

DRAFT

Overview of Federal, State, and Local Policies for grape and wine production.

Last Major Revision: Aug 21, 2015

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This document is the result of a sub-task on the current VWB project led by Peter Sforza.

Your comments and feedback are greatly appreciated on this draft. Please provide feedback to sforza@vt.edu.

This draft report contains an outline of federal, state, and local policies related to grape and wine production. For the Virginia grape site assessment and prioritization being developed by Virginia Tech CGIT for the VWB, this review is being conducted to identify policies with a spatial component that can be operationalized in the site assessment model and report at <http://www.cgis.vt.edu/vineyards>. For example, we have identified GIS layers for: Ag and Forest Districts, land and historic conservation easements, endangered species, etc.

Furthermore, policy and regulatory aspects of the industry can be challenging for new producers. This collection serves as a new resource that provides an overview of key policies and regulations in a single document, and may serve as a basis for further use by the Virginia Wine Board and its stakeholders, as well as economic developers and policymakers. Once the outline is completed, an introduction and brief description of each item may be included as time allows. Upon satisfactory completion of this resource, we suggest that the final version could be distributed as a package along with the statewide land assessment and prioritization resources. It is anticipated that the statewide site assessment should generate substantial interest across Virginia in establishment of new vineyards.

I. Federal Regulations

a. Farm Bill

- i. Tree Assistance Program - growers may be eligible for financial assistance for damage by natural disasters. Financial support for replacing vines lost due to cold injury.
http://www.ares.vaes.vt.edu/alson-h-smith/grapes/viticulture/extension/news/vit-notes-2014/vit_notes_dec_2014.pdf

b. Three Tier Distribution System

- i. Thornton, James. American Wine Economics: An Exploration of the U.S. Wine Industry. Berkeley: University of California Press, 2013. Ebook Library. Web. 24 Feb. 2015

II. Overview of Virginia Regulations

- a. Code of Virginia – Laws set by the General Assembly each year govern a variety of winery activities. Specific sections pertaining to the wine industry include:

- i. Title 3.2- Agriculture, Animal Care, and Food (VDACS)
- ii. Title 4.1- Alcoholic Beverage Control Act
- iii. Title 10.1- Conservation (Environment)
- iv. Title 15.2- Counties, Cities and Towns (Local Government)
- v. Title 58.1- Taxation

<http://www.virginiawinecouncil.org/regulation.html>

III. VDACS

- a. Virginia Food Law mandates a food safety inspection by VDACS before opening of business.

- i. <http://www.abc.virginia.gov/licensing/manfwhole.htm>

- ii. **Attention New Wineries, Breweries and Distilleries** – Virginia Food Law mandates a food safety inspection by the [Virginia Department of Agriculture and Consumer Services](#) (VDACS) before opening for business. The preopening inspection, conducted by a VDACS food safety specialist, is needed to ensure the facility meets Virginia food laws requirements and related regulations. Please contact the nearest VDACS office for an appointment:

IV. Virginia Department of Alcohol Bureau Control

- a. <http://www.abc.virginia.gov/licensing/liccost.htm>

- b. Brooks v. Danielsen

- i. <http://www.abc.virginia.gov/licensing/downloads/FarmWineryLetter6-29-2006.pdf>

- c. Wine Tasting Crackdown?

- i. <http://www.bizjournals.com/washington/blog/top-shelf/2013/10/virginia-a-bc-cracking-down-on-wine.html?page=all>

V. General Land Use Laws/Policies Identified to date that generally support vineyards/wineries

- i. Agricultural and Forestal Districts
- ii. Land Conservation Easements
- iii. Historic Conservation Easements
- iv. Chesapeake Bay Act—What supports
- v. TMDL Programs
- vi. Stormwater Regulations
- vii. Endangered Species

- viii. Nutrient Management Plans (not required for vineyards, but may be required for some locations)
- VI. Local Zoning Regulations
 - a. Zoning
 - b. Comprehensive Plans
 - c. Regional Planning District Commissions
- VII. Taxation and Specific Virginia Farm Winery Bills & Pending Legislation
 - a. Farm Winery Bill of 1980
 - i. <http://www.arec.vaes.vt.edu/alson-h-smith/grapes/viticulture/extension/presentations/newgrowerintroduction.pdf>
 - b. 2006
 - i. <http://www.readthehook.com/98355/news-out-lobbied-wholesalers-hogtie-wineries>
 - ii. Brooks v. Danielsen
 - 1. <http://www.abc.virginia.gov/licensing/downloads/FarmWineryLetter6-29-2006.pdf>
 - iii. MKF Economic Impact Report of 2006 Decision
 - 1. http://www.mbbwl.org/files/VA_Wine_Industry_2005_Impact_Study.pdf
 - iv. Virginia Wine Guide:
 - <http://vwg-online.com/?p=2882>
 - c. 2013
 - i. Wine Tasting Crackdown?
 - <http://www.bizjournals.com/washington/blog/top-shelf/2013/10/virginia-abc-cracking-down-on-wine.html?page=all>
 - d. Agritourism Bill of 2014
 - i. http://www.fauquier.com/opinion/letter_entry/winemaking_has_a_long_history_in_virginia
 - e. 2015 General Assembly Pending Legislation
 - i. emailed Katie Hellebush
- VIII. Future Regulations
 - a. Virginia Wine Council Legislative Priorities
 - i. <http://www.virginiawinecouncil.org/currentLegAgenda.html>

