

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM S-8

**REGISTRATION STATEMENT
under the
SECURITIES ACT OF 1933**

Fresh Vine Wine, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Nevada
(State or Other Jurisdiction of
Incorporation or Organization)

87-3905007
(I.R.S. Employer
Identification No.)

505 Highway 169 North, Suite 255
Plymouth, MN 55441
(855) 766-9463
(Address of Principal Executive Offices) (Zip Code)

2021 Equity Incentive Plan
Founder Option Agreements
(Full Title of the Plans)

Janelle Anderson
Chief Executive Officer
505 Highway 169 North, Suite 255
Plymouth, MN 55441
(Name, Address and Telephone Number of Agent for Service
with a copy to:

Alan M. Gilbert
Maslon LLP
90 South 7th Street, Suite 3300
Minneapolis, MN 55402
Telephone: (612) 672-8381
Fax: (612) 642-8381

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the “Securities Act”), and the Note to Part I of Form S-8. Such information is not being filed with the Securities and Exchange Commission (the “Commission”) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such information has been or will be delivered to participants in the plan covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by Fresh Vine Wine, Inc. (the “Registrant”) with the Commission are incorporated herein by reference:

- (1) The Registrant’s Prospectus dated December 13, 2021 and filed with the Commission pursuant to [Rule 424\(b\)](#) under the Securities Act relating to the Registrant’s Registration Statement on Form S-1 as amended (Registration No. 333-261037);
- (2) The Registrant’s Current Report(s) on [Form 8-K](#) filed with the Commission on February 11, 2022; and
- (3) The description of the Registrant’s common stock, \$0.001 par value per share, contained in the Registrant’s Registration Statement on [Form 8-A](#), filed with the Commission pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), on December 9, 2021, and any other amendments or reports filed for the purpose of updating such description (File No. 001-41147).

All reports and other documents filed by the Registrant after the date hereof pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be part hereof from the date of filing of such reports and documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Nevada law permits a company to indemnify its directors and officers, except for any act of dishonesty. The Registrant’s articles of incorporation and bylaws provide for the indemnification of its officers and directors against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with the defense of any action, suit or proceeding in which they are a party by reason of their status as an officer or director, provided they acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, without reasonable cause to believe their conduct was unlawful. The Registrant has also entered into customary indemnification agreements with each of its directors and officers that provide them, in general, with customary indemnification in connection with their service to the Registrant or on the Registrant’s behalf. The Registrant also maintains officers’ and directors’ liability insurance that insures against liabilities that its officers and directors may incur in such capacities.

The Registrant’s articles of incorporation limits or eliminates the personal liability of its officers and directors for damages resulting from breaches of their fiduciary duty for acts or omissions, except for damages resulting from acts or omissions which involve intentional misconduct, fraud, a knowing violation of law, or the inappropriate payment of dividends in violation of Nevada Revised Statutes. The above discussion of our articles of incorporation, bylaws and Nevada law is not intended to be exhaustive and is respectively qualified in its entirety by such articles of incorporation, bylaws and applicable Nevada law.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit No.	Description
3.1	Certificate of Incorporation of Fresh Vine Wine, Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on December 20, 2021)
3.2	Bylaws of Fresh Vine Wine, Inc. (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed on December 20, 2021)
4.1	Form of Specimen Certificate representing shares of common stock of Fresh Vine Wine, Inc. (incorporated by reference to Exhibit 4.1 to the Registration Statement on Form S-1 (File No. 333-261037) filed on November 29, 2021)
4.2	Fresh Vine Wine, Inc. 2021 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed on December 20, 2021)
4.3	Form of Founders' Option Agreement (incorporated by reference to Exhibit 10.9 to the Registration Statement on Form S-1 (File No. 333-261037) filed on November 29, 2021)
5.1	Opinion of Maslon LLP
23.1	Consent of Wipfli LLP
23.2	Consent of Maslon LLP (included in Exhibit 5.1)
24.1	Power of Attorney (included on signature pages to this registration statement)
107	Filing Fee Table

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in this registration statement;

- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
 - (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, State of Minnesota, on February 22, 2022.

FRESH VINE WINE, INC.

