

Grape and Winery Board

Annual Report 2004

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**BOARD
of
DIRECTORS**

Nebraska Grape and Winery Board of Directors

Bob Curttright.....Winery/Vineyard Owner
P.O. Box 102
Nemaha, NE 68414-0102
(402) 883-2168

Jim Jeffers.....Winery/Vineyard Owner
1505 West Raymond Road
Raymond, NE 68428
(402) 783-5253

Justin Moody.....Winery/Vineyard Owner
126 Moody Drive
P.O. Box 435
Crawford, NE 69339
(308) 665-1692

Eric Nelson.....Vineyard Owner
3300 West Mill Road
Raymond, NE 68428
(402) 783-9110

Terry Ryan.....Vineyard Owner
321 West 5th Street
Minden, NE 68959
(308) 832-2055

Ex-Officio Members

Casey Foster, Nebraska Department of Agriculture
P.O. Box 94947, Lincoln, NE 68509-4947
(402) 471-4876

Dr. Darrell Nelson
207 Ag Hall, University of Nebraska-Lincoln, Lincoln, NE 68583-0704
(402) 472-2045

OVERVIEW
of
ACTIVITIES

BOARD PARTICIPATION

The Board of Directors met twice this year. Emphasis was placed on establishing marketing and promotional activities to assist in the betterment of Nebraska's grape and wine industry. The Nebraska Grape and Winery Board approved \$4,000 from the winery and grape producers' promotional fund to pay for the Nebraska Winery and Grape Growers' Association (NWGGA) marketing and promotional activities conducted this fiscal year. Money was initially allocated to pay for booth expenses at Husker Harvest Days and the Husker Lawn and Garden Show, continual maintenance and changes to the NWGGA web site, printing of promotional brochures for trade show events, postage and printing of the *Vine Lines* newsletter, and development and printing of the "So You Live Near a Vineyard" brochure. Expenses were not turned in before the end of the fiscal year; as a result, expenses in the amount of \$3,954.50 were submitted the following year.

Promotion of Nebraska's grape and winery industry is a primary goal of the Board. They support NWGGA activities, pay close attention to recent legislation which effects Nebraska's grape and wine industry, and work closely with the University of Nebraska to receive guidance and education regarding research in this industry.

The Board approved a budget. The Treasurer's report indicated an ending cash balance of \$5,959.78 as of June 30, 2004.

The Board works to help ensure the grape and wine industry becomes a strong and an important part of Nebraska's thriving economy.

The minutes from the meetings, this year's contract, the budget, by-laws, and statutes can be found on the following pages.

Grape and Winery Board Meeting
November 8, 2003
The Cornhusker Hotel – Terrace Grille Restaurant
MINUTES

Board members present: Bob Curtright Jim Jeffers
 Eric Nelson Terry Ryan
Ex-officio members present: Casey Foster
Guests present: Dr. Paul Read

With the absence of Justin Moody, President Eric Nelson presided over the meeting. Nelson welcomed Terry Ryan, the newest appointee for the Board.

Curtright made a motion the agenda be approved as printed. Ryan seconded the motion. A vote was taken: Ryan – For; Nelson – For; Curtright – For; Jeffers – For. Motion passed.

Curtright made a motion that the minutes be approved as printed. Nelson seconded the motion. A vote was taken: Ryan – For; Nelson – For; Curtright – For; Jeffers – For. Motion passed.

Foster reviewed the current fiscal year budget as printed on the agenda. Curtright asked that in the future a copy of the contract with the Nebraska Winery and Grape Growers Association (NWGGA) as to how they will spend the money this Board allocates to them be presented to the Board at a future meeting. Foster then presented the Board with a current treasurer’s report as to how the money has been spent this fiscal year. All of the money has been allocated that was approved by the Board.

Nelson commented that for 2004, the NWGGA is planning on doing two festivals plus a booth at Husker Harvest Days and would like to see the Board continue support for these promotional efforts.

The 2003 Nebraska Wine Festival and Vintage Nebraska events were discussed. The Board said they would like the events to occur in 2004 if it were possible for the NWGGA to accomplish.

Jeffers commented that he felt we needed to have a better understanding of exactly how many acres (or vines) are currently planted in Nebraska. Then this information should be shared with potential growers so they better understand the overall growth potential of this industry. This needs to be done before a check off board type of system can be considered. He then shared some analysis he did concerning wine sales and growth potential based on research done from surrounding states. His concern is that our state can only support so much wine sales and, thus, can only support so many acres of grapes. He feels that in five years or less, we may be at maximum capacity for the number of acres this state can support. His analysis is attached.

