

SJ30: DEFINITION OF “MONTANA WINE”

ECONOMIC AFFAIRS INTERIM COMMITTEE
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BACKGROUND

Legislative Council assigned the [SJ30 Study on Viticulture](#) to the Economic Affairs Interim Committee (EAIC) for the 2023-2024 interim. One of the study resolution tasks includes examining wine production, including processes of harvesting, crushing, fermenting, clarifying, packaging, **labeling**, and storing. According to the preamble of the resolution, Montana does not yet have a federally designated American Viticultural Area (AVA), which is a designation that may enhance the viability of Montana wines. Stakeholders recommend that until one or more AVA are established in the state, clarification on what constitutes a “Montana wine” be added to the Montana Code Annotated (MCA).

ANALYSIS

The Alcohol and Tobacco Tax and Trade Bureau ([TTB](#)) under the U.S. Department of Treasury regulates the provisions of the Federal Alcohol Administration (FAA) Act, including provisions related to alcohol labeling and advertising. The FAA Act provisions ensure that the labeling and advertising of alcohol beverages provides adequate information to the consumer concerning the identity and quality of the product and prevent misleading labeling or advertising that may result in potential consumer deception regarding the product.

Wine, which includes cider and mead, must be properly labeled before it can be sold in the U.S. marketplace. The [brand label](#)¹ has certain mandatory information that must be included, such as the brand name, class or type designation, and appellation of origin, if required.

An appellation of origin generally designates the geographic area in which the fruit or other agricultural product was grown, and indicates the wine meets certain production requirements. If certain information about a wine is included on the label, an appellation of origin is required. An American viticultural area ([AVA](#)) is a type of appellation specific to grape wine and is a defined grape-growing region having a name, distinguishing features, and a delineated boundary under the Code of Federal Regulations ([27 CFR part 9](#)). Any individual or group can submit a petition to establish a new AVA or to modify the boundaries of an existing AVA. There are no AVA designations in Montana.

REQUIREMENTS FOR USE OF APPELLATIONS ON WINE

The [chart](#) below sets forth the minimum percentage requirements for different appellations of origin. Other requirements for use of an appellation of origin are also set forth in the regulation.

Appellation	Requirements for Use
The United States or American	1) Not less than 75 percent of the wine must be derived from fruit or agricultural products (as applicable) grown in the United States; AND

¹ The brand label is the label carrying, in the usual distinctive design, the brand name of the wine.

	<ol style="list-style-type: none"> 2) The wine must be fully finished (except for cellar treatment² pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22 (b)) within the United States; AND 3) The wine must conform to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in the United States.
A State	<ol style="list-style-type: none"> 1) Not less than 75 percent of the wine must be derived from fruit or agricultural products (as applicable) grown in the named State; AND 2) The wine must be fully finished (except for cellar treatment pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22(b)) in the named State or an adjacent State; AND 3) The wine must conform to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in such State.
Multistate appellation Comprising two or no more than three States which are all contiguous	<ol style="list-style-type: none"> 1) All of the fruit or agricultural products (as applicable) were grown in the States indicated, and the percentage of the wine derived from fruit or other agricultural products grown in each State is shown on the label with a tolerance of plus or minus 2 percent; 2) The wine must be fully finished (except for cellar treatment pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22(b)) in one of the labeled appellation States; AND 3) The wine conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all of the States listed in the appellation.
A county The appellation must be identified with the word "county" in the same size of type as, and in letters as conspicuous as, the name of the county	<ol style="list-style-type: none"> 1) Not less than 75 percent of the wine must be derived from fruit or agricultural products (as applicable) grown in the named county; AND 2) The wine must be fully finished (except for cellar treatment pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22(b)) in the State in which the named county is located; AND 3) The wine must conform to the laws and regulations of the named appellation area (including the law of the State in which the county is located) governing the composition, method of manufacture, and designation of wines made in such county.
Multicounty appellation Comprising two or no more than three counties in the same State	<ol style="list-style-type: none"> 1) All of the fruit or agricultural products (as applicable) were grown in the counties indicated; AND 2) The percentage of the wine derived from fruit or agricultural products (as applicable) grown in each county is shown on the label with a tolerance of plus or minus two percent.
An approved American viticultural area (AVA)	<ol style="list-style-type: none"> 1) Not less than 85 percent of the wine must be derived from grapes grown in the named viticultural area; AND 2) The wine must be fully finished (except for cellar treatment pursuant to §4.22(c), and blending that does not result in an alteration of class or type under §4.22(b)) in the State (or one of the States) in which the named viticultural area is located

