

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:30 p.m. on January 20, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Don Hill- excused  
Representative Rob Olson- excused  
Representative Mike Peterson- excused

Committee staff present:

Julian Efird, Legislative Research  
Dennis Hodgins, Legislative Research  
Mike Heim, Office of Revisor of Statutes

Conferees appearing before the Committee:

Representative Bob Bethell, State Legislature  
Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas, Inc.  
Martha Gabehart, Kansas Commission on Disability Concerns  
Thomas W. Groneman, Director, Alcoholic Beverage Control Division

Others attending:

See attached list.

Representative Bob Bethell, State Legislature

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas, Inc.  
Martha Gabehart, Kansas Commission on Disability Concerns  
Thomas W. Groneman, Director, Alcoholic Beverage Control Division (Attachment 1)

Representative Steve Huebert moved for the introduction of legislation which would change the definition of cereal malt beverage to four percent alcohol content at the request of Tom Palace with the Petroleum Marketers and Convenience Store Association of Kansas, Inc. Motion was seconded by Representative Fund. Motion carried.

Representative Ruiz moved to change from 48 hours to 30 days for temporary registration for trailer permits at the request of Representative Bethell. Motion was seconded by Representative Swenson. Motion carried.

Representative Kiegerl moved for the introduction of legislation which would allow district judges more discretion in their rulings. Motion was seconded by Representative Huebert. Motion carried.

Representative Kiegerl moved for the introduction of legislation which would keep children in a confined place until their case was adjudicated. Motion was seconded by Representative Huebert. Motion carried.

Representative Kiegerel moved for the introduction of legislation which would allow grandparents in need to receive monetary support as caregivers. Motion was seconded by Representative Huebert.

Representative Carlson moved for the introduction of legislation which would consolidate the Lottery, Racing and Gaming, and Bingo authorities under one umbrella agency. Motion was seconded by Representative Fund. Motion carried.

Representative Brown moved for the introduction of legislation which would mandate that any jackpot over \$1,200 would be liable for back child support payments if indicated. Motion was seconded by Representative Kiegerl. Motion carried.

Representative Huebert moved for the introduction of legislation which would align the Kansas Disabilities Act with the federal Americans with Disabilities Act at the request of Martha Gabehart. Motion was seconded by Representative Ruiz. Motion carried.

Mr. Thomas Groneman, Director of the Alcoholic Beverage Control Division, presented a briefing on the

CONTINUATION SHEET

Minutes of the House Federal and State Affairs Committee at 1:30 p.m. on January 20, 2010, in Room 346-S of the Capitol.

agency with included an explanation of their responsibilities which include licensing, administration and enforcement (Attachment 1).

Kansas law at this time requires that farm winery products contain 60% Kansas products. The Director currently has the authority to adjust this percentage in case of drought, freeze, or other negative weather situations. The Committee requested a copy of the Attorney General's Opinion regarding the 60/40 requirement.

The Special Events permit has met with success in various communities. The Special Events permit allows the sale of liquor by the drink, wine, and strong beer. This permit does not allow the sale of 3.2 beer as that is licensed through the city or county.

Mr. Groneman explained that 3.2 beer is measured by weight and is actually 4% alcohol content by volume.

The next meeting is scheduled for January 27, 2010.

The meeting was adjourned at 2:30 p.m.

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: Jan. 20

NAME	REPRESENTING
Maisha Sabekant	K's Com. on Disability Concerns
Kendra Hansen	Hein Law Firm
Phil Bradley	KLBA -
TOM FALLER	FMCA OF KS
TED HENRY	CAPITOL STRATEGIES.
Kevin Renee	Wythebrook elem.
Ross M. Allen	Jackson Heights High School
Caitlin Messer	"
Rebecca Rice	KS Beer Wholesalers Assn
<del>John Duncan</del>	KS Association of Beverage Retailers
JOHN DUNCAN	KS Wine & Spirits Wholesale
Chris Gystad	Federalco Consulting
Mike Murray	Capital Advantage
JUDITH GARD	" "
Dick Stoffen	Hy-Vee

ASSN.

