

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on January 20, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative John Edmonds- excused

Committee staff present:

Russell Mills Legislative Research Department

Mary Torrence, Revisor of Statutes Office

Dennis Hodgins, Legislative Research Department

Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Tom Groneman, Executive Director, Alcoholic Beverage Control

Tracy T Diel, Executive Director, Racing and Gaming Commission

John McElroy, Executive Director, State Gaming Agency

Others attending:

See Attached List.

The Chairman welcomed the Committee to the first 2004 Federal and State Affairs meeting and introduced Representatives Jan Scoggins-Waite and Harold Lane, new Representatives to the Legislature. Introductions were made and Dennis Hodgins was welcomed as the newest staff member from Legislative Research.

Without objection, a bill was introduced by Representative Brunk regarding the unborn victims of violence act. This is the same bill (**HB 2797**) that was introduced in the 2002 legislative session.

Tom Groneman, Executive Director of Alcoholic Beverage Control, presented an overview of the Alcoholic Beverage Control Division (Attachment 1). He introduced Mike Padilla the new Chief Enforcement Officer. The Division administers and enforces the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. There are three organizational units: licensing, administration, and enforcement.

Tracy T. Diel, Executive Director, Kansas Racing and Gaming Commission stated that the Commission had regulatory jurisdiction over the parimutuel racing industry in Kansas. He provided an overview of their responsibilities (Attachment 2). In response to a question regarding the health and safety of racing animals he stated that Kansas had fairly strict regulations and that abuse of racing animals is minimal to non-existent in the state.

John E. McElroy, Executive Director, Kansas State Gaming Agency, briefed the Committee on the responsibilities of the Agency (Attachment 3). The Agency is entirely funded by contributions from the four recognized Kansas tribes with a FY 2004 budget of \$1,562,688. In response to questions, he explained how assessments are divided among the tribes, the rationale behind a 15% budget increase over five years, state share of gambling revenue and duties of a casino enforcement agent.

Dennis Hodgins reviewed the interim report from the Joint Committee on State-Tribal Relations (Attachment 4). The following recommendations were made:

- The House Committee on Federal and State Affairs should continue to work 2003 House Sub. for SB 9 regarding the tribal law enforcement issue.
- The Joint Committee sent a letter to the Kansas Congressional Delegation seeking support for a Congressional Inquiry or GAO Audit regarding actions of the Department of Interior that resulted in a gaming casino in downtown Kansas City, KS.
- Issues related to the South Lawrence Trafficway controversy and status of tribal-related litigation would continue to be monitored.

## CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on January 20, 2004 in Room 313-S of the Capitol.

Mary Torrence, Revisor of Statutes Office, updated the Committee on the history of **SB 9** regarding the issue on Native American Tribal Law Enforcement Officers. The bill would allow Tribal Law Enforcement Officers to act as law enforcement officers anywhere within the reservation or within trust lands acquired by the tribes.

Russell Mills briefed the Committee on the background of the Kansas Liquor Control Act and reviewed the recommendations submitted by a special committee on Judiciary (Attachment 5). They recommended the following:

- Liquor Control Act and the Cereal Malt Beverage Act be amended to make the acts uniformly applicable to all cities and counties including preemption provisions.
- They recommended legislation to allow local-option Sunday sales of Liquor and cereal malt beverages.
- The Legislature should continue to study the issues of hours of operation for the sale of alcoholic beverages, age limits for employees, and eliminating the distinction between cereal malt beverage and “strong” beer.
- The Committee recommends the repeal of existing statutes relating to advertising of liquor and the minimum mark-up, as these statutes are unenforceable.
- The Committee recommends legislation to allow the purchase of out-of-state wine by private citizens.

Mary Torrence, Revisor of Statutes Office, reviewed changes to **1SB 305**, Liquor control act and cereal malt beverage laws; uniformity, Sunday sales.

- Amends various provisions within the liquor control act to; eliminate nonuniform provisions; prohibit the exercise of county home rule authority to exempt from any provision in the liquor control act; delete the prohibition against the display of liquor in any window of a liquor store
- Extensive clean up amendments to delete archaic or confusing language and strengthens preemption language in section 2.
- Repeals numerous statutes relating to requirements for minimum price mark-ups
- Authorizes direct shipment of out of state wine not otherwise available for sale in Kansas
- Provides a procedure for authorizing Sunday sales of alcoholic liquor and cereal malt beverage of the option of cities and townships.

There were oral arguments in December 2003, pertaining to the uniformity of the Liquor Control Act. A Deputy Attorney General stated that the Court’s ruling could come down in the Spring of 2004.

Representative Brunk requested that staff determine whether there was a provision in the law that would prohibit a winery from selling and shipping their product out of state.

The meeting adjourned at 3:10 p.m. The next meeting is January 22.





# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

To: House Federal and State Affairs Committee  
Honorable Bill Mason, Chairman

From: Tom Groneman, Director  
Alcoholic Beverage Control

Date: January 20, 2004

Subject: Kansas Department of Revenue  
Alcoholic Beverage Control Division Overview

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Mr. Chairman and Distinguished Members of the Committee, it is my pleasure to appear before you today to present you with a brief overview of the Alcoholic Beverage Control Division and introduce the new Chief Enforcement Officer, Mike Padilla, and myself to the Committee.

The number one priority of the Alcoholic Beverage Control Division of the Department of Revenue is to administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. The division is divided into three organizational units: licensing, administration, and enforcement.

Licensing processes in excess of 3,500 renewal and new license applications annually for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, non beverage users and temporary permit holders. Licensing serves as the first point of contact for new business owners desiring to sell alcohol products in Kansas. Licensing answered over 34,400 phone calls and assisted 2,178 walk-in customers with alcohol related questions during the last year.

House Federal & State Affairs  
January 20, 2004

Licensing monitors brand registrations and collects gallonage taxes, liquor drink taxes, liquor excise taxes, sales tax, withholding tax and administrative fines levied by the Director of ABC or his Designee. Licensing is functionally part of the Customer Relations Bureau within the Division of Tax Operations, but by statute is under the authority of the Director of ABC for issues related to liquor licenses. All liquor licenses are renewed on an annual basis.

The administrative branch performs staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping and coordination of the division's activities. Included in administration is the Background Investigation and Licensee Administrative Actions (LAA) units.

The Background Investigation Unit performs a KBI background check of all the owners, officers, and employees of a business seeking a liquor license. This is one of the statutory requirements before a new license can be issued. In addition, the Background Investigation Unit performs background checks on all new employees hired by a licensee throughout the year and on existing employees, owners, and officers every two years at the time of renewal. Last fiscal year approximately 20,000 background investigations were conducted.

The Licensee Administrative Action (LAA) section is headed by an Assistant Attorney General assigned to the ABC, who administratively prosecutes violations of the liquor laws before the Director or his designee. The Director and the Assistant Attorney General are responsible for the disposition of all liquor related administrative citations brought forth by the investigative activities of the Enforcement section and other law enforcement agencies. Citations are issued for violations such as: sale of liquor to a minor, minor in possession, after hours violations, failure to timely pay liquor taxes and numerous other violations of state laws, rules and regulations. Also, the Assistant Attorney General represents the division at all appellant levels, assists in drafting administrative regulations, reviews agreements and provides legal counsel.

The Enforcement Branch provides investigative support for the ABC Director and Chief Enforcement Officer. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations to determine compliance with liquor laws. Agents also provide training to licensees; conduct controlled buy operations and bar checks; investigate complaints and hidden

ownerships; and perform routine compliance checks. Enforcement agents work closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in violations are presented to the County or District Attorney for criminal prosecution and/or the ABC Assistant Attorney General for administrative action.

The ABC developed and enforcement agents present *Enforcing Underage Alcohol Laws* training to Kansas law enforcement agencies. Local officers are taught the most effective investigative techniques including cops in shops, controlled buy investigations, bar checks, third party sales, party patrols, detecting fake ID's and investigating fake ID rings. Through training and partnering with local agencies, who have requested our assistance, the ABC is able to stretch our reach.

Over the years the ABC has been assigned other programs to administer, including the enforcement of laws prohibiting the sale of cigarettes to minors, enforcement of the cigarette tax laws and enforcement of the tax on illegal drugs. The ABC Division currently has 36 positions; two of which are unfunded and two agents are on indefinite medical leave. The annual budget for ABC is 1.9 million.



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

To: House Federal and State Affairs Committee  
Honorable Bill Mason, Chairman

From: Mike Padilla, Chief Enforcement Officer  
Alcoholic Beverage Control

Date: January 20, 2004

Re: Introduction

I am Mike Padilla, the recently appointed Chief Enforcement Officer for the Kansas Department of Revenue Alcoholic Beverage Control Division. I started my service with ABC on November 1, 2003. I am a lifelong citizen and resident of Topeka. Previously I was a police officer with the Topeka, Kansas Police Department. I retired from that agency after serving 33 years and achieving the rank of Major, Division Commander. During my career I served in every division of the police department at increasing levels of authority. Some of my duties included being a training officer, narcotics officer, internal affairs investigator, homicide investigator, district court liaison officer to the office of the District Attorney for Shawnee County, tactical team member and commander, special operations officer and training section commander. I also managed many of the agencies grant programs. I have been a member of the management team for the Topeka Police Department for 27 years of my career from field supervisor to command staff.

During my career I have made many friends and many working relationships outside of the "traditional law enforcement circle." One of my proudest associations has been with the community driven "Safe Streets" organization. Working with a fellow police officer, a minister, and a few community activists and then Mayor Wagnon, I became a co-founder of "Safe Streets" in Topeka. A study group with Kansas University has documented the positive community changes facilitated by "Safe Streets." In addition, the Koch Crime Commission and other national organizations have acknowledged the work of "Safe Streets," the police and the community in addressing crime, safety and quality of life issues in Topeka. I currently serve as the President of the Advisory Council to "Safe Streets."

I came to ABC with the intent to build on what is an important and necessary responsibility of the Department of Revenue. I fully believe in the "community policing" philosophy as away of delivering service through education and cooperation combined with consistent application of policy. As with most any regulatory duty, the responsibility for success depends on both the regulators and those regulated. Being helpful rather than adversarial for all parties is the desired outcome. I am confident that my years of building diversified working teams, law enforcement and management experience can help guide the enforcement duties and activities of the ABC as directed by this legislative body, the Secretary Of the Department of Revenue and the Director of the Alcoholic Beverage Control.

Respectfully,

*Mike Fadell*



**EMPLOYMENT**

1975-2003

**Register of Deeds, Unified Govt of Wyandotte County/Kansas City, Ks**

This is administrative and managerial work. Work is performed within the statutes of the laws of Kansas. Direct and supervise professional and support staff. Develop, implement, enforce, and evaluate office policies, procedures, strategies and goals; direct and coordinate department activities; prepare and administer budgets; perform strategic planning; work directly with county administrator and other senior level staff; act as liaison with other departments, organizations, agencies and the general public.

This is an elected position.

1974-1975

**Adult Probation Officer, Wyandotte County District Court**

Prepared pre-sentence investigation reports and made recommendations to the court regarding probation. Supervised probationers.

1969-1973

**Vietnamese Linguist, United States Navy**

1970-71 trained at the Defense Language Institute; 1971-72 assigned to Naval Communication Station, San Miguel, Philippines; attached to intelligence staff of COMCARDIV5/CTF77; received and distributed back channel communications classified secret, top secret, eyes only; 1972-1973 National Security Agency, made daily reports based on intelligence regarding North Vietnamese troop and ship movements.

**EDUCATION**

1965-1969

B.A. Business/Economics, Bethany College, Lindsborg, Ks.

1970-1971

Linguist, Defense Language Institute, Monterey, Ca.

1974-1976

30 hrs post graduate, Administration of Justice, Wichita State University

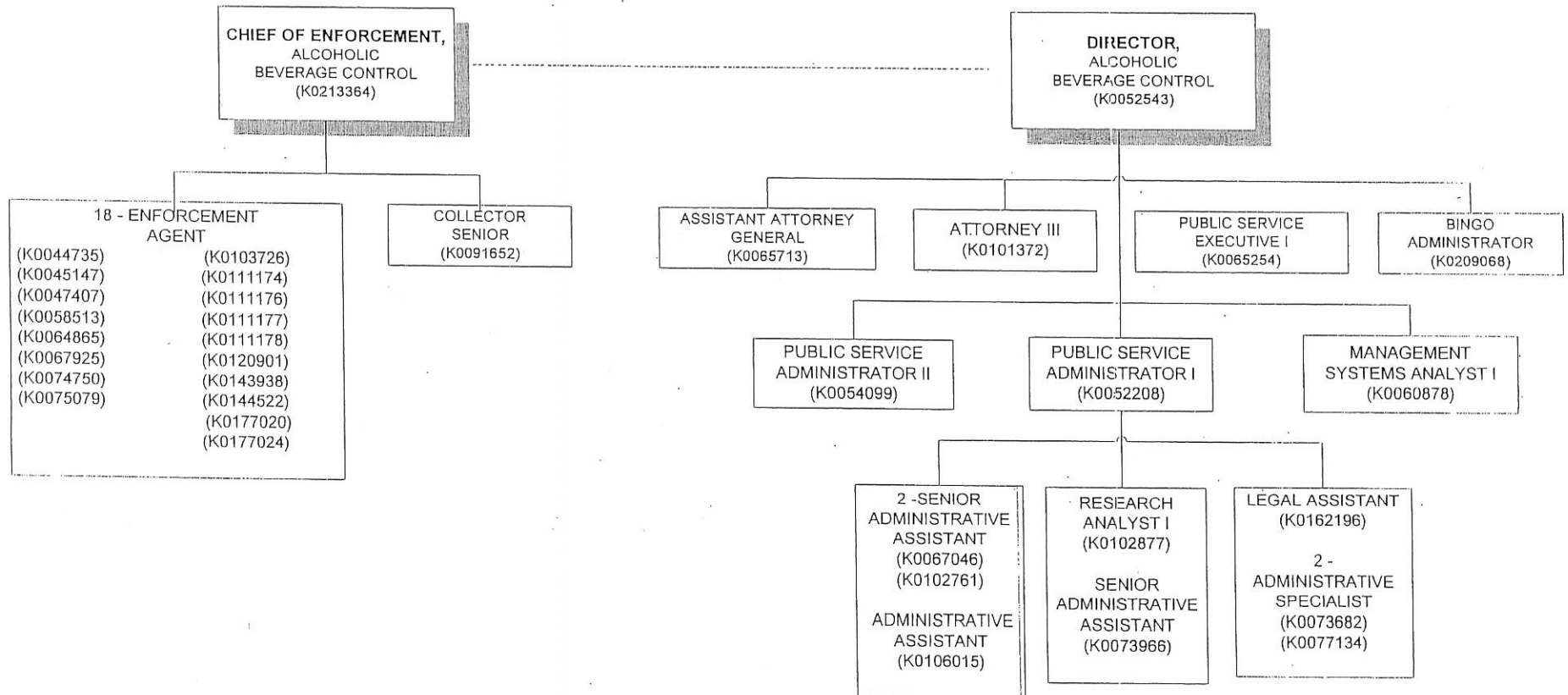
**PERSONAL**

Thomas W. Groneman, lifelong Wyandotte County resident, married 33 years Kay M. Groneman; two children Brooke and Jared. Appointed Register of Deeds in 1975: elected in 1976, 1980, 1984, 1988, 1992, 1996 and 2000. Served as president of Kansas Register of Deeds Assoc; Served on Board of Directors of the Kansas Association of Counties; Served as Director at Large for the International Association of Clerks, Recorders, Election Officials and Treasurers; member of Executive Board, same; Member, Kansas Historical Sites Review Board. Active in community.

# ABC Division Mission Statement

To promote, serve and protect the health, safety and welfare of Kansans by regulating the liquor industry, enforcing the liquor laws and enforcing other laws administered by KDOR.