Eric Nelson, Secretary

Grape and Winery Board Meeting
March 5, 2004
Holiday Inn
Kearney, Nebraska
MINUTES

Board members present: Bob Curtright Jim Jeffers
 Eric Nelson Terry Ryan

Board members absent: Justin Moody

Ex-officio members present: Dr. Darrell Nelson and Casey Foster

Guests present: Dr. Paul Read, Jim Ballard, John Fischbach, and DeeAnn Hrdlicka

In the absence of President Justin Moody, Eric Nelson opened the meeting.

The agenda presented, was approved after changing the order of items within New Business. The minutes from the November 8, 2003, meeting were read and approved.

Old Business:

The election of officers for the next year was held. Eric Nelson was elected President; Jim Jeffers, Vice President; and Terry Ryan, Secretary.

Foster reviewed the current year's budget to date and discussion followed concerning an apparent discrepancy in the crushed grape fees between the Nebraska Liquor Commission and the Nebraska Department of Agriculture's data. DeeAnn Hrdlicka, President of the NWGGA, gave a report on the organizations expenditures and its use of \$4,000 the Grape and Winery Board allocated for 2004, to pay for web site maintenance, *Vine Lines*, development of a new brochure called *So You Live Near a Vineyard*, and Husker Harvest Days and Husker Lawn and Garden Show booth expenses. She also proposed uses for additional funds next fiscal year, for a TTB Winery Compliance Workshop, updating the Winery Promotion Brochure, and investigating the creation of an executive director position for the organization. Additional discussion was held suggesting the possibility of UNL's Extension *Neb Guides*, and the public power company's newsletters as another method of information neighbors of what to expect when living near a vineyard, instead of developing a separate brochure.

New Business:

Discussion centered around Eric Nelson's proposal to allocate \$1,000 in next year's budget to begin developing a Quality Assurance Board to work with Nebraska wineries. There are several existing models, both voluntary and mandatory, in Ontario, Canada; Missouri, Pennsylvania, and New Jersey. Bob Curtright suggested we make sure whatever we develop is fair, unbiased, and well managed. Jim Ballard discussed the need to include some technical measurements in any

rating system. He indicated most bad wines usually have some technical flaws that can objectively be measured. Bob Curtright made the motion to allocated \$1,000 for developing a Quality Assurance Program in next year's budget. The motion was seconded by Jim Jeffers and carried. Jim Jeffers then moved that we also budget \$4,000 for the NWGGA. The motion was seconded by Bob Curtright and carried. This should then leave a few hundred dollars for administrative expenses, as recommended by the Department of Agriculture staff.

Paul Read reported on UNL's current activities and efforts with the NWGGA to secure some federal discretionary funding through the Governor's office. Bob Curtright moved, and Terry Ryan seconded, that we adopt a resolution supporting the efforts of both organizations in their request for the funds. The motion carried.

The Board agreed to schedule the next meeting in conjunction with UNL's fall workshop, probably in November 2004. The meeting adjourned at 8:00 a.m.

Terry Ryan, Secretary

NEBRASKA GRAPE AND WINERY BOARD

July 1, 2003 - June 30, 2004

DESCRIPTION	FY 2003-04 BUDGE	FY 2003-04 YEAR TO DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$535.00	\$534.96	
REVENUE:			
Crushed Grape Fees	\$4,000.00	\$5,326.90	
Investment Interest	<u>75.00</u>	<u>97.92</u>	133.12%
Total Revenue	\$4,075.00	\$5,424.82	
TOTAL AVAILABLE CASH	\$4,610.00	\$5,959.78	
EXPENDITURES			
Printing	\$ 100.00	\$ 0.00	
Room Rental	0.00	0.00	
Miscellaneous Operating	0.00	0.00	
Promotion	0.00	0.00	
Contractual-Nebraska Grape Growers Board Expense	4,000.00 <u>0.00</u>	0.00 <u>0.00</u>	0.00%
TOTAL EXPENDITURES	\$ 4,100.00	\$0.00	
ADJ. TO FUND BALANCE	\$ <u>0.00</u>	\$ <u>0.00</u>	
ENDING CASH BALANCE*	<u>\$ 510.00</u>	<u>\$ 5,959.78</u>	

*The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year elapsed: 100%

FY 02-03 Revenue to Date: \$2,762.46

FY 02-03 Expenditures to Date: \$3,738.12

between

NEBRASKA WINERY AND GRAPE GROWERS ASSOCIATION

and

NEBRASKA DEPARTMENT OF AGRICULTURE

This Agreement entered into by and between the Nebraska Winery and Grape Growers Association hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward NWGGA marketing and promotional activities to assist in the betterment of Nebraska's grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board under Neb. Rev. Stat. §§53-301 to 53-305 has conducted a public board meeting and directed the Department to provide funds to the NWGGA.

