

Date of Hearing: May 12, 2020

**ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION**

Adam Gray, Chair

AB 2957 (Robert Rivas) – As Introduced February 21, 2020

**SUBJECT:** Winegrowers and brandy manufacturers: exercise of privileges: locations

**SUMMARY:** Would allow a licensed winegrower at their tasting room to sale or deliver wine to consumers in containers supplied, furnished, or sold by the consumer. Under current law, a licensed winery cannot fill consumer-supplied containers.

**EXISTING LAW:**

- 1) Establishes Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC (Act) in accordance with laws enacted by the Legislature. Provides that ABC shall license individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state.
- 2) Authorizes licensed winegrowers and brandy manufacturers to exercise their license privileges away from their licensed premises at, or from, branch offices or warehouses or United States bonded wine cellars located away from the place of production or manufacture, subject to specified exceptions. One of the exceptions to this authorization is the sale or delivery of wine to consumers in containers supplied, furnished, or sold by the consumer.
- 3) Permits an on-sale beer and wine public premises licensee and a licensed winegrower to allow a person who has purchased and partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.
- 4) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (e.g., at a restaurant or bar). An "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.
- 5) Defines "bona fide public eating place," as licensed premises that are maintained in good faith and used for the regular service of meals to patrons. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

ABC administers several licenses for wine regulation. A Type-02 license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Type-02 licensees (wineries) are authorized to offer a tasting of wine for free or for a charge at their on-site tasting room. A licensed winegrower also has the ability to sell wine by the glass or bottle for consumption on or off the premise. All Type-02 licenses, which come up for renewal by June 30 of each year.

Wineries holding a Type-02 license may obtain what is known as a Duplicate Type 02 license, which allows a winery to have a tasting room away from the facilities where the wine is produced. Some wineries have tasting rooms both at the facility where they produce their wine and a tasting room at a different location. Either way, a winery may have no more than "one" off-site tasting room.

Some wineries operate under an "alternating proprietor" agreement, which allows two or more persons or entities to alternate on the use of the same space and equipment to produce wine. Currently, there are more than 6,100 Type-02 licensees and about 1,500 of those have a duplicate license.

Typically, though not in every jurisdiction, a winery owner is required to obtain a local permit. These local permits can vary dramatically and not every tasting room is required to obtain a local permit. These requirements are all dependent on the location where the prospective tasting room is to be located and the local requirements of that jurisdiction.

Existing law prohibits a winegrower with a Type 02 license from filling or refilling containers supplied by a consumer at premises licensed with a duplicate Type 02 license. A winegrower can fill bottles that they own at premises that are licensed with a duplicate, but they cannot fill consumer-supplied containers

Purpose of the bill. According to the author's office, this bill is needed because it adds a sustainable practice that all wineries across the State can implement. Trash is the most obvious culprit of environmental harm. Altogether, a case of wine leaves behind about 18lbs of trash. According to Monterey County Vintners, one wine keg saves 39 bottles from being filled and later discarded. The refilling of consumer bottles aligns with other sustainable practices that wineries are already practicing, such as electric vehicle usage, composting, recycling, and minimizing waste. Additionally, this bill brings fairness to the market, as breweries are already allowed to refill beer growlers.

Proponents of this measure note that many winegrowers already take eco-friendly measures like composting, recycling and electric-vehicle usage. This bill removes the bottling restriction, allowing licensed winegrowers to fill consumer-provided bottles at their wineries and tasting rooms. Doing so allows wineries to engage in more sustainable practices by reducing the amount bottles needed in the packaging process. This bill not only brings fairness to the market, but also provides a sustainable practice for wineries across the State to implement.

Prior legislation: AB 1470 (Evans), Chapter 535, Statutes of 2009. Permits an on-sale beer and wine public premises licensee to allow a person who has purchased and partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.

AB 2004 (Evans), Chapter 127, Statutes of 2008. Authorized a licensed winegrower to sell wine to consumers for on-premises consumption, as specified. In addition, provided any winegrower that is exercising a privilege, as defined, may allow any person who has purchased and partially consumed a bottle of wine to remove such partially consumed bottle from the premises upon departure, as specified.

SB 113 (Thompson), Chapter 238, Statutes of 1993. Permitted a licensed winegrower (a winery) to sell wine and brandy to consumers for consumption off the premises or for consumption at a

restaurant located at the winery or immediately contiguous to it. A winegrower must produce on the licensed premises not less than 50% of the wines sold to consumers.

SB 1262 (Beverly) Chapter 72, Statutes of 1980. Permitted a restaurant patron who has purchased and partially consumed a bottle of wine to remove such bottle from the licensed premises.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Monterey County Vintners & Growers Association

**Opposition**

Alcohol Justice

**Analysis Prepared by:** Eric Johnson / G.O. / (916) 319-2531