
AB 2004

Assembly Bill 2004 will change the rules of the game for winery tasting rooms beginning January 1, 2009. Under current law, the type 02 “*wine-grower*” license from the California Alcoholic Beverage Control held by most winery tasting rooms only allows a “*taste*” of wine, which generally is interpreted to mean 1 ounce. Serving more requires a regular on-sale license. After January 1, 2009, these same wineries will be able to sell wine by the bottle and glass for consumption on the premises, without having to apply for any changes in their license.

For years, many wineries have sold bottles of wine out of their tasting rooms and then allowed the customers to picnic with the wine in surrounding garden areas. It always has been unclear whether this practice was permitted under the type 02 license. The customary but thin justification given for the operation has been that the license only covers the tasting room and so picnicking with the just purchased wine in the garden areas does not violate the license. This logic has been tolerated but roundly criticized. The point of AB 2004 appears to be to clarify the issue and allow wineries to openly permit on-site consumption.

The new rules create two potential problems. One is the fact that the sales and consumption can only take place on the “*licensed premises*.” Some commentators have opined that depending upon how the license reads, the “*licensed premises*” may be limited to the tasting room. That may mean that wineries will need to revise their licenses to add areas such as the gardens to the licensed premises.

A second potential problem has to do with other typical land use regulations. The city or county land use permits allowing the winery to locate at a particular site may contain restrictions on alcohol sales to small quantity tasting and sales for off-site consumption. Anyone planning to allow continued (or perhaps promote increased) on-site consumption should review their land use permits as well as their ABC license.

– *Alex Simas* –

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