

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 13, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Ed Van Petten, Kansas Lottery Commission
Keith Kocher, Kansas Lottery Commission
Thomas Groneman, Alcohol Beverage Control

Others attending:

See attached list.

Introduction of Bills

Senator Owens requested two bill introductions. (Attachment 1) The first bill introduction is relating to the tobacco tax on moist snuff.

Senator Owens moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

The next bill introduction to amend KSA 79-3301 and 79-3371 relating to the tobacco tax on little cigars.

Senator Owens moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Stephen Martino, Executive Director, Kansas Racing and Gaming Commission, provided a response to the Committee's request for information on the Boot Hill Casino and Resort in Ford County. (Attachment 2)

Ed Van Petten, Executive Director, Kansas Lottery Commission, provided an Agency Update to the committee. (Attachment 3) The Kansas Lottery is considering the possibility of proposing legislation permitting vending machines in Kansas; technology has advanced to the point that age verification is included with the machines, thus eliminating the possibility of minors purchasing lottery products from the machines. Sales for FY 2009 totaled \$230,505,668, and is about 4.7% above last year's sales. Arkansas joined the Powerball game this fall bringing the total number of members to 33. Starting January 31, 2010, the MegaMillions game will be available at all Kansas Lottery retailers.

The 2002 legislature allowed the Lottery to modify the method of calculating transfers made each month; and as a result, the lottery has been able to boost payouts on instant products which boosts sales and the overall amount of money transferred. Since this change was made, transfers have increased from \$60.5 million in FY 2002, to approximately \$70 million the past few years. The 2008 Legislature changed the distribution of funds for the Veteran's Benefit Games; net funds are now distributed 30% to the National Guard Museum fund (through June 2010), 40% to Kansas National guard education Assistance Act Scholarships, and 30% will benefit the Kansas Veterans' Home in Winfield, the Kansas Soldiers' Home at Fort Dodge, and the Veterans Cemetery system. The games are now being sold year round.

The Committee discussed the security and sting operations that have been performed in the last year.

A new contract for the Lottery headquarters and warehouse has been awarded, this will allow the Lottery to have all offices and storage together.

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on January 13, 2010, in Room 144-S of the Capitol.

Keith Kocher, Director of Gaming Facilities, Kansas Lottery Commission, updated the committee on Expanded Gaming by zones.

Southeast Gaming Zone - Following the 2008 withdrawal of Penn National Gaming to become a lottery gaming facility manager applicant in the SE Gaming Zone, the process was recommenced. After several deadlines for new applications had passed, one application was received and rejected, because the applicant failed to demonstrate adequate Class III gaming experience and sufficient access to financial means to make the project viable. The next application deadline is January 15, 2010, and if no application is received, the Kansas Lottery Commission already voted to automatically extend the deadline to April 16, 2010.

South Central Gaming Zone - In 2008 the Lottery successfully negotiated contracts with three manager applicants; the Lottery chose Sumner Gaming Joint Venture, before the contract became binding they chose to withdraw citing the world-wide financial crisis. The Lottery received applications from three entities: Lakes development; Chisholm Creek (the Foxwoods, owned by the Mashantucket Pequot Tribe); and prairie Sky (Peter Simon, John Ensign, and others). Prior to negotiating a final contract, Prairie Sky withdrew and Lakes Development and Chisholm Creek combined their efforts under the Chisholm Creek application, thereby leaving one joint applicant in the Zone. In addition, the Foxwoods' component of the project was taken over by Och-Ziff Development and Clairvest, with ownership interests as follows: Lakes Development 17%; Och-Ziff 50%; and Clairvest 33%.

The Lottery Gaming Facility Review Board conducted a series of hearings regarding both the South Central and the Northeast Gaming Zone. Based upon a desire to firm up plans to build a hotel as part of the lottery gaming facility enterprise, and the impact of a potential tribal gaming facility in or near Wichita, Chisholm Creek requested the Review Board return the contract to the Lottery for further negotiation. Those revised contract negotiations are ongoing at this time.

Northeast Gaming Zone - In 2008 contracts were signed by a total of five applicants but two withdrew before getting to the Review Board stage; the board selected Kansas Entertainment, LLC, which was comprised of The Cordish Company and The International Speedway Corporation/Kansas Speedway. Immediately prior to the contract becoming binding, they withdrew based upon financial stresses being experienced around the world. Three applications were received when the bids were re-opened; the applicants were Penn National Gaming; Kansas Entertainment (The International Speedway Corporation and the Cordish Group, the same entity previously selected by the Review Board); and Golden Gaming. Golden Gaming dropped out of the process almost immediately but contract negotiations commenced with the two remaining applicants. The Cordish Group withdrew from the Kansas entertainment applications and Penn National is taking its place; the "Hard Rock" name and theme of the casino would be changed to "Hollywood Kansas." Assuming the contract is approved by the KRGC, Kansas Entertainment intends to commence construction of the "Hollywood Kansas" casino on the second turn of the Kansas Speedway in Kansas City, Kansas, in May of 2010, with a target completion date of 14 months later.

Southwest Gaming Zone - In 2008 the Lottery contracted with both of the entities submitting applications in the Southwest Gaming Zone. The Review Board chose Butler National Service Corporation as manager of the "Boot Hill Casino & Resort" to be located on the outskirts of Dodge City; the approved applicant and contract became binding on December 4, 2008. The Boot Hill Casino is presently underway with an anticipated completion date of February 2011.

Racetrack Gaming Facilities stated their intent to seek amendments to the KELA during the 2009 legislative session, but no such amendments materialized, and KRGC assumes those efforts will continue during the 2010 session.

Thomas Groneman, Director, Alcohol Beverage Control Division, (ABC) provided a brief overview on the Alcoholic Beverage Control Division. (Attachment 4) The number one priority of the ABC is to fairly administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees; as part of the Department of Revenue, it is ABC's duty to see that all applicable liquor taxes due and owing are collected. The division is divided into three organizational units: licensing,

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on January 13, 2010, in Room 144-S of the Capitol.

administration and enforcement.

Licensing processed 4,340 licenses and permits in 2009, for retail liquor stores, distributors, manufacturers, farm wineries, micro breweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, special order shippers, suppliers and temporary permit holders. The current turn around time for a renewal license is 3-4 weeks. The licensing team is responsible for collecting the various gallonage taxes, while the miscellaneous tax team is responsible for collecting liquor enforcement and liquor drink taxes. The break down of gallonage tax on alcohol and spirits: 10% goes to SRS Community Alcoholism and Intoxication Program and the remainder to the State General Fund; (SGF) 70% of Liquor Drinks (Liquor Excise Tax) goes to Local Alcoholic Liquor fund; 5% goes to the SRS Community Intoxication Program and 25% to the SGF.

The ABC administrative unit performs general staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping, equipment management, records management, systems management, criminal history background investigations on licensees and coordinates the division's activities. There are currently 15 admin positions, of which two are vacant.

The Enforcement unit provides investigative support for the ABC Director and Chief Enforcement Officer. There are currently 20 agent positions, of which one is vacant. Enforcement agents are certified law enforcement officers, and conduct criminal and administrative investigations to determine compliance with liquor laws. Agents provide training to licensees and local law enforcement officers; conduct controlled buy operations and bar checks. Enforcement works closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in alleged violations are presented to the County or District Attorney for criminal prosecution against the individual and/or the ABC Assistant Attorney General (AAG) for administrative action against the licensee. The Licensee Administrative Action (LAA) section is staffed by the AAG assigned to the ABC, a legal assistant and one support staff. The AAG reviews the cases presented by the enforcement section and local law enforcement agencies to determine the appropriateness of the charges and administratively prosecutes violations of the liquor laws before the Director.

ABC has been assigned other duties over the years, including conducting the compliance checks required under the federal Synar amendment; under Synar, the state must maintain a minimum compliance rate of 80% for sales of cigarettes to minors or risk losing a portion of the block grant monies allocated to SRS for substance abuse programs. In 2005 the compliance rate for tobacco sales to minors dipped to 62% and the state had to decide between taking a \$5.4 M reduction in the block grant or pay a \$2.2 M penalty to be used to raise the compliance rate; SRS entered into an Interagency Agreement with ABC to create a Cigarette and Tobacco Enforcement Team (CATE); the team consists of eight (8) statewide inspectors conducting enforcement activities, and is funded annually through funds received from SRS.

ABC is charged with finding ways to increase revenues and provide more efficient customer service with fewer resources. ABC will asking for introduction of proposed legislation this session. Maps were provided that reflect:

- Active Kansas on-Premise and Off-Premise Licenses
- Active Kansas Distributor Licenses
- Active Kansas Micro brewery Licenses
- Active Kansas Farm Winery and Outlet Licenses
- Kansas Liquor-by-the-Drink (November 2008)

The next meeting is scheduled for January 19, 2010. The meeting was adjourned at 11:35 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE 1-13-10

NAME	REPRESENTING
Kari Prestley	Kearney & Associates Inc.
Kevin Barone	SCED
Rich BARTON	The Cap Lobby Group, LLC
Jay Hall	KRGC
Jackson Lindsey	Hein Law
Daniel Berg	Breakthrough
Tom Groneman	ABC
Anne Zinn	ABC
Amy Campbell	KABR

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Proposed Kansas Moist Snuff Amendments

A BILL to amend §§ 79-3301 and 79-3371 of the Kansas Statutes, relating to the tobacco tax on moist snuff.