By: /s/ Janelle Anderson
Name: Janelle Anderson
Title: Chief Executive Officer

* * *

SIGNATURES & POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Janelle Anderson and Elliot Savoie as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign this registration statement. and any or all amendments (including post-effective amendments) or supplements thereto and any new registration statement with respect to the offering contemplated thereby filed pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises hereby ratifying and confirming all the said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Janelle Anderson</u> Janelle Anderson	Chief Executive Officer (principal executive officer) and Director	February 22, 2022
<u>/s/ Elliot Savoie</u> Elliot Savoie	Chief Financial Officer (principal financial and accounting officer) and Secretary	February 22, 2022
<u>/s/ Damian Novak</u> Damian Novak	Executive Chairman and Director	February 22, 2022
<u>/s/ Rick Nechio</u> Rick Nechio	President and Director	February 22, 2022
<u>/s/ Eric Doan</u> Eric Doan	Director	February 22, 2022
<u>/s/ Michael Pruitt</u> Michael Pruitt	Director	February 22, 2022

February 22, 2022

Fresh Grapes,
LLC 505 Highway 169 North, Suite 255
Plymouth, MN 55441

Re: Registration Statement on Form S-8 – Exhibit 5.1

Ladies and Gentlemen:

This opinion is furnished to you in connection with the registration statement on Form S-8 (the “**Registration Statement**”), filed with the Securities and Exchange Commission (the “**Commission**”) under the Securities Act of 1933, as amended (the “**Securities Act**”), for the registration of an aggregate of (i) 1,800,000 shares common stock, \$0.001 par value (“**Common Stock**”), of Fresh Vine Wine, Inc., a Nevada corporation (the “**Company**”), issuable under the Company’s 2021 Equity Incentive Plan (the “**2021 Plan**”), and (ii) 1,500,004 shares of Common Stock issuable pursuant to certain Founder Option Agreements by and between the Company and certain of its founders (the “**Founders’ Options**”). The shares of Common Stock issuable pursuant to the 2021 Plan and issuable upon exercise of the Founders’ Options are collectively referred to herein as the “**Shares**.”

We are familiar with the actions taken by the Company in connection with the adoption of the 2021 Plan and the Founders’ Options. For purposes of our opinion, we have examined and relied upon such documents, records, certificates and other instruments as we have deemed necessary.

The opinions expressed below are limited to the corporation laws of the State of Nevada (including the statutory provisions and all applicable judicial decisions interpreting those laws).

Based on the foregoing, we are of the opinion that the Shares have been duly authorized and, when the Shares have been issued and sold in accordance with the 2021 Plan and the Founders’ Options, as applicable, and when delivered against payment thereof in the manner contemplated by the 2021 Plan and the Founders’ Options, as applicable, the Shares will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Sincerely,

/s/ Maslon LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated August 31, 2021 relating to the financial statements of Fresh Grapes, LLC, appearing in the Registration Statement No. 333-261037 on Form S-1.

/s/ Wipfli LLP

Minneapolis, Minnesota
February 22, 2022

Calculation of Filing Fee Tables

Form S-8
(Form Type)

FRESH VINE WINE, INC.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

	Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered (1)	Proposed Maximum Offering Price Per Share (4)	Maximum Aggregate Offering Price (4)	Fee Rate	Amount of Registration Fee	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial effective date	Filing Fee Previously Paid In Connection with Unsold Securities to be Carried Forward
Newly Registered Securities												
Fees to Be Paid	Equity	Common Stock, \$0.001 par value	Rule 457(c) and Rule 457(h)	1,800,000 (2)	\$4.66	\$8,379,000.00	\$0.0000927	\$776.73				
Fees to Be Paid	Equity	Common Stock, \$0.001 par value	Rule 457(c) and Rule 457(h)	1,500,004 (3)	\$4.66	\$6,982,518.62	\$0.0000927	\$647.28				
Fees Previously Paid												
Carry Forward Securities												
Carry Forward Securities												
	Total Offering Amounts				-	\$15,361,518.62	-	\$1,424.01				
	Total Fees Previously Paid				-	-	-	-				
	Total Fee Offsets				-	-	-	-				
	Net Fee Due				-	-	-	\$1,424.01				

- (1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of common stock, par value \$0.001 per share (“Common Stock”), of Fresh Vine Wine, Inc. (the “Registrant”) that may become issuable under the Registrant’s 2021 Equity Incentive Plan (the “Plan”) and upon the exercise of the Registrant’s Founder Option Agreements, by reason of any stock dividend, stock split, recapitalization or other similar transaction that increases the number of the outstanding shares of Common Stock.
- (2) Represents 1,800,000 shares of Common Stock reserved for issuance under the Registrant’s 2021 Equity Incentive Plan.
- (3) Represents 1,500,004 shares of Common Stock that may be issued upon the exercise of the Registrant’s Founder Option Agreements.
- (4) Estimated solely for purposes of calculating the registration fee in accordance with Rules 457(c) and 457(h) of the Securities Act by averaging the high and low sales prices of the Registrant’s Common Stock reported on The NYSE American on February 18, 2022.