

Grape and Winery Board

Annual Report 2003

For information contact:

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Table of Contents

	<u>Page</u>
Board of Directors	
Nebraska Grape and Winery Board of Directors.....	1
Overview of Activities Board Participation	2
Minutes, February 3, 3003	4
Minutes, May 31, 2003	7
Attachment #1 (Financial Report)	10
Attachment #2 (Contract)	11
Attachment #3 (Bylaws)	15
Statutes	
Nebraska Grape and Winery Act	19
Related Statutes	
Farm Wineries Act	22

**BOARD
of
DIRECTORS**

Nebraska Grape and Winery Board of Directors

Bob Curtright.....Winery/Vineyard Owner
P.O. Box 102
Nemaha, NE 68414-0102
(402) 883-2168

Jim Jeffers.....Winery/Vineyard Owner
1505 West Raymond Road
Raymond, NE 68428
(402) 783-5253

Justin MoodyWinery/Vineyard Owner
126 Moody Drive
P.O. Box 435
Crawford, NE 69339
(308) 665-1692

Eric Nelson.....Vineyard Owner
3300 West Mill Road
Raymond, NE 68428
(402) 783-9110

Ed Swanson.....Winery/Vineyard Owner
RR 2 Box 210
Pierce, NE 68767
(402) 329-4509

Ex-Officio Members

Casey Foster, Nebraska Department of Agriculture
P.O. Box 94947, Lincoln, NE 68509-4947
(402) 471-4876

Dr. Darrell Nelson
207 Ag Hall, University of Nebraska-Lincoln, Lincoln, NE 68583-0704
(402) 472-2045

OVERVIEW
of
ACTIVITIES

BOARD PARTICIPATION

The Board of Directors met three times this year. Emphasis was placed on establishing marketing and promotional activities to assist in the betterment of Nebraska's grape industry. The Nebraska Grape and Winery Board approved \$3,639 from the winery and grape producers promotional fund to pay for the Nebraska Winery and Grape Growers' Association (NWGGA) marketing and promotional activities conducted this fiscal year. Money was used to pay for the planning and management of the Nebraska Wine Festival and the 2003 Nebraska State Fair booth.

Promotion of Nebraska's grape and winery industry is a primary goal of the Board. They support NWGGA activities, pay close attention to recent legislation that would affect Nebraska's grape and wine industry, and work closely with the University of Nebraska to receive guidance and education regarding research in this industry.

The Board approved a budget. The Treasurer's report indicated an ending cash balance of \$1,510, as of June 30, 2003.

The Board works to help ensure the grape and wine industry becomes a strong and an important part of Nebraska's thriving economy.

The minutes from the meetings, this year's contract, the budget, by-laws, and statutes can be found on the following pages.

Grape & Winery Board Meeting

February 3, 2003

UNL East Campus – Plant Science Building, Room 375

MINUTES

Board members present: Ed Swanson Justin Moody Bob Curttright
Eric Nelson Jim Jeffers
Ex-officio members present: Casey Foster, Dr. Darrell Nelson

Guests present: Dr. Paul Read
Jim Ballard
John Fischbach

The agenda that was emailed to all board members was discussed. Curttright moved that the agenda be approved as printed. Jeffers seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curttright – For. The motion was approved.

The minutes from the previous meeting had been sent to everyone in the 2002 Annual Report. Swanson moved that they be approved as printed. Nelson seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curttright – For. The motion was approved.

Casey Foster discussed the fiscal report for 2001-2002. Jeffers moved that the report be approved as printed. Curttright seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curttright – For. The motion was approved.

Foster reviewed the fact that our by-laws need to be made consistent with the State Statutes pertinent to the wording of the officers. Our by-laws currently say “Recording Secretary” and “Financial Secretary”. The Statutes state “Secretary” and “Treasurer”. Jeffers made a motion to change the wording in our by-laws to match what the Statutes state. Curttright seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curttright – For. The motion was approved.

Jeffers then made a motion that we combine the Secretary and Treasurer positions into one office- “Secretary/Treasurer”. Moody seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curttright – For. The motion was approved.