Be it enacted by the Legislature of the State of Kansas:

KSA §79-3301 is hereby amended to read as follows:

79-3301. Definitions. As used in this act:

- (a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.
- (b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.
- (c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.
- (d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.
- (e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.
- (f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.
- (g) "Director" means the director of taxation.
- (h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale; (2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or (3) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.
- (i) "Division" means the division of taxation.
- (j) "License" means, in addition to the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, the written evidence of such authority or privilege to so operate as evidenced by any license issued by the director of taxation.
- (k) "Licensee" means any person holding a current license issued pursuant to this act.
- (l) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.
- (m) "Meter imprints" means tax indicia applied by means of ink printing machines.
- (n) "*Moist snuff*" means any finely cut, ground, or powdered tobacco that is not intended to be smoked but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.
- (o)(1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer.

(2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" shall have the meaning ascribed thereto in 15 U.S.C. § 1332(4).

(pø) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

(qþ) "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

(rø) "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes for the purpose of sale to a consumer.

(sø) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

(ts) "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

(uø) "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

(vø) "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

(wø) "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff (*including moist snuff*), snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products does not include cigarettes.

(xø) "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

(yø) "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

(zø) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from the machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

(aaø) "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

(bbaø) "Wholesale sales price" means the original net invoice price for which [a] manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

(ccø) "Importer" shall have the same meaning ascribed thereto in 26 U.S.C. § 5702(1).

(dø) "Manufacturer" shall have the same meaning ascribed thereto in 26 U.S.C. § 5702(d).

KSA §79-3371 is hereby amended to read as follows:

79-3371. Tax on privilege of selling tobacco products. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof. *The tax on tobacco products other than moist snuff shall be at the rate of ten percent (10%) of the wholesale sales price of such tobacco products. The tax on moist snuff shall be at the rate of [xx. ~~10~~⁷⁵] cents for each ounce of moist snuff and a proportionate tax at the like rate on all fractional parts of an ounce thereof. ~~Such tax~~ The taxes imposed under this section shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.*

Little Cigars Should Be Taxed At the Same Rate as Cigarettes

Philip Morris USA supports legislation that taxes “little cigars” – which share many similarities with cigarettes in their appearance, packaging, and marketing – at the same rate as cigarettes.

Although “little cigars” are recognized as a separate class of tobacco products under federal law, typical little cigar products share many of the attributes of cigarettes – they are shaped like cigarettes, use cellulose acetate filters, are often contained in 20-unit packs that look similar to cigarette packs, and are often marketed to adult cigarette consumers.

Historically, little cigars have enjoyed significant tax advantages over cigarettes at both the federal and state levels. This large divergence in excise tax rates has contributed to significant growth in the little cigar segment, driven largely by adult cigarette smokers seeking cheaper alternatives with features similar to cigarettes. This trend has, in turn, led to lower tax revenues to the federal and state governments – all without any public policy benefits.

This situation is now changing. As of April 1, 2009, the federal excise tax on little cigars is set at the same rate as cigarettes. In addition, eleven states, Washington D.C., and Puerto Rico effectively apply the same tax rate on cigarettes and little cigars. We support this effort to equalize tax rates between little cigars and cigarettes.

In Kansas, the current disparity in tax rates creates benefits for manufacturers of discount little cigars without any return benefit for the state government. To illustrate, the table below shows the current tax differentials for two brands of little cigars.¹

	Wholesale Price	Current Tax 10% of Wholesale Price	Cigarette Tax	Difference
Swisher Sweet Little Cigars	\$2.25	$2.25 * 10\% = \$0.23$	\$0.79	\$0.56
Dutch Treats	\$1.75	$1.75 * 10\% = \$0.18$	\$0.79	\$0.61

This tax differential results in less revenue to the state. The estimated revenues from little cigars at the current 10% rate and at the cigarette excise tax rate are shown below.² By equalizing the tax on little cigars to the cigarette rate, Kansas would realize an estimated \$1.14 million in additional revenue per year.

Kansas Little Cigar Revenues			
Estimated Current at 10%	Estimated at \$0.79/pack Cigarette Rate	Estimated Increase (%)	Estimated Increase (\$)
\$360,000	\$1.5 million	317%	\$1.14 million

There is no public policy benefit in providing little cigars with these tax advantages, given the similarities between these products. By equalizing the tax on these products, Kansas can realize more revenue and create greater tax equity for the adult consumer.

¹ Iowa Department of Revenue Minimum Legal Prices as of November 3, 2009.

² The revenues are estimates and based on data from the ALCS STARS database for the year 2010. It was assumed that the entire FET increase was passed on to the consumer and that the average little cigar price was \$1.72/pack.



Proposed Kansas Little Cigar Amendments

A BILL to amend §§ 79-3301 and 79-3371 of the Kansas Statutes, relating to the tobacco tax on little cigars.

Be it enacted by the Legislature of the State of Kansas:

KSA §79-3301 is hereby amended to read as follows:

79-3301. Definitions

As used in this act:

- (a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.
- (b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.
- (c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.
- (d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.
- (e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.
- (f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.
- (g) "Director" means the director of taxation.
- (h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale; (2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or (3) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.
- (i) "Division" means the division of taxation.
- (j) "License" means, in addition to the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, the written evidence of such authority or privilege to so operate as evidenced by any license issued by the director of taxation.
- (k) "Licensee" means any person holding a current license issued pursuant to this act.
- (l) *"Little cigar" means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco, and weighs not more than four (4) pounds per thousand (1,000); provided that if a product also meets the*

definition of "cigarette" under the subsection (c) of this section, it shall be treated as a cigarette and not as a little cigar.

~~(ml)~~ "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

~~(mm)~~ "Meter imprints" means tax indicia applied by means of ink printing machines.

~~(on)~~(1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer.

(2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" shall have the meaning ascribed thereto in 15 U.S.C. § 1332(4).

~~(pe)~~ "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

~~(qp)~~ "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

~~(rq)~~ "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes for the purpose of sale to a consumer.

~~(sf)~~ "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

~~(ts)~~ "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

~~(ut)~~ "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

~~(vu)~~ "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

~~(wv)~~ "Tobacco products" means cigars, (*including little cigars*), cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products does not include cigarettes.

~~(xw)~~ "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

~~(yx)~~ "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

~~(zy)~~ "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from the machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine; nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or

lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

(*aa*) "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

(*ba*) "Wholesale sales price" means the original net invoice price for which [a] manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

(*cb*) "Importer" shall have the same meaning ascribed thereto in 26 U.S.C. § 5702(1).

(*de*) "Manufacturer" shall have the same meaning ascribed thereto in 26 U.S.C. § 5702(d).

KSA §79-3371 is hereby amended to read as follows:

79-3371. Tax on privilege of selling tobacco products

A tax is hereby imposed upon the privilege of selling or dealing in tobacco products, *other than little cigars*, in this state by any person engaged in business as a distributor thereof, at the rate of ten percent (10%) of the wholesale sales price of such tobacco products. *A tax is hereby imposed upon the privilege of selling or dealing in little cigars in this state by any person engaged in business as a distributor thereof, at the same rate per little cigar as is imposed on cigarettes under section 79-3310 of the Kansas Revised Statutes, as such section may be amended from time to time, or in any successor provision taxing cigarettes.* ~~Such tax~~ The taxes imposed under this section shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

January 13, 2010

Senator Pete Brungardt
Chairman, Federal and State Affairs
Capitol Building, 136 -- E
Topeka, Kansas 66612

RE: Employment at Boot Hill Casino and Resort

Dear Senator Brungardt:

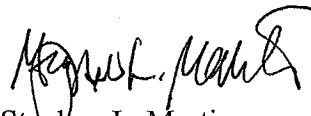
During yesterday's committee meeting, Senator Reitz asked a question regarding staff and economic impacts at the Boot Hill Casino and Resort in Ford County. We did not have an answer at that time but have obtained the information from Boot Hill management.

Total Employees:	255
Full Time Employees:	246
Part Time Employees:	9

All full-time employees work 40 hours per week. Part-time employees work 32 hours or less per week. Part-time employees are not eligible for benefits. After passing a 90-day probationary period, all full-time employees are eligible for health, dental and vision insurance benefits through the Boot Hill Casino and Resort.

If you have any further questions regarding this, or any other matter related to the Kansas Racing and Gaming Commission, do not hesitate to contact me.

