

WINE SALES AT CERTIFIED FARMERS' MARKETS

BUSINESS AND PROFESSIONS CODE

23000. This division shall be known and may be cited as the "Alcoholic Beverage Control Act."

23001. This division is an exercise of the police powers of the State for the protection of the safety, welfare, health, peace, and morals of the people of the State, to eliminate the evils of unlicensed and unlawful manufacture, selling, and disposing of alcoholic beverages, and to promote temperance in the use and consumption of alcoholic beverages. It is hereby declared that the subject matter of this division involves in the highest degree the economic, social, and moral well-being and the safety of the State and of all its people. All provisions of this division shall be liberally construed for the accomplishment of these purposes.

23002. Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this division.

23007. "Wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified wine products and by whatever name and which does not contain more than 15 percent added flavoring, coloring, and blending material and which contains not more than 24 percent of alcohol by volume, and includes vermouth and sake, known as Japanese rice wine.

Nothing contained in this section affects or limits the power, authority, or duty of the State Department of Health Services in the enforcement of the laws directed toward preventing the manufacture, production, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages, and the definition of "wine" contained in this section is limited strictly to the purposes of this division and does not extend to, or repeal by implication, any law preventing the production, manufacture, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages.

23008. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

23009. "Licensee" means any person holding a license issued by the department.

23013. "Winegrower" means any person who has facilities and equipment for the conversion of grapes, berries or other fruit into wine and is engaged in the production of wine, except that any person who produces not to exceed 200 gallons of wine per year for his own consumption shall not, because of such production, be considered a winegrower within the meaning of this division.

23355. Except as otherwise provided in this division and subject to the provisions of Section 22 of Article XX of the Constitution, the licenses provided for in Article 2 of this chapter authorize the person to whom issued to exercise the rights and privileges specified in this article and no others at the premises for which issued during the year for which issued.

23399.4. (a) A licensee under a winegrower's license may apply to the department for a certified farmers' market sales permit. A certified farmers' market sales permit shall authorize the licensee, a member of the licensee's family, or an employee of the licensee to sell wine produced and bottled by the winegrower entirely from grapes grown by the winegrower at a certified farmers' market at any place in the state approved by the department. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market location. A winegrower may hold more than one certified farmers' market sales permit. The department shall notify the city, county, or city and county and applicable law enforcement agency where the certified farmers' market is to be held of the issuance of the permit. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

(b) The licensed winegrower eligible for the certified farmers' market sales permit shall not sell more than 5,000 gallons of wine annually pursuant to all certified farmers' market sales permits held by any single winegrower. The licensed winegrower shall report total certified farmers' market wine sales to the department on an annual basis. The report may be included within the annual report of production submitted to the department, or pursuant to any regulation as may be prescribed by the department.

(c) The fee for any permit issued pursuant to this section shall be forty-four dollars (\$44) for permits issued during the 2002 calendar year, forty-seven dollars (\$47) for permits issued during

the 2003 calendar year, fifty dollars (\$50) for permits issued during the 2004 calendar year, and for permits issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

(d) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

CALIFORNIA CODE OF REGULATIONS

§53. Samples Used in Winetastings.

A winetasting is a presentation of samples of one or more wines, representing one or more wineries or industry labels, to a group of consumers for the purpose of acquainting the tasters with the characteristics of the wine or wines tasted.

Licenses may engage in winetasting activities only as set forth in this rule. In addition to furnishing wines as provided herein, licensees may supply small amounts of bread, crackers, cheeses or nuts to clear the taste buds of the participants between successive samples of wine during a winetasting.

(a) Winetastings Sponsored by Winegrowers and Wine Blenders.

(1) Winetastings may be conducted without charge or for a fee for the public on a premises licensed with a winegrower's license, duplicate winegrower's license, or California winegrower's agent's license, and on a premises licensed on or before February 2, 1968, with a wine blender's license, provided, however, that no winetasting shall be held on that portion of a winegrower's or duplicate winegrower's premises which is licensed with a retail license. Wine may be offered for tastings by such licensees as follows:

(A) Only wine which was produced or bottled by a winegrower, or was produced and bottled for such winegrower, may be offered for tastings by such winegrower. In addition, however, any winegrower who, prior to July 1, 1970, had, at his premises of production, sold to consumers for consumption off the premises domestic wine other than wine which was produced or bottled by, or produced and packaged for such winegrower, and which was not sold under a brand or trade name owned by such winegrower, and who had, prior to July 1, 1970, conducted winetastings of such domestic wine at his licensed premises, may continue to conduct such winetastings at his premises of production; and any winegrower who was licensed as such prior to July 1, 1954, and who prior to July 1, 1970, had, at his licensed premises, sold to consumers for consumption off the premises, wine packaged for and imported by him, and who conducted winetastings of such imported wines at his licensed premises, may continue to conduct such winetasting activities at his premises of production.

