenue all luxury taxes imposed pursuant to title 42, chapter 3 and all transaction privilege or use taxes imposed pursuant to title 42, chapter 5.

2. File all returns or reports required by law.

J. A delivery of wine by a farm winery to a purchaser in this state is a transaction deemed to have occurred in this state.

K. The director shall adopt rules in order to administer this section.

L. The director may charge an additional farm winery license fee adopted pursuant to section 4-209 for the issuance of licenses, authorizations or approvals pursuant to subsections D, E and F of this section.

[Sec. 4-205.04 added by L. 1982, Ch. 297; as amended by L. 1985, Ch. 336; L. 1987, Ch. 264; L. 1988, Ch. 294; L. 1991, Ch. 293; L. 1992, Ch. 258; L. 1993, Ch. 133; L. 1996, Ch. 307; L. 1997, Ch. 146; L. 1999, Ch. 296 (H.B. 2215); L. 2001, H.B. 2012 and S.B. 1509; L. 2006, Ch. 302 (S.B. 1322) and Ch. 310 (S.B. 1276); L. 2014, Ch. 253 (S.B. 1397), approved Apr. 30, 2014, effective July 24, 2014 .]

Footnotes

* L. 2014, Ch. 253, Sec. 37, Existing domestic farm winery licenses; temporary exemption; other existing licenses, provides:

“A. Notwithstanding section 4-205.04, Arizona Revised Statutes, as amended by this act, holders of domestic farm winery licenses in this state on the effective date of this act that do not qualify under the new statutory requirements established in this act may continue to operate under the licenses previously issued, without any expansion of operations, until January 1, 2019.

B. Notwithstanding section 4-205.04, Arizona Revised Statutes, as amended by this act, holders of domestic farm winery licenses that also hold beer and wine bar licenses and beer and wine store licenses that were issued before January 1, 2014 may also hold beer and wine bar licenses and beer and wine store licenses issued at the site of the winery before January 1, 2014.”