

SJ30: DEFINITION OF MONTANA WINE ANALYSIS

ECONOMIC AFFAIRS INTERIM COMMITTEE
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BACKGROUND AND PURPOSE

At its March meeting, the Economic Affairs Interim Committee (EAIC) chose to move forward with a committee bill for its SJ30 Study on Viticulture. The purpose of the committee bill is to place into the Montana Code Annotated (MCA) a definition of Montana wine to generally mean wine produced from at least 75% agricultural products grown in Montana.

The committee chose this route at the request of the wine industry as the industry felt the inclusion of a definition of “Montana wine” in the MCA would help differentiate the product from imported wines made with out-of-state grapes that are fermented in Montana.

The committee looked at other states that have definitions or provisions in statute regarding “state-specific” or “state-grown” wine in consideration of this legislation. Only five other states contain provisions from which to compare how to craft this type of legislation. Arkansas and Kentucky merely state that a winery must follow the federal requirements for the percentage of state-grown grapes or other agricultural products. Mississippi allows for a lower standard than the federal requirements (51%), however the winery cannot use the state’s name, rather it is allowed to label the wine as ‘native wine’. Finally, Washington and Colorado have chosen to impose higher standards than the federal requirements with 95% for the former and 100% for the latter on the percentage of state-grown grapes or agricultural products.

The committee chose to use the federal requirements that are already in place, and available for use today with all wineries, including wineries that produce mead and cider in the committee bill, as it would require no changes to the current process and is merely adding clarity to an already occurring and allowable activity.

ANALYSIS

The Montana Bill Drafting Manual provides guidance for adding definitions and provisions to the MCA. Section 4-9 of the bill drafting manual requires that if a definition is added to a statute, it should be used in another statute or the same statute:

Section 4-9(7) Do not define a word that is never used in the bill.

In other words, if a definition is added to a statute, it must be used again. Simply providing a definition for something without any other use of the definition renders the definition superfluous. Therefore, if the committee chooses to add a definition for “Montana wine” in the MCA, it should use the definition somewhere else in the alcohol code.

Alternatively, the committee could add the definition directly into an existing statute or add a provision implementing the definition. The following section outlines options for the committee.

OPTIONS

OPTION 1:

DEFINE "MONTANA WINE" IN 16-1-106 AND REFER TO THE DEFINITION IN THE WINERY STATUTE:

16-1-106. Definitions. As used in this code, the following definitions apply:

~~(21)~~ "Montana wine" means wine produced from 75% Montana-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey.

16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

(a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

~~(b)~~ label wine as "Montana wine" as defined in 16-1-106;

~~(c)~~ sell table wine it produces at wholesale to table wine distributors or liquor store agents;

~~(d)~~ sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

~~(e)~~ provide, without charge, wine it produces for consumption at the winery;

~~(f)~~ purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;

~~(g)~~ obtain no more than 12 special event permits under 16-4-301;

~~(h)~~ perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury;

~~(i)~~ sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license;

~~(j)~~ obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or

~~(k)~~ offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m.

OPTION 2:

DEFINE "MONTANA WINE" DIRECTLY IN THE WINERY STATUTE:

16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

(a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

(b) label wine as “Montana Wine” if it produces the wine with at least 75% Montana-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey;

~~(b)~~ (c) sell table wine it produces at wholesale to table wine distributors or liquor store agents;

~~(c)~~ (d) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

~~(d)~~ (e) provide, without charge, wine it produces for consumption at the winery;

~~(e)~~ (f) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;

~~(f)~~ (g) obtain no more than 12 special event permits under 16-4-301;

~~(g)~~ (h) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury;

~~(h)~~ (i) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license;

~~(i)~~ (j) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or

~~(j)~~ (k) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m.

OPTION 3:

ADD A NEW PROVISION REGARDING THE LABELING OF MONTANA WINE:

NEW SECTION. Section 1. Montana Wine. A winery located in Montana and licensed pursuant to 16-4-107 may label its wine as “Montana wine” if it produces the wine with at least 75% Montana-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey.

OTHER COMMITTEE CONSIDERATIONS

The general definition of “wine” in the MCA is similar to the federal definition, and includes hard cider and mead:

16-1-106(35) “Wine” means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction,

except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

A winery licensed under 16-4-107 may not produce wine, but instead hard cider or mead, and label the bottles as such, as all three products fall under the general definition of “wine”. Since these are three distinct products under the same definition, the committee may consider expanding on the provision to include “Montana Cider” and “Montana Mead” to provide clarity among the products.

Alternatively, the committee could choose to exclude hard cider and mead in the new provisions regarding “Montana Wine”, either by refining the definition to only include grapes, or by specifying that “Montana Wine” does not include hard cider or mead.

As a reminder, at present, a winery that produces wine, as defined by federal standards, is allowed to label its product as “Montana Wine” under the federal appellation of origin standards if it meets the following requirements:

- 1) Not less than 75 percent of the wine must be derived from fruit or agricultural products (as applicable) grown in the named State; AND
- 2) The wine must be fully finished (except for cellar treatment pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22(b)) in the named State or an adjacent State; AND
- 3) The wine must conform to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in such State.

There are no state regulations for a winery to comply with now, so a winery must only meet the requirements of subsections (1) and (2) to label its wine as “Montana Wine” under federal regulations. However, if the committee were to introduce, and the legislature were to pass legislation regarding labeling of wine, all wineries, including wineries that produce hard cider and mead, will be required to fulfill all three provisions above to meet the appellation of origin requirements under federal standards.