Sincerely,



Stephen L. Martino
Executive Director



Ed Van Petten
Executive Director

Mark Parkinson
Governor

**Testimony Before The
Senate Federal and State Affairs Committee
Agency Update January 13, 2010**

Presented By:
Ed Van Petten, Executive Director
and
Keith Kocher, Director of Gaming Facilities
Kansas Lottery

Mr. Chairman and members of the Committee:

I. Legislative Issues

The Kansas Lottery is considering the possibility of proposing legislation permitting vending machines in Kansas. Technology has advanced to the point that age verification is included with the machines, thus eliminating the possibility of minors purchasing lottery products from the machines. All research has not yet been completed; therefore no proposal has been brought forth at this time.

II. Sales

Sales for FY 2009 totaled \$230,505,668. We are presently about 4.7% above last year's sales. Instant ticket sales are about even from last year, with increases of just over 10% on all three jackpot games. Both Keno and Kansas Hold'em, our monitor games, are showing a drop in sales. These games are played mostly in social environments and have been showing slight decreases the last few years.

Arkansas joined the Powerball game this fall bringing the total number of members to 33. In addition, the states in the Multistate Lottery Association have reached an agreement with the states in the MegaMillions consortium, to allow cross selling of each other's games. Starting January 31, 2010, the MegaMillions game will be available at all Kansas Lottery retailers.

Two years ago we launched the first multi-state instant game in the history of United States lotteries, with our partners at the Iowa Lottery. We are now on our third "Midwest Millions" ticket. Sales of that game have been strong, and continue to be. On January 15 the first of two drawings will be held in Topeka for \$500,000. The second drawing for \$500,000 will be in Des Moines, Iowa on April 16.

128 North Kansas Avenue - Topeka, Kansas 66603-3638
Phone: 785-296-5700 - Fax 785-296-5712 - www.kslottery.com

Sn Fed & State
Attachment 3

1-13-10

III. Transfers

The 2002 legislature allowed the Lottery to modify the method of calculating transfers made each month. Rather than the statutory provision of transferring 30% of gross sales each month, the Omnibus bill allowed for minimum monthly transfers of \$4.5 million, and a minimum annual total of \$59 million. This request was made to give us more flexibility in operations and make it possible to increase prize payouts to bolster sales. As a result of these changes, the lottery has been able to boost payouts on our instant products which have helped boost our sales, and thus the overall amount of money transferred. This has been continued in the Omnibus bill each year since, with the target transfer for this fiscal year being \$72 million. Since this change was made, transfers have increased from \$60.5 million in FY 2002, to approximately \$70 million the past few years.

IV. Operations

Our primary concern continues to be security, both in our gaming system and field operations. We have eliminated the ability of programmers to access the gaming system unaudited by adding a test system, detached from the gaming system, for developing new programs. We have also continued to increase the audit functions, or oversight, on the gaming system. In the last security audit conducted for Legislative Post Audit, Delehanty Consulting LLC reported, "The Kansas Lottery's security culture may set the standard for the U.S. lottery industry."

Beginning last summer we initiated the Retailer Honesty Assurance Program, to make sure our players are treated fairly by retailers. Tickets appearing to be winning tickets were presented to a number of retailers. On six occasions the person working informed our undercover agent that the ticket was not a winner. Those persons are being prosecuted by the Office of the Attorney General for Attempted Theft and Computer Crimes. Both charges are felonies. Thus far there has been one conviction, and the other five are pending. Three of the people charged were owners of the businesses or a family member. Those contracts were immediately terminated. We allowed the other three retailers to continue selling, if the offending employee was terminated.

We continue to reduce the use of paper to the greatest degree possible. Daily and weekly sales reports, which formerly were distributed on paper, are now paperless and maintained electronically. All draw information is also maintained paperless, and all investigation reports and work papers are stored electronically.

We are required to survey retailers to ensure compliance with the Americans with Disabilities Act, which is a continuing responsibility. We continue to enjoy a good working relationship with Anthony Fadale, State ADA Coordinator. All surveys are conducted by our security division.

Last year we paid retailer commissions of \$13,446,468, with total commissions paid through FY 09 of \$207,783,560.

V. Partnerships

We continue to develop marketing partnerships with Kansas businesses and industries. As you are aware, we market games with Kansas Speedway, the Kansas State Fair, Midwest Ford Dealers and General Motors. We have also promoted tourism in our state with "Flint Hills Treasures," "The Great Santa Fe Trail Horse Race," "Sunflower State Games" and most recently "Painted Byways" a game featuring our nine scenic byways and artwork by Stan Herd. We enjoyed a great partnership with the Kansas Department of Transportation, Kansas Department of Commerce and the Kansas Arts Commission in promoting the byways of Kansas. Other partners include the Wichita Riverfest, the 3i Show, Garmin, Cougar Boats, Cabela's, Bass Pro Shops and Kansas Department of Wildlife and Parks. Our intent with these "Made in Kansas" games is to increase the exposure of Kansas business, industry and tourism, as well as to generate enthusiasm in Kansas citizens for our games. Thus far with this project over the past few years, we have spent over \$5 million with Kansas businesses and tourism.

There are a number of businesses in the lottery industry that license certain products for use of logos and use their merchandise for prizes in conjunction with lottery games. These licenses are quite often very expensive, so we have tried to generate the same effect of "brand" or name recognition, and hopefully help a Kansas business in the process. Instead of costing the Lottery extra, the merchandise has been provided at reduced cost, with no charges or minimal charges for the use of logos and names. This seems to be a good way to stimulate economic development in Kansas, while generating revenue for the state.

We do still use some licensed games, as they do generate excitement with players and sometimes attract new and lapsed players.

VI. Veteran's Benefit Games

FY 09 sales for the Veteran's Benefit Games were \$5,064,820, which resulted in a transfer for those programs of \$1,628,958. The 2008 Legislature changed the distribution of funds. Net funds are now distributed 30% to the National Guard Museum fund (through June 2010), 40% to Kansas National Guard Education Assistance Act Scholarships, and 30% will benefit the Kansas Veterans' Home in Winfield, the Kansas Soldiers' Home at Fort Dodge, and the Veterans Cemetery System. The games are now being sold year round.

VII. New Games this Year

We now have the capacity to conduct raffle style games after the completion of the system conversion and just completed the first raffle, called "The Holiday Millionaire Raffle." Veronica Mason of Wichita, won \$1 million. We also have five \$50,000 winners and five hundred \$500 winners in the game. We had 150,000 tickets in the game which launched on October 18. All tickets sold out on November 24, proving the game to be a huge success.

VIII. RFP's

In the past year we awarded a new contract for the Lottery headquarters and warehouse. Our present landlord acquired the building to the south of our present building and is in the process of remodeling. We will occupy both buildings, allowing us to have all offices and storage together.

IX. EXPANDED GAMING

A. SOUTHEAST GAMING ZONE (Crawford and Cherokee counties)

Following the 2008 withdrawal of Penn National Gaming to become a lottery gaming facility manager applicant in the Southeast Gaming Zone, the application process was recommenced. Several deadlines for new applications had passed before one was received in October, 2009; however, that application was rejected in part because the applicant failed to demonstrate adequate Class III gaming experience and sufficient access to financial means to make the project viable. The current deadline to file applications in the Southeast Gaming Zone is January 15, 2010. If no applications are timely received the Kansas Lottery Commission has already voted to automatically extend the deadline to April 16, 2010.

B. SOUTH CENTRAL GAMING ZONE (Sumner County)

In 2008 the Lottery successfully negotiated contracts with three manager applicants in this Zone. Of those, the Lottery Gaming Facility Review Board (Review Board) chose Sumner Gaming Joint Venture, which casino was to have been operated at the Mulvane exit of the Kansas Turnpike under the Harrah's name. Before that contract became binding they chose to withdraw citing the world-wide financial crisis.

Prior to the new deadline of April 1, 2009 the Lottery received applications from the following three entities: Lakes Development; Chisholm Creek (the Foxwoods, owned by the Mashantucket Pequot Tribe); and Prairie Sky (Peter Simon, John Ensign, and others). Prior to negotiating a final contract Prairie Sky withdrew and Lakes Development and Chisholm Creek combined their efforts under the Chisholm Creek application, thereby leaving one joint applicant in the Zone. In addition, the Foxwoods' component of the project was taken over by Och-Ziff Development and Clairvest, with ownership interests as follows: Lakes Development 17%; Och-Ziff 50%; and Clairvest 33%.

The Lottery Gaming Facility Review Board conducted a series of hearings regarding both the South Central and the Northeast Gaming Zone. Based upon a desire to firm up plans to build a hotel as part of the lottery gaming facility enterprise, as well as consider the impact of a potential tribal gaming facility in or near Wichita, Chisholm Creek requested the Review Board return the contract to the Lottery for further negotiation (to which request the Lottery acquiesced). Those revised contract negotiations are ongoing at this time.

