

Approved: 3-06-08
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 7, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Thomas Groneman, Alcoholic Beverage Control

Others attending:

See attached list.

Senator Jim Barnett requested a bill introduction that has to do with radon awareness.

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

Thomas Groneman, Director, Alcohol Beverage Control Division, provided the committee a brief overview of the Alcoholic Beverage Control Division (ABC). (Attachment 1) The number one priority of the alcoholic Beverage Control Division is to fairly administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees; and as part of the Department of Revenue, is to see that all applicable liquor taxes due and owing are collected. Licenses are issued and renewed on an annual basis; licensing collects gallonage taxes, liquor drink taxes, liquor excise taxes, sales taxes and withholding taxes. 10% of gallonage tax goes to SRS Community Alcoholism and Intoxication Program and the remainder to the state general fund. 70% of Liquor Excise Tax goes to Local Alcoholic Liquor fund, 5% goes to the SRS Community Intoxication Program and 25% to the state general fund.

The ABC administrative unit performs general staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping, property management, records management, performs background investigations on licensees and coordinates the division's activities. The Enforcement unit 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.

The Licensee Administrative Action (LAA) section is staffed by the Assistant Attorney General assigned to the ABC, and reviews the cases presented by the enforcement section and local law enforcement agencies to determine the appropriateness of the charges and administratively prosecutes violations of the liquor laws before the Director or his designee.

Over the years ABC has been assigned other duties, including conducting the compliance checks required under the Synar amendment, where the state must maintain a minimum compliance rate of 80% for sales of cigarettes to minors or risk losing a portion of the block grant monies allocated to SRS under the agreement. In addition, ABC agents are responsible for levying drug tax assessments across the state.

Provided were maps reflecting Kansas on premise licenses, off-premise licenses, cities/counties adopting expanded hours, and cities opting to be dry. Also provided were brochures on the Alcoholic Beverage Control Division and underage cooperating individuals.

Discussion on the wine shipping bill from 2007; there are 39 wineries that signed up to ship into the state.

Discussion was opened on **SB 397-Consumption of alcohol at national guard armories** .

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on February 7, 2008 in Room 526-S of the Capitol.

Senator Vratil moved an amendment to strike “or unknowingly” in KSA 41-2615, because there are two statutes that cover the same offense. Senator Francisco seconded the motion.

The committee heard from ABC that just because a server was not paying attention that they should not be held responsible. The action that is taken is against the licensee, not the server. This is the administrative part of the statute.

With permission from the second, Senator Vratil withdrew his motion.

Senator Brownlee moved an amendment that the would increase the Class A person misdemeanor with a minimum fine of \$1,000 and six months in jail. Senator Barnett seconded the motion. Senator Barnett with the second requested ABC to provide their view on the amendment. ABC did not agree with the increased penalties. The motion failed.

Senator Vratil moved to amend KSA 41-346 to conform to the picture amendment in both administrative and criminal sections. Senator Reitz seconded the motion. The motion carried.

Will hold the discussion till Staff presents a balloon with all the changes.

The chairman closed the discussion on **SB 397-Consumption of alcohol at national guard armories**

The meeting was adjourned at 11:50 am. The next scheduled meeting is February 12, 2008.

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

**by Thomas W. Groneman
Director**

February 7, 2008

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

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

The division is divided into three organizational units: licensing, administration and enforcement. Licensing is functionally part of the Customer Relations Bureau within the Division of Tax Operations, but under the authority of the Director of ABC for issues related to liquor licenses.

In 2007, licensing processed in excess of 4,000 renewal and new license applications for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, suppliers and temporary permit holders. In addition, licensing handled 34,684 phone calls and assisted 1,833 walk-in customers. Licenses are issued and renewed on an annual basis. Following is a breakdown of licenses by license type for years 2005 through 2008:

	2005	2006	2007	2008
Retail liquor stores	717	724	731	734
Class "A" clubs	317	315	315	300
Class "B" clubs	158	155	150	149
Drinking Establishments	1,509	1,565	1,674	1,637
Caterers	111	117	120	137
Beer Distributors	44	44	42	41
Spirits Distributors	7	7	6	17
Wine Distributors	10	11	8	16
Microbreweries	9	12	14	16
Farm Wineries	14	16	18	19
Outlets	5	5	6	6
Wine Shipping Permits				
In-state				2
Out-of-state				38
Manufacturers	5	6	6	7
Temporary Permits	338	309	328	276
Supplier Permits	556	547	565	626
Total	3,807	3,841	3,983	4,028

In addition, licensing collects gallonage taxes, liquor drink taxes, liquor excise taxes, sales taxes and withholding taxes. The following liquor related taxes were collected during FY2005-FY2008 (6 mo.).

