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House Federal & State Affairs Committee
SB 379

Testimony of
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March 29, 2012

Good afternoon Mr. Chairman and members of the committee. I thank you for the opportunity to present written testimony on SB 379.

While ABC stands neutral on the issue of the percentage of Kansas product required in the manufacture of domestic wine, we support the provisions of the bill removing the labeling requirement and clarifying that the Kansas product requirement is to be measured on annual production.

The current 60% Kansas product and associated labeling requirements of K.S.A. 41-308a(c) have long been problematic for both licensees and regulators. Federal regulations require that, to place a statement concerning appellation of origin, like "Kansas" on the label, at least 75% of the products used in the manufacture of the wine be grown in that appellation of origin. Many of our wineries have had labels rejected by federal regulators because the wine contains at least 60% Kansas product, but not 75%.

Attorney General Derek Schmidt, in opinion #2011-21, found that K.S.A. 41-308a(c) is "impliedly preempted by federal regulation as it relates to the percentage of grape variety required to label a wine with Kansas as an appellation of origin." So the labeling requirement of K.S.A. 41-308a(c) is unenforceable. Even wineries that can comply with the Kansas product requirement are often prevented from complying with the labeling requirement of K.S.A. 41-308a(c) by federal law.

K.S.A. 41-308a **must** be amended to cure the conflict between state law and federal regulations. Also, nothing in current law determines how the Kansas product requirement shall be measured: by the bottle; by the batch; or by yearly production. This bill provides valuable guidance on the application of the Kansas product requirement that will help both wineries and regulators.

The farm winery industry is split on the issue of requiring **any** percentage of Kansas products: some feel 60% is appropriate; some feel "Kansas wine" should be the product; and others feel the Kansas product requirement restrict

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impedes commerce. Previous attempts to amend this statute to address the Kansas product requirement have failed because the industry cannot or will not agree on a solution. The legislature, though, is the only body that can resolve this conflict.

The original intent of the farm winery statutes was to grow agri-tourism and promote the grape-growing industry. However, the number of farm wineries has increased to the point that Kansas grape growers are challenged to grow enough produce for the farm wineries to meet the 60% requirement. Further, weather, pesticide over-spray, and natural disasters frequently impact the grape crop in Kansas, making it even harder for a farm winery to comply. ABC feels the proposed 20% Kansas product requirement is a good compromise

Thank you for favorably considering SB 379 for passage.