² Cellar treatment involves the use of various methods or materials to correct or stabilize wine or juice.

CURRENT DEFINITIONS

The basic definition for wine in statute is found in [Title 16, MCA](#), along with two additional definitions:

16-1-106 (30) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

16-1-106 (35) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes hard cider.

16-1-106 (38) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

STATE-SPECIFIC DEFINITIONS

A few states have statutorily added definitions for "state-specific" or "state-grown" wine, with the state-specific requirement varying from 51-100%:

<i>State:</i>	<i>Statutory Citation:</i>	<i>Statutory Provision:</i>
Arkansas	Ark. Stat. Ann. §3-5-601(d)(2)	The wines shall be shipped into this state and blended according to regulations as set forth in federal regulations and labeled according to federal regulations which require that the appellation of origin of 'Arkansas Wines' can be used only on those wines which contain 75 percent Arkansas-grown grapes or other materials.
Colorado	Colo. Rev. State. §12-47-103 (6.5)	'Colorado grown' means wine produced from 100 percent Colorado-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey, manufactured by a winery that is located in Colorado and licensed pursuant to part 3 of this article.
Kentucky	Ky. Rev. Stat. §244.235	No wine sold in Kentucky shall contain on its label or elsewhere on the wine's retail container or package the word 'Kentucky' or any other work or phrase implying that the origin of the wine is Kentucky, except in the name and address of the winery s required by federal laws or regulations, unless 75 percent of all grapes, grape juice, other fruits, other fruit juices, and honey used in making the wine were produced in the commonwealth of Kentucky.

<p>Mississippi</p>	<p>Miss. Code Ann. §67-5-1 et seq.</p>	<p>‘Native wine’ shall mean any product, produced in Mississippi for sale, having an alcohol content not to exceed 21 percent by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation from the juice of ripe grapes, fruits, berries, honey or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines.</p> <p>...</p> <p>In order to be classified as “native wine” under the provisions of this chapter, at least 51 percent of the finished product by volume shall have been obtained from fermentation of grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.</p>
<p>Washington</p>	<p>Wash. Rev. Code. §66.28.110</p>	<p>If the appellation of origin claimed or implied anywhere on a wine label is ‘Washington,’ then at least 95 percent of the grapes used in the production of the wine must have been grown in Washington.</p>

According to one Montana stakeholder:

“Wineries across Montana vary greatly in the amount of Montana-grown grapes in their wine, and nothing legally distinguishes a wine made with Montana grapes from a wine made with out-of-state grapes that fermented in Montana. Imported grapes may result in lost opportunity for Montana production and manufacturing. The best way to allow a company to distinguish when their product truly contains Montana grapes is through a designated AVA. Another helpful fix would be to define Montana wine in statute so we can begin to talk about it as a product different from imported grapes or imported wine bottles.”

COMMITTEE OPTIONS

Option A: Recommend to the wine industry to apply for one or more AVA designations.

Option B: Amend the MCA to add a definition of ‘Montana grown wine’ similar to Colorado or Mississippi.

Option C: Amend the MCA to add a provision regarding labeling of Montana wine similar to Arkansas, Kentucky, or Washington.

Option D: Combination of A, B, C.

Option E: Alternative action.

Option F: Take no action.