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

**By Thomas W. Groneman  
Director**

**January 20, 2010**

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

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

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

**Licensing**

In 2009, licensing processed 4,350 licenses and permits for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, special order shippers, suppliers and temporary permit holders. In addition, licensing team members answer an average of 114 calls per day and respond to an average of eight walk-in customers per day. There are currently nine licensing positions, three of which are vacant. The current turn around time for a renewal license is 3-4 weeks.

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

License Type	2007	2008	2009	2010
Retail Liquor Store	731	734	742	752
Class "A" Clubs	315	300	302	296
Class "B" Clubs	150	149	136	128
Drinking Establishments	1,674	1,637	1,672	1695
Caterers	120	137	143	157
Beer Distributors	42	41	40	37
Spirits Distributors	6	17	15	14
Wine Distributors	8	16	15	14
Microbreweries	14	16	18	15
Farm Wineries	18	19	22	23
Outlets	6	6	8	9
Winery Shipping Permits				
In-State		2	1	Repealed
Out-of-State		38	57	Repealed
Special Order Shipping				262
Manufacturers	6	7	4	5
Temporary Permits	338	280	316	170
Supplier Permits	565	626	693	773
<b>TOTAL</b>	<b>3,993</b>	<b>4,025</b>	<b>4,184</b>	<b>4,350</b>

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

**Gallonage Tax Rates:**

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

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

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

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

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

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

### Administration

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

FY09 and FY10 budgets for the division are as follows:

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

### Enforcement

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

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

\*Other Enforcement Activities include citations for the following:

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

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

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

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

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

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

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

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

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



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

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

### **Legislation passed in 2009**

In 2009, SB212 was passed which was a compilation of several liquor related bills. Included in SB212 was the new special order shipping license allowing for direct shipment of wine from a licensed winery to a consumer in Kansas. There have been 262 new licenses issued, two to Kansas farm wineries. This license replaces the wine shipping permit (58 issued) that required wine to be shipped to a retailer and picked up by the consumer. Also in the bill, were provisions for farm wineries to apply for an annual sales permit to display and sell wine in the original unopened container at farmer's markets; obtain a manufacturer's license; and, manufacture and bottle wine at winery outlets. To date there have been two farmers market sales permits issued. In addition, the bill allowed for clubs and drinking establishments to sell and store wine for consumers on their licensed premises. The bill did not require any permit or notification so we are not aware to what extent this has occurred. The bill created a temporary permit for special events to be held on public streets, alleys, roads, sidewalks or highways approved by ordinance or resolution of the local governing body. There have been two special events authorized and permits issued both in the City of Wichita. Finally, the bill provided for cities or counties to request at any time a hearing on whether a license issued under the liquor control act or the club and drinking establishment act should be suspended or revoked. There have been no hearings requested.