Jeffers stated that he wanted to see the Board meet 3-4 times/year to better communicate on the issues at hand in our industry. All of the other board members concurred. Swanson stated that he would be stepping down in June of this year. After some discussion, it was decided that each board member should come to the next meeting with a recommendation of a grower’s name to

submit to the Governor. Then at that meeting, the Board will come up with a specific person to recommend to the Governor for appointment.

Swanson said that he knew a printer who might be willing to work with us if we decided to come up with a grape growing brochure. Dr. Read said he was working on new Neb Fact sheets for grape growing and also has packets to give to people if they are interested in growing grapes. This information might take care of the issues a new brochure would address.

Foster expressed the desire of the Dept. of Agriculture concerning our 2002-2003 budget that we allocate as many of the funds as possible and not leave more than \$500 in reserve. After some discussion, it was recommended that the budget be as follows:

Revenue from crushed fees and investment interest		\$ 4210
Expenses:		
Printing	\$ 250	
Nebraska Winery & Grape Growers Assn	<u>\$ 3500</u>	
Total Expenses		<u>\$ 3750</u>
Reserve		\$ 460

Foster did state that the NWGGA needed to submit a plan specifying exactly how the \$3500 would be spent. Nelson agreed to provide that documentation at the next meeting. Jeffers moved that the budget be approved as stated with proper documentation being presented by the NWGGA at the next Board meeting. Nelson seconded the motion. A vote was taken: Swanson - For; Nelson - For; Moody - For; Jeffers - For; Curttright - For. The motion was approved.

Jim Ballard reviewed what is happening in the current legislative session. LB536 is the bill before the General Affairs Committee for review. It raises the distribution cap from 15,000 to 30,000 gallons; eliminates the 50,000 gallon maximum production cap; changes the wording on the number of outlets each winery can have in the state; changes the yearly fee wineries pay the Dept of Agriculture from being determined based on tons to gallons. It will be heard on March 3rd. LB393 deals with changing the shipping fee paid by the out-of-state wineries from \$500 to \$25. There are several consumer groups working on this bill. Ballard is also working on a legislative dinner for the legislators. He tentatively plans it for March 13th. Several of the board members asked that this be moved up so they could attend. Ballard will look at other alternative dates.

Moody asked Ballard to let all of the Board members know who is on each of these committees so they can be contacted. Jeffers expressed the importance of everyone to communicate with their legislators about our industry. He recommended that the Board come up with a simple letter reminding the legislators that we are a resource to help keep them abreast of the issues facing our industry. Ballard said he would run the idea by a few senators to see if this letter would be beneficial. Curttright stated that he felt we should contact the Governor to let him know what we

are trying to accomplish. Jeffers said he would talk with him when he returns to Lincoln in a few weeks.

Read stated that he is currently working with another individual to map the state using GPS to better determine recommendations for growers as to which cultivar does best in which climatic conditions. He thought this project could be done by the end of 2003.

After some discussion, Moody moved that the Board meet next on Friday, February 28th at 8:30 am in Kearney, Nebraska at the Ramada Inn. Curtright seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curtright – For. The motion was approved. Read stated that he would secure a room for us in which to meet.

Curtright moved that we adjourn the meeting. Jeffers seconded the motion. A vote was taken: Swanson – For; Nelson – For; Moody – For; Jeffers – For; Curtright – For. The motion was approved.

Respectfully submitted,

Eric Nelson
Secretary/Treasurer

Grape & Winery Board Meeting

May 31, 2003

DoubleTree Hotel, Omaha, NE

MINUTES

Board members present: Justin Moody Jim Jeffers
Eric Nelson

Ex-officio members present: Casey Foster, Ag Promotion Coordinator

Guests present: Dr. Paul Read
Jim Ballard

Nelson made a motion that the minutes from the last meeting be approved. Jeffers seconded it. Vote was taken: Nelson – For; Jeffers – For; Moody - For. Motion approved.

Casey Foster handed out a unicameral update stating that LB536 was up for final reading and may have possibly just recently been passed. He then reviewed the budget as printed on the agenda. He is still waiting for the contract to come back from DeeAnn Hrdlicka from the NWGGA in order to distribute the \$3500 allocated to them. He recommended that DeeAnn attend our next meeting. Nelson will notify her. He then asked that we put together a budget for 2003/2004.