C. NORTHEAST GAMING ZONE (Wyandotte County)

In 2008 contracts were signed by a total of five applicants but two withdrew before getting to the Review Board stage. The Review Board selected Kansas Entertainment, LLC, which was comprised of The Cordish Company and The International Speedway Corporation/Kansas Speedway. Once again, immediately prior to their contract becoming binding they withdrew based upon financial stresses being experienced around the world.

Bids were re-opened with a new deadline of April 1, 2009. Three applications were received, as follows: Penn National Gaming; Kansas Entertainment (The International Speedway Corporation and the Cordish Group, the same entity previously selected by the Review Board); and Golden Gaming. Golden Gaming dropped out of the process almost immediately but contract negotiations commenced with the two remaining applicants.

The Lottery had negotiated a final contract with Kansas Entertainment and was all but done with the Penn National contract when both applicants asked for the process to be suspended for a short period of time. At the end of that time the applicants announced that the Cordish Group was withdrawing from the Kansas Entertainment application and Penn National would be taking its place. Further, the "Hard Rock" name and theme of the casino would be changed to a "Hollywood Kansas."

As mentioned above, the Review Board conducted a series of hearings, which in December 2009 resulted in a unanimous decision to approve the Kansas Entertainment contract (now comprised of The International Speedway Corporation and Penn National Gaming). The Kansas Racing and Gaming Commission (KRGC) is now conducting its background and suitability investigation, which is expected to be completed sometime in February.

Assuming the contract is approved by the KRGC, Kansas Entertainment intends to commence construction of the "Hollywood Kansas" casino on the second turn of the Kansas Speedway in Kansas City, Kansas in May of this year. The target completion date is 14 months thereafter.

At opening the 100,000 square foot gaming floor will house 2,300 slot machines and 86 table games. Amenities include 28,000 square feet of restaurants, clubs, retail, and night-life attractions. The second phase of the project includes not only additional gaming floor space, but a hotel with a minimum of 250 rooms, which is to be completed within 24 months of the initial opening of the casino, along with additional meeting facilities, lobby bar, and other food and beverage amenities.

D. SOUTHWEST GAMING ZONE (Ford County)

In 2008 the Lottery contracted with both of the entities submitting applications in the Southwest Gaming Zone. The Review Board chose Butler National Service Corporation as manager of the "Boot Hill Casino & Resort" to be located on the outskirts of Dodge City, Kansas. The KRGC approved the applicant and their contract became binding on December 4, 2008.

A ground-breaking ceremony was conducted on December 22, 2008 and construction commenced immediately thereafter. Following various testing and controlled demonstrations, the Boot Hill Casino & Resort opened to the general public on December 15, 2009, with Governor Parkinson conducting the official ribbon cutting on December 16.

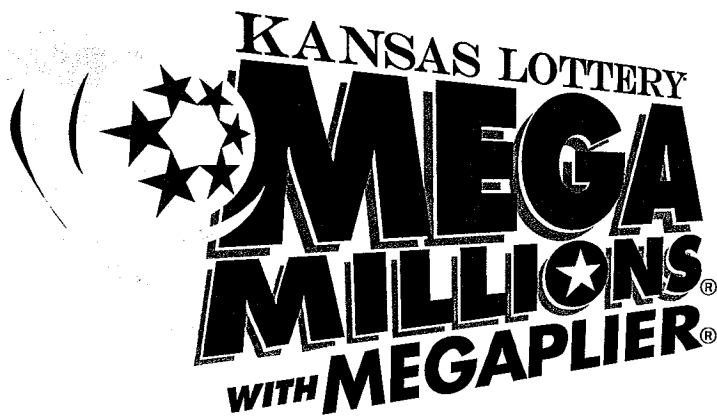
“Phase I” of the gaming facility includes approximately 585 slot machines and 12 table games. Amenities include a full-service restaurant, a snack bar, a “saloon”, and a retail shop. In the partial month of operations thus far, net gaming facility revenues have varied widely on a daily basis, but have averaged in excess of \$100,000 per day. “Net gaming facility revenues” are all amounts wagered less prizes paid, which net amount is then available for distribution to the State (22%), the manager (73%), the city and county (1.5% each), and the Problem Gambling and Addictions Grant Fund (2%).

“Phase II” of the project is to be completed no later than February 2011, which will include the final build-out of the 120-room hotel, conference center, spa, swimming pool, and other ancillary facilities and will bring the total number of slot machines to about 875 with additional table game positions as well. Furthermore, the independently funded “Events Center” being built by Dodge City and Ford County immediately adjacent to the Boot Hill Casino is presently underway with an anticipated completion date of February 2011.

E. RACETRACK GAMING FACILITIES

As reported last year, the Lottery previously negotiated extensively with the Woodlands Racetrack in Kansas City but was unable to reach a final contract. The Lottery agreed the Woodlands would receive virtually every dollar of net machine income they possibly could receive under the provisions of the KELA, but the manager still found that unfeasible. The owner of the Camptown Racetrack in Frontenac had for the most part relied upon the manager of the Woodlands Racetrack to conduct initial negotiations with the Lottery, but he has also publicly stated his opinion that the percentages allocated by statute are insufficient to create an acceptable return on investment.

Because there is very little (if anything) more the Lottery could offer them, both parimutuel licensees stated their intent to seek amendments to the KELA during the 2009 legislative session, but no such amendments materialized. We assume those efforts will continue during the 2010 session.



An agreement has been made between the Powerball and Mega Millions states allowing lottery jurisdictions to offer both games for sale. Each lottery jurisdiction can independently decide which game(s) it wants to offer for sale, making it optional and not required to sell both games.

IMPORTANT DATES:

- Sunday, January 31, 2010 - Tickets Go On Sale Statewide
- Tuesday, February 2, 2010 - 1st Kansas Mega Millions Drawing
- Friday, February 5, 2010 - 2nd Kansas Mega Millions Drawing



- Minimum Jackpot: \$12 million
- Matrix: 5 out of 56 white balls & 1 "Mega Ball" out of 46 gold balls
- Draw Dates: Tuesday & Friday
- Multiplier: Megaplier (2, 3 & 4)
Doubles the total cost of your wager on all boards
- Overall Odds: 1:40
- Jackpot Odds: 1:175,711,536
- Jurisdictions Selling as of 1/1/10: 12
- Multi-Draws: Up to 15 on a single ticket
- 9 Ways to Win
- Tickets cannot be cancelled
- Payment Options: If annuity, jackpot is paid over 26 years. If cash option, receive the cash available for this prize pool. Any or all prizes may become pari-mutuel.

- Minimum Jackpot: \$20 million
- Matrix: 5 out of 59 white balls & 1 "Powerball" out of 39 red balls
- Draw Dates: Wednesday & Saturday
- Multiplier: Power Play (2, 3, 4 & 5)
Doubles the total cost of your wager on all boards
- Overall Odds: 1:35
- Jackpot Odds: 1:195,249,054
- Jurisdictions Selling as of 1/1/10: 33
- Multi-Draws: Up to 15 on a single ticket
- 9 Ways to Win
- Tickets cannot be cancelled
- Payment Options: If graduated annuity, jackpot is paid over 30 years. If cash option, receive the cash available for this prize pool. Any or all prizes may become pari-mutuel.

**Briefing on Alcoholic Beverage Control Division
To
The Senate Committee on Federal and State Affairs**

**By Thomas W. Groneman
Director**

January 13, 2010

Mr. Chairman, Members of the Committee, it is my pleasure to appear before you today to present a brief overview of the Alcoholic Beverage Control Division (ABC).

The number one priority of the Alcoholic Beverage Control Division is to fairly administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. Also, as part of the Department of Revenue, it is our duty to see that all applicable liquor taxes due and owing are collected.

The division is divided into three organizational units: licensing, administration and enforcement.

Licensing

In 2009, licensing processed 4,340 licenses and permits for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, special order shippers, suppliers and temporary permit holders. In addition, licensing team members answer an average of 114 calls per day and respond to an average of eight walk-in customers per day. There are currently nine licensing positions, three of which are vacant. The current turn around time for a renewal license is 3-4 weeks.

The following is a summary of licenses by license type for years 2007 through 2010:

License Type	2007	2008	2009	2010
Retail Liquor Store	731	734	742	752
Class "A" Clubs	315	300	302	296
Class "B" Clubs	150	149	136	128
Drinking Establishments	1,674	1,637	1,672	1695
Caterers	120	137	143	157
Beer Distributors	42	41	40	37
Spirits Distributors	6	17	15	14
Wine Distributors	8	16	15	14
Microbreweries	14	16	18	15
Farm Wineries	18	19	22	23
Outlets	6	6	8	9
Winery Shipping Permits				
In-State		2	1	Repealed
Out-of-State		38	57	Repealed
Special Order Shipping				252
Manufacturers	6	7	4	5
Temporary Permits	338	280	316	170
Supplier Permits	565	626	693	773
TOTAL	3,993	4,025	4,184	4,340

The licensing team is responsible for collecting the various gallonage taxes, while the miscellaneous tax team is responsible for collecting liquor enforcement and liquor drink taxes. The following liquor related taxes were collected during FY2007-FY2010.