Gallonage Tax Rates

Alcohol/Spirits	\$2.50 per gallon
Fortified Wine	.70 per gallon
Light Wine	.30 per gallon
Beer/CMB	.18 per gallon

	FY2005	FY2006	FY2007	FY2008 (6mo)
Gallonage*	\$18,572,138	\$19,598,134	\$20,003,993	\$10,607,744
Liquor Enforcement	\$41,903,994	\$44,264,770	\$47,138,288	\$23,753,314
Liquor Excise**	\$29,770,339	\$32,051,923	\$34,268,848	\$16,992,833

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

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

Total alcohol related revenue collected for FY2007 and FY2008:

Revenue Source	FY 2007	FY 2008
All Liquor Licensing & Registration Fees	\$2,588,600	\$1,313,700
Supplier's Permit	\$19,550	\$2,600
Brand Registration/label approval	\$774,025	\$152,850
CMB Retail Stamp	\$80,225	\$18,575
Liquor Drink Tax	\$34,268,848	\$16,992,833
Liquor Enforcement Tax	\$47,138,288	\$23,753,314
Gallonage Tax	\$20,003,993	\$10,607,744
Liquor Fines	\$233,000	\$78,900
Liquor Tax Order Fines	\$222,100	\$81,450
ABC REVENUE TOTAL - Liquor Only	\$105,328,629	\$53,001,966

The ABC administrative unit performs general staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping, property management, records management, performs background investigations on licensees and coordinates the divisions activities. ABC has 37 full-time funded positions and 8 temporary positions funded through a KDOT grant (2) and an interagency agreement with SRS for tobacco enforcement activities (currently 6). FY07 and FY08 budgets for the division are as follows:

	FY07 Budget	FY07 Actual	FY08 Budget
Salary/wages	\$2,109,156	\$2,077,420	\$2,259,322
OOE	380,129	254,028	346,612
Total	\$2,489,285	\$2,331,448	\$2,605,934

The Enforcement unit 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 provide training to licensees and local law enforcement officers; conduct controlled buy operations and bar checks; investigate complaints and hidden ownerships; and perform routine compliance checks. Enforcement works closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in alleged violations are presented to the County or District Attorney for criminal prosecution against the individual, and/or the ABC Assistant Attorney General (AAG) for administrative action against the licensee.

	FY 2006	FY2007	FY2008 (6mo)
Inspection Compliance checks	1122	1647	857
Violations	154	83	29
Compliance Rate	86%	95%	97%
Sales to minors			
Random Control Buys	406	529	276
Violations	73	149	60
Compliance Rate	82%	72%	78%

The Licensee Administrative Action (LAA) section is staffed by the Assistant Attorney General (AAG) assigned to the ABC, a legal assistant and two support staff. The AAG reviews the cases presented by the enforcement section and local law enforcement agencies to determine the appropriateness of the charges and administratively prosecutes violations of the liquor laws before the Director or his designee. The Director and the AAG 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. Following are the number of citations issued for FY2006 through FY2008 and the total fines collected for those years:

	FY2006	FY2007	FY2008 (6mo)
Citations issued			
Liquor violations	427	550	286
Tax orders	380	276	71
Fines collected			
Liquor violations	\$438,006	\$233,000	\$78,900
Tax orders	\$326,100	\$222,100	\$81,450

Over the years the ABC has been assigned other duties, including conducting the compliance checks required under the Synar amendment. Under Synar the state must maintain a minimum compliance rate of 80% for sales of cigarettes to minor's or risk losing a portion of the block grant monies allocated to SRS under the agreement. During FFY2007 ABC agents and Underage Cooperating Individuals (UCI's) performed 580 random buy attempts resulting in 70 sales for a 88.1% compliance rate. This compares to FFY2005 and FFY2006 results as follows:

	FFY2005	FFY2006	FFY2007
Attempted buys	552	447	580
Sales made	108	88	70
Compliance rate	80.8%	80.31%	88.1%

In addition, ABC agents are responsible for levying drug tax assessments across the state. During FY2007 agents made 433 drug tax assessments totaling \$4,621,953 resulting in collections of \$1,051,508.