WHEREAS, the marketing and promotional activities conducted by the NWGGA will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved four thousand dollars (\$4,000) from the winery and grape producers promotional fund to pay for NWGGA marketing activities, which is to be used for the promotion of the Nebraska wine and grape industry. The amount of four thousand dollars (\$4,000) will be paid for booth expenses at Husker Harvest Days and the Husker Lawn and Garden Show, continual maintenance and changes to the NWGGA web site, printing of promotional brochures for trade show events, postage and printing of the *Vine*

Lines newsletter, and development and printing of the *So You Live Near a Vineyard* brochure.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2003, to June 30, 2004.
3. The Department agrees to provide the funds as set out in paragraph 1, from the Winery and Grape Producers Promotional Fund.
4. The NWGGA agrees to provide a copy of the final report to the Department after completion of the promotional activities.
5. Payment in the amount of four thousand dollars (\$4,000) from the Winery and Grape Producers Promotional Fund to the NWGGA will be payable in full upon both parties signature to this Agreement, and NWGGA, incurring an obligation. NWGGA shall present an invoice to the Department to make payment from.
6. Funding for this project is subject to legislative appropriations and funding being available.
7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
8. The parties mutually agree as follows:
 - a. The NWGGA shall:

Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and

Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.
 - b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.

c. The NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:

- (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
- (2) The specific actions that will be taken against employees for violating the policy; and

A requirement that each employee receives a copy of the policy.

d. The NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of the NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.

e. The books of account, files, and other records of the NWGGA which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of the NWGGA.

f. The NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer needs to be retained.

g. The NWGGA specifically agrees that funds given to the NWGGA shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.

h. Any funds paid to the NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the winery and grape producers' promotional fund unless otherwise agreed. Furthermore, if the NWGGA fails to perform as outlined herein, the NWGGA shall be required to repay any unearned funds received under this Agreement.

- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the NWGGA that the NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The NWGGA shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF
AGRICULTURE

Date

Merlyn Carlson, Director

NEBRASKA WINERY AND GRAPE
GROWERS ASSOCIATION

Date

DeAnn Hrdlicka, President

nwgacontract032604.wpd

BYLAWS

ARTICLE I. AUTHORITY

This organization, its purpose, procedures, and regulations are established pursuant to Neb. Rev. Stat. §§53-301 through 53-305.

ARTICLE II. NAME and LOCATION

The name of this organization shall be the Nebraska Grape and Wine Board, hereinafter referred to as the "Board." The principal business office of the Board shall be located at the Nebraska Department of Agriculture office, P.O. Box 94947, 501 Centennial Mall South, Lincoln, Nebraska 68509.

ARTICLE III. PURPOSE

The purpose of the Board shall be to further the growth and economic development of the grape-growing and wine-making industry in the state of Nebraska to a maximum level as supported by the favorable soil and climatic conditions existing in Nebraska; and to satisfy the market demand for grapes and wine inside and outside of Nebraska. The end objective being to create an economically viable alternative farm crop and wine industry in Nebraska that will enhance the economic condition of the farm industry, in specific, and the state of Nebraska in general.

ARTICLE IV. MEMBERSHIP

- Section 1. The Board shall consist of:
- A. Five (5) members to be appointed by the Governor on a nonpartisan basis;
 - B. Nebraska Department of Agriculture Director, or designee, who shall have rights of membership except the right to vote; and
 - C. Vice Chancellor, University of Nebraska Institute of Agriculture and Natural Resources, or designee, who shall have rights of membership except the right to vote.

- Section 2. Board members shall be:
- A. Citizens of Nebraska;
 - B. Twenty-one (21) years of age or older; and
 - C. Engaged in, or previously engaged in, wine or grape production or research in this field in Nebraska.
- Section 3. At least two (2) Board members shall be members of the Nebraska Winery and Grape Growers Association.
- Section 4. Board members shall serve a term of three (3) years or until their successor is appointed.
- Section 5. Vacancies in the Board resulting from resignation, nonperformance of duties, death, or other cause, shall be filled by appointment of the Governor