- ii. The Virginia Wine Council speaks with one clear voice in Richmond promoting funding and legislation that fosters an environment for the successful operation of wineries, vineyards and cideries. The Virginia Wine Council defends against unreasonable, burdensome and costly regulations to the industry.
- A. Support *Continued* Funding for Wine Promotion Fund
 - a. Support \$1,841,519 continued funding for FY15-16
 - b. Wine Promotion Fund supports research, education and marketing for the Virginia Wine Industry
- B. Support Funding for Virginia Winery Distribution Company
 - a. Support continued funding for VWDC which serves for farm wineries producing less than 3,000 cases
- C. Support funding for ABC Modernization
 - a. Support funding for FY15-16 for the estimated \$30 million needed to modernize ABC point of sale and online systems
- D. Oppose Proposed Tripling of VDACS/VDH Food Inspection Fees
 - a. Currently, the fee for inspection by VDACS, VDH is \$40 to inspect wineries, restaurants, among other food establishments for the benefit of consumers
 - b. Proposed fees are \$40 - \$375 for the same services
 - c. Support Budget Amendments carried by Delegate O'Bannon and Senator Wagner to repeal the proposed increased fees
- E. Oppose elimination of phase-out of accelerated sales tax
 - a. The proposed elimination of the phase-out of the AST and change in policy would impact many suppliers in the wine industry as well as retailers small and large
 - b. Support budget amendments carried by Delegate O'Bannon, Delegate Poindexter and Senator Wagner to repeal the phase out and change of policy
- F. Support HB 1364/Bulova and SB 946/ Favola increasing the ABV for Virginia Wine produced by farm wineries
 - a. Currently farm wineries may produce wine up to 18% ABV; fortified wines up to 21% ABV
 - b. Permit farm wineries to produce wine up to 21% just as commercial wineries are able
- G. Support HB 1481/ Rush and SB 1165/ McWaters creating a new Educational Winery License for accredited institutions of higher education
 - a. Permits accredited institutions of higher education to operate a farm winery for the purposes of education and research only

IX. Analysis

a. Case Study of Local Regulations

1. Northern Virginia
2. Charlottesville Area

a. **Impact of Virginia Wineworks**, Charlottesville, Virginia

b. <http://www.virginiawineworks.com/>

Virginia Wineworks is the first winery in Virginia to offer custom winemaking services. Whether an independent grower, a winery with limited capacity or an individual with the desire to create his or her own wines, Virginia Wineworks can get you from the vineyard to the bottle. It offers several winemaking options, including the ability to be “hands on” in the winemaking process or, if preferred, creating the wine for clients. Its team will set up a consultation to discuss your winemaking goals and work with you to teach you the intricacies of each step in the winemaking process.

- #### c.
- Clients can source their grapes through Virginia Wineworks. It has access to many of Virginia’s finest vineyards and can offer the choice of many varieties, from Chardonnay, Viognier, Merlot, Cabernet Franc to many others. Once your grapes arrive, the company will develop a winemaking plan. If you want to follow each step in the winemaking process or prefer to be involved from time to time, it can develop a plan to fit your needs. You will work on your wine using Wineworks’ equipment and be on site as often as you would like. It has new and used barrels available for aging and can offer advice on the impact of oak aging on your wine. Virginia Wineworks can arrange the label design, bottling and brand registration of your wines—if you would like to make it a commercial product. It can also provide warehousing, distribution and sales.

X. Conclusions/Recommendations/Future Research

a. Look at Oregon LIVE (Low Impact Viticulture Enology Program)

- i. <http://liveinc.org>

b. Custom Crush Wineries

- i. <http://www.winebusiness.com/wbm/index.cfm?go=getArticle&dataId=91624>
- ii. If a growing trend that helps economically, what if/any are the pending regulations?

- XI. Appendices
 - a. Contacts
 - b. References
 - i. Commercial Grape Varieties for Virginia
 - ii. http://pubs.ext.vt.edu/463/463-019/463-019_pdf.pdf
 - iii. VSWAG

Questions for Katie Hallebash

Friday, March 20th at 1:30pm

- 1.) What happened generally in 2015 Legislation
- 2.) What happened in regards to Virginia Wine Council Legislative Priorities
 - (1) <http://www.virginiawinecouncil.org/currentLegAgenda.html>
 - (2) The Virginia Wine Council speaks with one clear voice in Richmond promoting funding and legislation that fosters an environment for the successful operation of wineries, vineyards and cideries. The Virginia Wine Council defends against unreasonable, burdensome and costly regulations to the industry.

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N. Support HB 1481/ Rush and SB 1165/ McWaters creating a new Educational Winery License for accredited institutions of higher education

- a. Permits accredited institutions of higher education to operate a farm winery for the purposes of education and research only

Other Items:

c. 2013

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