

302 KAR 39:020. Kentucky Small Farm Wineries Support Fund.

RELATES TO: KRS 260.165, 260.166, 260.167, 260.168, 260.175

STATUTORY AUTHORITY: KRS 260.166(2)(c)3., 260.167(3), 260.175(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.175(3) authorizes the Kentucky Department of Agriculture, in collaboration with the Kentucky Grape and Wine Council (KGWC) and the Department of Tourism, to promulgate administrative regulations to administer the Kentucky Small Farm Wineries Support Fund and requires the establishment of standards for the use and distribution of these funds including reporting requirements. This administrative regulation establishes the necessary standards.

Section 1. Definitions. (1) "Fund" means any portion of the annual deposit from the general fund into the Kentucky Small Farm Wineries Support Fund established by KRS 260.175(2).

(2) "KGWC" means the Kentucky Grape and Wine Council established by KRS 260.165.

(3) "Local marketing cost-share program" is defined by KRS 260.175(2)(b).

(4) "Small farm winery" is defined by KRS 241.010(56).

(5) "Wholesaler" means a licensed wholesaler as described in KRS 260.175(2)(d).

Section 2. (1) The Kentucky Small Farm Wineries Support Fund shall be maintained in four (4) unique accounts based on the statutory categories in KRS 260.175(2)(a) - (d).

(2) The KGWC shall approve all fund expenditures based on voting procedures set forth in their bylaws and shall authorize the Kentucky Department of Agriculture to dispense the funds pursuant to Sections 3 and 4 of this administrative regulation.

(3) The annual report required by KRS 260.166(2)(f) shall contain a summary of all:

(a) Program activity;

(b) Participants; and

(c) Expenditures relating to the fund.

(4) The Kentucky Department of Agriculture shall assist in the:

(a) Management of reports;

(b) Program documentation; and

(c) Approval of participants.

Section 3. The Wine Wholesaler Reimbursement Program. The funds in this program shall be dispersed based on the criteria established in this section.

(1) The reimbursement rate for a wholesaler shall be twenty (20) dollars per case of wine produced by a small farm winery with a valid Kentucky license.

(2) To receive reimbursement, a wholesaler shall:

(a) Apply for participation in the reimbursement program on the "Application" and "Wine Approval Request" portions of the Wholesaler Reimbursement Program Application and receive written confirmation of receipt from the KGWC prior to delivery of the wine;

(b) Request reimbursement on the "Reimbursement Request" portion of the Wholesaler Reimbursement Program Application within ninety (90) days after the wine is delivered;

(c) Sell and deliver eligible wine for the same price as was purchased; and

(d) Provide a printed report to the KGWC that includes eligible wine purchase price, sale price, and proof of delivery.

(3) A wholesaler distributing wine pursuant to KRS 260.175(2)(d) shall not:

(a) Be reimbursed for any products of a small farm winery that is participating in an active marketing contract with a licensed wholesaler;

(b) Be required to undertake any marketing or promotional responsibilities for the KGWC

approved wine; or

(c) Request or receive any reimbursement until the eligible wine is delivered.

(4) The annual fund shall be divided equally into two (2) biannual program periods.

(5) The availability of funds shall be a combination of the biannual portion and any unencumbered funds from the previous program periods.

(6) The KGWC shall:

(a) Mail a written notice of the new program period to all licensed small farm wineries each June and December, requiring the winery to confirm if it will have products participating in this program;

(b) Calculate a cap for the products of each participating small farm winery in January and July, based on the amount of funds available and the number of licensed wineries who confirm participation in the program period; and

(c) Mail a written notice of the cap for the program period to all small farm wineries that confirm active participation in the program and to all licensed wholesalers.

(7) Only a licensed Kentucky wholesaler may participate in this program.

Section 4. The Kentucky Grape and Wine Marketing Cost-Share Program. The funds in this program shall be dispersed based on the criteria established in this section.

(1) The primary purpose of the expenditure shall be for the promotion or sale of Kentucky grapes, grape products, or wine.

(2) A small farm winery shall be eligible for reimbursement not to exceed fifty (50) percent of total qualified expenditures.

(3)(a) A small farm winery shall apply for participation in the reimbursement program on the "Application", "Advertising Plan", and "Expenditure Report" portions of the Small Farm Winery Marketing Cost-Share Program Application.

(b) All expenditures shall be approved by the KGWC in advance.

(c) Expenditures shall not be reimbursed unless the applicant submits a copy of the receipts for the expenditures and a copy or photo of the expenditures.

(4) Eligible expenditures shall clearly display a small farm winery logo or name and be defined as:

(a) An internet, print, radio, or television advertisement; development of these advertisements, and postage and hosting fees;

(b) A promotional item to be given away;

(c) Billboards and signage with permanent lettering or logo for the purpose of promoting a small farm winery;

(d) Uniform apparel that shall be worn by operators or employees;

(e) Logo design;

(f) Booth rental space and competition entry fees;

(g) Off site retail store point of sale items; or

(h) Other novel or unique items or proposals as approved by a vote of the KGWC.

(5) The following expenditures shall not be eligible for reimbursement from this fund:

(a) Equipment without a primary purpose of advertising grapes or wine;

(b) Blank or modifiable signage, electronics, or electronic media products;

(c) Blank paper products or ink;

(d) Promotional items that do not permanently or clearly display the small farm winery logo or name;

(e) Food or wine products served at special events, tradeshow, farmers' markets, and festivals; or

(f) Membership dues or registration fees.

- (6) The annual fund shall be divided equally into two (2) bi-annual program periods.
- (7) The availability of funds shall be a combination of the bi-annual portion and any unencumbered funds from the previous program periods.
- (8) The KGWC shall:
 - (a) Mail a written notice of the new program period to all licensed small farm wineries each June and December requiring the winery to confirm by mail or electronically if it will participate in this program;
 - (b) Calculate a cap for each participating small farm winery in January and July, based on the number of licensed wineries who confirm participation in the program period and the amount of funds available; and
 - (c) Mail a written notice of the cap for the program period to all small farm wineries that confirm active participation in the program.
- (9) The applicant shall submit a request for reimbursement to the KGWC within ninety (90) days of completion of the last approved expenditure on the "Expenditure Report" portion of the Small Farm Winery Marketing Cost-Share Program Application.
- (10) A new small farm winery shall be eligible for funds in the bi-annual program period following license approval.
- (11) The Kentucky Department of Agriculture shall evaluate submitted applications on a monthly basis and submit a report to the KGWC at regular meetings.
- (12) The KGWC shall offer recommendations, approval, or denial of applications within two (2) regular meetings of report submission.
- (13) Applicants shall submit their previous year's grape yields by variety, and the previous year's number of gallons of wine produced (not bottled or sold) by variety and source (Kentucky produced or sourced out of state). Data submitted shall be considered confidential.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Wholesaler Reimbursement Program Application", 11/16; and
 - (b) "Small Farm Winery Marketing Cost-Share Program Application", 11/16.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Marketing and Promotions, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (33 Ky.R. 2833; 3165; eff. 5-4-2007; 36 Ky.R. 1108; eff. 1-14-2010; 43 Ky.R. 1031; 1377; eff. 3-3-2017.)