Gallonage Tax Rates:

Alcohol/Spirits	\$2.50 per gallon
Fortified Wine	.75 per gallon
Light Wine	.30 per gallon
Beer/CMB	.18 per gallon

Tax Type	FY 2007	FY 2008	FY 2009	FY 2010 (6 mo)
Gallonage - Beer	\$8,328,417	\$8,382,304	\$8,713,269	\$4,459,260
Gallonage - Cereal Malt Beverage	\$2,090,992	\$2,228,227	\$2,088,508	\$1,042,807
Gallonage - Alcohol and Spirits*	\$8,480,249	\$8,950,393	\$9,257,287	\$4,610,382
Gallonage - Wine	\$1,045,683	\$1,068,393	\$1,088,337	\$573,644
Gallonage - Farm Wineries	\$19,140	\$18,512	\$20,139	\$10,001
Gallonage - Microbreweries	\$58,593	\$54,643	\$61,121	\$33,693
Gallonage Tax Total	\$20,023,074	\$20,702,472	\$21,228,661	\$10,729,787
Liquor Enforcement	\$47,138,288	\$49,982,534	\$53,794,049	\$27,675,083
Liquor Drink**	\$34,268,848	\$35,613,659	\$36,565,645	\$17,475,652
TOTAL	\$101,430,210	\$106,298,665	\$111,588,355	\$55,880,522

* 10% of gallonage tax on alcohol and spirits goes to SRS Community Alcoholism and Intoxication Program and the remainder to the state general fund.

** 70% of Liquor Drink aka Liquor Excise Tax goes to Local Alcoholic Liquor fund, 5% goes to the SRS Community Intoxication Program and 25% to the state general fund.

Total alcohol related revenue collected for FY2007- FY2010 (6 months):

Revenue Source	FY 2007	FY 2008	FY 2009	FY 2010
All Liquor Licensing and Registration Fees	\$2,588,600	\$2,620,664	\$2,619,254	\$1,442,396
Supplier's Permit	\$19,550	\$18,285	\$19,715	\$4,575
All Label Fees	\$754,218	\$717,449	\$692,630	\$174,653
Cereal Malt Beverage Retail Stamp	\$80,225	\$78,405	\$81,825	\$19,550
Liquor Drink Tax	\$34,268,848	\$35,613,659	\$36,565,645	\$17,475,652
Liquor Enforcement Tax	\$47,138,288	\$49,982,534	\$53,794,049	\$27,675,083
Gallonage Tax	\$20,003,993	\$20,683,088	\$21,228,739	\$10,729,865
ABC Liquor Fines	\$455,065	\$238,095	\$396,983	\$216,329
ABC LIQUOR REVENUE TOTAL	\$105,308,787	\$109,952,179	\$115,398,840	\$57,738,103

Administration

The ABC administrative unit performs general staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping, equipment management, records management, systems management, criminal history background investigations on licensees and coordinates the division's activities. There are currently 15 admin positions, of which two are vacant.

FY09 and FY10 budgets for the division are as follows:

	FY 2009 Budget	FY 2009 Actual	FY 2010 Budget
Salary & Wages	\$2,182,634	\$2,109,060	\$2,115,052
OOE	\$300,691	\$210,215	\$307,660
TOTAL	\$2,483,325	\$2,319,275	\$2,422,712

Enforcement

The Enforcement unit provides investigative support for the ABC Director and Chief Enforcement Officer. There are currently 20 agent positions, of which one is vacant. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations to determine compliance with liquor laws. Agents provide training to licensees and local law enforcement officers; conduct controlled buy operations and bar checks; investigate complaints and hidden ownerships; and, perform routine compliance checks. Enforcement works closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in alleged violations are presented to the County or District Attorney for criminal prosecution against the individual and/or the ABC Assistant Attorney General (AAG) for administrative action against the licensee.

	FY 2007	FY 2008	FY 2009	FY 2010 (6 mo)
INSPECTIONS				
Number Performed	1,647	1,757	2,541	1,178
Violations	83	78	150	73
Compliance Rate	95%	96%	94%	94%
SALES TO MINORS				
Random Controlled Buys Performed	529	537	420	185
Violations	149	110	83	40
Compliance Rate	72%	80%	80%	78%
Chosen Controlled Buys Performed	399	615	323	248
Violations	112	104	55	31
Compliance Rate	72%	83%	83%	88%
OTHER ENFORCEMENT ACTIVITY*				
Liquor Investigations Performed	909	1,132	1,204	733
Violations	84	86	86	66
Compliance Rate	91%	92%	93%	91%

*Other Enforcement Activities include citations for the following:

- Membership violations
- Trade practices violations
- Allowing minors in possession on licensed premises
- Unregistered or ineligible employees
- Selling liquor while license was suspended or expired
- Open and selling after legal operating hours

The Licensee Administrative Action (LAA) section is staffed by the AAG assigned to the ABC, a legal assistant and one support staff. The AAG reviews the cases presented by the enforcement section and local law enforcement agencies to determine the appropriateness of the charges and administratively prosecutes violations of the liquor laws before the Director. Following are the number of citations issued for FY2007 through FY2010 and the total fines collected for those years:

	FY 2007	FY 2008	FY 2009	FY 2010 (6 mo)
Liquor Citations	550	437	911	621
Tax Orders	276	143	235	92
Total Liquor Citations Issued	826	580	1,146	713
Liquor Citations	\$273,614	\$105,275	\$243,380	\$169,098
Tax Orders	\$181,451	\$132,820	\$153,603	\$47,231
Total Liquor Fines Collected	\$455,065	\$238,095	\$396,983	\$216,329

Over the years the ABC has been assigned other duties, including conducting the compliance checks required under the federal Synar amendment. Under Synar, the state must maintain a minimum compliance rate of 80% for sales of cigarettes to minors or risk losing a portion of the block grant monies allocated to SRS for substance abuse programs. During FFY2009 ABC agents and Underage Cooperating Individuals (UCI's) performed 425 random buy attempts to measure compliance under the Synar Amendment resulting in 33 sales for a 92% compliance rate. This compares to FFY 2006, FFY 2007 and FFY 2008 results as follows:

	FFY 2006	FFY 2007	FFY 2008	FFY 2009
Attempted buys	447	580	413	425
Sales made	88	70	66	33
Compliance rate	80.31%	88.10%	84%	92%

In 2005 the compliance rate for tobacco sales to minors dipped to 62% and the state had to decide between taking a \$5.4M reduction in the block grant or pay a \$2.2M penalty to be used to raise the compliance rate. SRS entered into an Interagency Agreement with ABC to create a Cigarette and Tobacco Enforcement Team (CATE). The CATE team began in July 2007 and is funded annually through funds received from SRS. The objective of the CATE team is to strengthen the enforcement of cigarette and tobacco laws, ensure compliance with the Synar Amendment and protect federal block grant funds received by SRS.

The CATE inspectors perform statewide cigarette and tobacco enforcement activities aimed at reducing sales of cigarette and tobacco products to minors. CATE conducts controlled buy visits at all youth accessible retail licensee locations. Targeted enforcement revisits are made at locations that have failed prior enforcement visits.

The CATE team currently consists of eight (8) statewide inspectors conducting enforcement activities; along with a staff attorney and two (2) administrative assistants.

	FY 2008	FY 2009	FY 2010 (6 mo)
INSPECTIONS			
Number Performed	1,660	2,847	1,404
Violations	22	47	33
Compliance Rate	99%	98%	88%
SALES TO MINORS			
Chosen Controlled Buys Performed	1,893	3,967	2,507
Violations	218	440	176
Compliance Rate	88%	89%	93%

In addition, ABC agents are responsible for levying drug tax assessments across the state. During FY 2009, agents made 549 drug tax assessments totaling \$8,461,529 resulting in collections of \$1,053,011.

	FY 2007	FY 2008	FY 2009	FY 2010 (6 mo)
Assessments	433	555	549	213
Amount	\$4,621,953	\$7,972,261	8,461,529	13,505,411
Collected	\$1,051,508	\$1,180,969	1,053,011	391,190

Legislation passed in 2009

In 2009, SB212 was passed which was a compilation of several liquor related bills. Included in SB212 was the new special order shipping license allowing for direct shipment of wine from a licensed winery to a consumer in Kansas. There have been 252 new licenses issued, two to Kansas farm wineries. This license replaces the wine shipping permit (58 issued) that required wine to be shipped to a retailer and picked up by the consumer. Also in the bill, were provisions for farm wineries to apply for an annual sales permit to display and sell wine in the original unopened container at farmer’s markets; obtain a manufacturer’s license; and, manufacture and bottle wine at winery outlets. To date there have been two farmers market sales permits issued. In addition, the bill allowed for clubs and drinking establishments to sell and store wine for consumers on their licensed premises. The bill did not require any permit or notification so we are not aware to what extent this has occurred. The bill created a temporary permit for special events to be held on public streets, alleys, roads, sidewalks or highways approved by ordinance or resolution of the local governing body. There have been two special events authorized and permits issued both in the City of Wichita. Finally, the bill provided for cities or counties to request at any time a hearing on whether a license issued under the club and drinking establishment act should be suspended or revoked. There have been no hearings requested.