	FY2005	FY2006	FY2007	FY2008
Assessments	313	461	433	233
Amount	\$4,068,574	\$4,919,169	\$4,621,953	\$3,581,115
Collected	923,040	867,720	1,051,508	548,524

During the 2007 session, SB30 was passed exempting charitable organizations and political committees conducting fundraising activities, which included the complimentary service of alcohol, from obtaining a license or temporary permit. Since the law went into effect May 24, 2007, we have seen a small decline in the number of temporary permits issued. There have been no problems encountered or complaints received as a result of the change.

ENCLOSED

ABC Agency Overview Brochure

ABC Underage Drinking Brochure

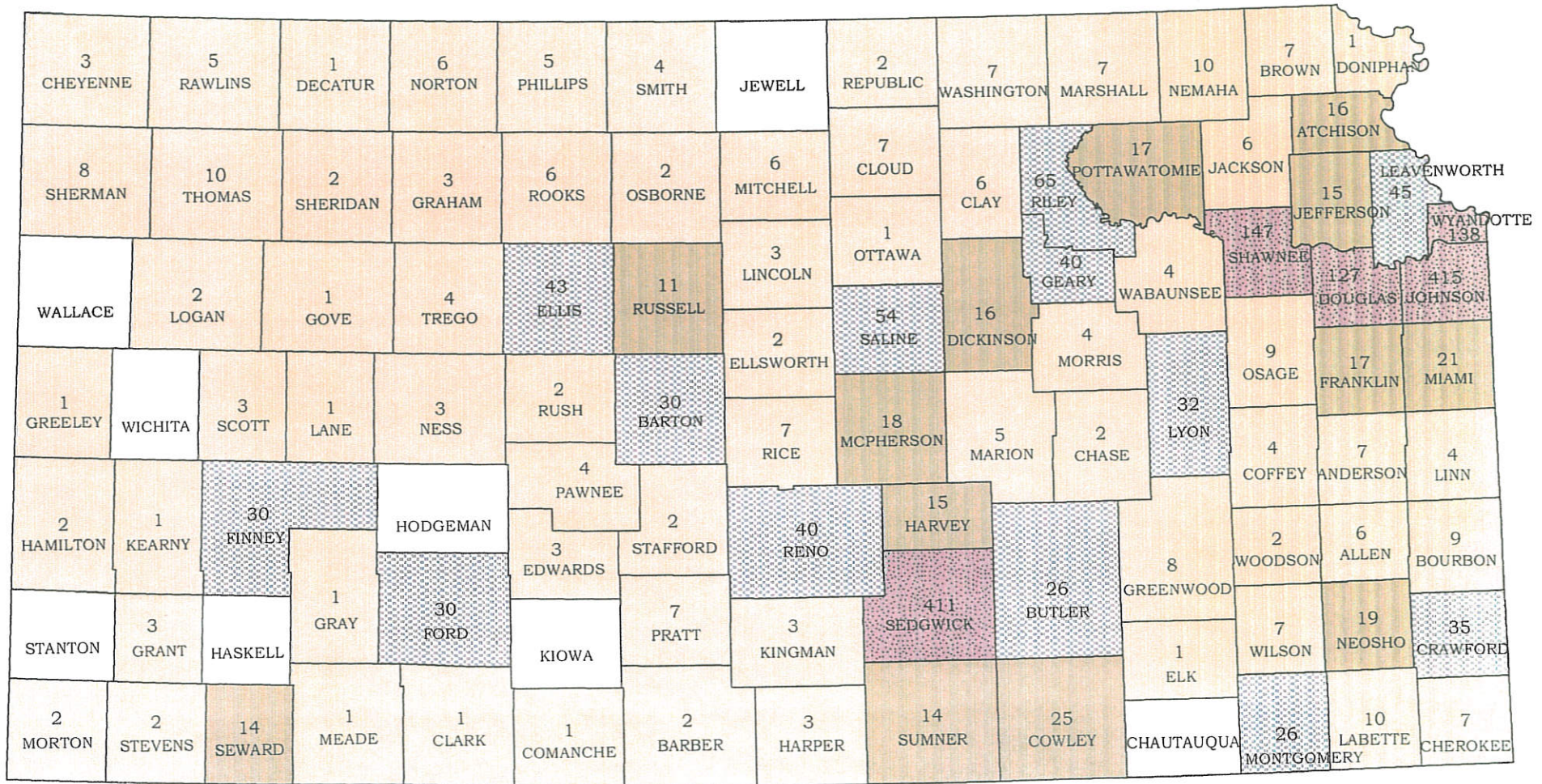
Map showing Kansas on-premise licenses

Map showing Kansas off-premise licenses

Cities/Counties adopting expanded hours

Cities opting to be dry

Active Kansas On-Premise Licenses



