

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

643M0609

## SENATE BILL NO. 194

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 with a majority of the ingredients grown or produced in South  
8 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 from the fermentation of grapes, grape juice, other fruit bases, or  
13 honey, with or without adding brandy or alcohol, and containing not less than one-  
14 half percent and not more than twenty-four percent alcohol by volume.

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



1       35-12-2. The secretary of the Department of Revenue and Regulation may issue a farm  
2 winery license to the owner or operator of a farm winery located within the state and producing  
3 ~~table wines, sparkling wines, and sacramental~~ wine. Licenses may be issued and renewed for  
4 an annual fee of one hundred dollars, which is in lieu of all other license fees required by  
5 chapter 35-4. The fee shall be deposited in the general fund.

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

7       35-12-3. Except as otherwise specified in this chapter, all provisions of this title apply to the  
8 production, sale, possession, and consumption of ~~table wines, sparkling wines, and sacramental~~  
9 wines produced by a farm winery.

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

11       35-12-4. The holder of a farm winery license may manufacture wine in the state from South  
12 Dakota produced or grown grapes, grape juice, other fruit bases, or honey. If South Dakota  
13 produced or grown grapes, grape juice, other fruits, or honey are not available in quantities  
14 sufficient to constitute a majority of the ~~table or sparkling~~ wine produced by a farm winery, the  
15 holder of the farm winery license may file an affidavit with the secretary of the Department of  
16 Revenue and Regulation stating this fact and requesting that the secretary approve the use of  
17 imported products by the winery. If the secretary approves, the farm winery may use imported  
18 products and shall continue to be governed by the provisions of this chapter. The secretary's  
19 approval is effective for a period of one year, after which the farm winery shall use South  
20 Dakota grown or produced grapes, grape juice, other fruits, or honey unless the farm winery  
21 license holder files a new affidavit and request with the secretary and the secretary approves the  
22 request.

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

24       35-12-5. A license issued pursuant to § 35-12-2 authorizes the sale on the farm winery

1 premises of ~~table wine, sparkling wines, or sacramental wines~~ any wine produced by the farm  
2 winery at on-sale or off-sale, in retail, or wholesale lots in total quantities not in excess of fifty  
3 thousand gallons in a calendar year, glassware, wine literature and accessories, food products,  
4 South Dakota made products, and the dispensing of free samples of wines offered for sale. Sales  
5 at on-sale and off-sale may be made at any time during the week except on Sundays when the  
6 on-sale and off-sale sales are restricted to between twelve noon and twelve midnight.

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

8 35-12-7. There is hereby levied on all ~~table and sparkling~~ wines manufactured or produced  
9 by a South Dakota winery an excise tax imposed at the same rates and collected and  
10 administered in the same manner as the tax imposed on wine in chapter 35-5. Sacramental wines  
11 are exempt from the tax imposed by this section.