(B) Only wine which was bottled by a wine blender or was produced and bottled for such wine blender, licensed on or before February 2, 1968, may be offered for tastings by such wine blender.

(C) A California winegrower's agent may conduct winetastings for the winegrower for whom he acts as agent under the same conditions as the winegrower could himself.

(2) Wine blenders, licensed on or before February 2, 1968, winegrowers, and California winegrower's agents may conduct winetastings at unlicensed premises, provided, however, that the tasting shall be only by invitation of the wine blender, winegrower, or California winegrower's agent involved; that there shall be no charge or donation made either for the wine served or for admission to the premises; and that the premises shall not be open to the general public during the time that wine is served, consumed, or otherwise disposed of. Only wine which was produced or bottled by such winegrower, or was produced or bottled by the principal of such California winegrower's agent, or was bottled by such wine blender, or was produced and bottled for such winegrower, for the principal of such California winegrower's agent, or for such wine blender may be offered for tastings off a licensed premises. All wine which is not consumed at the tasting shall be retained by the licensee conducting the tasting.

(b) Winetastings Sponsored by Private Organizations. Winegrowers, California winegrower's agents, and wine blenders licensed on or before February 2, 1968, may furnish wine which is produced or bottled by such winegrower or the principal of a California winegrower's agent, or bottled by such wine blender; or is produced and bottled for such winegrower, for the principal of such California winegrower's agent, or for such wine blender; and may conduct winetastings which are sponsored by a bona fide charitable, fraternal, political, religious, trade, service, or similar private organization, where all of the following conditions shall prevail:

(1) The sponsor shall be a nonprofit organization.

(2) Attendance shall be limited to members of the sponsoring organization and their invited guests.

(3) No charge or donation shall be made either for the wine served or for admission to the premises.

(4) There shall be no advertising or public announcements of the event as a winetasting, and the general public shall not be invited.

(5) No wine shall be sold, and no sales or orders solicited, nor shall order blanks be placed in or about the premises. Brochures describing wines and their prices may be distributed, provided that they are not suitable for use as order blanks. No wine may be given as a gift, nor as a prize to be removed from the premises.

(6) Winetastings sponsored by private organizations may be held on unlicensed premises. They may also be held on premises regularly licensed with an on-sale general or on-sale beer and wine license, provided that the tastings are held in a banquet room or other portion of the premises which is completely separated from that portion of the premises where the sale of alcoholic beverages is being made; that no consumption of other alcoholic beverages is permitted; and that the retail licensee has surrendered the

privileges of his license for the period the winetasting is being conducted on that portion of the retail premises in which the winetasting will take place, on a form provided by the department.

(c) (omitted)

(d) Club Licensees. No licensee shall furnish or donate wines for tastings to be held on a premises licensed by the department with any type of club license.

(e) Retail Licensees. No winetasting shall be given for the benefit of any retail licensee, and no retail licensee shall participate in a winetasting directly or indirectly, except as provided in this rule.

(f) Records. Licensees who are authorized to furnish or donate wines for winetastings shall keep a record of all wine so furnished or donated, as follows:

(1) Records of wine actually used and consumed at winetastings conducted by winegrowers, California winegrower's agents, or wine blenders shall include the date of the tasting, the name and address of the licensee, the address of the tasting if not conducted on the licensee's premises, and the brand, class, and type, and the quantity of each wine used.

(2) Records of wine furnished by licensees to private organizations, foreign consulates, or commercial attachés for winetastings shall include the date of the tasting, the name and address of the licensee, the name of the sponsoring organization, consulate or commercial attaché, the address of the tasting, and the brand, class and type, and quantity of each wine furnished.

(3) Such records of samples of wine used for winetasting purposes shall be retained for a period of three years.

(g) Exceptions.

(1) Nothing in this rule shall prevent the holder of any license which permits the sale and consumption of wine on the premises from holding a winetasting of wines legally acquired, provided the on-sale licensee shall charge for the wines presented in accordance with law.

(2) An organization holding a temporary wine license may accept donations, charge admissions, and otherwise make charges for wine to be served at a winetasting, and may advertise such events, which may be open to the public. A winegrower or California winegrower's agent may give wine to such a temporary licensee only if such temporary licensee is a nonprofit corporation or association exempt from the payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States. Any other holder of a temporary wine license shall purchase all wines. Wine blenders, licensed on or before February 2, 1968, winegrowers and California winegrower's agents may assist the holder of a temporary wine license in conducting a winetasting.

(3) No student organization, college fraternity or sorority shall sponsor a winetasting.