After some discussion, Jeffers moved and Nelson seconded the following budget:

Revenue from crushed fees = \$4000.00

Expenses for printing= \$ 100.00

Contractual to NWGGA= \$4000.00

Vote was taken: Nelson – For; Jeffers – For; Moody - For. Motion approved.

It was recommended by Nelson that Terry Ryan's name be given to the Governor for appointment to replace Ed Swanson. Everyone agreed with that and Foster will talk with the Governor's office.

The next meeting will be held at the Cornhusker Hotel on November 8th to coincide with the Workshop planned for that day.

Nelson moved to adjourn. Jeffers seconded. Vote was taken: Nelson – For; Jeffers – For; Moody - For. Motion approved.

Respectfully submitted,

Eric Nelson
Secretary
Approved_____

Approved as corrected_____

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May 31, 2003
DoubleTree Hotel, Omaha, NE
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Respectfully submitted,
Eric Nelson
Secretary

Approved_____

Approved as corrected_____

NEBRASKA GRAPE and WINERY BOARD
July 1, 2002 - June 30, 2003

DESCRIPTION	FY 2002-03 BUDGET	FY 2002-03 YEAR TO DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$1,510.00	\$1,510.62	
REVENUE:			
Crushed Grape Fees	\$2,655.00	\$2,655.70	
Investment Interest	<u>46.00</u>	<u>106.76</u>	
Total Revenue	\$2,701.00	\$2,762.46	102.28%
TOTAL AVAILABLE CASH	\$4,211.00	\$4,273.08	
EXPENDITURES			
Printing	\$ 250.00	\$ 99.12	
Room Rental	0.00	0.00	
Miscellaneous Operating	0.00	0.00	
Promotion-Nat'l Ag Week	0.00	0.00	
Contractual-NE Grape Growers Assn	3,500.00	3,639.00	
Board Expense	<u>\$ 0.00</u>	<u>\$ 0.00</u>	
TOTAL EXPENDITURES	\$ 3,750.00	\$3,738.12	99.68%
ADJ. TO FUND BALANCE	\$ 0.00	\$ 0.00	
ENDING CASH BALANCE*	<u>\$ 461.00</u>	<u>\$ 534.96*</u>	

**The ending cash balance is 100% invested in the short-term investment pool.*

Percent of Fiscal Year elapsed: 100%
FY 01-02 Revenue to Date: \$1,646.37
FY 01-02 Expenditures to Date: \$2,000.00

AGREEMENT #18-13-041

between

NEBRASKA WINERY AND GRAPE GROWERS ASSOCIATION

and

NEBRASKA DEPARTMENT OF AGRICULTURE

This Agreement entered into by and between the Nebraska Winery and Grape Growers Association hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward NWGGA marketing and promotional activities to assist in the betterment of Nebraska's grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board under Neb. Rev. Stat. §§53-301 to 53-305 has conducted a public board meeting and directed the Department to provide funds to the NWGGA.

WHEREAS, the marketing and promotional activities conducted by the NWGGA will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved three thousand six hundred and thirty-nine dollars (\$3,639) from the winery and grape producers promotional fund to pay for NWGGA marketing activities, which is to be used for the promotion of the Nebraska wine and grape industry. The amount of three thousand one hundred and eighty-five dollars (\$3,185) will be paid for the

planning and management of the Nebraska Wine Festival which will take place in Omaha, Nebraska, May 31, 2003. The remaining amount of four hundred fifty-four dollars (\$454) will be used to pay for the 2003 Nebraska State Fair booth, which will be held on August 22 - September 1, 2003.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2002, to June 30, 2003.
3. The Department agrees to provide the funds as set out in paragraph 1, from the Winery and Grape Producers Promotional Fund.
4. The NWGGA agrees to provide a copy of the final report to the Department after completion of the promotional activities.
5. Payment in the amount of three thousand six hundred thirty-nine dollars (\$3,639) from the Winery and Grape Producers Promotional Fund to the NWGGA will be payable in full upon both parties signature to this Agreement, and NWGGA, incurring an obligation. NWGGA shall present an invoice to the Department to make payment from.
6. Funding for this project is subject to legislative appropriations and funding being available.
7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
8. The parties mutually agree as follows:
 - a. The NWGGA shall:
 1. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
 2. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. The NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
 - (2) The specific actions that will be taken against employees for violating the policy; and
 - (3) A requirement that each employee receives a copy of the policy.
- d. The NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees, that may arise out of or on account of any failure on the part of the NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of the NWGGA which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of the NWGGA.
- f. The NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer needs to be retained.
- g. The NWGGA specifically agrees that funds given to the NWGGA shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the winery and