**ORGANIZATION CHART**  
**KANSAS DEPARTMENT OF REVENUE**  
 Division of Alcoholic Beverage Control (64000)  
 Fiscal Year 2004 Authorized  
 36 TOTAL POSITIONS  
 Administration (64010) - 6 Positions  
 Investigation & Criminal Enforcement (64630) - 30 Positions



### ABC Fees Collected in FY 2003

License fees and revenue produced:	
Brand Registration fees	\$367,346.00
License Permits and Registration Fees	\$ 323,704.69
Suppliers Permit Fee	\$ 14,050.00
Club/Drink License Fees	\$ 1,976,956.15
Cereal Malt Beverages (\$0.18 per gallon)	
Tax	\$ 2,272,910.37
Retail Stamp	\$ 81,650.00
Fines	\$ 143,823.98
Liquor Enforcement Tax (8%)	\$ 38,833,089.51
Liquor Excise Tax (10%)	\$ 27,387,241.14
Liquor Gallonage	
Light Wine, alcohol 14% or less (\$0.30 per gallon)	\$ 729,880.74
Fortified Wine (\$0.75 per gallon)	\$ 61,474.21
Farm Winery (same as light or fortified)	\$ 9,327.79
Micro-Brewery (\$0.18 per gallon)	\$ 32,269.70
Beer, over 3.2% (\$0.18 per gallon)	\$ 7,796,304.61
Alcohol and Spirits (2.50 per gallon)	\$ 6,858,528.86
Liquor Gallonage, Enforcement and CMB tax is collected by the distributor.	
Liquor Excise is paid by the consumer at the retail location.	

### Alcoholic Beverage Control Licensee Compliance FY 2003

<b>Liquor Controlled Buys</b>	
Attempts to Purchase	253
Violations	44
% of Compliance	<b>82.60%</b>
<b>Tobacco Controlled Buys</b>	
Attempts to Purchase	570
Violations	126
% of Compliance	<b>77.90%</b>

## ABC Active Licensees

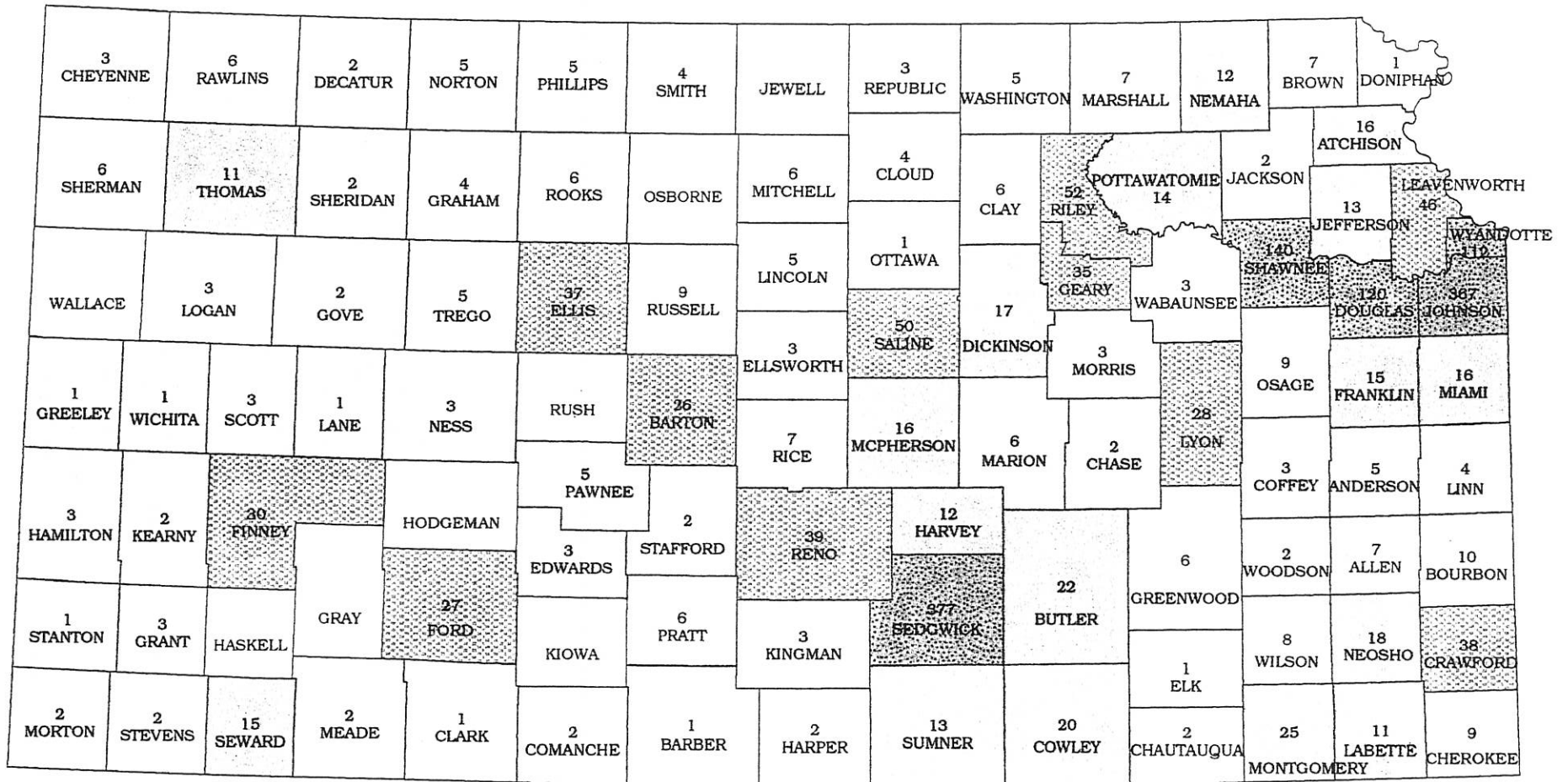
(as of 1-13-04)

License Type	Description	Count
01	Retail Liquor Store	714
05	Class A Vets, Fraternal Club	242
06	Class A Social Club 500+	18
07	Class A Social Club <500	59
09	Class B Club	172
10	Drinking Establishment	1410
11	Hotel Drinking Establishment	32
12	Caterer	24
13	Drinking Establishment/Caterer	64
14	Hotel/Caterer	14
15	Temporary Permit	283
16	Beer Distributor	43
17	Spirits Distributor	7
18	Wine Distributor	8
19	Supplier Permit	546
20	Microbrewery	7
21	Farm Winery	12
23	Non-Beverage User	7
25	Manufacturer	5

**TOTAL**

**3667**

# Active Kansas On-Premise Licenses



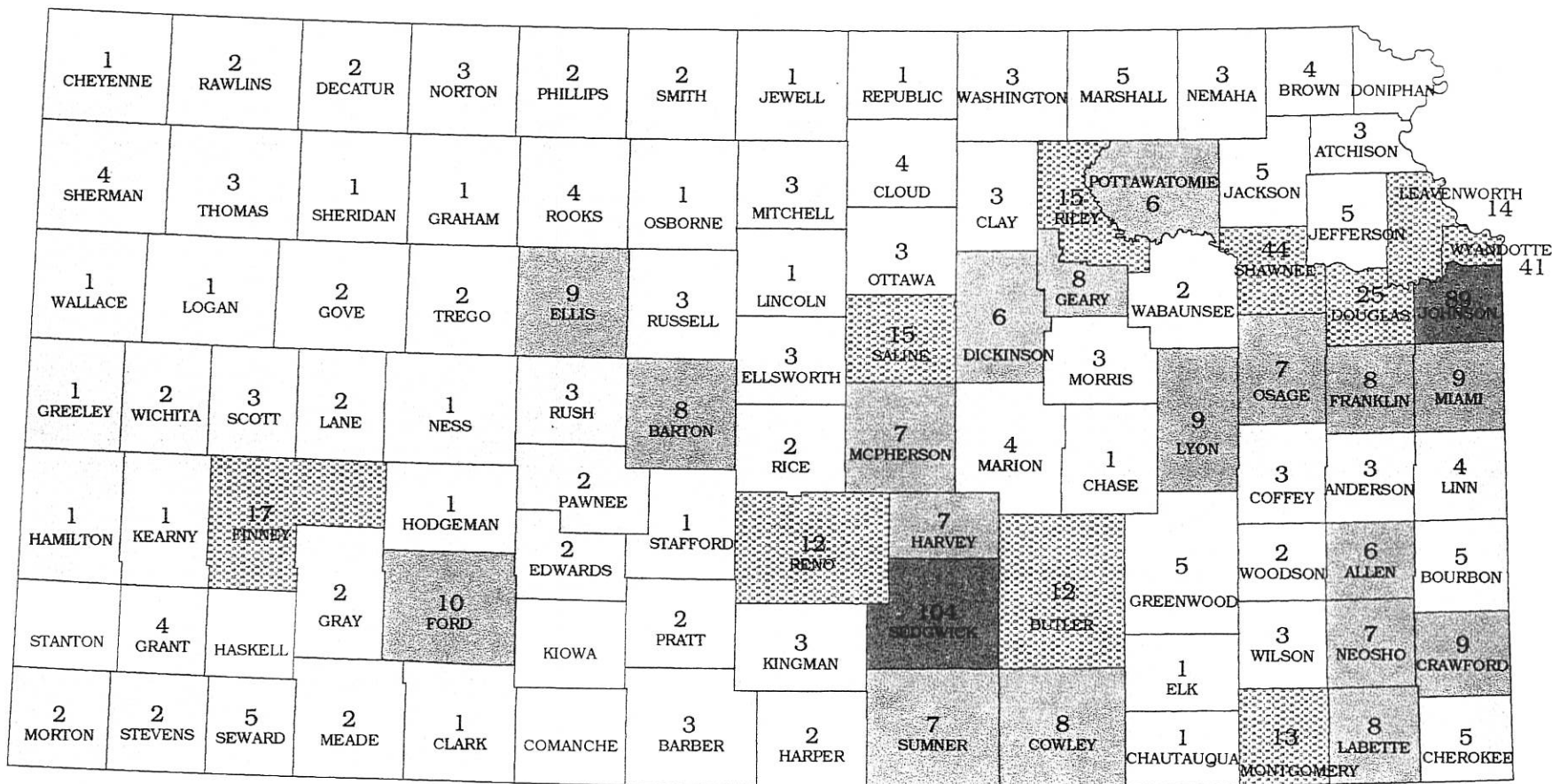
# of Counties	Color/Pattern	# of Licenses Per County
(8)	White	0
(64)	Light Gray	1 - 10
(17)	Medium Gray	11 - 25
(11)	Dark Gray	26 - 100
(5)	Black Dotted	101 - 377

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2004

January 1, 2004  
Map #AC04-001

Total: 2,038 Active On-Premise Licenses

# Active Kansas Off-Premise Licenses



# of Counties

- (5)
- (70)
- (18)
- (10)
- (2)

# of Licenses Per County

- 0
- 1 - 5
- 6 - 10
- 11 - 50
- 51 - 100

January 1, 2004  
Map #AC04-002

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2004

Total: 714 Active Off-Premise Licenses

# Kansas Department of Revenue

# Alcoholic Beverage Control

## Industry Bulletin

June 2003

Volume 4, Issue 1

### In This Issue

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*ABC Phone System Update*

*ABC Forums*

*Driver's License Changes*

*New Policy Memos*

*Over-Service*

**Putting the customer  
first every time!**

### FROM THE DIRECTOR

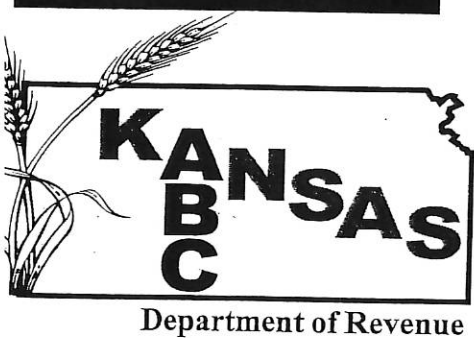
Greetings from ABC! Well, we all know the big story this year - Sunday Sales, uniformity, and no legislative solution! There is a lot to this story, and we don't have enough space in this introduction article to do it justice. Therefore, we have a section in this bulletin dedicated to this important issue. Please take the time to read this article for an update.

In regards to other legislation this past session, there were several other bills of interest to the Industry, but only one passed both houses and was signed by Governor Sebelius. That bill, SB 159, provides for a vertical format driver's license or State ID card for persons under the age of 21 as opposed to the current horizontal format. This should provide another tool for use in restricting access by minors to alcoholic beverages. The other legislation that made it through at least one legislative body included: potential administrative penalties for nuisance violations, increased penalties for MIP convictions and a host party law. These bills are carried over to next year's session and may work their way through to law.

This summer marks the one-year anniversary of the keg registration act. For the most part, implementation and compliance have gone fairly well. We appreciate the support and efforts of the retailers involved with successfully implementing keg registration. Any feedback or comments you have to further improve this process would be appreciated.

Shifting gears a little, we hope most licensees are familiar with our Policy Memo program. These memos have proven very effective for licensees who want to make sure they remain compliant. Since the last Industry Bulletin was disseminated, we have published three new memos. All of the effective memos are available on our website and are intended to provide clarity on key statutes and regulations. The memos reflect our interpretation of the liquor laws, and they are developed with input from the Industry. There is a short informative article on the new memos in this edition of the Industry Bulletin.

Thanks in advance for your continued cooperation and compliance. If you have any issues or concerns, please don't hesitate to contact us.





## LIQUOR TAX COMPLIANCE

Liquor enforcement and drink tax returns and payments are due monthly on the 25th of the month following the month of activity. Unfortunately, a number of licensees are not timely filing and remitting all liquor taxes due. The Department of Revenue is continuing and expanding efforts to collect all liquor taxes, as well as other taxes due. In reference to liquor taxes specifically, in October of 2001, an ABC Notice was disseminated to all liquor licensees regarding liquor tax compliance. This notice is still applicable, and it is included in all new and renewal packets mailed to applicants and licensees. Please read, or re-read this notice and ensure you are making all efforts to comply.

Licensees who have failed to timely file or remit liquor taxes are identified and addressed. This may include receiving a summary order for failing to file and remit liquor taxes. Failure to pay delinquent taxes, interest and penalty, as well as associated fines may result in an indefinite suspension or possible revocation of liquor licenses. In certain situations, it may lead to demands made on bonds and/or liquor or property seized to cover the debt to the State. Obtaining and maintaining a liquor license in Kansas is a privilege, and along with that privilege comes the responsibility of collecting and remitting appropriate taxes to the State.

Licensees who have non-filed periods or balances due will be contacted prior to license renewal. If the delinquency issues are not resolved by the renewal date, renewal licenses will not be issued. Please take the extra effort to ensure your business is fulfilling its responsibility and remitting the taxes you collect from consumers.

To the majority of licensees that are current and remain current in the payment of liquor and other appropriate taxes - thanks! Your attention to detail and fulfillment of your responsibilities is greatly appreciated.



Sylvia Champney, Kay Ediger and Jessica Schiefelbein of the Licensee Administrative Actions section look over a legal document.

## LEGAL DOCKET

Several recent ABC administrative actions may be of interest to licensees:

- The first resulted in the cancellation of a license held by *The Beat, L.L.C.*, a drinking establishment at 111 W. Douglas in Wichita, due to the licensee's failure to comply with the terms of a settlement agreement previously reached with the ABC. The charges in the underlying cases consisted of numerous counts of permitting possession or consumption on the licensed premises by a minor; failure to register an employee involved in mixing, serving or dispensing alcoholic beverages; promoting an illegal "two-for-the-price-of-one" drink special; and operating while suspended. In settlement of the charges, the licensee pled no contest and agreed to pay a \$5,000 fine and serve a 14-day suspension. The license was cancelled following the licensee's failure to timely pay its fine.
- Another case involved *Baby Dolls of Topeka, Inc.*, a drinking establishment at 5300 S. Topeka Blvd. in Topeka. The licensee was charged with two counts of denying law enforcement immediate entry to the licensed premises, as well as a single count each of allowing after-hours possession or consumption of liquor, and failing to obtain a local license. Pursuant to a settlement agreement reached with the ABC, the licensee pled no contest to the violations and agreed to pay a fine of \$4,750.
- The third case involved *Blue Rib 'N Barbeque, L.L.C.*, a drinking establishment at 1200 Moro in Manhattan. Pursuant to a settlement agreement reached with the ABC, the licensee pled no contest to two counts of permitting possession or consumption on the licensed premises by a minor and agreed to pay a fine of \$2,500 and to serve a two weekend-day suspension. In turn, the State dismissed a third charge.
- Another case of interest involved *APK, Inc.*, a drinking establishment at 900 E. First St. in Wichita. According to a settlement agreement reached with the ABC, the licensee pled no contest to two counts of advertising free drinks and agreed to pay a fine of \$1,000.
- Finally, a case involving *Heavy's Sports Bar, L.L.C.*, a Class B Club at 303 N. Kansas in Liberal, also was recently settled. The licensee pled no contest to three counts of allowing non-member access and agreed to pay a fine of \$500 and serve a two-weekday suspension.

