



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0527 - Create Montana Farm Wine and Winegrower License (Small, Jason D)

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 527 creates two new types of alcoholic beverage licenses: a farm winery license and a winegrower license. The bill provides requirements for the premises, provides requirements for minimum and maximum output of product, regulates the bottling of wine, regulates the amount of Montana and non-Montana ingredients used in winemaking, outlines distribution requirements, and provides for tenant agreements for both new license types. The bill allows the Department of Revenue to establish fees for these licenses. The difference in fees from any current domestic winery licensee switching to either the farm winery license or the winegrower license is unknown but would be minimal.

FISCAL ANALYSIS

Assumptions:

- SB 527 creates a domestic farm winery license and a domestic winegrower license.

Farm Winery Licenses:

- For a farm winery license, the licensee would be required to own or lease a minimum of ten acres of land in the state zoned as agricultural land. At least three acres are to be planted and maintained as a vineyard with no fewer than 1,200 producing vines.
- The farm winery must be on the vineyard property or contiguous to the vineyard property.
- Annual output of the wine production must be between 85 and 80,000 cases.

5. The bill sets parameters on “fruit inputs” and “wine inputs” based on minimum percentages of Montana products used in the wine production.
6. Farm wineries would be allowed to sell their wine to licensed table wine distributors, agency liquor stores, licensed retailers, and consumers. No more than 4,500 cases or 50% of the annual production (whichever is greater) may be sold to agency liquor stores, retailers, and consumers.
7. The bill allows the licensee to operate up to three satellite tasting rooms.
8. The bill allows the licensee to enter into agreements for a catering endorsement.
9. The bill allows for tenant agreements through custom crush or alternating proprietorship facilities.
10. The bill allows the Department of Revenue to establish fees for the farm winery license.

Winegrower Licenses:

11. For the winegrower license provided in SB 527, the licensee is required to own or lease property in Montana that has no fewer than 200 producing grape vines.
12. The winery would be required to be on the vineyard property or contiguous to the vineyard property except when conducting wine production under a tenant agreement with another Montana winery.
13. Annual output of the wine production must be between 55 cases and 1,260 cases.
14. The bill sets parameters on “fruit inputs” and prohibits the use of “wine inputs” for winegrower licenses.
15. The bill only allows the winegrower licensee to sell wine to consumers.
16. The bill allows for tenant agreements through custom crush or alternating proprietorship facilities.
17. The bill allows the Department of Revenue to establish fees for the farm winery license.
18. The bill sets the fee for permits to be used at farmers markets, public, or private events at \$30 for farm wineries and \$20 for winegrowers, but otherwise allows the Department of Revenue the ability to establish fees commensurate with the cost for administering the new section.
19. For both the farm winery license and the winegrowers license, the Department of Revenue’s Alcoholic Beverage Control Division (ABCD) would likely set an annual license fee at \$600 each and for each license endorsement to operate a satellite tasting room at \$400.
20. Wineries licensed under 16-3-411, MCA, may not hold a farm winery or winegrower license.
21. The number of currently licensed wineries that would switch their license to either a farm winery license or a winegrower license is unknown, but probably minimal. The difference in license fees for those that do switch would be minimal.
22. The system changes required to implement this bill would be managed through normal maintenance and would not create additional costs to the Department of Revenue (DOR).

Technical Notes:

1. As drafted, new sections 1 and 2 are to be codified in Title 80, which would be out of the jurisdiction of DOR-ABCD. Title 16 (16-1-101, MCA) says it is the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state subject to the authority of the state acting through the department (DOR). For this reason, new sections 1 and 2 should be codified in Title 16.
2. Nothing in Title 16 (16-3-301, MCA) allows a retailer or distributor to purchase alcoholic beverages from anyone except licensed or registered under this code (Title 16). If new sections 1 and 2 are codified under Title 80, it would be unlawful for retailers and distributors to purchase wine from a farm winery license holder or winegrower license holder.
3. New Sections 1 and 2 allow the DOR to establish reasonable fees to administer the sections, however Title 80 is outside the jurisdiction of DOR-ABCD.
4. Definitions should be provided for terms used through the bill for clarity such as the terms: vineyard property, fruit inputs, wine inputs, vintage year, custom crush.

5. There are references to “cases” in the bill text; this should be updated to “9-liter” cases as this is a uniform measurement known in the alcoholic beverage industry.
6. New Section 1 (7) mentions shiners may be imported from another Montana farm winery; “bought” or “purchased” may be a clearer term than “imported”.
7. New Section 1 (8) mentions the wine must be distributed by a licensed wine distributor; Title 16 speaks to “licensed *table* wine distributors”, not “licensed wine distributors”.
8. If New Section 1 is not in Title 16, the licensed table wine distributor section in Title 16 would need to be updated to allow them to purchase from these new licensees.
9. New Section 1 (9)(a)(iii) allows an agency liquor store to pick up wine at a farm winery; this should be clarified to allow the agency liquor store agent or the agent’s employees to pick up the wine. New Section 1 (9)(b)(iii) allows a retailer to pick up wine at a farm winery; this should be clarified to allow the licensed retailer or the retailer’s employees to pick up the wine.
10. New Section 1 (9)(c) appears to allow the shipment of wine to a consumer without mention of having to obtain a direct shipment endorsement; this should be corrected to create continuity with 16-4-1101 through 16-4-1103, MCA.
11. The term “sealed labeled packaging” used in should be changed to “original packaging” for consistency.
12. New Section 1 (9)(c)(iii) mentions tastings but doesn’t specify where those tastings can be conducted.
13. The term “tasting room” is referenced in New Section 1 (9)(c)(iv); these are referred to as “sample rooms” in other sections of code.
14. It is unclear if the term “sealed packaging” mentioned in New Section 1 (9)(c)(iv), (9)(c)(v), and (9)(c)(v)(i) is the same as already defined terms “original packaging” or “prepared servings” or something new.
15. New Section 1 (9)(c)(v) requires satellite tasting rooms to be approved by local regulations; these should probably be approved by DOR like all other premises.
16. It is unclear if “approved storage facilities” mentioned in New Section 1 (9)(c)(v) need to be on site or within a certain number of miles from the licensed premises.
17. New Section 1 (9)(c)(v) may need clarification if the 18 ounces can be sold with or without charge.
18. New Section 2 (7)(c) mentions tastings but doesn’t specify where those tastings can be conducted.
19. The wine tax statute (16-1-411, MCA) would need to be updated to make the Farm Winery and Winegrower license holders responsible for paying the tax on wine sold to consumers and retailers.

JS

Sponsor’s Initials

3/28/23

Date

OTO

Budget Director’s Initials

3-28-23

Date