### **Proposed Legislation**

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

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

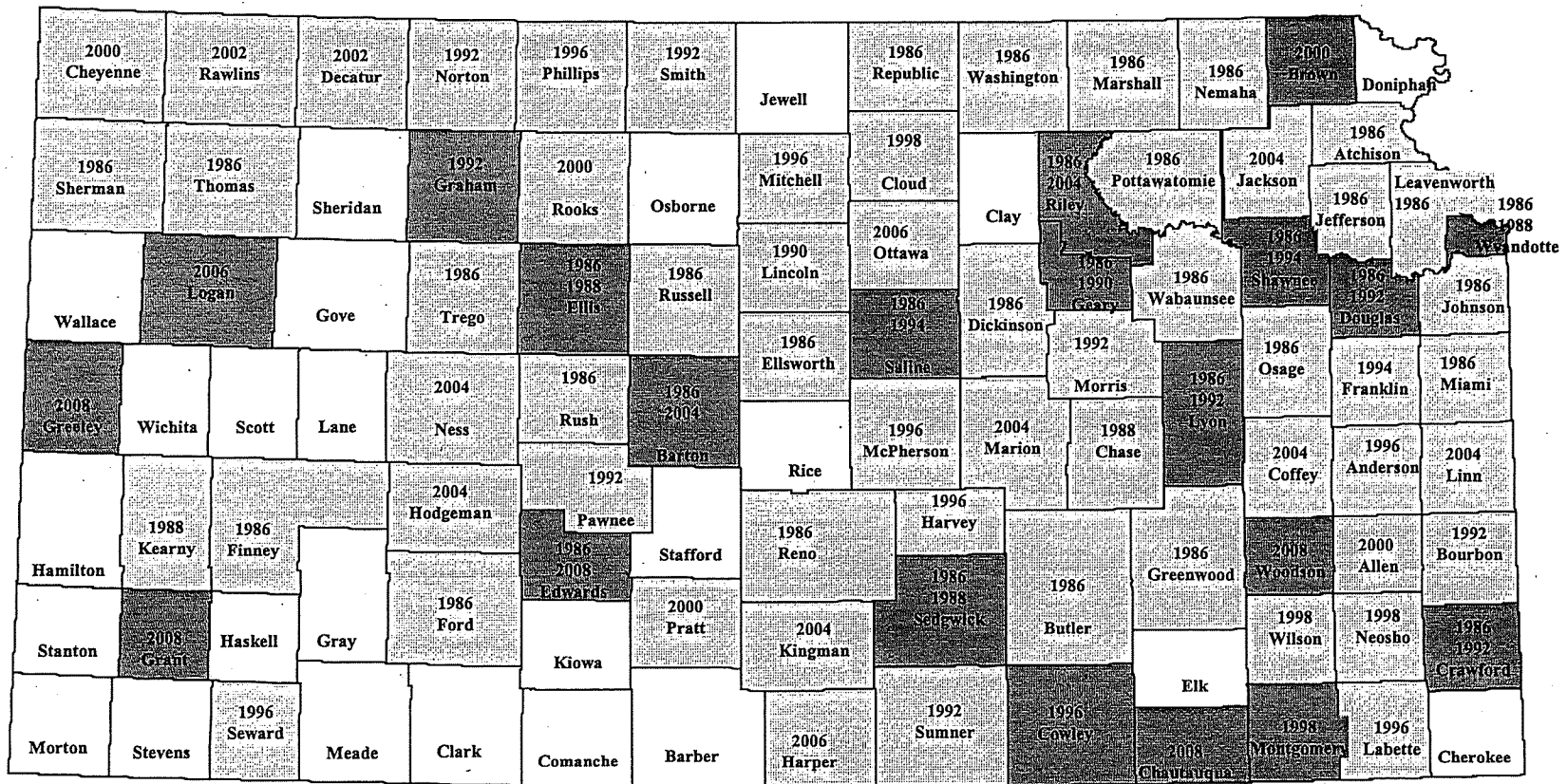
#### **ENCLOSURES:**

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