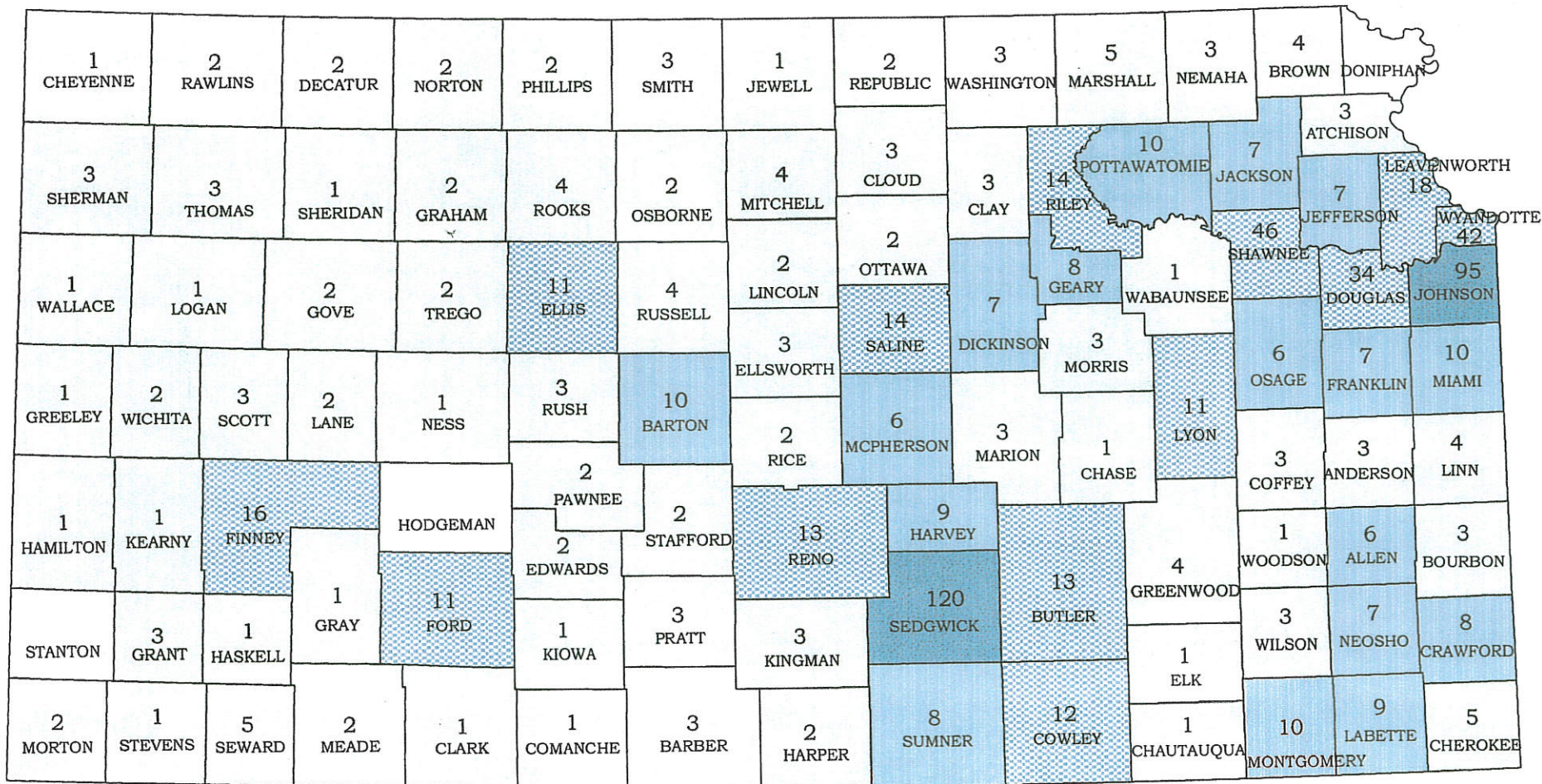
February 5, 2008
Map #AC08-001

# of Counties	# of Licenses Per County
(8)	0
(66)	1 - 10
(13)	11 - 25
(13)	26 - 100
(5)	101 - 415

Total: 2,223 Active On-Premise Licenses

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2008

Active Kansas Off-Premise Licenses



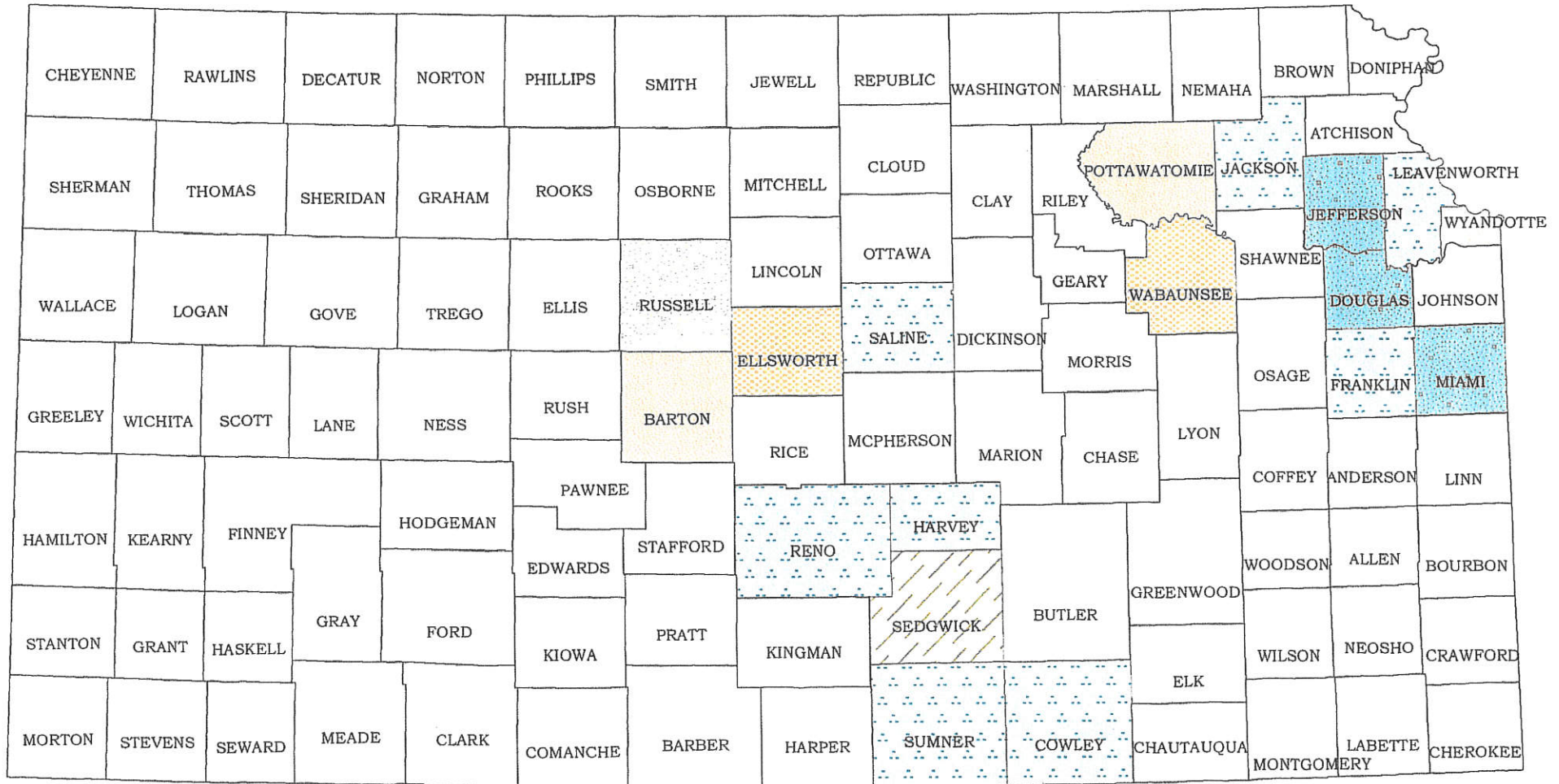
# of Counties	# of Licenses Per County
(3)	0
(70)	1 - 5
(17)	6 - 10
(13)	11 - 50
(2)	51 - 120

