

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

643M0609      **SENATE COMMERCE COMMITTEE ENGROSSED NO.**  
**SB 194 - 02/02/2006**

Introduced by: Senators Nesselhuf, Hanson (Gary), Kloucek, Kooistra, and Olson (Ed) and  
Representatives Dykstra, Bradford, Hargens, Murschel, Pederson (Gordon),  
Rounds, and Sigdestad

1    FOR AN ACT ENTITLED, An Act to revise the definition of wine for farm wineries.

2    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3        Section 1. That § 35-12-1 be amended to read as follows:

4        35-12-1. Terms used in this chapter mean:

5        (1)    "Farm winery," any winery operated by the owner of a South Dakota farm and  
6            producing table, sparkling, or sacramental wines from grapes, grape juice, other fruit  
7            bases, or honey, or wine as defined in subdivision (2), with a majority of the  
8            ingredients grown or produced in South Dakota;

9        (2)    ~~"Table, sparkling, and sacramental wines," any beverage made without rectification~~  
10           ~~or fortification and containing not more than eighteen percent alcohol by volume and~~  
11           ~~made by the fermentation of grapes, grape juice, other fruits, or honey~~ "Wine," any  
12           beverage made without rectification, except for the purpose of fortification, from the  
13           fermentation of grapes, grape juice, other fruit bases, or honey, with or without  
14           adding brandy or alcohol, and containing not less than one-half percent and not more



1           than twenty-four percent alcohol by volume.

2           Section 2. That § 35-12-2 be amended to read as follows:

3           35-12-2. The secretary of the Department of Revenue and Regulation may issue a farm  
4 winery license to the owner or operator of a farm winery located within the state and producing  
5 table wines, sparkling wines, and sacramental ~~wine~~ wines, or wine as defined in subdivision (2).  
6 Licenses may be issued and renewed for an annual fee of one hundred dollars, which is in lieu  
7 of all other license fees required by chapter 35-4. The fee shall be deposited in the general fund.

8           Section 3. That § 35-12-3 be amended to read as follows:

9           35-12-3. Except as otherwise specified in this chapter, all provisions of this title apply to the  
10 production, sale, possession, and consumption of table wines, sparkling wines, and sacramental  
11 wines, or wine as defined in subdivision (2), produced by a farm winery.

12           Section 4. That § 35-12-4 be amended to read as follows:

13           35-12-4. The holder of a farm winery license may manufacture wine in the state from South  
14 Dakota produced or grown grapes, grape juice, other fruit bases, or honey. If South Dakota  
15 produced or grown grapes, grape juice, other fruits, or honey are not available in quantities  
16 sufficient to constitute a majority of the table or sparkling wine, or wine as defined in  
17 subdivision (2), produced by a farm winery, the holder of the farm winery license may file an  
18 affidavit with the secretary of the Department of Revenue and Regulation stating this fact and  
19 requesting that the secretary approve the use of imported products by the winery. If the secretary  
20 approves, the farm winery may use imported products and shall continue to be governed by the  
21 provisions of this chapter. The secretary's approval is effective for a period of one year, after  
22 which the farm winery shall use South Dakota grown or produced grapes, grape juice, other  
23 fruits, or honey unless the farm winery license holder files a new affidavit and request with the  
24 secretary and the secretary approves the request.

1 Section 5. That § 35-12-5 be amended to read as follows:

2 35-12-5. A license issued pursuant to § 35-12-2 authorizes the sale on the farm winery  
3 premises of table wine, sparkling wines, or sacramental wines, or any wine as defined in  
4 subdivision (2), produced by the farm winery at on-sale or off-sale, in retail, or wholesale lots  
5 in total quantities not in excess of fifty thousand gallons in a calendar year, glassware, wine  
6 literature and accessories, food products, South Dakota made products, and the dispensing of  
7 free samples of wines offered for sale. Sales at on-sale and off-sale may be made at any time  
8 during the week except on Sundays when the on-sale and off-sale sales are restricted to between  
9 twelve noon and twelve midnight.

10 Section 6. That § 35-12-7 be amended to read as follows:

11 35-12-7. There is hereby levied on all table and sparkling wines, and wine as defined in  
12 subdivision (2), manufactured or produced by a South Dakota winery an excise tax imposed at  
13 the same rates and collected and administered in the same manner as the tax imposed on wine  
14 in chapter 35-5. Sacramental wines are exempt from the tax imposed by this section.