# Kansas Liquor-by-the-Drink

## November 2008

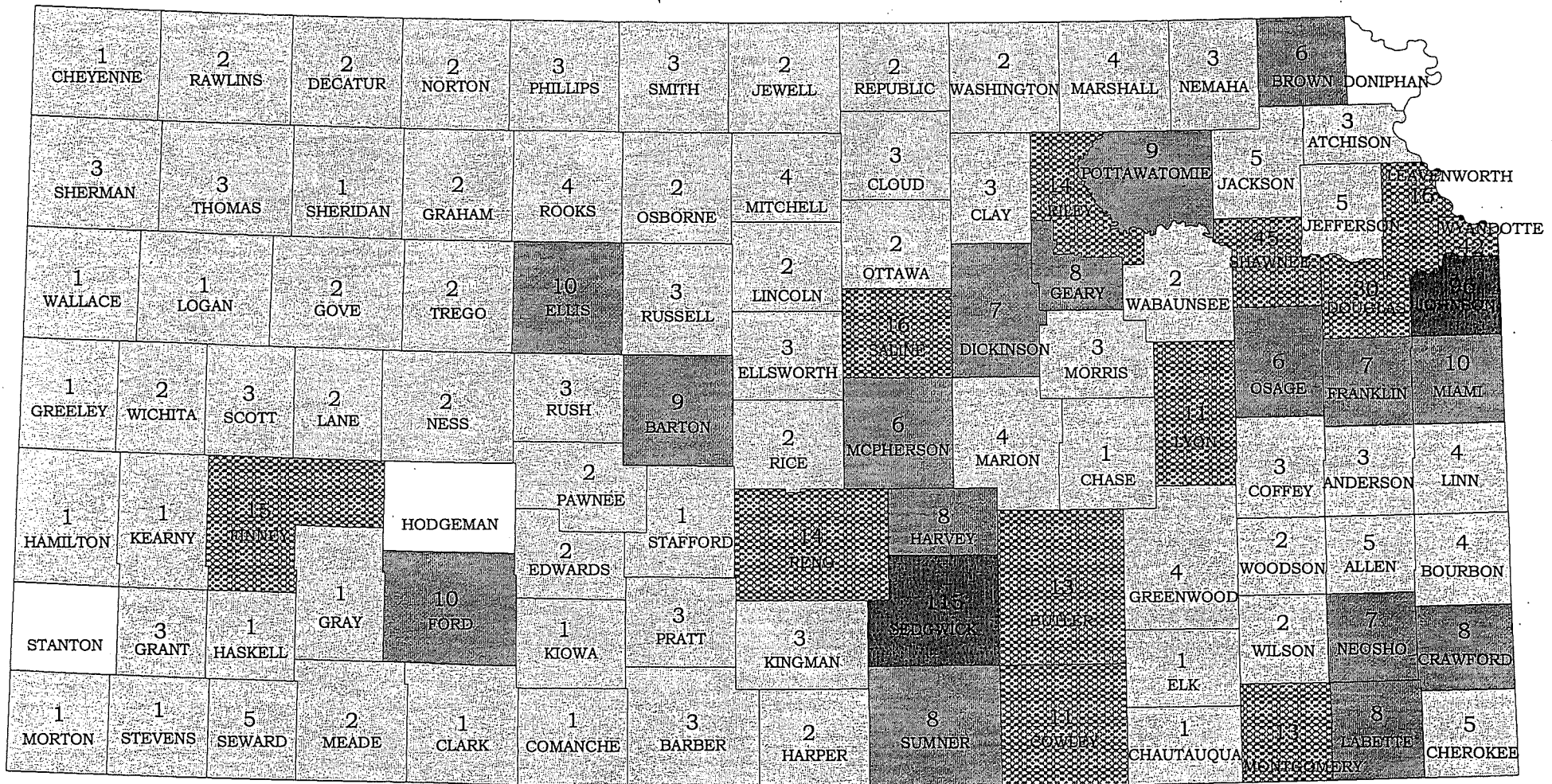
No liquor-by-the-drink
  Liquor-by-the-drink allowed with 30% food requirement
  Liquor-by-the-drink allowed with no food requirement