February 5, 2008
Map #AC08-002

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2008

Total: 767 Active Off-Premise Licenses

Active Kansas Farm Winery and Outlet Licenses



of Counties

(8)

(3)

(2)

(2)

(2)

(1)



of Licenses Per County

One Farm Winery

Two Farm Wineries

One Farm Winery and One Farm Winery Outlet

One Winery, One Outlet, and One Shipping Permit

One Farm Winery Outlet

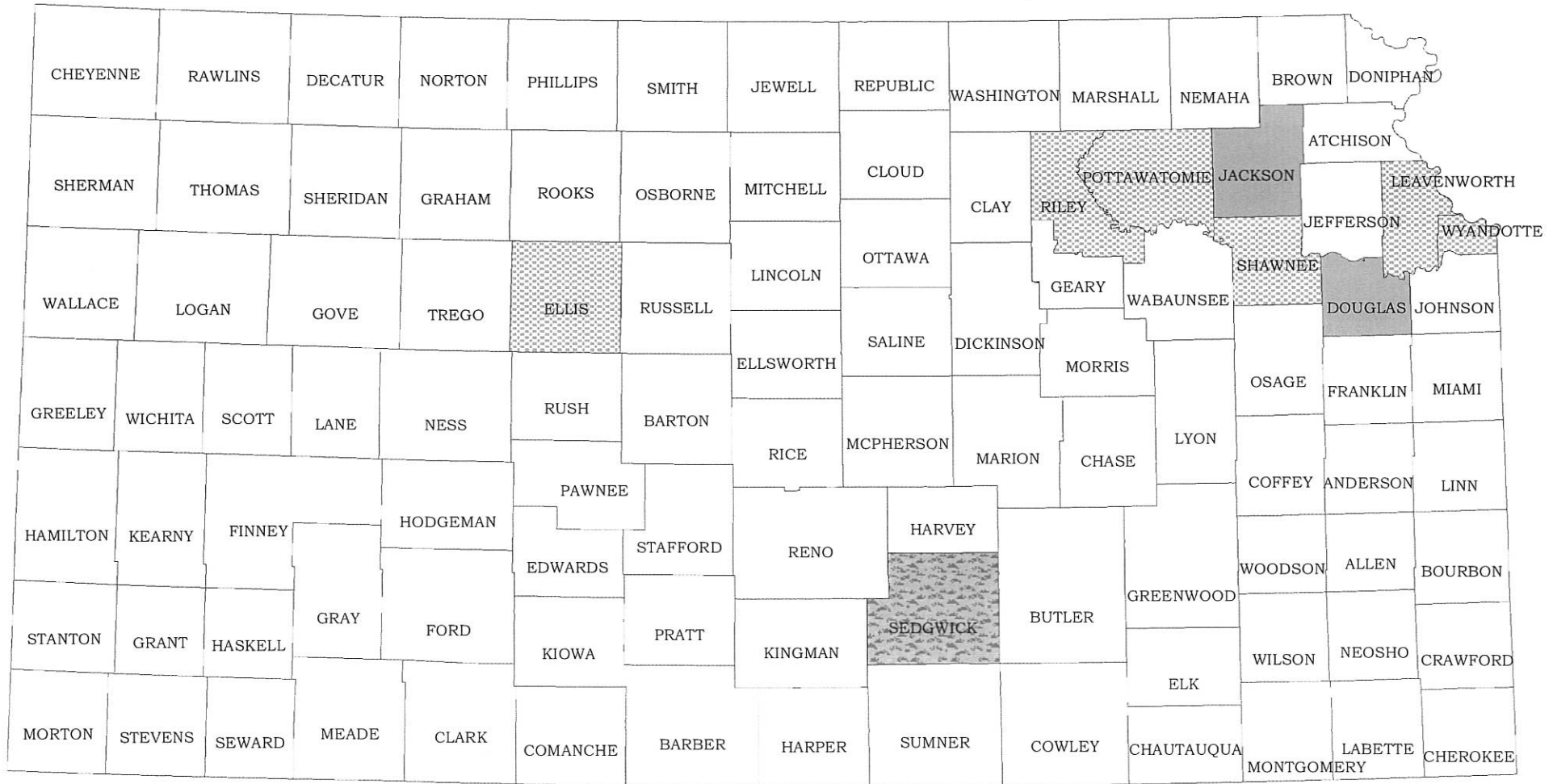
Two Farm Winery Outlets

February 5, 2008
Map #AC08-003

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2008

Total: 18 Active Farm Winery Licenses, 8 Active Farm Winery Outlet Licenses, and 2 Active Farm Winery Shipping Permit.

Active Kansas Microbrewery Licenses



February 5, 2008
Map #AC08-004

of Counties

- (6)
- (2)
- (1)



of Licenses Per County

- County has One Microbrewery License
- County has Two Microbrewery Licenses
- County has Four Microbrewery Licenses

Total: 14 Active Microbrewery Licenses

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2008

2008 List of Cities and Counties with Expanded Hours and Opting to be Dry*
2-7-08

Cities with Expanded Hours

Andale	Sedgwick
Andover	Butler
Arma	Crawford
Auburn	Shawnee
Baldwin	Douglas
Benton	Butler
Buffalo	Wilson
Chapman	Dickinson