## Certified Server Training Programs

The organizations listed below have been certified by the Division of Alcoholic Beverage Control to teach responsible alcoholic beverage management techniques. We are simply providing the information on these organizations as a service to our customers.

Kansas Licensed Beverage Association  
Phil Bradley, State Coordinator

On premise establishments

P.O. Box 442066

Lawrence, Kansas 66044

Office & Fax number: 785-331-4282

Cell phone: 785-766-7492 (urgent calls only)

Email: [info@klba.org](mailto:info@klba.org)

Kansas Responsible Liquor Education Council

Albert Lollar, State Coordinator

On and Off premise establishments

P.O. Box 4051

Topeka, Kansas 66604

Phone: 785-836-2603

Kansas Association of Beverage Retailers

Marge Roberson, State Coordinator

Off premise establishments

P.O. Box 3842

Topeka, Kansas 66604

Phone: 785-266-3963

Fax: 785-234-9718

Email: [kabr@amycampbell.com](mailto:kabr@amycampbell.com)

Cathy Slade

Certified Health Education Specialist

On and Off premise establishments

422 Mississippi Street

Lawrence, Kansas 66044

Phone: 785-749-0189

Email: [cfslade@yahoo.com](mailto:cfslade@yahoo.com)

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## **Administrative Regulation Update**

Several changes have been made to the liquor regulations recently. Information on the new, revised and revoked regulations may be found at [www.ksrevenue.org/abcregupdate.htm](http://www.ksrevenue.org/abcregupdate.htm). Readers may also access all liquor regulations from this web page.

## Sales of Liquor on Sunday

In August of 2002, the Unified Government of Wyandotte County and Kansas City, Kansas, and the City of Edwardsville passed charter ordinances under their home rule authority to exempt their cities from the State prohibition against Sunday liquor sales. The specific issue was K.S.A. 41-712(1), wherein State law prohibits retail sales of liquor on Sundays. The State's position was that cities do not have the authority to "opt out" of this statute. The local ordinance took effect in mid November, 2002.

On November 21, 2002, the Kansas Attorney General's Office filed a petition in Wyandotte County District Court seeking to have the local ordinance declared void. In a separate case filed on the same day by the Unified Government of Wyandotte County and Kansas City, Kansas, the Wyandotte County District Court imposed a temporary restraining order requiring the State to suspend all efforts to enforce the Sunday sales prohibition in Kansas City, Kansas. The Unified Government voluntarily dismissed its case the following week and the restraining order was vacated, based on the State's agreement not to administratively prosecute retailers in Kansas City or Edwardsville for selling alcohol on Sundays prior to the district court's ruling or May 5, 2003, whichever came first.

The Wyandotte County District Court ruled on March 18, 2003, that the Kansas Liquor Control Act, K.S.A. 41-101 et seq. was nonuniform - meaning that certain laws within the act treated some cities differently than others - and therefore, Kansas City, Kansas and Edwardsville validly exercised their home rule authority in passing charter ordinances to exempt themselves from the Sunday sales prohibition. The court ruled that the fact K.S.A. 41-712(1), the specific statute that prohibits retail sale of liquor on Sundays, was uniform, and that it applied only to licensees - rather than regulating cities - was irrelevant. Nonetheless, the court stated that "the legislature still has the last word" and could prohibit cities from exercising home rule authority to opt out of provisions of the Liquor Control Act by making the Act uniformly applicable to all cities.

Given the implications of the recent Wyandotte County District Court ruling, the Division of Alcoholic Beverage Control and Department of Revenue were hopeful the legislature would amend the liquor Control Act to eliminate the court's basis for finding it nonuniform. However, since the act was not amended during this year's session, cities may attempt to exercise their home rule authority to opt out of the prohibition on Sunday sales, sales on holidays, and potentially other provisions of the act pending the final outcome of an appeal or future legislative action.

The Attorney General has appealed the Wyandotte County District

**Continued on page 4**

1-15

.....Liquor on Sunday continued from page 3

Court ruling to the Kansas Supreme Court. The AG also encouraged the Kansas legislature to address the laws regarding liquor sales so legislative intent would be clear, and more consistent application of the law will be possible.

If the district court decision is reversed, any local charter ordinances exempting cities from any provision of the Liquor Control Act will be nullified. If the district court decision is upheld, the Division is hopeful the legislature will take appropriate action in future sessions to remedy this issue.

The final legislation considered this session, that failed to pass, included a county option for Sunday sales. Under this provision, each county would have had the opportunity to determine whether retail liquor stores or cereal malt beverage retailers could be open on Sunday.

It is important to note, the Liquor Control Act is only one of several liquor enactments. Another one, the Club and Drinking Establishment Act, was ruled by the Kansas Supreme Court as being uniform, thereby prohibiting cities from exercising home rule authority and chartering out of this act. This regulates the state licensed on-premise liquor licensees which include: clubs, drinking establishments and caterers. Another liquor law, the Cereal Malt Beverage (CMB) Act, which establishes statewide controls over CMB, has been determined to be a uniform act and therefore is not subject to being opted out of by cities.

The ABC will be following local actions closely to see to what extent they may exercise their home rule authority. Pending any decision on the appeal of the Wyandotte County ruling, the topic will most likely be considered again during next year's session.

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## LAW ENFORCEMENT TRAINING

The Enforcing Underage Alcohol Laws training for Kansas law enforcement agencies presented by the Alcoholic Beverage Control has proven to be very useful and helpful for the over 500 local law enforcement officers who have received the training to date.

The training was designed to improve the enforcement of underage alcohol laws statewide. Local officers are exposed to the most effective investigative techniques, including conducting cops in shops, controlled buy investigations, bar checks, third party sales, party patrols, using new keg registration laws, detecting fake IDs, investigating fake ID rings, fake ID seizures and source investigations.

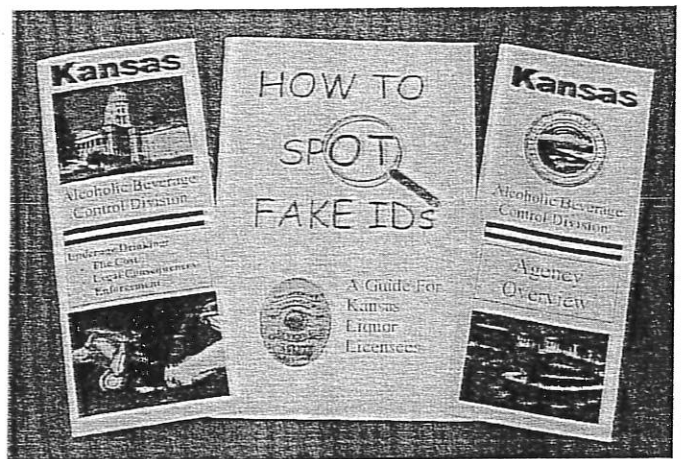
"The response to the training has been overwhelmingly positive," said Agent Jim Wilson, ABC's External Training Coordinator. "The fake ID training has been the most popular

part, but it's all been very well received."

Nearly all (99%) officers reported that the training was either "useful" or "very useful." The same percentage (99%) reported that the training was "understandable" or "very understandable."

A 14 question post-training examination is given to the local officers. The average score has been 97.2%.

"The training has led to more partnering with local agencies who have requested our assistance with alcohol-related problems in their community," Wilson said. "We are more than happy to help them with liquor law enforcement issues."



Some of the information available to law enforcement agencies, liquor licensees and the public. Brochures on underage drinking, fake IDs and an overview of the Alcoholic Beverage Control.

## **Information Available from ABC**

Along with the bi-annual Industry Bulletin, the Alcoholic Beverage Control has other publications with information of interest to liquor licensees, law enforcement agencies, organizations involved with alcohol related issues, and the public.

We have been able to provide some of these brochures due to the grant funding we have received from the Kansas Department of Transportation under the Enforcing Underage Drinking Laws grant.

One of the brochures has information on tips for spotting fake IDs. This is a very helpful brochure for both law enforcement and liquor licensees. Another brochure discusses the consequences associated with underage drinking, such as car crashes, poor academic performance and sexual assault. The third brochure gives an overview of ABC: the make-up of the organization, a history of liquor control in Kansas and a listing of the various types of licenses and permits available in Kansas.

## ABC Phone System Update

The Division recently updated our phone system to further assist anyone contacting ABC. ABC's primary phone number (785) 296-7015, now has two options available to callers. Pressing 1 directs callers to ABC's Administration, Enforcement, Legal, Marketing, Brand Registration and Supplier sections. Pressing 2 directs callers to the Licensing Section. Callers to Licensing may continue to use the toll free number (877) 526-7738 or locally 368-8222. Once connected, follow the menu of 1 - 5 - 4 to reach a Licensing Customer Representative.

## **Who You Gonna Contact?**

**Licensing and tax questions:**

**Toll-free: 1-877-526-7738**

**Local 368-8222**

**Choose options 1, then 5, then 4  
or 1-785-296-7015, option 2**

**Fax 1-785-296-2073**

**ABC Administration,**

**Enforcement and Legal:**

**1-785-296-7015, option 1**

**or for ABC Legal:**

**1-785-296-5370**

**Marketing, Brand Registration  
and Suppliers:**

**1-785-368-6609**

**Fax 1-785-296-7185**

**ABC Mailbox:**

**[abc\\_mail@kdor.state.ks.us](mailto:abc_mail@kdor.state.ks.us)**

**Website:**

**[www.ksrevenue.org/abc.htm](http://www.ksrevenue.org/abc.htm)**

## ABC FORUMS

During the past year, we visited with interested licensees, legislators and local officials in Salina, Wichita, Dodge City, Garden City, Liberal and Johnson County.

Based on the feedback we've received and a review of our message, we modified the format of the Forum slightly and will be visiting Kansas City and Emporia in the near future. Date, time and location will be determined and disseminated.



Director Longino listens to a question from a liquor licensee during an ABC Forum.

Please take the time to attend one of these forums if it is in your area. With the current changes throughout Kansas concerning the Liquor Control Act and the on-going litigation over the issue of Sunday Sales and uniformity, these forums will provide valuable information to those in the liquor industry. We are interested in your thoughts and concerns on these potential changes.

## ON AND OFF PREMISE LICENSEES - HEADS UP!

Commencing January 1, 2004, the Division of Motor Vehicles (DMV) will issue all new driver's licenses and state identification cards from a central facility. This new procedure will require the issuance of a temporary paper license that will contain a black and white photograph. The DMV expects the centrally issued permanent documents to be mailed within 30 days. The new permanent documents will contain several new security features. Licensees need to be prepared to see the temporary documents on January 1st. With the current problem of fake and borrowed IDs, ABC recommends clerks, servers and doormen not accept the temporary license by itself. Personnel involved with age verification should ask for a secondary form of identification that validates the temporary document. Although this might cause some challenges, the increased security features and reduced chance for theft of the new laminates should assist licensees in verifying age.

Also, as mentioned in the introduction article of this Industry Bulletin, commencing July 1, 2004, the driver's license and identification cards issued to persons under the age of 21 will be formatted with a vertical profile as opposed to the current horizontal profile. Although not a fail-safe mechanism to verify age, this new vertical profile will assist in determining if a person is under the age of 21. As this new document is developed, we will provide additional information on our website and will revise our current retailer's guide on "How to Spot Fake IDs."

## NEW POLICY MEMOS

Three new policy memos have been issued since the last Industry Bulletin was published. The memos can be found on our website in a pdf format. Please take a few minutes to keep up on many of the issues surrounding the industry. The new memos are:

**2003-1** Salesperson Permits (issued January 31, 2003). This memo provides information on the issuance of salespersons permits.

**2003-2** Kansas ABC Server/Seller Training Program (issued February 17, 2003). This memo documents and details the server/seller training program. It includes information on program certification, course requirements and overall program implementation.

**2003-3** Guidelines for Conducting Charitable Events/Fundraisers Involving Alcoholic Beverages (issued March 31, 2003). This memo provides guidelines and details requirements for the conduct of charitable events and fundraisers.

## OVER-SERVICE

Recent studies show that most DUI offenders got their last drink at a bar. It is important for licensees to take proactive measures to ensure their staff restrict access of alcoholic beverages to intoxicated persons. K.S.A. 41-2640 prohibits licensees from practices that provide an atmosphere that invites over-service and over-consumption of alcoholic beverages. This statute prohibits:

- giving away free drinks;
- selling a drink at a price less than acquisition cost;
- selling/serving an unlimited number of drinks for a fixed price;
- selling a drink at different prices during the course of a day (Happy Hour);
- increasing the volume of alcohol contained in a drink without increasing proportionately the price of the drink;
- increasing the size of a drink without increasing proportionately the price of the drink;
- encouraging or permitting any game or contest which involves drinking alcohol;
- advertising or promoting any of the violations listed above.

Additionally, K.S.A. 41-715 prohibits licensees from selling or serving alcohol to an intoxicated person.

Because these practices often lead to more drinking and driving and alcohol-related crashes, licensees must ensure they comply with these statutes and implement measures to support efforts in keeping our roads safe. We at ABC are committed to protecting the health, safety and welfare of Kansans and our visitors. As an alcoholic beverage licensee, your assistance and cooperation are essential.

Pub-1800  
Rev. (6/03)

RETURN SERVICE REQUESTED  
Kansas Department of Revenue  
Alcoholic Beverage Control Division  
915 SW Harrison, Room 214  
Topeka, Kansas 66625-3512



# KANSAS

KANSAS RACING AND GAMING COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

**TO:** House Federal and State Affairs Committee

**FROM:** Tracy T. Diel, Executive Director  
Kansas Racing and Gaming Commission

**DATE:** January 20, 2004

**SUBJECT:** Overview of the Kansas Racing and Gaming Commission

Representative Mason and members of the Committee, thank you for the opportunity to appear today and update you on the Kansas Racing and Gaming Commission (KRGC/Commission).

The KRGC has regulatory jurisdiction over the parimutuel racing industry in the State of Kansas. The Commission is responsible for issuing licenses to individuals involved in the greyhound and horse racing industry, animal health oversight, and assigning staff to oversee the live races offered at each parimutuel racetrack facility. The KRGC employs and assigns certain staff to each racetrack facility that operates year round. These employees work for and report to the Commission. Three full-time judges are responsible for making sure that the races offered are conducted fairly and in accordance with the rules and regulations of the KRGC. Two assistant animal health officers are responsible for ensuring that all animal health regulations of the KRGC are followed. The auditor is responsible for verifying that all monetary issues regarding the wagering public and the State of Kansas are performed properly. The KRGC is authorized 43 full-time positions which are spread out among the main office in Topeka and the field offices at the Woodlands and Wichita Greyhound Park (WGP). In addition, the Commission has several temporary positions that are filled during the county fair meets.

The KRGC does not receive any State General Fund money, but is funded through a tax on parimutuel wagering, fees charged for licensing, an admission tax, where applicable, and fines levied by the KRGC. In 2002, the KRGC received 3.61% of each dollar wagered on live greyhound or horse racing in the State of Kansas. In addition, it received 2.37% of each dollar wagered on simulcast greyhound and horse racing offered at Kansas parimutuel racetracks. These funds make up the operating revenue of the KRGC. The Commission transfers funds in excess of the amount required for operating expenditures and adequate fund balance to the state gaming revenues fund. This money is then transferred into the Economic Development Initiative Fund (EDIF) and can vary from year to year.