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

1-9

# Active Kansas Off-Premise Licenses



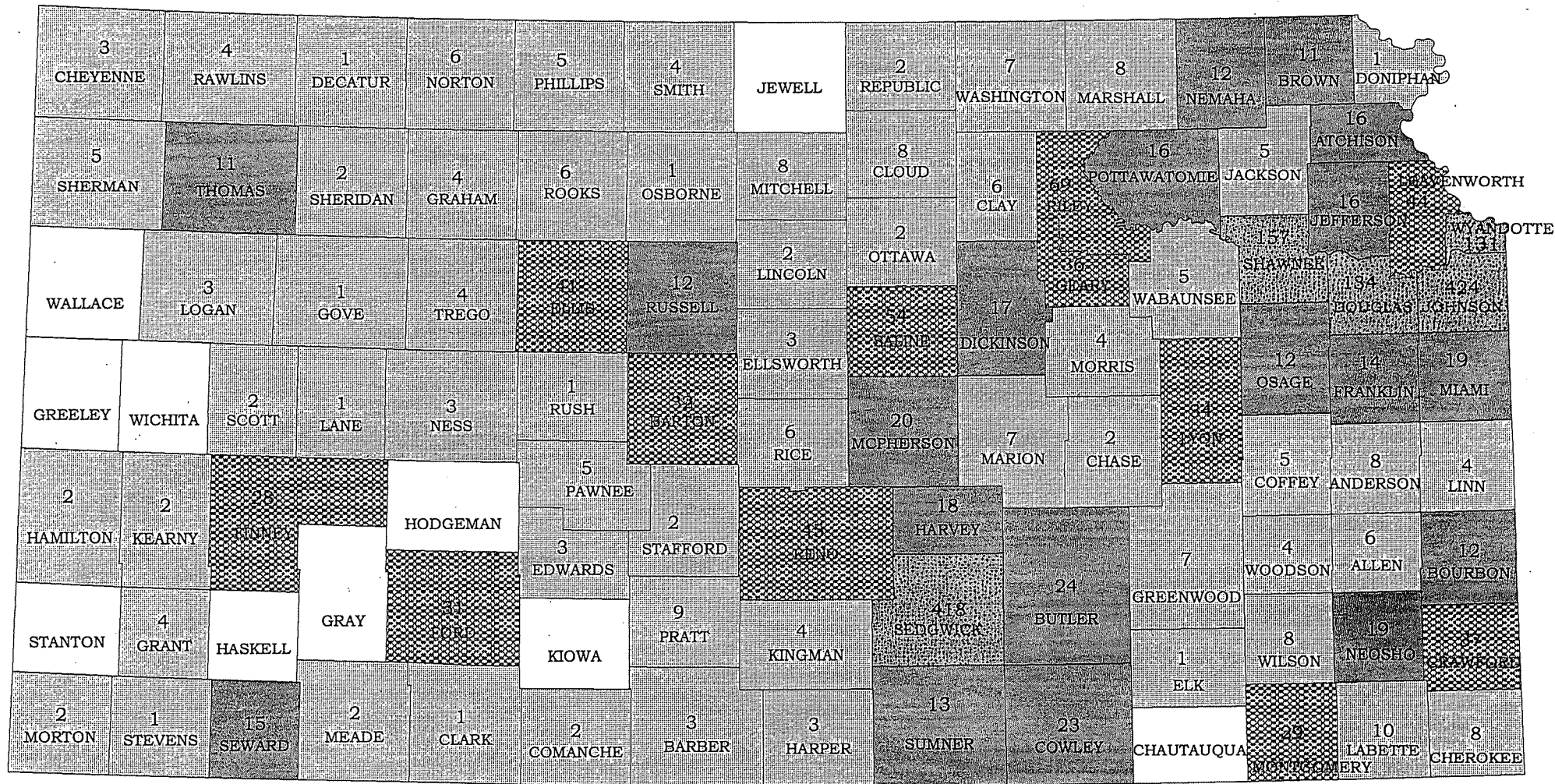
# of Counties	# of Licenses Per County
(3)	0
(72)	1-5
(16)	6-10
(12)	11-50
(2)	51-120