Proposed Legislation

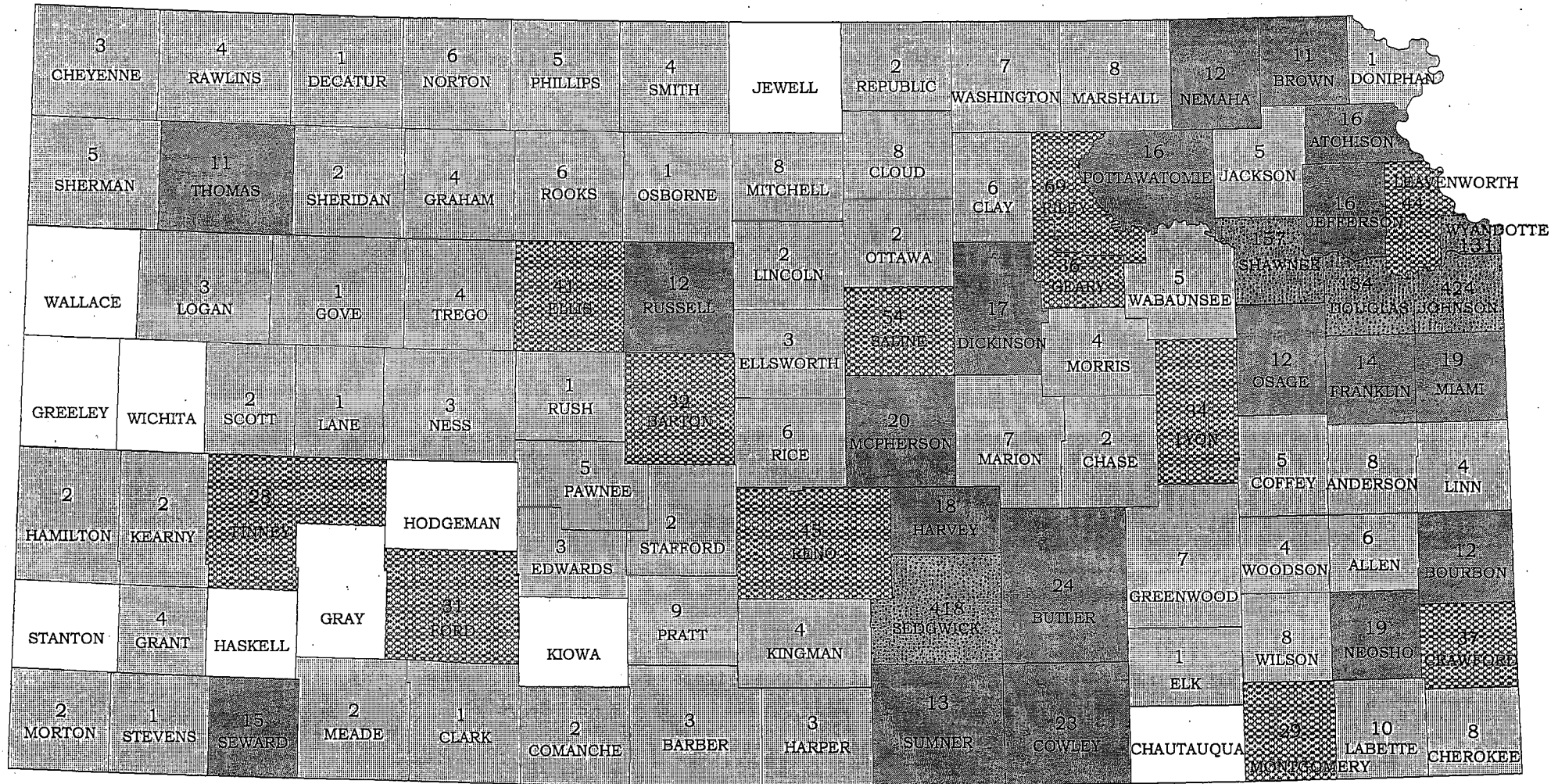
The last 12 months have been challenging times for everyone. Budgets have been cut and cut again. As employees have retired or changed jobs, positions have been left vacant. We have been charged with finding ways to increase revenues and provide more efficient customer service with fewer resources. Some of the initiatives we are pursuing will require changes to current law and we will be asking for introduction of proposed legislation this session.

I look forward to working with the legislature and industry members during the coming session to try and address these and other common issues.

ENCLOSURES:

- 2008 Kansas Liquor-by-the-Drink Map
- 2010 Map of Active Kansas Liquor Licenses: Off-Premise Retailers
- 2010 Map of Active Kansas Liquor Licenses: On-Premise Retailers
- 2010 Map of Active Kansas Liquor Licenses: Distributors
- 2010 Map of Active Kansas Liquor Licenses: Farm Wineries and Outlets
- 2010 Map of Active Kansas Liquor Licenses: Microbreweries