grape producers promotional fund unless otherwise agreed. Furthermore, if the NWGGA fails to perform as outlined herein, the NWGGA shall be required to repay any unearned funds received under this Agreement.

- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the NWGGA that the NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The NWGGA shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF
AGRICULTURE

Date

Merlyn Carlson, Director

NEBRASKA WINERY AND GRAPE
GROWERS ASSOCIATION

Date

NWGGAcontract03102

DeAnn Hrdlicka, President

BYLAWS

ARTICLE I. AUTHORITY

This organization, its purpose, procedures, and regulations are established pursuant to Neb. Rev. Stat. §§53-301 through 53-305.

ARTICLE II. NAME and LOCATION

The name of this organization shall be the Nebraska Grape and Wine Board, hereinafter referred to as the “Board.” The principal business office of the Board shall be located at the Nebraska Department of Agriculture office, P.O. Box 94947, 501 Centennial Mall South, Lincoln, Nebraska 68509.

ARTICLE III. PURPOSE

The purpose of the Board shall be to further the growth and economic development of the grape-growing and wine-making industry in the state of Nebraska to a maximum level as supported by the favorable soil and climatic conditions existing in Nebraska; and to satisfy the market demand for grapes and wine inside and outside of Nebraska. The end objective being to create an economically viable alternative farm crop and wine industry in Nebraska that will enhance the economic condition of the farm industry, in specific, and the state of Nebraska in general.

ARTICLE IV. MEMBERSHIP

- Section 1. The Board shall consist of:
- A. Five (5) members to be appointed by the Governor on a nonpartisan basis;
 - B. Nebraska Department of Agriculture Director, or designee, who shall have rights of membership except the right to vote; and
 - C. Vice Chancellor, University of Nebraska Institute of Agriculture and Natural Resources, or designee, who shall have rights of membership except the right to vote.

- Section 2. Board members shall be:
- A. Citizens of Nebraska;
 - B. Twenty-one (21) years of age or older; and
 - C. Engaged in, or previously engaged in, wine or grape production or research in this field in Nebraska.
- Section 3. At least two (2) Board members shall be members of the Nebraska Winery and Grape Growers Association.
- Section 4. Board members shall serve a term of three (3) years or until their successor is appointed.
- Section 5. Vacancies in the Board resulting from resignation, nonperformance of duties, death, or other cause, shall be filled by appointment of the Governor

ARTICLE V. OFFICERS

- Section 1. The elected officers of the Board shall be:
- A. Chairman;
 - B. Vice-Chairman;
 - C. Secretary/Treasurer;
 - D. Other officers as the Board deems necessary to carry out the duties and responsibilities of the Board.
- Section 2. Officers shall be elected from the members of the Board annually, following the appointment of members to fill expired terms, at the first meeting of the calendar year .
- Section 3. The election of officers requires a majority vote of the Board.
- Section 4. The term of office shall be for one (1) year or until the election of their successor.
- Section 5. Any officer may be removed from office for due cause by a two-thirds ($\frac{2}{3}$) vote of the voting members of the Board.
- Section 6. Officer duties shall include:
- A. The Chairman shall:
 - 1. Preside at all meetings of the Board; and

2. Perform all duties normally expected of this office and as may be assigned by the Board.
- B. The Vice-Chairman shall:
1. Assume full powers and authority as accorded the chairman in the absence of that officer; and
 2. Perform all duties normally expected of this office and as may be assigned by the Board or the Chairman.
- C. The Recording Secretary shall:
1. Record the official minutes of all regular and special Board meetings;
 2. Give public notice of all regular and special Board meetings in accordance with applicable state laws; and
 3. Prepare and circulate the Board meeting agendas as established by the Chairman.
- D. The Financial Secretary shall:
1. Serve as the primary liaison between the Board and the Department of Agriculture in all financial matters; and
 2. Be responsible for preparing the Annual Financial Report for the approval of the Board.