January 13, 2010  
Map #AC10-002

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

Total: 752 Active Off-Premise Licenses

# Active Kansas On-Premise Licenses



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

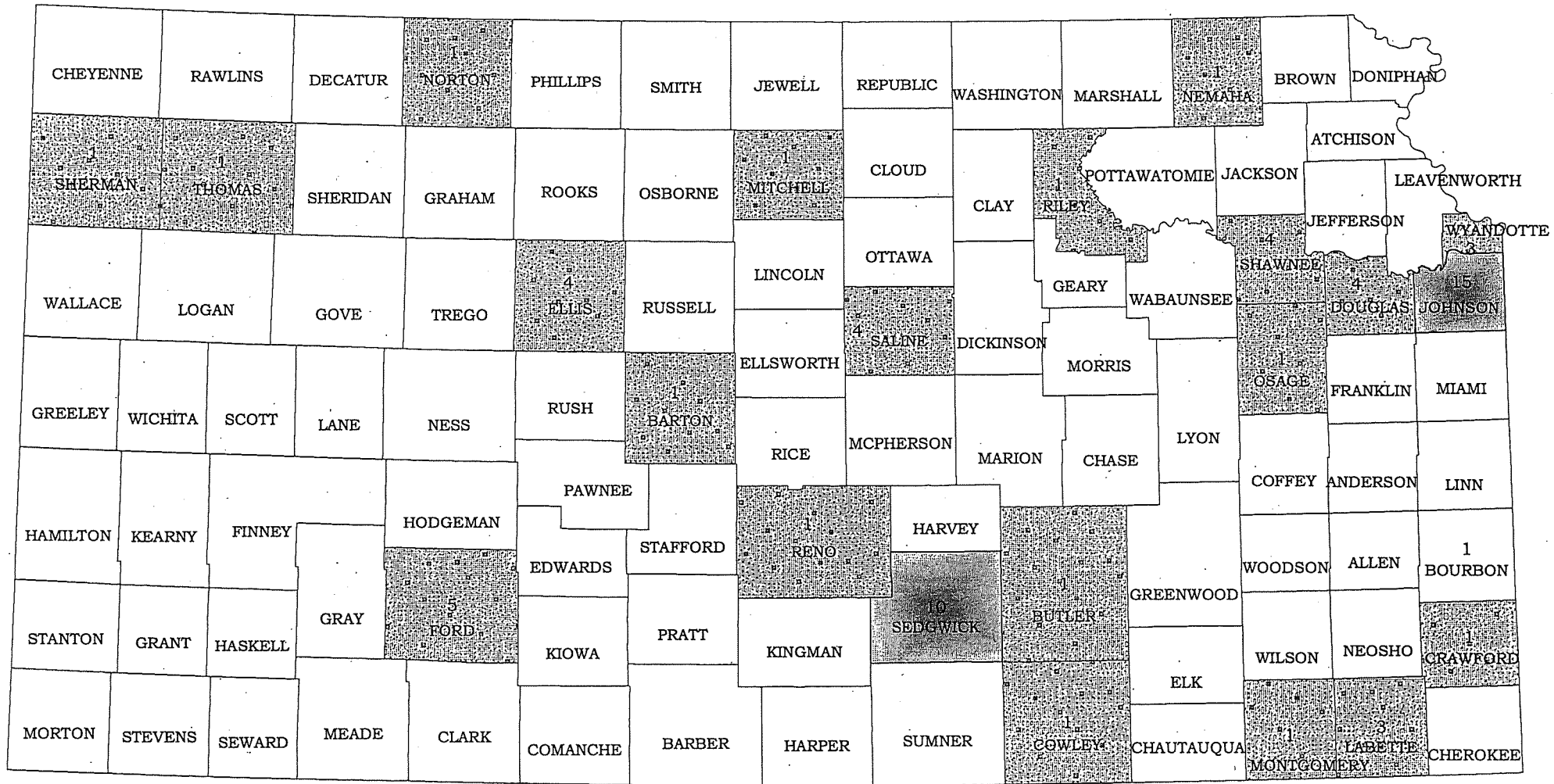
January 13, 2010  
Map #AC10-001

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

Total: 2,277 Active On-Premise Licenses

# Active Kansas Distributor Licenses

1-10



January 13, 2010  
Map #AC10-005

# of Counties

# of Licenses Per County

( 20 )



County has From One-to-Five Distributor Licenses

( 1 )



County has Ten Distributor Licenses

( 1 )