Active Kansas On-Premise Licenses



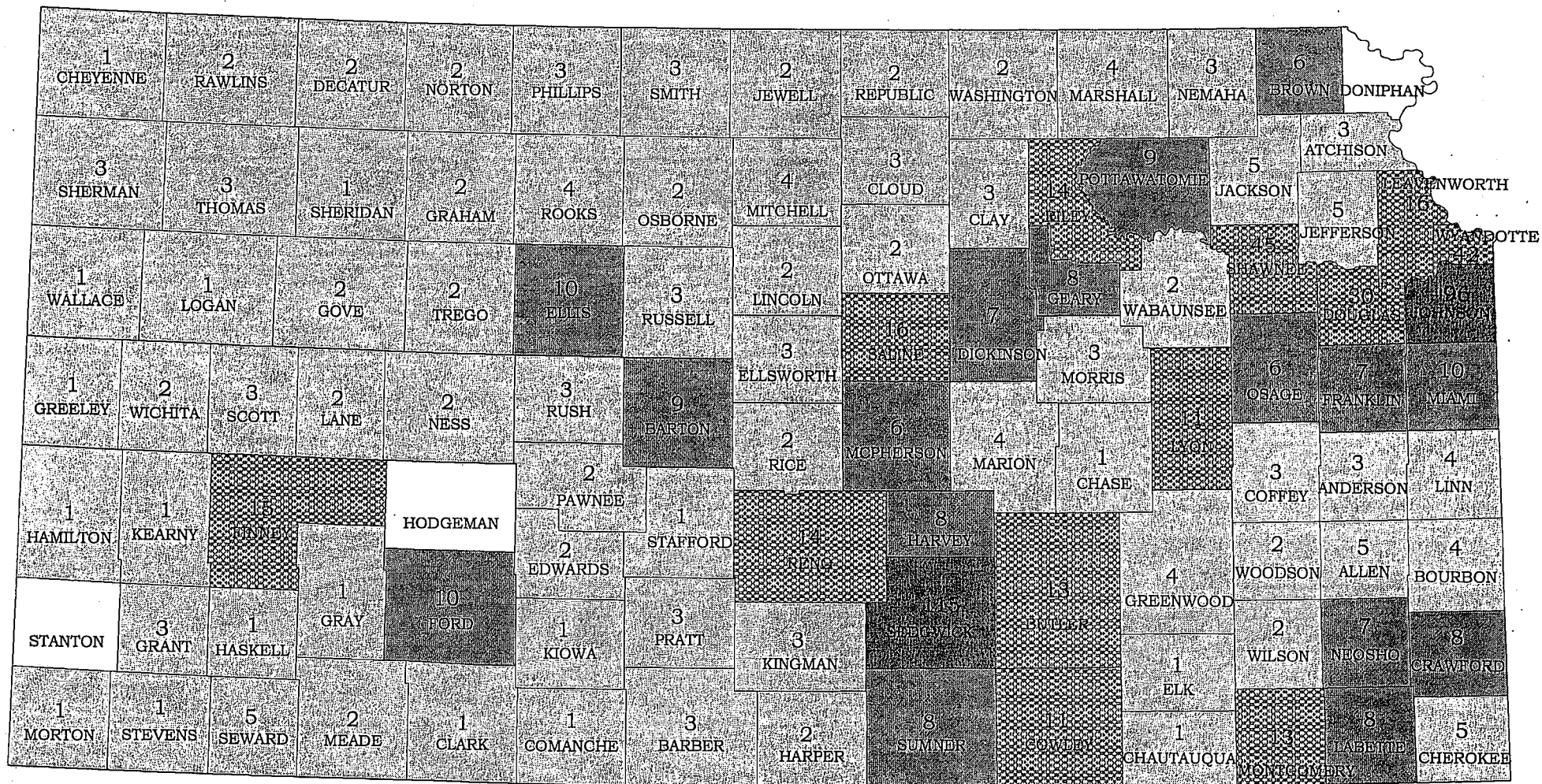
January 13, 2010
Map #AC10-001

# of Counties	# of Licenses Per County
(10)	0
(59)	1 - 10
(19)	11 - 25
(12)	26 - 100
(5)	101 - 434

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2010

Total: 2,277 Active On-Premise Licenses

Active Kansas Off-Premise Licenses



of Counties # of Licenses Per County

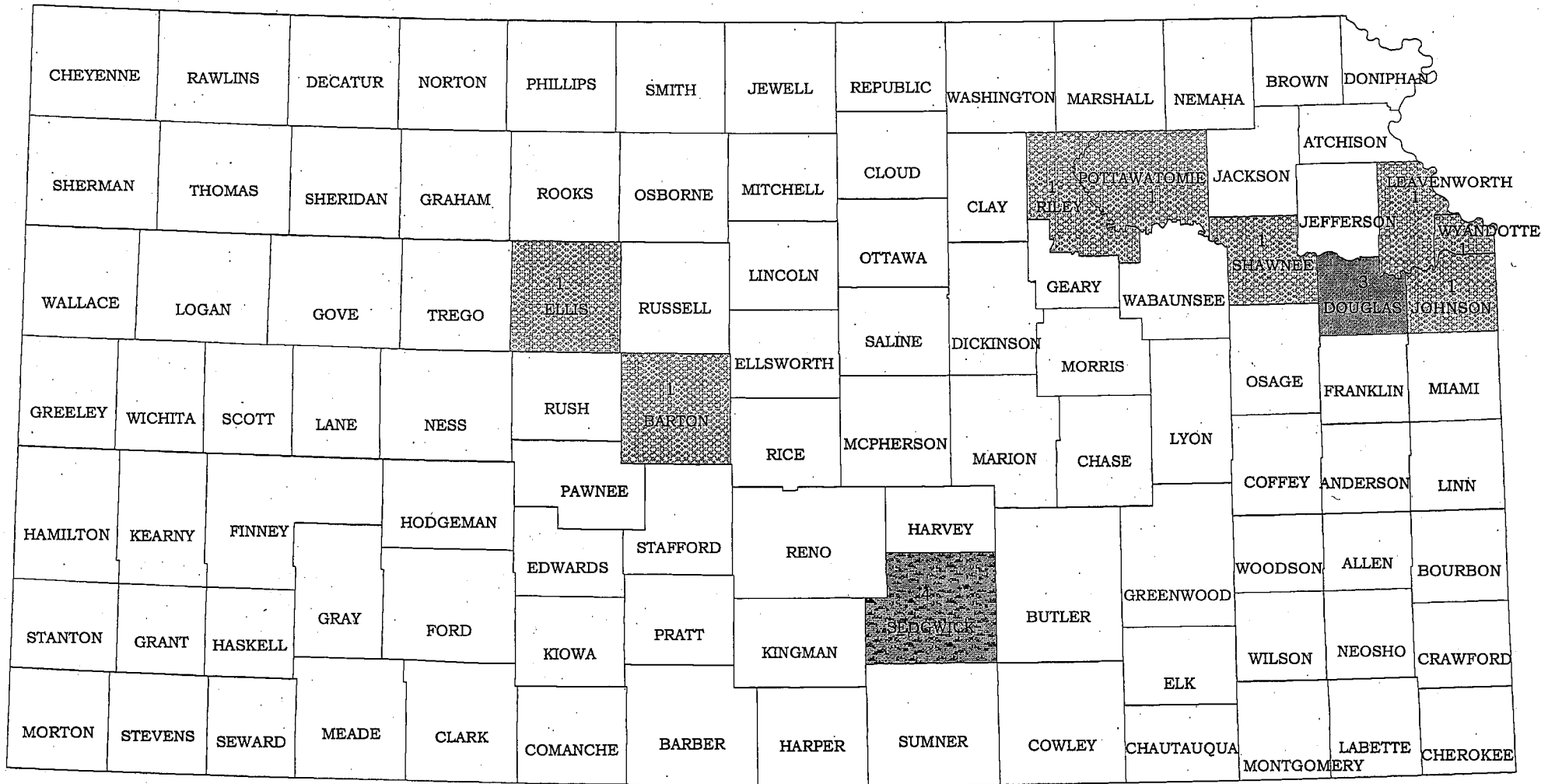
(3)		0
(72)		1 - 5
(16)		6 - 10
(12)		11 - 50
(2)		51 - 120

January 13, 2010
Map #AC10-002

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2010

Total: 752 Active Off-Premise Licenses

Active Kansas Microbrewery Licenses



January 13, 2010
Map #AC10-004

of Counties

(8)

(1)

(1)

of Licenses Per County



County has One Microbrewery License

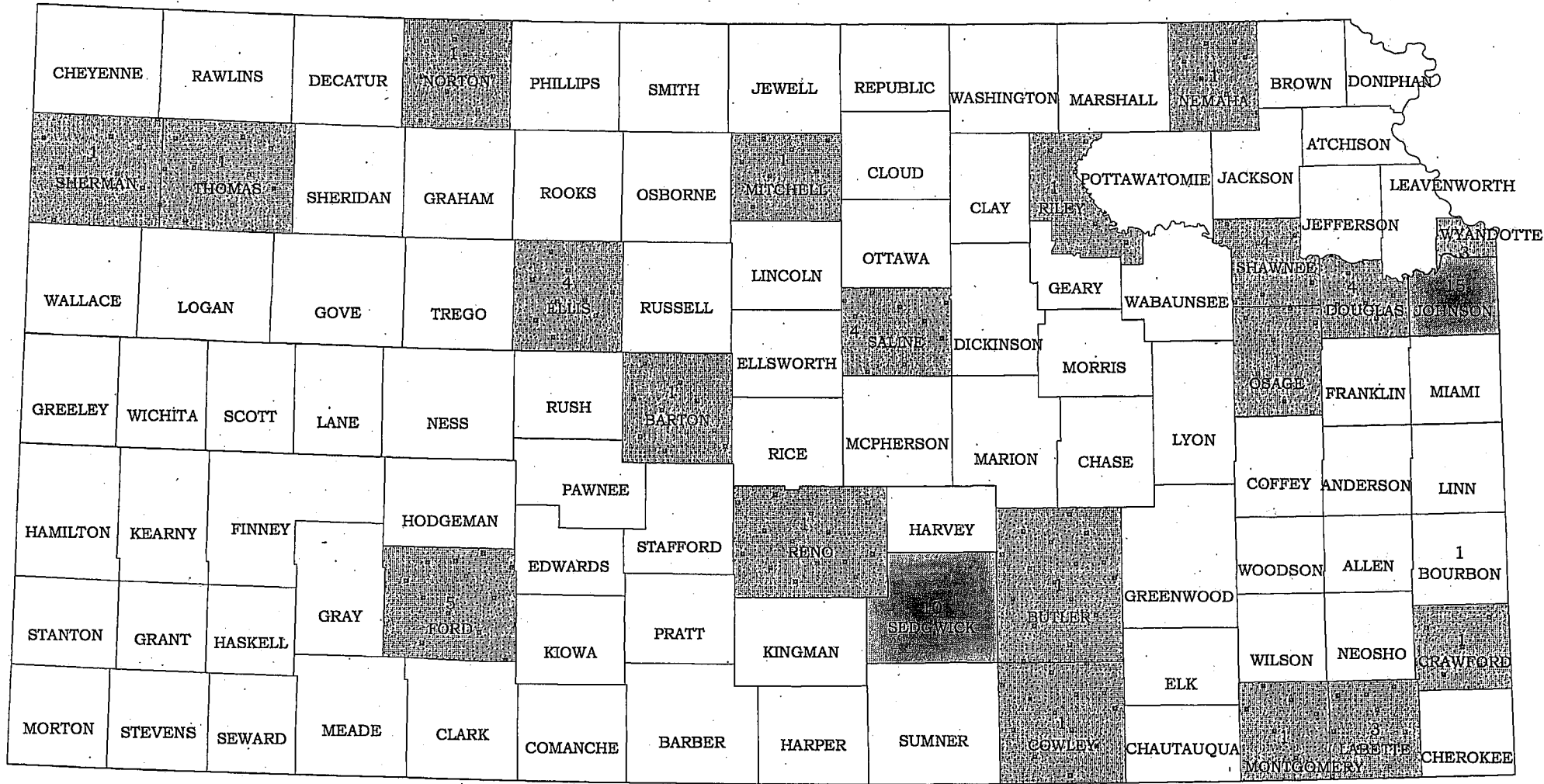
County has Three Microbrewery Licenses

County has Four Microbrewery Licenses

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2010




Total: 15 Active Microbrewery Licenses

Active Kansas Distributor Licenses



January 13, 2010
Map #AC10-005

of Counties

- (20) 
- (1) 
- (1) 