At the current time, there are two parimutuel racetracks operating in the State of Kansas that offer year-round racing. The Woodlands, located in Kansas City, Kansas, offers greyhound racing year round and a horse racing schedule in the fall. In 2003, the Woodlands offered 250 days of live greyhound racing with 321 live racing performances and 4,733 races, including 30 days of live horse racing. This was the longest live horse race meet since 1995. WGP, located in Valley Center, Kansas, also operates year round, but does not offer any live horse racing. During 2003, WGP offered 239 days of live greyhound racing with 286 live racing performances and 4,693 races. There are two county fair meet locations that offer limited parimutuel racing during the late spring and summer months. Eureka Downs, located in Eureka, Kansas, offers live horse racing and Anthony Downs, located in Anthony, Kansas, offers both horse and greyhound racing. During 2003, Eureka Downs offered 20 days of live horse racing and Anthony Downs offered six days of live horse and greyhound racing. All total, there were 495 live greyhound racing days and 56 live horse racing days offered in 2003. In addition, Camptown Greyhound Park, located in Frontenac, Kansas, previously opened for business in 1995 and 2000, but has been closed since November 2000.

The live parimutuel racing industry in the State of Kansas faced several challenges in 2003. Due to an outbreak of severe kennel cough on the East Coast, the racetracks in Kansas were placed under a quarantine by the KRGC in mid-April. This strain of kennel cough was such that it closed down several racetracks across the country for significant periods of time. The Commission was concerned that closing down a racetrack in Kansas at this time would be detrimental to kennel owners and trainers operating at Kansas tracks. The quarantine, in effect until mid-June, restricted the movement of greyhounds coming into the state and limited the ability of kennel owners to bring fresh greyhounds to the racetrack. This created a strain on the active greyhound list at each racetrack. Then, on July 10, 2003, WGP was hit by a severe storm which caused extensive damage to the racetrack. Live racing was canceled for three weeks due to the damage sustained. In addition to these factors, the overall parimutuel wagering handle has been down. The KRGC is in the process of compiling its annual report for calendar year 2003 detailing the parimutuel handle. Preliminary information shows the parimutuel wagering handle for 2003 totaled approximately \$100,626,497, compared with a total wagering handle of \$110,832,003 for 2002. Of the total for 2003, \$25,766,384 was from live greyhound and horse racing, with the remaining attributed to wagering on simulcast races received at the different racetracks. I am providing the Committee copies of the KRGC 2001-2002 Annual Report for your review and comparison.

The 2004 racing season has begun at the racetracks. For calendar year 2004, the Woodlands has been approved by the KRGC to again offer 30 days of live horse racing as well as 266 live greyhound racing days with 293 racing performances. The KRGC has approved WGP to offer 254 live greyhound racing days with 305 racing performances. The Commission has just begun the process for this year's county fair meets. Eureka Downs has requested 20 live horse racing days and Anthony Downs, celebrating its 100<sup>th</sup> year of horse racing this summer, has requested six days of live horse and greyhound racing.

This concludes my testimony today. Should you have any questions, I will attempt to answer them at this time.



**Racing and Gaming Commission Fund Activity**  
Fiscal Years 2001 and 2002



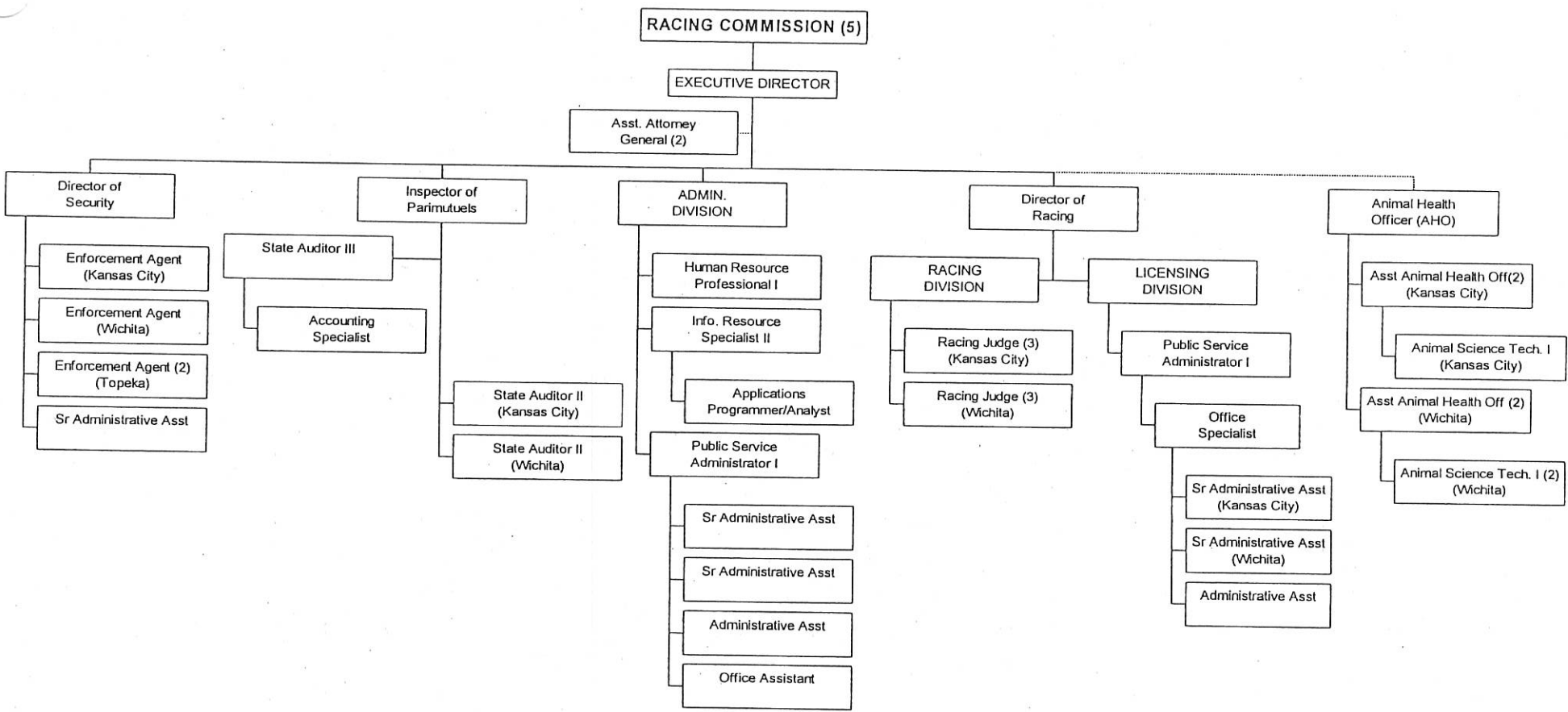
2-3

	State Racing Fund	Horse Fair Racing Benefit Fund	Horse Breeding Development Fund	Racing Investigative Expense Fund	Greyhound Breeding Development Fund	Racing Reimbursable Expense Fund	Racing Applicant Deposit Fund	Tribal Gaming Fund	Totals
<b>FY 2001</b>									
Beginning balance (7-1-00)	\$ 707,659	\$ 477,946	\$ 170,090	\$ 24,664	\$ 331,237	\$ 26,286	\$ 747	\$ 1,200,025	\$ 2,938,654
Prior period adjustments	10,479	-	-	-	-	618	-	13,176	24,273
<b>Receipts</b>									
Revenue	3,258,969	941,447	485,516	(4,772)	447,759	44,734	46	560,005	5,733,704
Operating transfer	76,418	-	-	-	-	-	-	-	76,418
General Fund transfer	-	-	-	-	-	-	-	450,000	450,000
<b>Disbursements</b>									
Operating expenditures	(3,153,002)	(816,951)	(459,046)	-	(306,825)	(40,702)	-	(1,115,475)	(5,892,001)
State Gaming Revenue Fund transfer	(426,605)	-	-	-	-	-	-	-	(426,605)
Operating transfer	-	(76,418)	-	-	-	-	-	-	(76,418)
Greyhound Tourism Fund transfer	-	-	-	-	(67,164)	-	-	-	(67,164)
General Fund transfer	-	-	-	-	-	-	-	(420,864)	(420,864)
Ending balance (6-30-01)	<u>\$ 473,918</u>	<u>\$ 526,024</u>	<u>\$ 196,560</u>	<u>\$ 19,892</u>	<u>\$ 405,007</u>	<u>\$ 30,936</u>	<u>\$ 793</u>	<u>\$ 686,867</u>	<u>\$ 2,339,997</u>
<b>FY 2002</b>									
Beginning balance (7-1-01)	\$ 473,918	\$ 526,024	\$ 196,560	\$ 19,892	\$ 405,007	\$ 30,936	\$ 793	\$ 686,867	\$ 2,339,997
Prior period adjustments	4,534	4,466	-	-	-	-	-	(214,241)	(205,241)
<b>Receipts</b>									
Revenue	3,074,887	951,528	480,161	3,840	347,356	26,445	22	907,551	5,791,790
Operating transfer	78,418	-	-	-	-	-	-	-	78,418
General Fund transfer	-	-	-	-	-	-	-	450,000	450,000
<b>Disbursements</b>									
Operating expenditures	(2,731,634)	(1,054,408)	(472,879)	(3,840)	(458,252)	(25,886)	-	(1,104,705)	(5,851,604)
State Gaming Revenue Fund transfer	(343,724)	-	-	-	-	-	-	-	(343,724)
Operating transfer	-	(78,418)	-	-	-	-	-	-	(78,418)
Greyhound Tourism Fund transfer	-	-	-	-	(53,103)	-	-	-	(53,103)
General Fund transfer	(4,839)	-	-	-	-	-	-	(302,083)	(306,922)
Ending balance (6-30-02)	<u>\$ 551,560</u>	<u>\$ 349,192</u>	<u>\$ 203,842</u>	<u>\$ 19,892</u>	<u>\$ 241,008</u>	<u>\$ 31,495</u>	<u>\$ 815</u>	<u>\$ 423,389</u>	<u>\$ 1,821,193</u>



14-2

KANSAS RACING AND GAMING COMMISSION



\* The Assistant Attorney General positions report to the Attorney General's Office but are counted in the Racing Commission's FTE allotment. The Executive Director supervises the day-to-day legal operation duties.

\*\* The Animal Health Officers are under the direction of the Racing Commission and supervised by the Executive Director.

Note: Camptown Greyhound Park in Frontenac, Kansas, ceased operations in November 2000.

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10/01  
5

Kansas Racing and Gaming Commission  
c/o Wichita Greyhound Park  
P.O. Box 425  
1500 East 77th Street North  
Valley Center, Kansas 67147-0277  
Phone: (316) 755-2736  
Fax: (316) 755-3294  
E-mail: racing@southwind.net

Kansas Racing and Gaming Commission  
c/o The Woodlands  
P.O. 12694  
99th Street and Leavenworth Road  
Kansas City, Kansas 66112  
Phone: (913) 788-3621  
Fax: (913) 788-3881  
E-mail: kracing@kcinter.net

Field Offices

Kansas Racing and Gaming Commission  
3400 S.W. Van Buren Street  
Topeka, Kansas 66611-2228  
Phone: (785) 296-5800  
Fax: (785) 296-0900  
Homepage: [www.ink.org/public/krc](http://www.ink.org/public/krc)  
E-mail: [kracing@cjnetworks.com](mailto:kracing@cjnetworks.com)

Topeka Office



Racing Program Offices





## Racing Program Executive Staff



Tracy T. Diel  
Acting Executive Director

Frances K. Snell  
Director of Racing

David E. Johnson  
Director of Security

D. Bryce Peckham, DVM  
Animal Health Officer

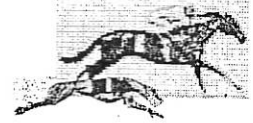
Debra L. Billingsley  
Assistant Attorney General

Kit A. Bostrom  
Director of Licensing

James Glackin  
Assistant Attorney General



## Departments of the Commission



### Licensing

The Licensing Division ensures the integrity of racing and wagering in Kansas by identifying, licensing and conducting background checks on individuals who work at the racetrack facility and owners of the racing animals. These individuals are required to obtain an occupation license and undergo a background check before working or racing animals at the facility. In addition, licenses are granted to facility owners, facility managers, non-profit organizations, concessionaires, racing and wagering equipment and services, and simulcasting entities. Officers, directors and owners of these entities are subject to background investigations before the commission grants a license for the year.

#### Occupation Licenses

There were over 3,800 occupation licenses in 2001 and over 3,600 occupation licenses in 2002 issued to industry personnel and racetrack personnel during the license year. One-year and three-year occupation licenses were issued in different license categories for the race meets at the Woodlands, Wichita Greyhound Park and the county fairs. Over 1,300 sets of fingerprints in 2001 and over 600 sets of fingerprints in 2002 were submitted to the Kansas Bureau of Investigation for background checks. Licensees were able to participate in the fingerprint reciprocity program in lieu of submitting fingerprint cards. Licensees submitted over 500 reciprocity forms for 13 different racing jurisdictions in both 2001 and 2002 that were recognized by the commission. These reciprocity records were then verified with the specific jurisdiction in order to complete the background check on the licensee.

#### Registrations

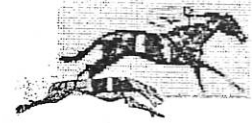
Stable names, kennel names, corporations, partnerships, syndicates and other entities that own racing animals, which participated in racing in Kansas, were required to register with the commission. Entities filed over 350 registrations during the 2001 and over 400 registrations during the 2002 license years. Owners of these entities were required to obtain an occupation license.

#### Concessionaire and Racing and Wagering Equipment and Services Licenses

Concessionaire licenses are required before any entity may sell goods or services at a racetrack facility. There were 18 concessionaire licenses granted in 2001 and 115 concessionaire licenses granted in 2002 to entities providing animal feed, tack and supplies as well as food and beverage concessions and video and photo finish products. United Tote held a valid Racing and Wagering Equipment and Services license during the 2001 and 2002 racing seasons.



## Departments of the Commission



### Animal Health

The Kansas parimutuel racing act provides that the commission appoint an animal health officer and assistants to advise the commission in matters of veterinary medicine. At all times they are to serve and protect the health and well being of the racing animals. The animal health officer serves the commission staff in Topeka, and two assistants serve at each racetrack.

The animal health officers are responsible for conducting veterinary services for racing animals. This includes physical examinations prior to racing and observation for lameness, illness, or any other condition which would prevent the animal from racing to its potential. They are also responsible for treating emergencies of a veterinary nature encountered during the running of the race. In consultation with the judges or stewards, the animal health officers help determine which animals may be scratched from racing due to injury, disease, or disability.

Racing animals are subject to drug testing to deter the use of drugs to influence the outcome of a race. The animal health officer at each track is charged with obtaining blood and/or urine samples to be submitted to the official testing laboratory. A concerted effort is made to obtain the desired specimens from the animals and deliver them to the laboratory under strict chain of custody procedures so that a given specimen is unadulterated and from the identified animal.

During 2001 and 2002, the racing chemistry was performed by Truesdail Laboratories in Tustin, California. The results of their testing are as follows:

<u>Source</u>	<u>Urine</u>	<u>Blood</u>	<u>Total</u>	<u>Number of Positives</u>
2001				
Equine	894	885	1,779	12
Greyhound	9,572	0	11,331	9
2002				
Equine	852	889	1,741	3
Greyhound	10,060	0	10,060	12



## Departments of the Commission



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### Racing Division

The Racing Division enforces the civil provisions of the parimutuel racing act and the rules and regulations of the commission. The division's goal is to instill and preserve public trust and confidence by ensuring the integrity of the race meets. The commission appointees serving as stewards or racing judges at each horse or greyhound race meet work towards achieving the goal by performing various duties such as observing monitors in the starting boxes and lock-out kennels, determining if sufficient cause has been provided to scratch a horse or greyhound from official races, observing during racing for proper racing, and determining correct finishing order.

