

Testimony to 2020 Special Committee on Economic Recovery
Scott Schneider, Hinkle Law Firm
November 16, 2020



Chair and Members of the committee,
I am Scott Schneider with Hinkle Law Firm representing the Kansas Restaurant & Hospitality Association. I last presented to this committee in August where I made several recommendations. I believe those recommendations remain an appropriate path forward. I continue to be concerned the exercising of the Kansas Emergency Management Act at the State or County level has resulted in the largest government taking in our history. Again, these are my concerns with the rights we seemed to have overlooked.

- 1) Create more due process in both state and local orders. The courts shouldn't be the only meaningful procedural remedy.
- 2) Recognize equal protection principles.
- 3) Don't tax businesses that government also shuts down.

What legislation would we like to see passed to address other obstacles?

- 1) Make permanent the legislation passed assisting carry-out and delivery concerns.
- 2) Business liability limitations.
- 3) Unemployment insurance solution.
- 4) Linked deposit loan program.

Where is the Industry?

Compared to August 2019, most Kansas restaurant owner/operators surveyed reported a steep drop in same store sales:

- 33.3% reported sales down 26–50%
- 23.1% reported sales down 11–25%
- 18.8% reported sales down more than 50%

Compared to September 2019, 74.7% of owner/operators reported flat or reduced staff hours:

- 12.8% reported hours down more than 50%
- 24.8% reported staff hours down 26–50%
- 19.7% reported staff hours down 11–25%
- 17.1% reported staff hours down 0–10%
- 14.5% reported flat hours

Where are people drinking: The New Temperance Movement?

State Liquor Excise Tax (10% of retail sales)

Date FY 2020 Jan – Jun & FY 2021 July - Oct	Liquor Excise Calendar 2019	Liquor Excise Calendar 2020	Percentage year over year
Jan-19	\$4,296,228.95	\$4,471,986	104.09%
Feb-19	\$3,694,902.09	\$3,746,934	101.41%
Mar-19	\$4,008,317.58	\$3,361,344	83.86%
Apr-19	\$4,345,852.65	\$2,144,111	49.34%
May-19	\$4,255,838.91	\$782,678	18.39%
Jun-19	\$4,344,537.95	\$1,724,399	39.69%
July 2020	\$4,445,762	\$3,050,723	68.62%
August 2020	\$3,927,104	\$2,846,261	72.48%
September 2020	\$4,101,345	\$3,078,050	75.05%
October 2020	\$4,427,555	\$3,524,190	79.60%

State Enforcement Tax (8% of Package Stores)

Calendar Year	Liquor Enforcement Calendar 2019	Liquor Enforcement Calendar 2020	Parentage year over year
Jan-19	\$6,937,583	\$6,973,667	100.52%
Feb-19	\$5,883,927	\$5,147,676	87.49%
Mar-19	\$6,149,552	\$5,915,630	96.20%
Apr-19	\$5,220,427	\$6,216,964	119.09%
May-19	\$6,437,334	\$6,164,279	95.76%
Jun-19	\$6,144,968	\$6,906,985	112.40%
Jul-20	\$6,729,024	\$7,835,079	116.44%
Aug-20	\$5,920,626	\$7,039,564	118.90%
Sep-20	\$5,739,320	\$6,799,696	118.48%
Oct-20	\$6,228,242	\$6,453,820	103.62%
Nov-20			
Dec-20			



Media Contact

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FOR IMMEDIATE RELEASE:

New Study by the Kansas Restaurant & Hospitality Association Sheds Light on COVID-19 Transmission and Safety in Kansas Restaurants

A survey of Kansas restaurant owner/operators reveals a low rate of infections directly linked to their establishments, as well as the harsh economic reality faced by the industry and its employees.

TOPEKA, Kan. – As the pandemic stretches on and the public must make decisions about activities outside of their home, it is imperative that they have complete and accurate information about the spread of COVID-19.

A number of articles have been published recently with selective data points that fail to offer a thorough assessment of the safety of restaurants. Namely, the stories overlook staff and customer behavior outside of restaurants that is a major contributing factor in transmission.