Chase	Rice
Cheney	Sedgwick
Coldwater	Comanche
Columbus	Cherokee
Colwich	Sedgwick
De Soto	Johnson
Deerfield	Kearny
Douglass	Butler
Ellis	Ellis
Erie	Neosho
Eudora	Douglas
Eureka	Greenwood
Fairway City	Johnson
Frontenac	Crawford
Garden Plain	Sedgwick
Gardner	Johnson
Girard	Crawford
Grandview Plaza	Geary
Greeley	Anderson
Grinnell	Gove
Hanover	Washington
Herington	Dickinson
Hudson	Stafford
Iola	Allen
Kanopolis	Ellsworth
Kansas City	Wyandotte
Kechi	Sedgwick
Kiowa	Barber
Latham	Butler
Leavenworth	Leavenworth
Lenexa	Johnson
Maize	Sedgwick
Merriam	Johnson
Oberlin	Decatur
Olathe	Johnson
Overland Park	Johnson
Ozawkie	Jefferson
Paola	Miami
Park	Gove
Park City	Sedgwick
Phillipsburg	Phillips
Pittsburg	Crawford
Pomona	Franklin

Cities with Expanded Hours

Princeton	Franklin
Rose Hill	Butler
Satanta	Haskell
Scammon	Cherokee
Scranton	Osage
Sedgwick	Harvey/Sedgwick
Shawnee	Johnson
Solomon	Dickinson
St. Paul	Neosho
Strong City	Chase
Victoria	Ellis
WaKeeney	Trego
Walton	Harvey
Weir	Cherokee
White City	Morris
Wichita	Sedgwick

Counties with Expanded Hours

RUSSELL
SEDGWICK

Cities Opting to be Dry

Hesston	Harvey
Moundridge	McPherson
North Newton	Harvey
Overbrook	Osage
Parkerfield	Cowley

*This list represents the cities and counties that have notified the ABC.