



Senate

General Assembly

File No. 875

January Session, 2009

Substitute House Bill No. 6473

Senate, April 30, 2009

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXPANDING THE HOURS OF OPERATION FOR FARM WINERIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 30-91 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2009*):

4 (f) The retail sale of wine and the tasting of free samples of wine by
5 visitors and prospective retail customers of a permittee holding a
6 manufacturer permit for a farm winery on the premises of such
7 permittee shall be unlawful on Sunday before eleven o'clock a.m. and
8 after [eight] nine o'clock p.m. and on any other day before ten o'clock
9 a.m. and after [eight] nine o'clock p.m. Any town may, by vote of a
10 town meeting or by ordinance, reduce the number of hours during
11 which sales and the tasting of free samples of wine under this
12 subsection shall be permissible.

13 Sec. 2. (NEW) (*Effective from passage*) Not later than January 1, 2010,

14 the Commissioner of Consumer Protection shall adopt regulations, in
15 accordance with chapter 54 of the general statutes, to allow for the sale
16 of Connecticut produced wine at farmers' markets in the same manner
17 in which the holder of a manufacturer permit for a farm winery issued
18 pursuant to section 30-16 of the general statutes may sell wine on the
19 premises of such farm winery.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	30-91(f)
Sec. 2	<i>from passage</i>	New section

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Consumer Protection can adopt regulations concerning the sale of Connecticut produced wine at farmer's markets with existing resources.

OLR Bill Analysis**sHB 6473*****AN ACT EXPANDING THE HOURS OF OPERATION FOR FARM WINERIES.*****SUMMARY:**

This bill extends the hours farm wineries can offer the retail sale and tasting of wine by allowing them to close at 9:00 p.m. instead of 8:00 p.m. every night. Under current law, their hours of operation are 11:00 a.m. to 8:00 p.m. on Sundays, and 10:00 a.m. to 8:00 p.m. on all other days.

The bill also requires the consumer protection commissioner to adopt regulations, by January 1, 2010, allowing the sale of Connecticut-produced wine at farmers' markets. The regulations governing such sale must mirror the manner in which the holder of a manufacturer permit for a farm winery may sell wine on the premises of the winery.

EFFECTIVE DATE: July 1, 2009, except for the section on farmers' markets, which is effective upon passage.

BACKGROUND***Sale at Farm Wineries***

No licensed farm winery may sell any wine or brandy not manufactured by such winery, except wine manufactured by another farm winery located in this state (CGS § 30-16(e)(4)).

A farm winery permit authorizes:

1. the sale in bulk by the permittee from the premises where the products are manufactured,
2. the sale and shipment by the permittee of wine manufactured by the permittee to persons outside the state,

3. free samples to visitors and prospective customers for consumption on the premises,
4. the sale at retail from the premises of sealed bottles or containers of such wine or brandy for consumption off the premises, and
5. the sale at retail from the premises of such wine or brandy by the glass and bottle for consumption on the premises (CGS § 30-16(e)(2)).

A town may, by ordinance or zoning regulation, prohibit any such offering, tasting, or selling at retail at any premises in the town (CGS § 30-16(e)(2)).

COMMENT

Related Court Case

The bill appears to raise a constitutional issue because it allows in-state farm wineries to sell their products directly to in-state consumers at farmers' markets without giving the same privilege to out-of-state producers. The U. S. Supreme Court addressed a similar issue in *Granholm v. Heald*, 544 U.S. 460 (2005).

In *Granholm*, the Court ruled on a challenge to state regulatory schemes in Michigan and New York brought by small wineries. The Court considered whether a state's regulatory scheme that permits in-state wineries, but not out-of-state wineries to ship alcohol directly to consumers violates the dormant Commerce Clause in light of § 2 of the 21st Amendment. In general, the U.S. Constitution's Commerce Clause prohibits states from adopting laws that benefit in-state economic interests to the detriment of out-of-state interests.

The Supreme Court held that laws banning or severely restricting the ability of out-of-state shippers to ship wine directly to consumers while allowing in-state wineries to do so violate the Commerce Clause. The Court's opinion stressed that if states choose to allow the direct shipment of wine to consumers, they must do so on even-handed

terms.

Related Bills

SB 926 (File 90) creates a \$75 annual permit to allow farm winery permittees to sell Connecticut-made wine by the bottle at nonprofit farmers' markets and requires the permit holder or authorized representative to be present at the time of sale.

Legislative History

On March 25, the House passed the bill (File 76). The Senate then referred the bill to the Environment Committee, which reported a substitute adding the requirement that the consumer protection commissioner adopt regulations by January 1, 2010 allowing the sale of Connecticut-produced wine at farmers' markets.

COMMITTEE ACTION

General Law Committee

Joint Favorable
Yea 18 Nay 0 (02/26/2009)

Environment Committee

Joint Favorable Substitute
Yea 26 Nay 0 (04/21/2009)