ARTICLE V. OFFICERS

- Section 1. The elected officers of the Board shall be:
- A. Chairman;
 - B. Vice-Chairman;
 - C. Secretary/Treasurer;
 - D. Other officers as the Board deems necessary to carry out the duties and responsibilities of the Board.
- Section 2. Officers shall be elected from the members of the Board annually, following the appointment of members to fill expired terms, at the first meeting of the calendar year .
- Section 3. The election of officers requires a majority vote of the Board.
- Section 4. The term of office shall be for one (1) year or until the election of their successor.
- Section 5. Any officer may be removed from office for due cause by a two-thirds (b) vote of the voting members of the Board.
- Section 6. Officer duties shall include:
- A. The Chairman shall:
 - 1. Preside at all meetings of the Board; and

2. Perform all duties normally expected of this office and as may be assigned by the Board.
- B. The Vice-Chairman shall:
1. Assume full powers and authority as accorded the chairman in the absence of that officer; and
 2. Perform all duties normally expected of this office and as may be assigned by the Board or the Chairman.
- C. The Secretary/Treasurer shall:
1. Record the official minutes of all regular and special Board meetings;
 2. Give public notice of all regular and special Board meetings in accordance with applicable state laws; and
 3. Prepare and circulate the Board meeting agendas as established by the Chairman.
 4. Serve as the primary liaison between the Board and the Department of Agriculture in all financial matters; and
 5. Be responsible for preparing the Annual Financial Report for the approval of the Board.

ARTICLE VI. MEETINGS

- Section 1. Meetings of the Board shall be held at its principal office in Lincoln, Nebraska, but may be held elsewhere if the notice of the meeting, or the waiver of such notice, so provides.
- Section 2. Regular meetings of the Board shall be held on a biannual basis at such time and place as may be determined by the Board at its previous meeting.
- Section 3. Special meetings of the Board may be called at the request of the Chairman or by any three (3) Board members.
- A. Notice of special meetings shall state the purpose of the meeting.
 - B. Notice of special meetings shall be publicly advertised as required by state law.
- Section 4. A majority of the voting members of the Board shall constitute a quorum. In the absence of a quorum, those present may recess or adjourn to a later date, but may not transact any business for the Board.

ARTICLE VII. POWERS AND RESPONSIBILITIES OF THE BOARD

Section 1. The Board shall:

- A. Function in an advisory capacity to the Nebraska Department of Agriculture and the Nebraska Liquor Control Commission.
- B. Elect officers and keep minutes of meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to make these records available for examination upon request to members of the public.
- C. Authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to Neb. Rev. Stat. §53-304 (LB 477).
- D. Promulgate and adopt rules and regulations to carry out Neb. Rev. Stat. §§53-301 to 53-305, LB 477.
- E. Make and publish an annual report on, or before, January 1 of each year. The annual report shall set forth, in detail, those requisites required in LB 477, Neb. Rev. Stat. §53-305.
- F. Establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss the Board's policies and procedures at a Board meeting.
- G. Participate in regional, state, national, and international activities with organizations which have, as their objective, developing new and better grape varieties suitable for growing in Nebraska.
- H. Provide current research data conducted by, or for, the Board to grape growers and vintners in Nebraska and to persons considering entering into grape-growing within the state.
- I. Participate in the development of research projects to improve wine making methods utilizing new and old grape varieties grown in Nebraska.
- J. Develop and participate in studies, programs, research, and the dissemination of information and data pertaining to sales, promotion, and the effective distribution of Nebraska wines.
- K. Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry.

Section 7. Members of the Board shall serve without compensation except that voting Board members shall be reimbursed for their actual and necessary expenses as provided for in Neb. Rev. Stat. §§81-1174 to 81-1177.

- A. Reimbursement, as allowed, shall include attendance at meetings of the Board;
- B. Reimbursement, as allowed, shall include the expense of engaging in the performance of official responsibilities as determined by the Board; and
- C. All expenses shall be approved by a majority of the members of the Board.

Section 8. The Board shall not be responsible, collectively or individually, in any manner whatsoever, to any person or persons for errors in judgment, mistake, or other acts of commission or omission except for their own individual and personal acts of dishonesty or other acts of a criminal nature.

- No member shall be held responsible, individually or collectively, for the criminal act or default of any other Board member.
- Any liability of an individual Board member shall be separate and not joint.

ARTICLE VIII: COMMITTEES

The Chairman of the Board shall establish committees and designate committee members contingent upon approval by the Board.

ARTICLE IX: PARLIAMENTARY AUTHORITY

All meetings shall be conducted within the general rules set forth in the current edition of *Roberts Rules of Order, Newly Revised*.

ARTICLE X: AMENDMENT

The Board may repeal or amend these Bylaws, or any part thereof, by a two-thirds (b) vote of the Board in presence of a quorum, after ten (10) days written notice of the proposed changes in the Bylaws. In the alternative, such amendments may be requested by mail ballot and will become effective if two-thirds (b) return an affirmative vote on the proposed bylaws changes.

