SPONSOR: Rep. Spiegelman & Sen. Lopez & Sen. Lawson & Sen. Sokola;
Reps. D. Short, Hudson, Briggs King, Hensley, Miro, Outten, Ramone, Smyk, Yearick, Bolden, Carson, Q. Johnson, Paradee, B. Short; Sens. Bonini, Bushweller, Henry, Lavelle, Pettyjohn

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 227

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC BEVERAGES AND FARM WINERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 512A, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

§ 512A Farm wineries.

(a) Upon proper application and subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a farm winery to manufacture, ferment, blend, age, store and bottle wine, mead, and cider on the premises designated in the license. For purposes of this title, a "farm winery" is defined as an establishment at which the basic ingredients, including but not limited to the harvesting of grapes, to make wine are grown and where wine, mead, and cider are ~~is~~ fermented or manufactured. Notwithstanding any provisions of this title to the contrary, a farm winery licensee shall be authorized to sell, deliver and ship such wine, mead, and cider in barrels, bottles or other closed containers to persons licensed under the provisions of this title to import wine, mead, and cider; and to sell and ship wine, mead, and cider to persons outside of the State in accordance with this title.

(b) A farm winery licensee shall also be authorized to store and sell wine, mead, and cider on the premises by the bottle or by the glass for consumption on or off the premises where sold.

(c) A farm winery licensee shall be exempt from the distance requirements for establishments licensed, or to be licensed, for consumption off the premises, as contained in § 543(d) of this title, and shall not affect the granting of a license of the same type.

(d) A farm winery licensee may sell, on the licensed premises, food items, souvenirs, wine-related supplies and educational material as approved by the Commissioner.

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(e) The Commissioner may grant a ~~wine tasting~~ tasting license to a farm winery licensee consistent with the provisions of §§ 525 and 554(ff) of this title.

(f) All wine, mead, and cider sold by a farm winery licensee shall be in a container which is securely sealed and has attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) A farm winery licensee may not engage in any business or activity in the licensed establishment unless authorized by this title or approved by the Commissioner.

(h) A farm winery licensee or a temporary licensee not to exceed 3 years shall be authorized to purchase and receive shipments of bottled, finished wine, mead, and cider from importers located within the State that are licensed in accordance with this title. Such purchases and shipments, if in bottled, finished form, must be manufactured specifically for the Delaware farm winery licensee and bear the private label of the Delaware farm winery licensee on each bottle, and, if being imported from without the State, shall be limited, as follows:

(1) During the first year of operation, no more than 10,000 gallons of the combination of wine, mead, and cider;

(2) During the second year of operation, no more than 7,500 gallons of the combination of wine, mead, and cider;

(3) During the third year of operation, no more than 5,000 gallons of the combination of wine, mead, and cider; and

(4) After 3 years of operation, no more than 25% of the total gallons of the combination of wine, mead, and cider manufactured within the State.

(5) Notwithstanding the importation limitations for bottled wine established in this paragraph, at such time when there is sufficient quantity, variety and quality of wine grapes grown in the State, then the Secretary of the Department of Agriculture may mandate that all licensed Delaware farm wineries must use at least 51% Delaware-grown fruit in their blend inventories. In the case of hardship due to crop loss, the Secretary of the Department of Agriculture may issue a special permit to import fruit, juice or other raw materials to compensate for such crop loss. Until such time as the Secretary of the Department of Agriculture makes such mandate, the licensee or a temporary licensee not to exceed 3 years shall be authorized to import grapes or grape juice from other locations within or outside of the State, pursuant to the rules and regulations of the Department of Agriculture, for the purpose of fermentation, blending, bottling and aging.

(6) A temporary farm winery license may be issued, for not more than 3 years, allowing the temporary licensee to operate according to paragraphs (h)(1), (2) and (3) of this section herein if all the licensing requirements have been met except for those required in § 543(g) of this title, which requires government permitting to manufacture or ferment wine, mead and cider at the location. The temporary licensee shall, however, have obtained all necessary government permitting to operate as a temporary licensee.

(i) A farm winery licensee shall be authorized to purchase and receive shipments of unfinished wine, mead, and cider in bulk form from suppliers and importers located within and without the State that are licensed in accordance with this title.

(j) A farm winery licensee shall be prohibited from owning or operating or being affiliated with any importer or retailer of alcoholic liquor either within or without this State. Notwithstanding the foregoing, it shall be permissible for a farm winery to apply to the Commissioner for a license, under § 512(g)(1) of this title, for use of a portion of the farm winery premises as a caterer.

(k) The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as ~~it~~ the Commissioner may deem necessary, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(l) A Delaware winery or farm winery shall be ~~exempt from the prohibition of sales on Sundays as prescribed in § 709 of this title, but is limited on Sundays to the sale hours of 12 noon to 6 p.m. Where any other major holiday, as listed in [former] §709(d) of this title [repealed], falls on Sunday, then sales shall be prohibited pursuant to~~ permitted to sell wine, mead, and cider at times permitted pursuant to § 709 of this title.

(m) A farm winery licensee shall be authorized to export grapes, grape juice or unfinished wine grown in this State in bulk to persons outside the State for crushing, fermenting, bottling and labeling and shall be authorized to receive the finished product from that person, so long as no grapes, grape juice or wine, grown or manufactured outside the State, are added to the finished product.

(n) The provisions of § 506 of this title to the contrary notwithstanding, a farm winery licensee shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a brewery-pub, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State.

SYNOPSIS

This bill would permit Farm Wineries to make and sell mead and cider in addition to wine. The TTB (the Federal Agency in charge of regulating alcohol) considers mead and cider to be "wines" thereby creating some confusion when entities are seeking licensure.