

AMENDMENTS TO LB 441

Introduced by Hudkins, 21

1 1. Strike original section 2 and insert the following new
2 sections:

3 Sec. 2. For purposes of sections 2 to 5 of this act:

4 (1) Commercial channels means the sale or delivery of
5 grapes for any use except grapes intended for ultimate consumption
6 as table grapes, to any commercial buyer, dealer, processor, or
7 cooperative or to any person, public or private, who resells any
8 grapes or product produced from grapes;

9 (2) Delivered or delivery means receiving grapes for
10 utilization or as a result of sale in the State of Nebraska but
11 excludes receiving grapes for storage;

12 (3) First purchaser means any person, public or private
13 corporation, association, partnership, or limited liability company
14 buying, accepting for shipment, or otherwise acquiring the property
15 in or to grapes from a grower;

16 (4) Grower means any landowner personally engaged in
17 growing grapes, a tenant of the landowner personally engaged
18 in growing grapes, and both the owner and tenant jointly and
19 includes a person, a partnership, a limited liability company, an
20 association, a corporation, a cooperative, a trust, or any other
21 business unit, device, or arrangement; and

22 (5) Table grapes means grapes intended for ultimate
23 consumption as produce in fresh, unprocessed form and not intended

1 for wine production, juice production, or drying.

2 Sec. 3. (1) Except as provided in subsection (2) of this
3 section, an excise tax of one cent per pound is levied upon all
4 grapes sold through commercial channels in Nebraska or delivered in
5 Nebraska. The excise tax shall be paid by the grower at the time
6 of sale or delivery and shall be collected by the first purchaser.
7 Grapes shall not be subject to the excise tax imposed by this
8 section more than once.

9 (2) The excise tax imposed by this section shall not
10 apply to the sale of grapes to the federal government for the
11 ultimate use or consumption by the people of the United States when
12 the State of Nebraska is prohibited from imposing such excise tax
13 by the United States Constitution and the laws enacted pursuant
14 thereto.

15 Sec. 4. (1) The first purchaser, at the time of
16 settlement, shall deduct the excise tax imposed by section 3
17 of this act. The excise tax shall be deducted whether the grapes
18 are stored in this state or any other state. The first purchaser
19 shall maintain the necessary records of the excise tax for each
20 purchase or delivery of grapes on the settlement form or check
21 stub showing payment to the grower for each purchase or delivery.
22 Such records maintained by the first purchaser shall provide the
23 following information:

- 24 (a) The name and address of the grower and seller;
25 (b) The date of the purchase or delivery;
26 (c) The number of pounds of grapes purchased; and
27 (d) The amount of excise taxes collected on each purchase

1 or delivery.

2 Such records shall be open for inspection during normal
3 business hours observed by the first purchaser.

4 (2) The first purchaser shall render and have on file
5 with the Department of Agriculture by the last day of January
6 and July of each year, on forms prescribed by the department, a
7 statement of the number of pounds of grapes purchased in Nebraska.
8 At the time the statement is filed, such first purchaser shall pay
9 and remit to the department the excise tax imposed by section 3 of
10 this act.

11 (3) All excise taxes collected by the department pursuant
12 to this section shall be remitted to the State Treasurer for credit
13 to the Winery and Grape Producers Promotional Fund. The department
14 shall remit the excise tax collected to the State Treasurer within
15 ten days after receipt.

16 Sec. 5. For each fiscal year beginning with FY2007-08,
17 the Department of Agriculture shall calculate its costs in
18 collecting and enforcing the excise tax imposed by section 3
19 of this act and shall report such costs to the Department of
20 Administrative Services within thirty days after the end of the
21 calendar quarter. Sufficient funds to cover such costs shall be
22 transferred from the Winery and Grape Producers Promotional Fund
23 to the Management Services Expense Revolving Fund at the end of
24 each calendar quarter. Funds shall be transferred upon the receipt
25 by the Department of Administrative Services of a report of costs
26 incurred by the Department of Agriculture for the previous calendar
27 quarter.

1 Sec. 6. Any person violating sections 2 to 4 of this act
2 shall be guilty of a Class III misdemeanor.

3 Sec. 7. Section 53-304, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-304 Each Nebraska winery shall pay to the Nebraska
6 Liquor Control Commission twenty dollars for every one hundred
7 sixty gallons of juice produced or received by its facility.
8 Gifts, grants, or bequests may be received for the support of
9 the Nebraska Grape and Winery Board. Funds paid pursuant to the
10 charge imposed by this section and funds received pursuant to
11 subsection (4) of section 53-123.15 and from gifts, grants, or
12 bequests shall be remitted to the State Treasurer for credit to
13 the Winery and Grape Producers Promotional Fund which is hereby
14 created. For administrative purposes, the fund shall be located in
15 the Department of Agriculture. All revenue credited to the fund
16 pursuant to the charge imposed by this section and excise taxes
17 collected pursuant to section 4 of this act and any funds received
18 as gifts, grants, or bequests and credited to the fund shall be
19 used by the department, at the direction of and in cooperation with
20 the board, to develop and maintain programs for the research and
21 advancement of the growing, selling, marketing, and promotion of
22 grapes, fruits, berries, honey, and other agricultural products and
23 their byproducts grown and produced in Nebraska for use in the wine
24 industry. Such expenditures may include, but are not limited to,
25 all necessary funding for the employment of experts in the fields
26 of viticulture and enology, as deemed necessary by the board,
27 and programs aimed at improving the promotion of all varieties

1 of wines, grapes, fruits, berries, honey, and other agricultural
2 products and their byproducts grown and produced in Nebraska for
3 use in the wine industry.

4 Funds credited to the fund shall be used for no other
5 purposes than those stated in this section and any transfers
6 authorized pursuant to section 5 of this act. Any funds not
7 expended during a fiscal year may be maintained in the fund for
8 distribution or expenditure during subsequent fiscal years. Any
9 money in the fund available for investment shall be invested by the
10 state investment officer pursuant to the Nebraska Capital Expansion
11 Act and the Nebraska State Funds Investment Act.

12 2. Renumber the remaining sections accordingly.