ADOPTED November 2, 2001

Grapebylaws062001

Statutes

Revised
December, 2003

NEBRASKA GRAPE AND WINERY BOARD

- Administration:** These statutes create the Nebraska Grape and Winery Board. That Board is given certain duties under these statutes. For administrative purposes, a fund is located in the Nebraska Department of Agriculture. The revenue from Nebraska wineries is to be used by the Nebraska Department of Agriculture to develop programs that promote the wine industry in Nebraska.
- Adoption:** The provisions of these statutes were last revised during the 2003 session of the Nebraska Legislature. This reproduction was prepared following that session.
- Rules:** The Board is given authority to adopt and promulgate regulations; however, none have yet been developed.

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<u>Section</u>	<u>Subject</u>
53-301	Nebraska Grape and Winery Board; created.
53-302	Board; officers; terms; expenses.
53-303	Board; powers and duties.
53-304	Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.
53-305	Board; annual report.

53-301. Nebraska Grape and Winery Board; created. (1) The Nebraska Grape and Winery Board is created. The board shall consist of five members to be appointed by the Governor on a nonpartisan basis. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in wine or grape production or research in this state. At least two board members shall be members of the Nebraska Winery and Grape Growers Association. In addition, the Director of Agriculture and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources or their designees shall be ex officio members of the board but shall have no vote in board matters.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

53-302. Board; officers; terms; expenses. (1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, upon completion of which he or she may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for their actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

53-303. Board; powers and duties. The duties and responsibilities of the Nebraska Grape and Winery Board include, but are not limited to, the following:

(1) To establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the board its policy and procedures;

(2) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) To authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304;

(4) To serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and

(5) To adopt and promulgate rules and regulations to carry out sections 53-301 to 53-305.

53-304. Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment. Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every one hundred sixty gallons of juice produced or received by its facility. Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

53-305. Board; annual report. The Nebraska Grape and Winery Board shall make and publish an annual report on or before January 1 of each year, which report shall set forth in detail the following:

(1) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(2) A detailed explanation of all programs for which the board approved funding that fiscal year, pursuant to section 53-304, for the research, discovery, promotion, and development of programs for the growing, production, and marketing of Nebraska wines, grapes, fruits,

berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Each annual report shall be presented to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

Related Statutes

Related Statutes: Farm Wineries Act

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<u>Section</u>	<u>Subject</u>
53-123.10	Farm winery license; when issued.
53-123.11	Farm winery license; rights of licensee.
53-123.12	Farm winery license; application requirements; fees.
53-123.13	Farm winery; waiver of requirement; when.

53-123.10 Farm winery license; when issued.

A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 53-123.12 and such other requirements as the commission adopts and promulgates by rule and regulation to administer sections 53-101.02 and 53-123.10 to 53-123.13.

Source: Laws 1985, LB 279, §4.

53-123.11 Farm winery license; rights of licensee.

Farm winery license; rights of licensee.

- (1) A farm winery license shall entitle the holder to:
 - (a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;
 - (b) Sell wines produced at the farm winery at retail for consumption on the premises;
 - (c) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery

shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section; and

- (d) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts.
- (2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

Source: Laws 1985, LB 279, §5; Laws 1991, LB 344, §23; Laws 1997, LB 479, §1. 53-123.12 Farm winery license; application requirements; fees. Any person desiring to obtain a new license to operate a farm winery shall:

- (1) File an application with the commission in triplicate original upon such forms as the commission from time to time prescribes;
- (2) Pay the license fee to the commission under subdivision (2) of section 53-124, which fee shall be returned to the applicant if the application is denied; and
- (3) Pay the state registration fee to the commission in the sum of forty-five dollars.

License fees and registration fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees. The commission shall then notify, by registered or certified mail marked return receipt requested with postage prepaid, the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall enclose with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of mailing of such application by the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

Source: Laws 1985, LB 279 §7; Laws 1988, LB 1089, §10; Laws 1991, LB 202, §2; Laws 2000, LB 973, §3. Operative date August 1, 2000.

53-123.13 Farm winery; waiver of requirement; when.

- (1) In the event the operator of a farm winery is unable to produce or purchase seventy-five percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five-percent requirement prescribed in subdivision (32) of section 53-103 for one year.
- (2) It shall be within the discretion of the commission to waive the seventy-five percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

Source: Laws 1985, LB 279, §6; Laws 1986, LB 871, §2; Laws 1989, LB 441, §5; Laws 1991, LB 344, §24; Laws 1994, LB 859, §5.

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