During the 2001 race meet the stewards/judges had 715 findings in the 10,602 official races.

During the 2002 race meet the stewards/judges had 820 findings in the 10,699 official races.

### Security Division

Security personnel are vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the commission by the provision of the parimutuel racing act. The division's goal is to ensure licensees involved in racing activities are honest, to be proactive and responsive to confidential information concerning potential illegal activities, and to eliminate and/or reduce the potential for accidents. The commission appointees serving as security personnel work towards achieving the goal by investigating violations of the race act, conducting search and seizures, and enforcing all criminal laws of the State. The security personnel also conduct background investigations for various management positions within the racing industry as well as those for all commission employees.

During the 2001 race meets the security personnel conducted 104 background investigations and 850 breathalyzer tests.

During the 2002 race meets the security personnel conducted 37 background investigations and 741 breathalyzer tests.



## Racing Program Fund Activity Fiscal Years 2001 and 2002



	State Racing Fund	Horse Fair Racing Benefit Fund	Horse Breeding Development Fund	Racing Investigative Expense Fund	Greyhound Breeding Development Fund	Racing Reimbursable Expense Fund	Racing Applicant Deposit Fund	Totals
<b>FY 2001</b>								
Beginning balance (7-1-00)	\$ 707,659	\$ 477,946	\$ 170,090	\$ 24,664	\$ 331,237	\$ 26,286	\$ 747	\$ 1,738,629
Prior period adjustments	10,479	-	-	-	-	618	-	11,097
<b>Receipts</b>								
Revenue	3,258,969	941,447	485,516	(4,772)	447,759	44,734	46	5,173,699
Operating transfer	76,418	-	-	-	-	-	-	76,418
General Fund transfer	-	-	-	-	-	-	-	-
<b>Disbursements</b>								
Operating expenditures	(3,153,002)	(816,951)	(459,046)	-	(306,825)	(40,702)	-	(4,776,526)
State Gaming Revenue Fund transfer	(426,605)	-	-	-	-	-	-	(426,605)
Operating transfer	-	(76,418)	-	-	-	-	-	(76,418)
Greyhound Tourism Fund transfer	-	-	-	-	(67,164)	-	-	(67,164)
General Fund transfer	-	-	-	-	-	-	-	0
Ending balance (6-30-01)	<u>\$ 473,918</u>	<u>\$ 526,024</u>	<u>\$ 196,560</u>	<u>\$ 19,892</u>	<u>\$ 405,007</u>	<u>\$ 30,936</u>	<u>\$ 793</u>	<u>\$ 1,653,130</u>
<b>FY 2002</b>								
Beginning balance (7-1-01)	\$ 473,918	\$ 526,024	\$ 196,560	\$ 19,892	\$ 405,007	\$ 30,936	\$ 793	\$ 1,653,130
Prior period adjustments	4,534	4,466	-	-	-	-	-	9,000
<b>Receipts</b>								
Revenue	3,074,887	951,528	480,161	3,840	347,356	26,445	22	4,884,239
Operating transfer	78,418	-	-	-	-	-	-	78,418
General Fund transfer	-	-	-	-	-	-	-	-
<b>Disbursements</b>								
Operating expenditures	(2,731,634)	(1,054,408)	(472,879)	(3,840)	(458,252)	(25,886)	-	(4,746,899)
State Gaming Revenue Fund transfer	(343,724)	-	-	-	-	-	-	(343,724)
Operating transfer	-	(78,418)	-	-	-	-	-	(78,418)
Greyhound Tourism Fund transfer	-	-	-	-	(53,103)	-	-	(53,103)
General Fund transfer	(4,839)	-	-	-	-	-	-	(4,839.00)
Ending balance (6-30-02)	<u>\$ 551,560</u>	<u>\$ 349,192</u>	<u>\$ 203,842</u>	<u>\$ 19,892</u>	<u>\$ 241,008</u>	<u>\$ 31,495</u>	<u>\$ 815</u>	<u>\$ 1,397,804</u>



State Racing Fund  
Fiscal Years 2001 and 2002



Receipts: FY 01 FY 02 % Increase/Decrease

Parimutuel tax	\$ 1,105,546	\$ 915,214	(17.2)%
Simulcast tax	1,882,895	1,902,357	1.0%
Admissions tax	40,631	40,325	(0.8)%
License fees	56,470	52,909	(6.3)%
Fines	19,470	25,175	29.3%
Daily license fees	143,800	137,200	(4.6)%
Miscellaneous revenue	10,157	1,707	(83.2)%
<b>Total receipts</b>	<b>\$ 3,258,969</b>	<b>\$ 3,074,887</b>	<b>(5.6)%</b>

Disbursements:

Salaries and wages	\$ (2,294,629)	\$ (2,039,860)	(11.1)%
Contractual services	(746,449)	(641,920)	(14.0)%
Commodities	(67,041)	(44,276)	(34.0)%
Capital outlay	(44,873)	(5,578)	(87.6)%
Miscellaneous	(10)	-	(100.0)%
<b>Total disbursements</b>	<b>\$ (3,153,002)</b>	<b>\$ (2,731,634)</b>	<b>(13.4)%</b>

Transfers:

State Gaming Revenue Fund Transfer	\$ (426,605)	\$ (343,724)	(19.4)%
Horse Fair Racing Benefit Fund Transfer	76,418	78,418	2.6%
<b>Total transfers</b>	<b>\$ (350,187)</b>	<b>\$ (265,306)</b>	<b>(24.2)%</b>
FTE	51.0	43.0	(15.7)%

\* Reduction due to elimination of Camptown employees.

State Racing Fund - K.S.A. 74-8826

All taxes on live parimutuel wagering, admissions tax, application fees, license fees, and fines that were collected by the Commission were credited to the State Racing Fund. Two-thirds of the parimutuel taxes on simulcast performances were credited to the State Racing Fund. All operating expenses of the Commission were paid from the State Racing Fund.





## Horse Fair Racing Benefit Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
One-third of simulcast tax	<u>\$ 941,447</u>	<u>\$ 951,528</u>	<u>1.1%</u>
<b>Disbursements:</b>			
Anthony Fair Association grant	\$ (158,000)	\$ (350,517) *	121.8%
Eureka Downs grant	(600,000)	(568,390)	(5.3)%
Administrative costs	(58,951)	(135,501) **	129.9%
Total disbursements	<u>\$ (816,951)</u>	<u>\$ (1,054,408)</u>	<u>29.1%</u>
<b>Transfers:</b>			
Operating Transfer - Salaries	<u>\$ (76,418)</u>	<u>\$ (78,418)</u>	<u>2.6%</u>

\* \$180,000 for 2001 race meet and \$170,517 for the 2002 race meet.

\*\* Funded additional Commission employees and expenses directly related to county fair meets.

### Horse Fair Racing Benefit Fund - K.S.A. 74-8838

This fund's revenue is derived from one-third of the parimutuel taxes from simulcast races. The Commission distributes monies from the fund for expenses related to the conduct of a race meet conducted by a fair association or horsemen's nonprofit organization. Included in the Operating Transfer are the wages for Commission staff performing services at such race meetings.



## Horse Breeding Development Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Breakage-live	\$ 12,332	\$ 10,453	(15.2)%
Breakage-simulcast	221,380	227,771	2.9%
Total breakage	<u>233,712</u>	<u>238,224</u>	<u>1.9%</u>
Outs-live	17,083	16,137	(5.5)%
Outs-simulcast	234,721	225,800	(3.8)%
Total outs	<u>251,804</u>	<u>241,937</u>	<u>(3.9)%</u>
Total receipts	<u>\$ 485,516</u>	<u>\$ 480,161</u>	<u>(1.1)%</u>
<b>Disbursements:</b>			
Purse supplements and breed awards	\$ (459,046)	\$ (466,959)	1.7%
Research grants	-	(5,920)	100.0%
Total disbursements	<u>\$ (459,046)</u>	<u>\$ (472,879)</u>	<u>3.0%</u>

### Horse Breeding Development Fund - K.S.A. 74-8829

This fund's revenue is derived from breakage and unclaimed winning tickets from live and simulcast horse performances. The funds are distributed by the Commission for purse supplements, stakes races, and breed awards to animals registered in the Kansas Bred program. There are also equine research grants awarded by the Commission.



## Racing Investigative Expense Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Investigative fees	\$ (4,772) *	\$ 3,840	180.5%
Disbursements:			
Investigative costs	\$ -	\$ (3,840)	100.0%

\*Refunded Investigative fees

### Racing Investigative Expense Fund - K.S.A. 74-8835

All expenses of investigation of an applicant's qualifications for an organization license, facility owner license or facility manager license are paid from this fund. Whenever another state agency assists the Commission in investigations and incurs costs in addition to those attributed to operations of the agency, those costs are paid from this fund. The applicant reimburses the Commission for all costs related to their investigation.



## Greyhound Breeding Development Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Outs-live	\$ 293,314	\$ 210,087	(28.4)%
Outs-simulcast	154,445	137,269	(11.1)%
Total receipts	<u>\$ 447,759</u>	<u>\$ 347,356</u>	<u>(22.4)%</u>
<b>Disbursements:</b>			
Breed stakes race awards	\$ (215,499)	\$ (209,452)	(2.8)%
Research grants	(91,326)	(248,800) *	172.4%
Total disbursements	<u>\$ (306,825)</u>	<u>\$ (458,252)</u>	<u>49.4%</u>
<b>Transfers:</b>			
Kansas Greyhound Tourism Fund	<u>\$ (67,164)</u>	<u>\$ (53,103)</u>	<u>(20.9)%</u>

\* Several grants from previous years were disbursed

### Greyhound Breeding Development Fund - K.S.A. 74-8831

This fund's revenue is derived from unclaimed winning tickets from greyhound races. Funds are distributed by the Commission as follows:

Fifteen percent of the receipts are transferred to the Greyhound Tourism Fund.

Thirty-five percent of the receipts are used to fund research conducted within the State of Kansas relating to the prevention of injury and disease of greyhounds.

Fifty percent of the receipts are returned to the track where they were used to supplement stakes races for Kansas-whelped greyhounds.



## Racing Reimbursable Expense Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase (Decrease)
Fingerprint fees	<u>44,734</u>	<u>26,445</u>	<u>(40.9)%</u>
<b>Disbursements:</b>			
KBI -fingerprint charges	<u>(40,702)</u>	<u>(25,886)</u>	<u>(36.4)%</u>

### Racing Reimbursable Expense Fund - K.S.A 74-8827

As of December 1997, reimbursements for the services of assistant animal health officers, stewards, and racing judges at the Wichita and Kansas City racetrack facilities are no longer collected.



## Racing Applicant Deposit Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase (Decrease)
Interest on deposit	<u>\$ 46</u>	<u>\$ 22</u>	<u>(52.2)%</u>

### Racing Applicant Deposit Fund - K.S.A. 74-8828

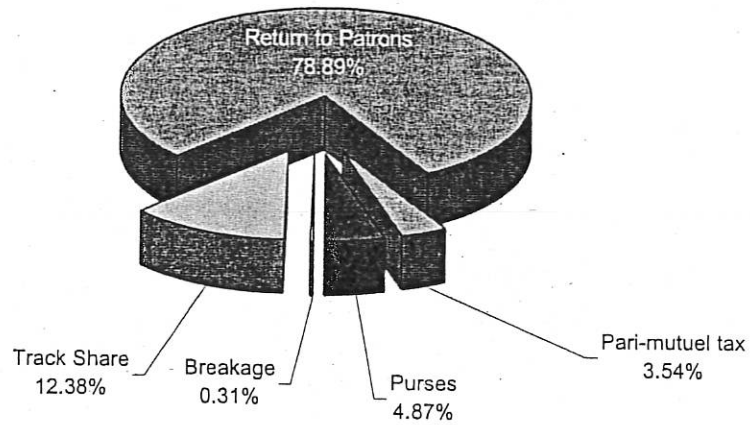
An applicant proposing to construct a racetrack facility is required at the time of making application to make a deposit. If the racetrack is constructed in accordance with the terms of the application, the deposit and interest are refunded. If the applicant fails to complete the racetrack facility in accordance with terms, the deposit and interest are forfeited by the applicant.