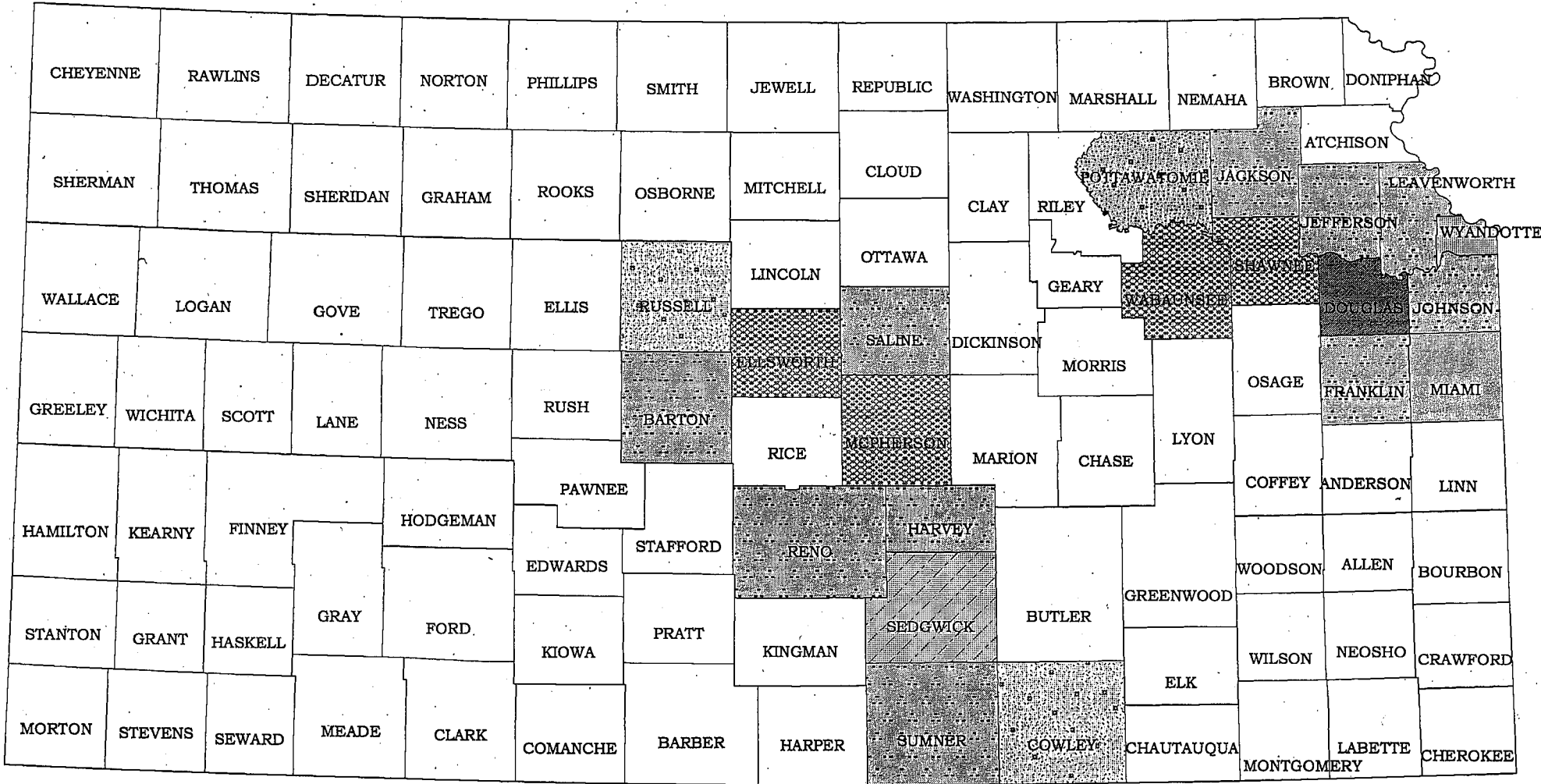
of Licenses Per County

- County has From One-to-Five Distributor Licenses
- County has Ten Distributor Licenses
- County has Thirteen Distributor Licenses

Total: 65 Active Distributor Licenses

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2010

Active Kansas Farm Winery and Outlet Licenses



# of Counties	# of Licenses Per County
(10)	One Farm Winery
(1)	Two Farm Wineries
(1)	Three Farm Wineries
(1)	Four Farm Wineries
(2)	One Farm Winery and One Farm Winery Outlet
(1)	Two Farm Wineries and One Farm Winery Outlet
(4)	One Farm Winery Outlet
(1)	One Farm Winery Outlet

January 13, 2010
Map #AC10-003

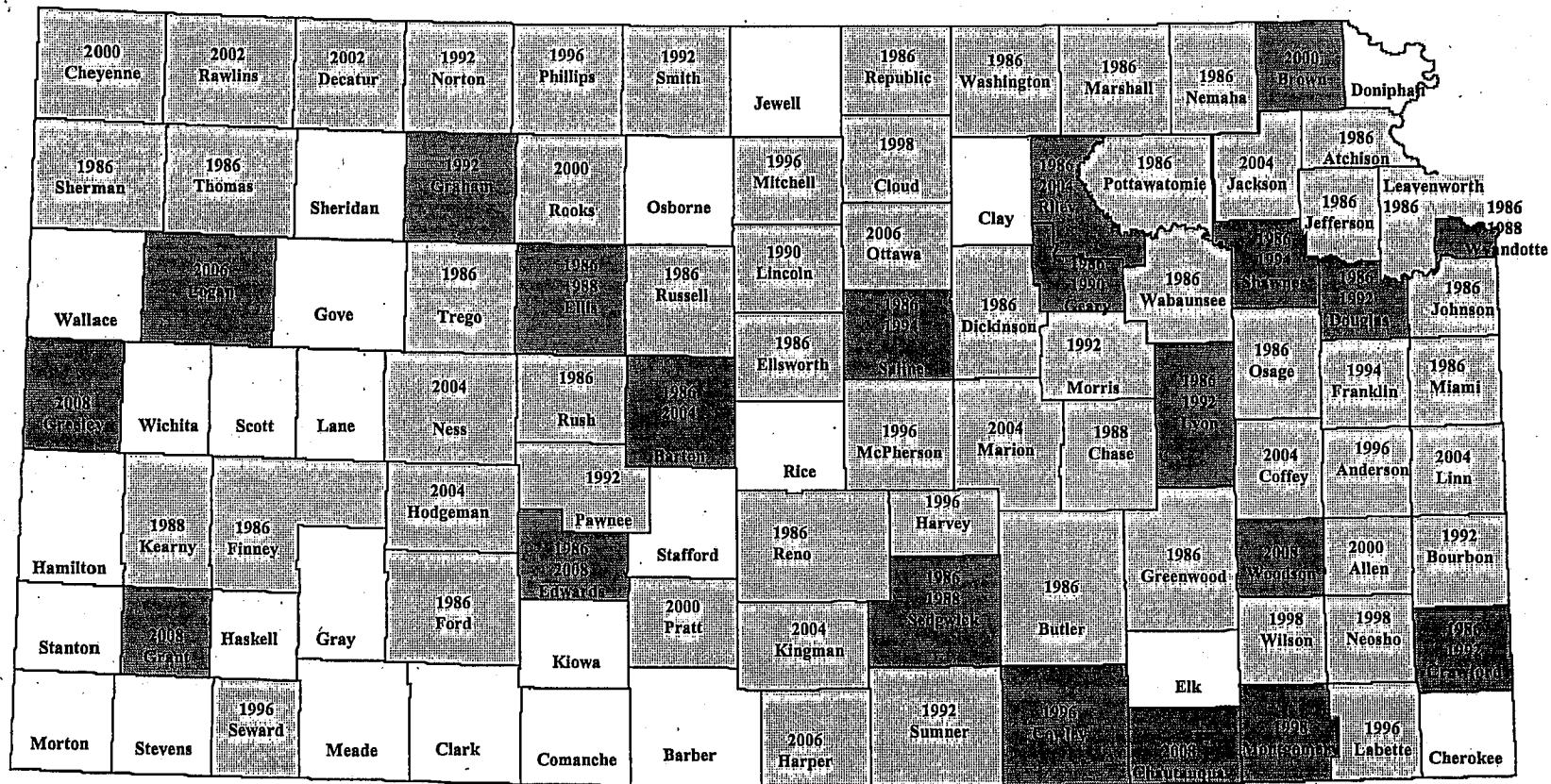
The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2010

Total: 23 Active Farm Winery Licenses,
9 Active Farm Winery Outlet Licenses.

Kansas Liquor-by-the-Drink

November 2008

No liquor-by-the-drink
 Liquor-by-the-drink allowed with 30% food requirement
 Liquor-by-the-drink allowed with no food requirement



This map identifies the status of liquor by the drink in all Kansas counties. It includes the year the county voted for liquor-by-the-drink, and where applicable, the year the county removed the 30% food requirement. Last updated 12-15-08.