ARTICLE VI. MEETINGS

- Section 1. Meetings of the Board shall be held at its principal office in Lincoln, Nebraska, but may be held elsewhere if the notice of the meeting, or the waiver of such notice, so provides.
- Section 2. Regular meetings of the Board shall be held on a biannual basis at such time and place as may be determined by the Board at its previous meeting.
- Section 3. Special meetings of the Board may be called at the request of the Chairman or by any three (3) Board members.
- A. Notice of special meetings shall state the purpose of the meeting.
 - B. Notice of special meetings shall be publically advertised as required by state law.
- Section 4. A majority of the voting members of the Board shall constitute a quorum. In the absence of a quorum, those present may recess or adjourn to a later date, but may not transact any business for the Board.

ARTICLE VII. POWERS AND RESPONSIBILITIES OF THE BOARD

Section 1. The Board shall:

- A. Function in an advisory capacity to the Nebraska Department of Agriculture and the Nebraska Liquor Control Commission.
- B. Elect officers and keep minutes of meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to make these records available for examination upon request to members of the public.
- C. Authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to Neb. Rev. Stat. §53-304 (LB 477).
- D. Promulgate and adopt rules and regulations to carry out Neb. Rev. Stat. §§53-301 to 53-305, LB 477.
- E. Make and publish an annual report on, or before, January 1 of each year. The annual report shall set forth, in detail, those requisites required in LB 477, Neb. Rev. Stat. §53-305.
- F. Establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss the Board's policies and procedures at a Board meeting.
- G. Participate in regional, state, national, and international activities with organizations which have, as their objective, developing new and better grape varieties suitable for growing in Nebraska.
- H. Provide current research data conducted by, or for, the Board to grape growers and vintners in Nebraska and to persons considering entering into grape-growing within the state.
- I. Participate in the development of research projects to improve wine making methods utilizing new and old grape varieties grown in Nebraska.
- J. Develop and participate in studies, programs, research, and the dissemination of information and data pertaining to sales, promotion, and the effective distribution of Nebraska wines.
- K. Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry.

Section 7. Members of the Board shall serve without compensation except that voting Board members shall be reimbursed for their actual and necessary expenses as provided for in Neb. Rev. Stat. §§81-1174 to 81-1177.

- A. Reimbursement, as allowed, shall include attendance at meetings of the Board;
- B. Reimbursement, as allowed, shall include the expense of engaging in the performance of official responsibilities as determined by the Board; and
- C. All expenses shall be approved by a majority of the members of the Board.

Section 8. The Board shall not be responsible, collectively or individually, in any manner whatsoever, to any person or persons for errors in judgment, mistake, or other acts of commission or omission except for their own individual and personal acts of dishonesty or other acts of a criminal nature.

- No member shall be held responsible, individually or collectively, for the criminal act or default of any other Board member.
 - Any liability of an individual Board member shall be separate and not joint.

ARTICLE VIII: COMMITTEES

The Chairman of the Board shall establish committees and designate committee members contingent upon approval by the Board.

ARTICLE IX: PARLIAMENTARY AUTHORITY

All meetings shall be conducted within the general rules set forth in the current edition of *Roberts Rules of Order, Newly Revised*.

ARTICLE X: AMENDMENT

The Board may repeal or amend these Bylaws, or any part thereof, by a two-thirds ($\frac{2}{3}$) vote of the Board in presence of a quorum, after ten (10) days written notice of the proposed changes in the Bylaws. In the alternative, such amendments may be requested by mail ballot and will become effective if two-thirds ($\frac{2}{3}$) return an affirmative vote on the proposed bylaws changes.

ADOPTED November 2, 2001

Grapebylaws062001

Statutes

NEBRASKA GRAPE AND WINERY BOARD

Administration: These statutes create the Nebraska Grape and Winery Board. That Board is given certain duties under these statutes. For administrative purposes, a fund is located in the Nebraska Department of Agriculture. The revenue from Nebraska wineries is to be used by the Nebraska Department of Agriculture to develop programs that promote the wine industry in Nebraska.