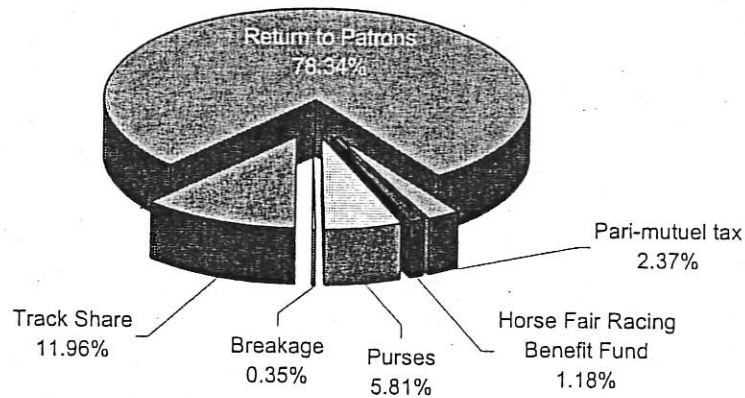
# The Wagering Dollar



## Live Racing - 2001



## Simulcast Racing - 2001

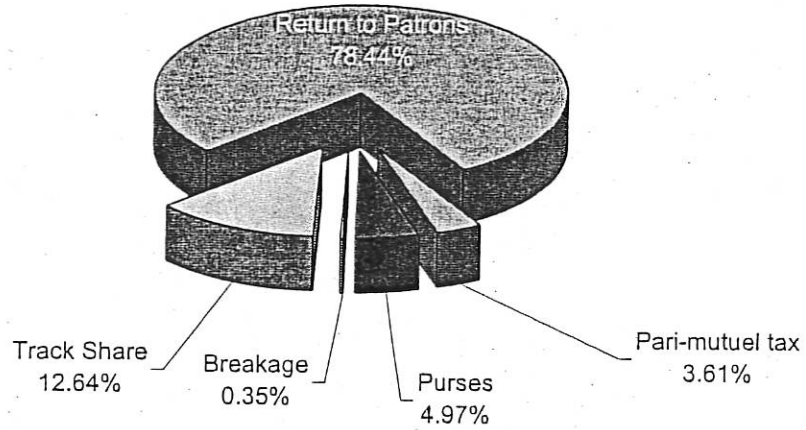




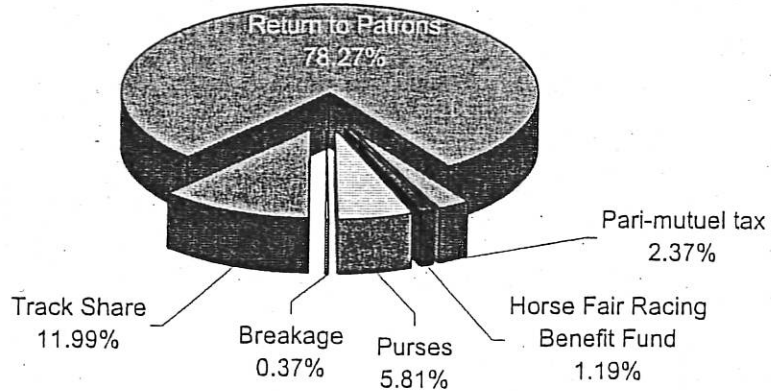
# The Wagering Dollar



## Live Racing - 2002



## Simulcast Racing - 2002







## Track Statistics

For Calendar Years 2001 and 2002



Handle	Woodlands		Wichita Greyhound Park		Camptown
	Kansas City, KS		Valley Center, KS		Frontenac, KS
	2001	2002	2001	2002	n/a
Live					
Horse	\$ 1,266,964	\$ 1,444,487	\$ -	\$ -	\$ -
Greyhound	12,477,138	13,636,774	12,204,006	11,610,357	-
Total live handle	<u>13,744,102</u>	<u>15,081,261</u>	<u>12,204,006</u>	<u>11,610,357</u>	<u>-</u>
Simulcast					
Horse	34,785,386	38,291,077	11,684,235	13,152,204	-
Greyhound	14,571,957	15,971,408	16,367,984	16,100,587	-
Total simulcast handle	<u>49,357,343</u>	<u>54,262,485</u>	<u>28,052,219</u>	<u>29,252,791</u>	<u>-</u>
Total handle	<u>\$ 63,101,445</u>	<u>\$ 69,343,746</u>	<u>\$ 40,256,225</u>	<u>\$ 40,863,148</u>	<u>\$ -</u>
Purses					
Live					
Horse	\$ 86,344	\$ 98,562	\$ -	\$ -	\$ -
Greyhound	584,259	645,294	585,398	556,664	-
Total live purses	<u>670,603</u>	<u>743,856</u>	<u>585,398</u>	<u>556,664</u>	<u>-</u>
Simulcast					
Horse	1,473,648	1,622,106	169,636	191,104	-
Greyhound	1,391,729	1,528,823	1,459,811	1,509,095	-
Total simulcast purses	<u>2,865,377</u>	<u>3,150,929</u>	<u>1,629,447</u>	<u>1,700,199</u>	<u>-</u>
Total purses	<u>\$ 3,535,980</u>	<u>\$ 3,894,785</u>	<u>\$ 2,214,845</u>	<u>\$ 2,256,863</u>	<u>\$ -</u>
Race days					
Live					
Horse	26	25	-	-	-
Greyhound	256	257	263	254	-
Total race days	<u>282</u>	<u>282</u>	<u>263</u>	<u>254</u>	<u>-</u>
Performances					
Live					
Horse	26	25	-	-	-
Greyhound	300	333	287	305	-
Total live performances	<u>326</u>	<u>358</u>	<u>287</u>	<u>305</u>	<u>-</u>
Simulcast					
Horse	3,776	3,573	2,382	4,153	-
Greyhound	3,166	3,894	4,534	6,468	-
Total simulcast performances	<u>6,942</u>	<u>7,467</u>	<u>6,916</u>	<u>10,621</u>	<u>-</u>
Total performances	<u>7,268</u>	<u>7,825</u>	<u>7,203</u>	<u>10,926</u>	<u>-</u>
Attendance					
Live/simulcast					
Horse	21,525	37,029	N/A	N/A	N/A
Greyhound	232,311	262,159	-	-	-
Total attendance	<u>253,836</u>	<u>299,188</u>	<u>-</u>	<u>-</u>	<u>-</u>



## Track Statistics

For Calendar Years 2001 and 2002



Handle	Eureka Downs		Anthony Downs	
	Eureka, Kansas		Anthony, Kansas	
	2001	2002	2001	2002
<b>Live</b>				
Horse	\$ 349,440	\$ 291,934	\$ 94,044	\$ 88,261
Greyhound	-	-	49,299	80,136
<b>Total live handle</b>	<u>349,440</u>	<u>291,934</u>	<u>143,343</u>	<u>168,397</u>
<b>Simulcast</b>				
Horse	159,256	164,778	-	-
Greyhound	-	-	-	-
<b>Total simulcast handle</b>	<u>159,256</u>	<u>164,778</u>	<u>-</u>	<u>-</u>
<b>Total handle</b>	<u>\$ 508,696</u>	<u>\$ 456,712</u>	<u>\$ 143,343</u>	<u>\$ 168,397</u>
<b>Purses</b>				
<b>Live</b>				
Horse	\$ 23,498	\$ 19,542	\$ 6,367	\$ 5,990
Greyhound	-	-	2,278	3,754
<b>Total live purses</b>	<u>23,498</u>	<u>19,542</u>	<u>8,645</u>	<u>9,744</u>
<b>Simulcast</b>				
Horse	9,253	9,576	-	-
Greyhound	-	-	-	-
<b>Total simulcast purses</b>	<u>9,253</u>	<u>9,576</u>	<u>-</u>	<u>-</u>
<b>Total purses</b>	<u>\$ 32,751</u>	<u>\$ 29,118</u>	<u>\$ 8,645</u>	<u>\$ 9,744</u>
<b>Race days</b>				
<b>Live</b>				
Horse	20	20	6	6
Greyhound	-	-	6	6
<b>Total race days</b>	<u>20</u>	<u>20</u>	<u>12</u>	<u>12</u>
<b>Performances</b>				
<b>Live</b>				
Horse	20	20	6	6
Greyhound	-	-	6	6
<b>Total live performances</b>	<u>20</u>	<u>20</u>	<u>12</u>	<u>12</u>
<b>Simulcast</b>				
Horse	37	51	-	-
Greyhound	-	-	-	-
<b>Total simulcast performances</b>	<u>37</u>	<u>51</u>	<u>-</u>	<u>-</u>
<b>Total performances</b>	<u>57</u>	<u>71</u>	<u>12</u>	<u>12</u>
<b>Attendance</b>				
<b>Live/simulcast</b>				
Horse	7,668	6,416	1,922	2,181
Greyhound	-	-	1,923	2,181
<b>Total attendance</b>	<u>7,668</u>	<u>6,416</u>	<u>3,845</u>	<u>4,361</u>



Track Statistics  
For Calendar Years 2001 and 2002



Handle	Overall Totals	
	2001	2002
Live		
Horse	\$ 1,710,448	\$ 1,824,682
Greyhound	24,730,443	25,327,267
Total live handle	<u>26,440,891</u>	<u>27,151,949</u>
Simulcast		
Horse	46,628,877	51,608,059
Greyhound	30,939,941	32,071,995
Total simulcast handle	<u>77,568,818</u>	<u>83,680,054</u>
Total handle	<u>\$ 104,009,709</u>	<u>\$ 110,832,003</u>
Purses		
Live		
Horse	\$ 116,209	\$ 124,094
Greyhound	1,171,935	1,205,712
Total live purses	<u>1,288,144</u>	<u>1,329,806</u>
Simulcast		
Horse	1,652,537	1,822,786
Greyhound	2,851,540	3,037,918
Total simulcast purses	<u>4,504,077</u>	<u>4,860,704</u>
Total purses	<u>\$ 5,792,221</u>	<u>\$ 6,190,510</u>
Race days		
Live		
Horse	52	51
Greyhound	525	517
Total race days	<u>577</u>	<u>568</u>
Performances		
Live		
Horse	52	51
Greyhound	593	644
Total live performances	<u>645</u>	<u>695</u>
Simulcast		
Horse	6,195	7,777
Greyhound	7,700	10,362
Total simulcast performances	<u>13,895</u>	<u>18,139</u>
Total performances	<u>14,540</u>	<u>18,834</u>
Attendance		
Live/simulcast		
Horse	31,115	45,626
Greyhound	234,234	264,340
Total attendance	<u>265,349</u>	<u>309,965</u>



## Track Statistics

For Calendar Years 2001 and 2002



	Woodlands		Wichita Greyhound Park		Camptown
	Kansas City Kansas		Valley Center, Kansas		Frontenac, KS
	2001	2002	2001	2002	n/a
<b>Pari-mutuel tax</b>					
Live					
Horse	\$ 43,170	\$ 49,278	\$ -	\$ -	\$ -
Greyhound	438,071	483,845	438,926	417,372	-
Total live pari-mutuel tax	481,241	533,123	438,926	417,372	-
Simulcast					
Horse	1,172,500	1,275,164	410,181	470,999	-
Greyhound	547,437	608,293	617,515	613,196	-
Total simulcast pari-mutuel tax	1,719,937	1,883,457	1,027,696	1,084,195	-
Total pari-mutuel tax	\$ 2,201,178	\$ 2,416,580	\$ 1,466,622	\$ 1,501,567	\$ -
<b>Outs</b>					
Live					
Horse	\$ 9,758	\$ 11,888	\$ -	\$ -	\$ -
Greyhound	105,832	n/a	103,312	n/a	-
Total live outs	115,590	11,888	103,312	-	-
Simulcast					
Horse	167,905	n/a	50,968	n/a	-
Greyhound	65,663	n/a	71,606	n/a	-
Total simulcast outs	233,568	-	122,574	-	-
Total outs	\$ 349,158	\$ 11,888	\$ 225,886	\$ -	\$ -
<b>Breakage</b>					
Live					
Horse	\$ 9,553	\$ 9,929	\$ -	\$ -	\$ -
Greyhound	41,576	49,242	31,437	29,876	-
Total live breakage	51,129	59,171	31,437	29,876	-
Simulcast					
Horse	162,530	195,353	50,968	50,562	-
Greyhound	30,610	32,201	27,635	26,058	-
Total simulcast breakage	193,140	227,554	78,603	76,620	-
Total breakage	\$ 244,269	\$ 286,725	\$ 110,040	\$ 106,496	\$ -
<b>Admission tax</b>					
Live/Simulcast					
Horse	\$ 3,138	n/a	n/a	n/a	n/a
Greyhound	33,745	28,428	n/a	n/a	n/a
Total admission tax	\$ 36,883	\$ 28,428	\$ -	\$ -	\$ -
<b>Other taxes &amp; fees</b>					
Daily license fees	\$ 61,800	\$ 62,200	\$ 68,400	\$ 72,400	-
Licensing	26,702	33,119	12,135	10,618	-
Fines	10,691	8,855	8,282	11,456	-
Local ad valorem tax	-	-	-	-	-
Total other taxes & fees	\$ 99,193	\$ 104,174	\$ 88,817	\$ 94,474	\$ -



## Track Statistics

For Calendar Years 2001 and 2002



	Eureka Downs		Anthony Downs	
	Eureka, Kansas		Anthony, Kansas	
	2001	2002	2001	2002
<b>Pari-mutuel tax</b>				
Live				
Horse	\$ 11,747	\$ 9,769	\$ 3,185	\$ 2,997
Greyhound	-	-	1,709	2,816
Total live pari-mutuel tax	<u>11,747</u>	<u>9,769</u>	<u>4,894</u>	<u>5,813</u>
Simulcast				
Horse	5,037	5,240	-	-
Greyhound	-	-	-	-
Total simulcast pari-mutuel tax	<u>5,037</u>	<u>5,240</u>	<u>0</u>	<u>0</u>
<b>Total pari-mutuel tax</b>	<u><u>\$ 16,784</u></u>	<u><u>\$ 15,009</u></u>	<u><u>\$ 4,894</u></u>	<u><u>\$ 5,813</u></u>
<b>Outs</b>				
Live				
Horse	\$ 5,051	\$ 5,273	\$ 1,329	\$ 1,002
Greyhound	-	-	944	838
Total live outs	<u>5,051</u>	<u>5,273</u>	<u>2,273</u>	<u>1,840</u>
Simulcast				
Horse	2,740	1,163	-	-
Greyhound	-	-	-	-
Total simulcast outs	<u>2,740</u>	<u>1,163</u>	<u>-</u>	<u>-</u>
<b>Total outs</b>	<u><u>\$ 7,791</u></u>	<u><u>\$ 6,436</u></u>	<u><u>\$ 2,273</u></u>	<u><u>\$ 1,840</u></u>
<b>Breakage</b>				
Live				
Horse	\$ 3,443	\$ 3,042	\$ 971	\$ 992
Greyhound	-	-	372	402
Total live breakage	<u>3,443</u>	<u>3,042</u>	<u>1,343</u>	<u>1,394</u>
Simulcast				
Horse	905	1,053	-	-
Greyhound	-	-	-	-
Total simulcast breakage	<u>905</u>	<u>1,053</u>	<u>-</u>	<u>-</u>
<b>Total breakage</b>	<u><u>\$ 4,348</u></u>	<u><u>\$ 4,095</u></u>	<u><u>\$ 1,343</u></u>	<u><u>\$ 1,394</u></u>
<b>Admission tax</b>				
Live/Simulcast				
Horse	\$ 1,328	\$ 1,106	\$ 475	\$ 533
Greyhound	-	-	476	533
Total admission tax	<u>\$ 1,328</u>	<u>\$ 1,106</u>	<u>\$ 951</u>	<u>\$ 1,066</u>
<b>Other taxes &amp; fees</b>				
Daily license fees	\$ 2,000	\$ 2,000	\$ 600	\$ 600
Licensing	6,342	4,626	908	556
Fines	2,550	1,200	350	-
Local ad valorem tax	1,534	1,283	769	872
<b>Total other taxes &amp; fees</b>	<u><u>\$ 12,426</u></u>	<u><u>\$ 9,109</u></u>	<u><u>\$ 2,627</u></u>	<u><u>\$ 2,028</u></u>



Track Statistics  
For Calendar Years 2001 and 2002



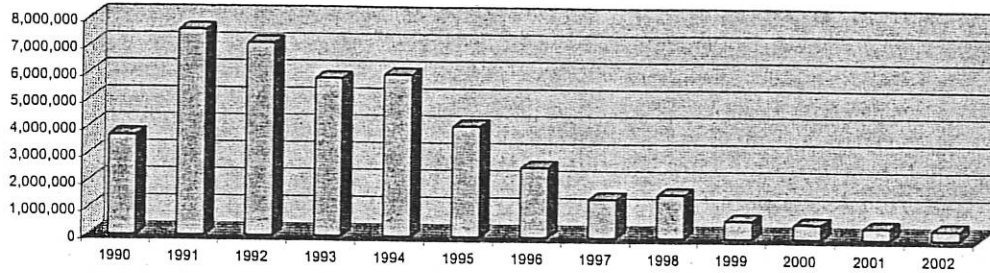
	Overall Totals	
	2001	2002
<b>Pari-mutuel tax</b>		
Live		
Horse	\$ 58,102	\$ 62,044
Greyhound	878,706	904,033
Total live pari-mutuel tax	<u>936,808</u>	<u>966,077</u>
Simulcast		
Horse	1,587,718	1,751,403
Greyhound	1,164,952	1,221,489
Total simulcast pari-mutuel tax	<u>2,752,670</u>	<u>2,972,892</u>
<b>Total pari-mutuel tax</b>	<u>\$ 3,689,478</u>	<u>\$ 3,938,969</u>
<b>Outs</b>		
Live		
Horse	\$ 16,138	\$ 18,163
Greyhound	210,088	n/a
Total live outs	<u>226,226</u>	<u>19,001</u>
Simulcast		
Horse	221,613	n/a
Greyhound	137,269	n/a
Total simulcast outs	<u>358,882</u>	<u>1,163</u>
<b>Total outs</b>	<u>\$ 585,108</u>	<u>\$ 20,164</u>
<b>Breakage</b>		
Live		
Horse	\$ 13,967	\$ 13,963
Greyhound	73,385	79,520
Total live breakage	<u>87,352</u>	<u>93,483</u>
Simulcast		
Horse	214,403	246,968
Greyhound	58,245	58,259
Total simulcast breakage	<u>272,648</u>	<u>305,227</u>
<b>Total breakage</b>	<u>\$ 360,000</u>	<u>\$ 398,710</u>
<b>Admission tax</b>		
Live/Simulcast		
Horse	\$ 4,941	\$ 1,639
Greyhound	34,221	28,961
Total admission tax	<u>\$ 39,162</u>	<u>\$ 30,600</u>
<b>Other taxes &amp; fees</b>		
Daily license fees	\$ 132,800	\$ 137,200
Licensing	46,087	48,919
Fines	21,873	21,511
Local ad valorem tax	2,303	2,155
<b>Total other taxes &amp; fees</b>	<u>\$ 203,063</u>	<u>\$ 209,785</u>