The Kansas Restaurant & Hospitality Association (KRHA) recently completed a study in order to gain further insights into the spread of COVID-19 in Kansas establishments, as well as the economic state of the Kansas restaurant industry.

KRHA surveyed its membership of restaurant owner/operators from across the state, garnering a large response. The sampling represents restaurants of several types, including:

- Casual Dining/Table Service with Alcohol (34.2% of respondents)
- Casual Dining/Table Service without Alcohol (27.4%)
- Fast Casual or Quick Service with a drive thru (23.9%)
- Bar & Grill (14.5%)

One of the survey's most significant findings is the number of COVID-19 infections among owner/operators: 97.4% are active in the day-to-day operations of their restaurant business, but only 3.4% report having or having had COVID-19. All those who did report an

infection believe they contracted the virus outside the restaurant (i.e. at a social event or family gathering).

This finding is especially significant, says Adam Mills, President & CEO of KRHA. “These owner/operators are continually in the restaurant environment. If restaurants truly are a space where the virus spreads more easily than in others, as some of the recent news stories have said, we should see an infection rate many times higher than the general Kansas population.”

Not only have the majority of owner/operators not contracted COVID-19 themselves, most have not experienced an outbreak at their establishment. Only 3.4% report having an outbreak claim that was directly linked back to their restaurant from customers or employees.

This is not surprising to Mills, who remarks: “COVID-19 or not, Kansas restaurant and hospitality businesses are always required to follow stringent health and sanitation requirements. We have approached COVID-19 putting guest and employee health at the top of the list.”

In the rare event that multiple employees tested positive for COVID-19, the survey responses reflected the [difficulty of tracing the source of the initial infection](#). Fifty-eight percent of owner/operators reported definitively that their employees interact socially outside of work, but 37.6% were unsure. Less than half of those surveyed could reply definitively (yes or no) as to whether employees with the virus contracted it from “friends they were with outside of work.”

The same, says Mills, might be extrapolated in regards to customer behavior and the difficulty in pinpointing the initial site of virus contraction. “People who are eating out in restaurants are most assuredly doing other things in public like going to work, the grocery store, church, parties, family and other social gatherings, etc. They are likely around people without masks quite often. How can we say definitively that they contracted the virus at the restaurant?”

What is more definite is the effect of the continuing pandemic on Kansas restaurant businesses. The survey results highlight the struggle of restaurants not only to keep the doors open, but to provide hours for employees.

Compared to August 2019, most Kansas restaurant owner/operators surveyed reported a steep drop in same store sales:

- 33.3% reported sales down 26–50%
- 23.1% reported sales down 11–25%
- 18.8% reported sales down more than 50%

Of the remaining quarter of respondents, $\frac{1}{8}$ reported flat sales or sales down less than 10%, while the other $\frac{1}{8}$ reported increased sales.

While 54.7% of owner/operators have no plans to close permanently within the next year, an alarming 21.4% believe that they will only be able to remain in business for 3–6 months under the current conditions. Six percent put that timeframe at a mere 1–3 months.

Even at restaurants that are not in imminent danger of closing, Kansas restaurant workers are feeling the pinch in terms of reduced hours.

Compared to September 2019, 74.7% of owner/operators reported flat or reduced staff hours:

- 24.8% reported staff hours down 26–50%
- 19.7% reported staff hours down 11–25%
- 17.1% reported staff hours down 0–10%
- 14.5% reported flat hours
- 12.8% reported hours down more than 50%

The goal of this study, says Mills, is to provide balanced and accurate information for consumers, businesses and decision-makers.

“We want people to understand the facts so they can make well-informed decisions. The KRHA will continue to work for the safe reopening of Kansas restaurants, taking into account first and foremost the health of employees and consumers, and the health of this vital industry to the Kansas economy. Our Kansas restaurant businesses, and the thousands of people they employ, depend on it.”

About the Kansas Restaurant and Hospitality Association (KRHA)

Founded in 1929, the Kansas Restaurant and Hospitality Association (KRHA) is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied businesses in Kansas. The Association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas. For more information about the KRHA, visit [KRHA.org](https://www.krha.org).

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