Adoption: The provisions of these statutes were enacted during the 2000 session of the Nebraska Legislature, LB 477.

Rules: The Board is given authority to adopt and promulgate regulations, however, none have yet been developed.

INDEX

<u>Section</u>	<u>Subject</u>
53-301.....	Nebraska Grape and Winery Board; created.
53-302.....	Board; officers; terms; expenses.
53-303.....	Board; powers and duties.
53-304.....	Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.
53-305.....	Board; annual report.

53-301. Nebraska Grape and Winery Board; created.

(1) The Nebraska Grape and Winery Board is created. The board shall consist of five members to be appointed by the Governor on a nonpartisan basis. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in wine or grape production or research in this state. At least two board members shall be members of the Nebraska Winery and Grape Growers Association. In addition, the Director of Agriculture and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources or their designees shall be ex officio members of the board but shall have no vote in board matters.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

53-302. Board; officers; terms; expenses.

(1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms

of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, upon completion of which he or she may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for their actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

53-303. Board; powers and duties. The duties and responsibilities of the Nebraska Grape and Winery Board include, but are not limited to, the following:

(1) To establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the board its policy and procedures;

(2) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) To authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304;

(4) To serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and

(5) To adopt and promulgate rules and regulations to carry out sections 53-301 to 53-305.

53-304. Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.

Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every ton of grapes crushed by its facility. Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

53-305. Board; annual report. The Nebraska Grape and Winery Board shall make and publish an annual report on or before January 1 of each year, which report shall set forth in detail the following:

(1) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(2) A detailed explanation of all programs for which the board approved funding that fiscal year, pursuant

to section 53-304, for the research, discovery, promotion, and development of programs for the growing, production, and marketing of Nebraska wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Each annual report shall be presented to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

Related Statutes

Related Statutes: Farm Wineries Act

INDEX

<u>Section</u>	<u>Subject</u>
53-123.10.....	Farm winery license; when issued.
53-123.11.....	Farm winery license; rights of licensee.
53-123.12.....	Farm winery license; application requirements; fees.
53-123.13.....	Farm winery; waiver of requirement; when.

53-123.10 Farm winery license; when issued.

A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 53-123.12 and such other requirements as the commission adopts and promulgates by rule and regulation to administer sections 53-101.02 and 53-123.10 to 53-123.13.

Source: Laws 1985, LB 279 §4.

53-123.11 Farm winery license; rights of licensee.

- (1) A farm winery license shall entitle the holder to:
 - (a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;
 - (b) Sell wines produced at the farm winery at retail for consumption on the premises;
 - (c) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed fifteen thousand gallons. In the event such amount exceeds fifteen thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to subdivision (1)(a) of this section; and
 - (d) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts.
- (2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

Source: Laws 1985, LB 279, §5; Laws 1991, LB 344, §23; Laws 1997, LB 479, §1.

53-123.12 Farm winery license; application requirements; fees. Any person desiring to obtain a new license to operate a farm winery shall:

- (1) File an application with the commission in triplicate original upon such forms as the commission from time to time prescribes;
- (2) Pay the license fee to the commission under subdivision (2) of section 53-124, which fee shall be returned to the applicant if the application is denied; and
- (3) Pay the state registration fee to the commission in the sum of forty-five dollars.

License fees and registration fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees. The commission shall then notify, by registered or certified mail marked return receipt requested with postage prepaid, the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall enclose with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of mailing of such application by the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

Source: Laws 1985, LB 279 §7; Laws 1988, LB 1089, §10; Laws 1991, LB 202, §2; Laws 2000, LB 973, §3. Operative date August 1, 2000.

53-123.13 Farm winery; waiver of requirement; when.

(1) In the event the operator of a farm winery is unable to produce or purchase seventy-five percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five-percent requirement prescribed in subdivision (32) of section 53-103 for one year.

(2) It shall be within the discretion of the commission to waive the seventy-five-percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

Source: Laws 1985, LB 279, §6; Laws 1986, LB 871, §2; Laws 1989, LB 441, §5; Laws 1991, LB 344, §24; Laws 1994, LB 859, §5.

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