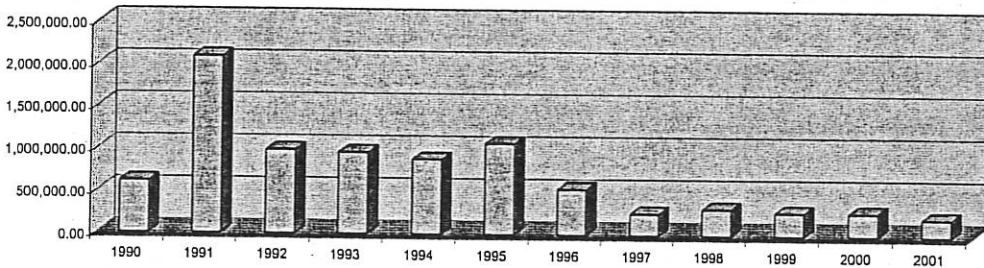
# Benefits of Parimutuel Racing



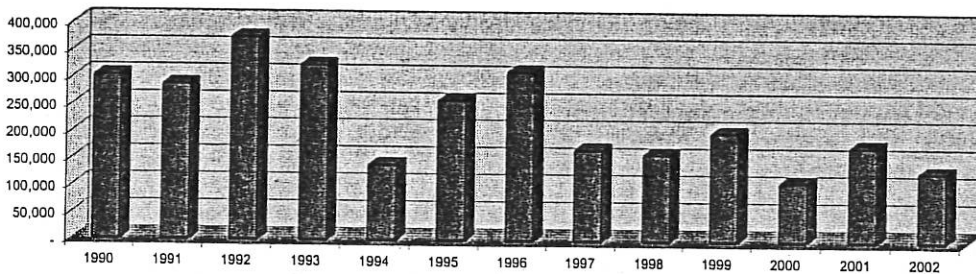
### Transfers to State Gaming Revenue Fund



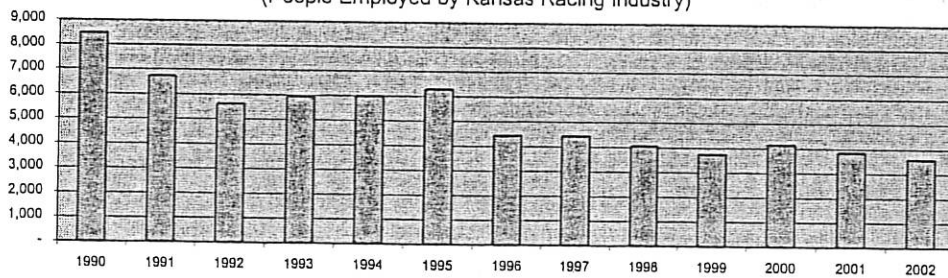
### Charitable Contributions



### Research Grants Funded

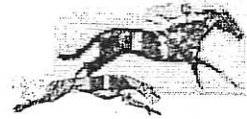


### Occupational Licenses Issued (People Employed by Kansas Racing Industry)





# Charitable Contributions



The Kansas parimutuel racing act directs that each organization licensee must distribute net earnings to 501(c)(3) nonprofits who are domiciled in and who will expend the monies in Kansas. The following schedule indicates the amount of charitable contributions by each organization licensee:

	Calendar Year	
	<u>2001</u>	<u>2002</u>
TRAK East	\$ 76,837	\$134,950
Wichita Greyhound Charities, Inc.	\$126,881	\$125,932

TRAK East is associated with the Woodlands Race Course and Woodlands Kennel Club. Wichita Greyhound Charities, Inc. is associated with Wichita Greyhound Park. The following reflects how these charitable distributions improve the quality of life for Kansans:

### TRAK EAST, INC. - 2001

#### (15 CONTRIBUTIONS)

Alzheimer's Association – Heartland Chapter	\$5,000
Big Brothers/Big Sisters of Douglas County	2,400
Big Brothers/Big Sisters of Greater Kansas City	9,000
Big Brothers/Big Sisters of Manhattan, Inc.	3,500
CASA of the High Plains, Inc.	4,000
Catholic Housing of Wyandotte County, Inc.	8,000
Donnelly College	8,320
Duchesne Clinic	4,400
Economic Opportunity Foundation	5,000
Kansas Center for Canine Assistance	2,000
Kansas Jaycees Cerebral Palsy Foundation	1,528
Leavenworth Road Association	5,000
Salina Emergency Aid/Food Bank	3,500
Temporary Lodging for Children, Inc.	5,189
They Wyandotte County Parks Foundation	10,000
Total	<u>\$76,837</u>

### TRAK EAST, INC. – 2002

#### (20 CONTRIBUTIONS)

Big Brothers/Big Sisters of Greater Kansas City	\$5,000
Big Brothers/Big Sisters of Manhattan	5,500
Boys & Girls Club of Lawrence	5,000
Cancer Action	3,000
Caritas Clinic	8,000





# Charitable Contributions



Casa of the High Plains	2,500
Catholic Charities	8,485
Donnelly College	10,000
Economic Opportunity Foundation	6,500
Friends of Yates	18,311
Kaw Valley Center	10,000
Leavenworth Road Association	5,000
Mother to Mother Ministry of Kansas City, Kansas	2,724
National Multiple Sclerosis Society, Mid America Chapter	5,000
Salina Emergency Aid/Food Bank	6,500
Temporary Lodging for Children	10,000
The Children's Museum of Kansas City	2,230
The Wyandotte County Parks Foundation	15,000
Vernon Multi-Purpose Center	1,200
Youth Opportunities Unlimited	5,000
Total	<u>\$134,950</u>

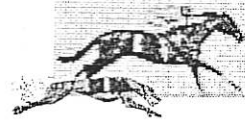
## WICHITA GREYHOUND CHARITIES, INC. – 2001

### (33 CONTRIBUTIONS)

The ARC of Sedgwick County	\$1,850
CASA-Children Worth Saving, Inc.	730
Consumer Credit Counseling Service, Inc.	3,600
Dress for Success Wichita	5,000
Friends of the Sedgwick County Soldiers and Sailors Civil War Monument	5,000
Harvey County Historical Society, Inc.	5,000
Heartspring	5,000
Hospice, Inc.	3,000
Kansas Children's Service League	3,000
Kansas Humanities Council	2,500
Kansas Public Telecommunications Service, Inc.	5,000
Kansas Starbase	1,800
Kiowa Historical Society	2,586
Lindsborg Arts Council	3,200
Make-A-Wish Foundation of Kansas, Inc.	5,000
March of Dimes KS/Western MO Chapter	5,000
Metropolitan Ballet of Topeka	5,000
Muscular Dystrophy Association	2,500
Music Theatre of Wichita, Inc.	4,000
Newton Area Senior Center	4,000
Newton Meals on Wheels, Inc.	4,500
Orpheum Performing Arts Centre, Ltd.	5,000
Race The Wind Greyhound Adoption, Inc.	1,500
Rainbows United, Inc.	2,500
TLC Greyhound Adoption	2,500



## Charitable Contributions



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Tri-Valley Developmental Services	5,000
Via Christi Foundation	4,390
Wichita Black Arts Festival Association	3,500
Wichita Chamber Chorale, Inc.	3,870
Wichita Festivals, Inc.	14,100
Wichita Independents	2,000
Wichita/Sedgwick County Historical Museum	2,505
Wichita's Promise Youth Council	2,750
Total	<u>\$126,881</u>

### WICHITA GREYHOUND CHARITIES, INC. – 2002

#### (29 CONTRIBUTIONS)

Augusta Arts Council	\$5,000
Boys and Girls Club of South Central Kansas	4,760
Cerebral Palsy Research Foundation of Kansas	5,000
Consumer Credit Counseling Service, Inc.	2,100
Dress for Success Wichita	5,000
Envision	7,000
Exploration Place	5,000
Family Service and Guidance Center, Inc.	2,500
Heartspring	5,000
Hesston College	730
Kansas Aviation Museum	2,500
Kingman County Council on Aging	1,222
Medical Service Bureau, Inc.	5,000
Metropolitan Ballet of Topeka	5,000
Metropolitan Ballet of Wichita	5,000
Newton Area Senior Center	5,000
Orpheum Performing Arts Centre, Ltd.	5,000
Paws-Up, Inc.	2,090
Race The Wind Greyhound Adoption, Inc.	3,000
Senior Services, Inc.	4,800
The Kansas African American Museum	5,000
The Leukemia & Lymphoma Society	5,000
The Wichita Convention & Sports Foundation	5,000
Three Trees, Inc.	4,970
Wichita Art Museum	5,000
Wichita Black Arts Festival Association	5,000
Wichita Jazz Festival, Inc.	5,000
Wichita/Sedgwick County Historical Museum	2,490
Winfield Arts and Humanities Council, Inc.	3,500
Total	<u>\$125,932</u>

## Testimony Before the House Committee on Federal and State Affairs

John E. McElroy, JD, CFE  
Executive Director  
Kansas State Gaming Agency  
January 20, 2004

Mr. Chairman and members of the committee:

It is my pleasure to appear today before the House Committee on Federal and State Affairs to provide information about the Kansas State Gaming Agency. In Kansas, the Iowa Tribe of Kansas and Nebraska, the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe, and the Sac and Fox Nation of Missouri in Kansas and Nebraska each have a reservation and a casino. Each casino operates through the terms of a Tribal State Compact.

KSA 74-9805 limits the jurisdiction of the Agency to oversight and investigations concerning tribal gaming operations in Kansas carried out in connection with Tribal State Compacts. Specifically, the Agency is charged with monitoring gaming activities at the casinos and doing background investigations of vendors who do significant business with casinos, gaming personnel and tribal gaming inspectors. Licensing is done by the individual Tribal Gaming Commissions who are also designated in the Compacts as the primary regulators. The Agency has no jurisdiction over any other type of gaming, legal or illegal.

The Agency was officially designated a part of the Kansas Racing and Gaming Commission in the Tribal Gaming Oversight Act, KSA 74-9801 et seq, in 1996. The Commission approves the Agency's budget, the number and qualifications of its employees and any expenditures for arbitration. All other management functions are left to the executive director and his designees. Until April, 2003, the executive director also had the role of executive director of the Kansas Racing Commission. I have been the full time executive director of the Agency since April, 2003.

The Agency has three management/ supervisory personnel, three support personnel, six special investigators and nine enforcement agents. Special investigators are assigned to do Category II background investigations exclusively. Corporate and Category I background investigations are done by enforcement agents. Enforcement agents are sworn law enforcement officers. Enforcement agents are also responsible for monitoring gaming activity at the casinos. The Agency operates 11 vehicles.

The Agency is entirely funded by contributions from the four recognized Kansas tribes. The Agency budget for FY 2004 is \$1,562,688. Each Tribe receives a notice of assessment from the Agency by July 31 of each year. Any funds left over from the previous fiscal year are credited to the next year's tribal assessments before the notice is sent. Tribes must pay their assessments on or before September 21, January 1, and April 1. All of the Tribes are current in paying their assessments. The Tribes pay no other funds to the State.

State general funds are only used in the case of an arbitration award if the State is ordered to pay any of the costs of arbitration. During 2003, one arbitration, which ended in a redistribution of assessments for investigative costs, resulted in a general fund expense of \$2900. Another arbitration request made by a Tribe has been withdrawn. A third arbitration request, this one by the Agency, is currently still being negotiated.

The Agency is housed on the second floor of 701 SW Jackson, Topeka, KS. During the summer of 2003, the Agency installed a server based computer network with high speed internet access. This purchase has increased the efficiency of the Agency and now permits data files to be backed up every evening and prevents loss of data due to power failure.

The Agency has investigated several criminal cases in 2003. One case involves an employee who allegedly possessed unauthorized computer files from a previous gaming employer. Another involved the theft of an empty cash container allegedly by a patron. In one case a patron attempted to use counterfeit bills in a slot machine. The final case involved two out of state patrons who

are alleged to have attempted to cheat a slot machine. In each of these cases, at least one person was apprehended and charged. Another case involving false statements is awaiting a decision by the Attorney General. Only the counterfeit money case has been concluded.

I am unable to discuss with you any particular information in regard to any particular casino. KSA 45-221 (42) prohibits disclosure of records when disclosure is prohibited by a Tribal State Compact. All Tribal State Compacts clearly call attention to the confidential and proprietary nature of information provided to the Agency by the Tribes to permit the Agency to carry out its mission.

I am pleased to stand for questions. I can be reached by telephone at 368-6202 or by email at [john.mcelroy@ksgaming.org](mailto:john.mcelroy@ksgaming.org).

Report of the  
Joint Committee on State-Tribal Relations  
to the  
2004 Kansas Legislature

**CHAIRPERSON:** Senator Lana Oleen

**VICE-CHAIRPERSON:** Representative Bill Mason

**RANKING MINORITY MEMBER:** Senator Mark Gilstrap

**OTHER MEMBERS:** Senators David Adkins, David Haley, and Nancy Harrington;  
Representatives Becky J. Hutchins, Doug Patterson, Tom Sawyer, and Bonnie Sharp

**NON-LEGISLATIVE MEMBERS:** Governor's Representative—Matt All; Attorney General's  
Representative—Julene Miller

**STUDY TOPICS**

Fifth Annual Report (2003)

*December 2003*

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House Federal & State Affairs  
January 20, 2004  
Attachment 4

# Joint Committee on State-Tribal Relations

## FIFTH ANNUAL REPORT (2003)

### CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee on State-Tribal Relations make the following recommendations.

- Regarding the tribal law enforcement issue, the Joint Committee recommends that the House Committee on Federal and State Affairs continue to work 2003 House Sub. for SB 9.
- The Joint Committee, with the approval of the Legislative Coordinating Council, has sent a letter to the members of the Kansas Congressional Delegation seeking their support in establishing a Congressional Inquiry or GAO Audit into certain actions of the U.S. Department of Interior which resulted in the Wyandotte Tribe of Oklahoma operating a gaming casino in downtown Kansas City, Kansas.
- The Joint Committee will continue to monitor the controversy over the South Lawrence Trafficway and its possible impact on the Baker Wetlands and Haskell Indian Nations University.
- The Joint Committee will continue to monitor the status of tribal-related litigation. The Joint Committee has requested expenditure information relative to these tribal cases.

**Proposed Legislation:** None

### BACKGROUND

The Joint Committee on State-Tribal Relations was created through the enactment of 1999 HB 2065. The responsibilities and organization of the Joint Committee are summarized below.

The Joint Committee is authorized by statute to:

- establish and transmit to the Governor proposed guidelines reflecting the public policies and state interests that the Joint Committee will consider in reviewing proposed compacts;
- recommend to the Governor that any gaming compact provide for the imposition and collection of state sales and excise taxes on sales of nongaming goods and services to persons other than tribal members and imposition and collection of state income tax on revenues derived from sales of nongaming goods and services;
- hold public hearings on proposed gaming compacts submitted to the Joint Committee by the Governor;
- recommend modification of proposed gaming compacts submitted by the Governor and introduce resolutions approving proposed gaming compacts

and recommend that such resolutions be adopted or be not adopted, or report such resolutions without recommendation, and notify the Governor, in writing, of the Joint Committee's action;

- meet, discuss, and hold hearings on issues concerning state and tribal relations;
- make recommendations on issues of state-tribal relations; and
- introduce such legislation as deemed necessary in performing its functions.

Six members of the Committee constitute a quorum, however, actions of the Committee regarding approval of state-tribal gaming compacts require the affirmative vote of at least eight members, at least four senators, and four representatives. The Committee could report a compact without recommendation on the affirmative vote of any five legislative members.

Annually, the Committee elects its chairperson and vice-chairperson. The chairperson alternates between the House (even years) and Senate (odd years). The ranking minority member is from the same chamber as the chairperson. The Committee is authorized to appoint subcommittees and members may be paid and reimbursed for travel and subsistence for attendance at subcommittee or full Committee meetings.

### COMMITTEE ACTIVITIES

The Joint Committee met for four days during the 2003 Interim. Two of the meetings were held in Topeka. One meeting was held at Haskell Indian Nations University in Lawrence. One meeting was held in the Holton City Hall, and also included a tour of the Prairie Band Potawatomi Nation Reservation. The Joint Committee received input on various issues from the four resident Kansas Tribes, and

from state and federal officials who are involved in state-tribal matters.

The Joint Committee reviewed the status of tribal-related bills considered by the 2003 Legislature. The Joint Committee also was given updates on the status of tribal-related litigation in Kansas by Steve Alexander and Brian Johnson, representatives of the Attorney General's Office. The updates reviewed the litigation involving the Wyandotte Tribe of Oklahoma's casino operation in Kansas City, the issuance of tribal license plates, and the taxation of tribal gasoline sales.

The Executive Director of the Kansas Office of Native American Affairs, Gail DuPuis, also provided updated information on the activities of that agency, including developments related to the Governor's Interstate Indian Council and the National American Indian and Alaska Native Heritage Month celebration.

A representative of the National Conference of State Legislatures (NCSL), Andrea Williams, reviewed the current joint project of NCSL and the National Congress of American Indians (NCAI) which focuses on promoting intergovernmental cooperation between states and tribal governments.

The Executive Director of the Kansas State Historical Society, Mary Allman, and other interested conferees reviewed the history of the state historical marker program. Some tribal members had expressed objections to the language used on some of the markers. At the request of the Joint Committee, the interested parties agreed to meet jointly to seek a resolution to the issue. The Joint Committee also received testimony from a representative of the State Historical Society, Christy Davis, on the impact of historic preservation laws on the new casino operation in Kansas City.

The Joint Committee also received testimony from representatives of the Haskell Wetland's Preservation Organization relative



to the proposed new South Lawrence Trafficway (SLT), including Nicholas Luna, Monette Terry, and Yulburton Sandcrane. Some members of the Joint Committee toured the wetlands acreage. The Chief Counsel for the Kansas Department of Transportation, Sally Howard, reviewed the history of the proposed South Lawrence Trafficway project from 1986 to the present. She advised the Joint Committee that on December 12, 2003, the Corps of Engineers released its Record of Decision for the final section of the SLT and a final alignment of the project along 32<sup>nd</sup> Street.

The Joint Committee also received testimony from various persons associated with the Lewis and Clark Bicentennial Commission, including Chris Howell, Karen Seaberg, and Sheri Wilson. This celebration will occur mostly in the spring and summer of 2004.

The Joint Committee also was given a review by Brent Widick of the various programs of the Department of Social and Rehabilitation Services (SRS) which impact the Native American Tribes. The Joint Committee also was given an update from the Kansas Arts Commission Director David Wilson. Kim Qualls of the Travel and Tourism Division of the Kansas Department of Commerce reviewed efforts and other programs to promote Native American heritage and culture.

The Joint Committee also attended a national conference hosted by the Haskell Indian Nations University relating to "Indian Records for the 21<sup>st</sup> Century and Beyond: Creating a Tribal/Federal Vision."

The Joint Committee received input on various issues from the four resident Kansas tribes: the Prairie Band Potawatomi Nation of Kansas; the Kickapoo Tribe; the Sac and Fox Nation of Missouri in Kansas and Nebraska; and the Iowa Tribe of Kansas and Nebraska.

The members of the Joint Committee applauded the decision by Chairperson Oleen

to invite representatives of the tribal governments to sit at the Committee table and participate in Committee discussion. Tribal representatives who sat with the committee included: Louis DeRoin, Iowa Tribe; Zach Pahmahmie, Prairie Band Potawatomi Nation; Emily Conklin and John Thomas, Kickapoo Tribe; and Don Pilcher, Sac and Fox Nation.

In addition to its usual review of tribal-related issues, the Joint Committee was charged by the Legislative Coordinating Council (LCC) to review the issue of placing lands into trust.

The charge from the LCC is as follows:

*Placing Land into Trust.* Study how land is placed in a trust and how that action impacts Kansas with regard to sovereignty issues, the Kansas Act of Admission, the Tenth Amendment to the U.S. Constitution and ongoing litigation with Native American tribes.

In conducting this review, the Joint Committee heard testimony from Steve Alexander of the Attorney General's Office; several Jackson County Commissioners, including Brad Hamilton and Lois Pelton; representatives of the resident tribes, as noted above; and officials with the Bureau of Indian Affairs, including Galen Hubbard of the Horton Office.

The Joint Committee discussed the possibility of contacting the Kansas Congressional Delegation to request that a Congressional inquiry or an audit by the General Accounting Office (GAO) into the actions of the U.S. Department of Interior which led to the Shriner tract in Kansas City, Kansas being taken into trust in such a short time frame. The Joint Committee approved a motion which directed the Chairperson to request the approval of the LCC to authorize the Joint Committee to make such a request of the Kansas Congressional Delegation. The LCC approved the request of the Joint Committee under LCC Policy 33. At its

December 15<sup>th</sup> meeting, the Joint Committee approved the letter to be sent to the Kansas Congressional Delegation.

The Joint Committee decided to revisit the issue of enhancing the powers and responsibilities of the tribal police officers and tribal police departments. The Joint Committee strongly believes that legislation is needed to improve law enforcement efficiency in those counties which have resident tribal reservations located in the county. The Joint Committee has recommended such legislation for the past four Legislative Sessions. Bills have passed the Senate on at least three occasions, only to fail in the House of Representatives. The Joint Committee again heard testimony from tribal police (J. T. Scott and Sam Grant, Prairie Band Tribal Police Department); county sheriffs (Bruce Tomlinson of Jackson County and Lamar Shoemaker of Brown County); Jackson County commissioners (Brad Hamilton and Lois Pelton); and interested legislators (Representative Becky Hutchins). The Joint Committee is aware that 2003 H. Sub. for SB 9, concerning this issue, has passed the Senate and is currently in the House Committee on Federal and State Affairs.

The Joint Committee received a presentation by representatives of the Intertribal Gaming Management Consortium, including Whitney Damron and Emily Conklin, regarding the proposed new casino project. This is a joint project of the Kickapoo Tribe in Kansas and the Sac and Fox Nation to construct a new casino in the Village West development in western Wyandotte County.

### **CONCLUSIONS AND RECOMMENDATIONS**

The Joint Committee believes that more open communication and cooperation between the state and the tribes is the key to improving the state-tribal relationships. The

members believe that the Joint Committee is a useful forum to allow for improved communication and cooperation.

**Tribal Law Enforcement.** As noted above, the Joint Committee held considerable discussion on the tribal law enforcement issue, and reviewed a proposed balloon amendment to 2003 H. Sub. for SB 9. The Joint Committee reached a consensus that the House Committee on Federal and State Affairs continue to work H. Sub. for SB 9 during the 2004 Session. The Joint Committee continues to support legislation to improve the cooperative efforts of the tribal law enforcement departments and the local police and sheriff's departments and would like to have statutory language in this area. The Joint Committee was favorably impressed by the level of professionalism of tribal police officers.

**Letter to Kansas Congressional Delegation.** As discussed above, the Joint Committee, with the approval of the Legislative Coordinating Council, has sent a letter to the members of the Kansas Congressional Delegation seeking their support in establishing a Congressional Inquiry or GAO Audit into certain actions of the U.S. Department of Interior which resulted in the Wyandotte Tribe of Oklahoma operating a gaming casino in downtown Kansas City, Kansas.

**Baker Wetlands and South Lawrence Trafficway.** The Joint Committee heard testimony regarding the controversy over the South Lawrence Trafficway and its possible impact on the Baker Wetlands and Haskell Indian Nations University. The Committee members visited the Baker Wetlands site and received input from members of the Wetlands Preservation Organization. Although the members believe that this is largely a federal issue. The Joint Committee will continue to monitor developments in this area.

**Tribal-Related Litigation.** The Joint Committee received updates on the status

tribal-related litigation currently ongoing. Due to the expenses, lengthy time frame and topic of litigation involved in these cases, the Joint Committee urges the use of alternative dispute resolution or arbitration to expedite settlement of these issues.

At its meeting on December 15, the Joint Committee requested expenditure information relative to these tribal-related lawsuits. Staff has requested this expenditure information from the Office of the Attorney General and the Department of Revenue. Staff will provide this information to the Joint Committee as it becomes available.

# Special Committee on Judiciary

## REVIEW OF KANSAS LIQUOR CONTROL ACT

### CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that the Liquor Control Act and the Cereal Malt Beverage Act be amended to make the acts uniformly applicable to all cities and counties including preemption provisions. The Committee recommends legislation to allow local-option Sunday sales of liquor and cereal malt beverages. The Committee recommends that the Legislature continue to study the issues of hours of operation for the sale of alcoholic beverages, age limits for employees, and eliminating the distinction between cereal malt beverage and "strong" beer. The Committee recommends the repeal of existing statutes relating to advertising of liquor and the minimum mark-up, as these statutes are unenforceable. Finally, the Committee recommends legislation to allow the purchase of out-of-state wine by private citizens.

**Proposed Legislation:** The Committee recommends one bill on this topic.

### BACKGROUND

The Legislative Coordinating Council charged the Special Committee on Judiciary to conduct a :

"Review of the Liquor Control Act and the Cereal Malt Beverage Law and the need for uniformity in these laws. This review would examine the recent Wyandotte County District Court ruling that the Kansas Liquor Control Act was non-uniform, permitting a number of cities to charter out of the Sunday sales and holiday sales prohibitions in the Act."

Original 2003 SB 2 was a bill by the Confirmation Oversight Committee which dealt with terms of certain board members. The House Federal and State Affairs Committee amended the bill by substituting a new bill. The substitute bill was amended on the House floor and is currently in conference committee.

The substitute bill would attempt to make the Kansas Liquor Control Act uniformly applicable to all cities and counties, which would prevent them from using their home

rule powers to opt out of the provisions of the Act. The provisions that are made uniform fall into three categories:

- **Limitations on licensing of liquor retailers.** Current law prohibits licensing of retailers in cities where the voters voted against the repeal of prohibition unless the voters of the city subsequently vote to allow licensing of retailers within the city. This creates nonuniformity in the act. The substitute bill would authorize licensing of retailers in any city unless, within 60 days after the effective date of the bill, the governing body adopts an ordinance prohibiting the licensing or unless the voters petition and vote to prohibit the licensing. (See sections 1-3, pages 1-5.)
- **Limitations on location of retail liquor stores and other licensed premises.** In regard to restrictions on location of licensed premises, current law distinguishes between cities which have zoning or building ordinances and those which do not. The substitute bill would eliminate the distinctions. (See section 4, page 5.)

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- **Restrictions on places of consumption of alcoholic liquor.** Current law contains several provisions which allow consumption of alcoholic liquor on certain premises located in certain cities. In the substitute bill, those provisions are broadened to include those premises in any city. [See section 7, pages 6 - 9.]

The House Committee of the Whole amended the substitute bill by adding the following provisions:

- **Sunday sales of alcoholic liquor and cereal malt beverage.** One amendment would permit Sunday sales of alcoholic liquor and cereal malt beverage in any county upon a petition and vote of the people of the county or upon adoption of a resolution by the county commission, subject to protest petition and an election. [See sections 5, 6 & 7, pages 5 - 6 & 9 - 10.]
- **Purchase and shipment of out-of-state wine.** Another amendment would allow Kansas residents to purchase wine from other states and have it shipped to Kansas. [See section 9, pages 10 - 11.]

### COMMITTEE ACTIVITIES

The Committee received testimony from the Office of the Kansas Attorney General; the League of Kansas Municipalities; the Unified Government of Wyandotte County/Kansas City, Kansas; the Kansas Division of Alcoholic Beverage Control; the Kansas Wine and Spirits Wholesalers Association; the Kansas Beer Wholesalers Association; the Kansas Association of Beverage Retailers; the Kansas Licensed Beverage Association; the Petroleum Marketers and Convenience Store Association of Kansas; the Kansas Food Dealers Association and Retail Grocery Association; and representatives of convenience stores and retail liquor stores. Committee staff reviewed the major provisions of the Liquor Control Act and the Cereal Malt Beverage (CMB) Law. Staff also

reviewed the history of the major changes in the Kansas liquor laws and the home rule powers of cities and counties in Kansas.

Staff reviewed the Wyandotte County District Court decision in *State of Kansas v. The Unified Government of Wyandotte County/Kansas City, Kansas*, in which the city argued that the Liquor Control Act was not uniformly applicable to all cities and, therefore, any or all portions of the law are subject to charter ordinance. The district court ruled that, since the Act was not uniform in regard to cities, then cities had the authority under the constitutional Home Rule Amendment to charter out from the statutory ban on Sunday sales of liquor. Since the close of the 2003 Session, a number of cities and one county have voted to allow Sunday and holiday sales of liquor.

A Deputy Attorney General informed the Committee that oral arguments before the Kansas Supreme Court are scheduled for December, 2003, and that the Court's ruling could come down in the Spring of 2004.

A representative of the Kansas Wine and Spirits Wholesalers Association stated that the Liquor Control Act was passed in ~~1947~~ 1949 with the intent that the state regulate the manufacture and distribution of alcoholic beverages in the state, and that the Legislature intended that the state, not the cities, would regulate and license those who sell liquor.

A representative of the League of Kansas Municipalities stated that the League does not have an opinion on Sunday sales, but does support the home rule powers of cities.

The Director of the Division of Alcoholic Beverage Control reviewed the pertinent Kansas laws, as well as a list of potential issues that could arise if cities continue to use home rule powers with regard to the liquor laws.

A representative of the Kansas Beer Wholesalers Association reviewed past legis-

lative efforts to recodify the Kansas liquor laws, none of which were successful. The issue of 3.2 percent beer and "strong" beer also was reviewed. The representative also expressed opposition to dram shop legislation.

A representative of the Kansas Association of Beverage Retailers stated that the Association supports Sunday sales and that the issue at hand is whether the state is going to retain control of the regulation of alcohol in Kansas. Various regulations which apply to liquor store retailers were discussed.

A representative of the Kansas Licensed Beverage Association testified in support of efforts to make the liquor laws uniform, such as contained in 2003 House Sub. for SB 2.

A representative of the Petroleum Marketers and Convenience Store Association of Kansas expressed concern about convenience stores along the state's eastern border not being competitive because they cannot sell beer on Sundays.

A representative of convenience stores supported Sunday sales as long as it was applied equally to convenience stores and retail liquor stores.

A representative of the Kansas Food Dealers Association and Retail Grocery Association stated that the Legislature should do what is right for the public and in the public's interest.

### COMMITTEE RECOMMENDATIONS

The consensus of Committee members was that state law regarding alcoholic liquor and cereal malt beverages should be uniformly applicable to all cities and counties. The changes the Committee is recommending regarding uniformity are intended for further clarification and are not to be construed as a reflection that the Committee believes the

current liquor laws are non-uniform in regard to their applications to cities.

Staff was instructed to draft legislation to allow local-option Sunday sales of liquor and cereal malt beverages and to add Sunday sales of cereal malt beverage in convenience/grocery stores. The Committee also included a recommendation for a pre-emption section in the recommended bill which would prohibit local units of government from loosening or tightening state-authorized regulation of alcoholic beverages.

While the Committee discussed holiday sales, single-strength beer, and eliminating the category of cereal malt beverages, it did not reach a consensus and, therefore, does not make any recommendations on those issues.

The Committee discussed restricting credit card sales, abolishing age restrictions for persons who sell alcoholic beverages, altering the prohibition regarding consumption of alcoholic liquor and cereal malt beverages. The Committee does not make any recommendations in these areas.

The Committee discussed hours of operation for those that sell cereal malt beverages and alcoholic liquor, and concludes that there is little rationality in the currently-allowed operating hours. The Committee recommends that the Legislature conduct further hearings on the issue of hours of operation for the sale of alcoholic beverages.

The Committee notes that a majority of its members did not support any changes in the current law regarding cereal malt beverages and strong beer; but the consensus of the Committee is that the issue of eliminating the distinction between cereal malt beverage and strong beer should be further studied, along with what impact a change in the law would have on existing businesses currently established under the different state laws

governing each type of beer sales and how changing the distinction would affect those businesses.

The Committee recommends repealing the statutes relating to advertising, since there is an Attorney General's opinion that these laws are unenforceable. The Committee also recommends repealing the minimum mark-up statute, because those provisions are not being used, nor are they being enforced.

The Committee recommends the inclusion of a provision allowing persons to purchase out-of-state wine and have it shipped to Kansas.

The Committee discussed the issue of allowing all 3.2 beer taverns to be open on Sundays. The Committee received no testimony from either proponents or opponents on this issue and, therefore, recommends that the existing law remain in place.