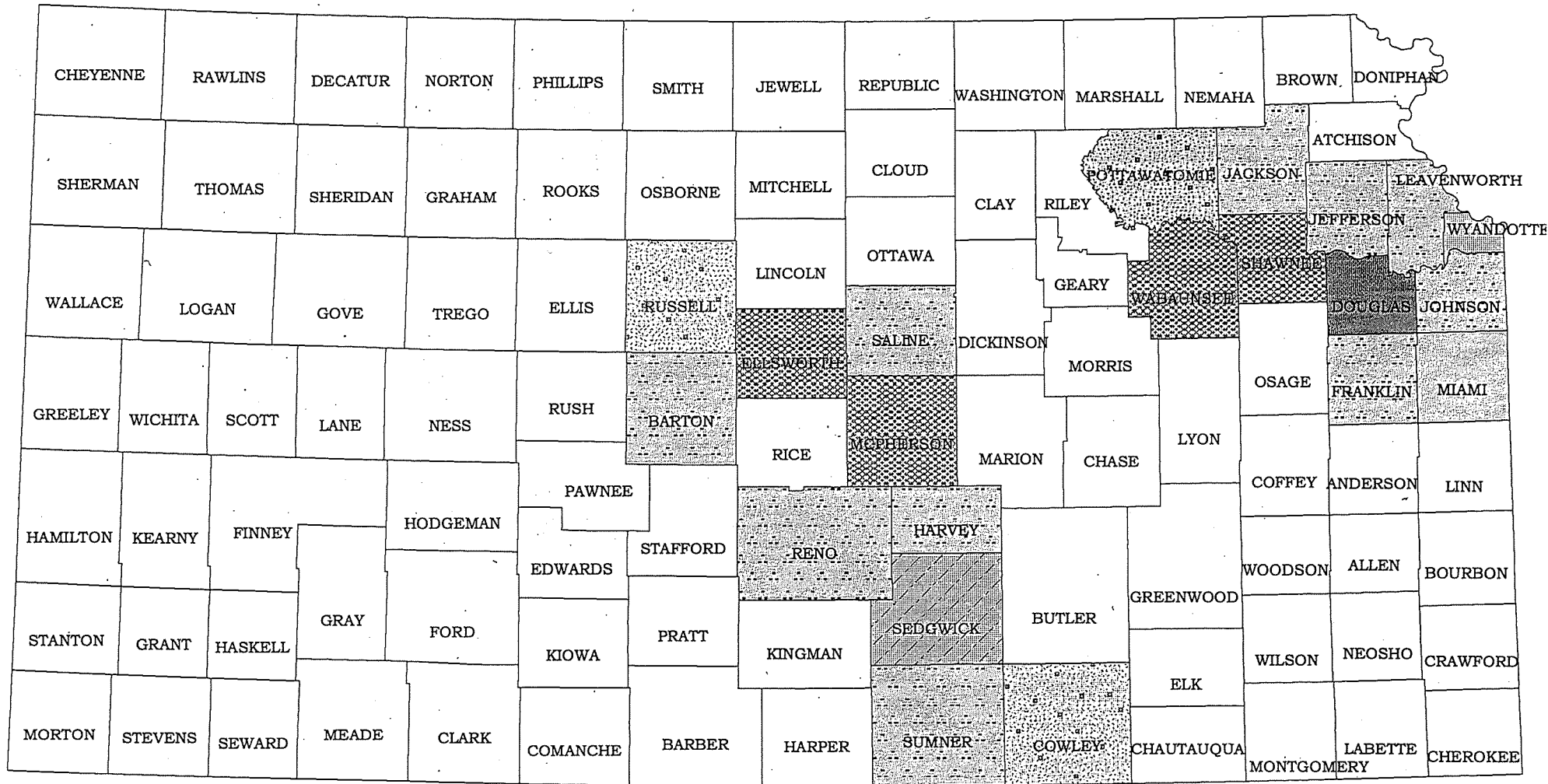


County has Thirteen Distributor Licenses

Total: 65 Active Distributor Licenses

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

# Active Kansas Farm Winery and Outlet Licenses



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

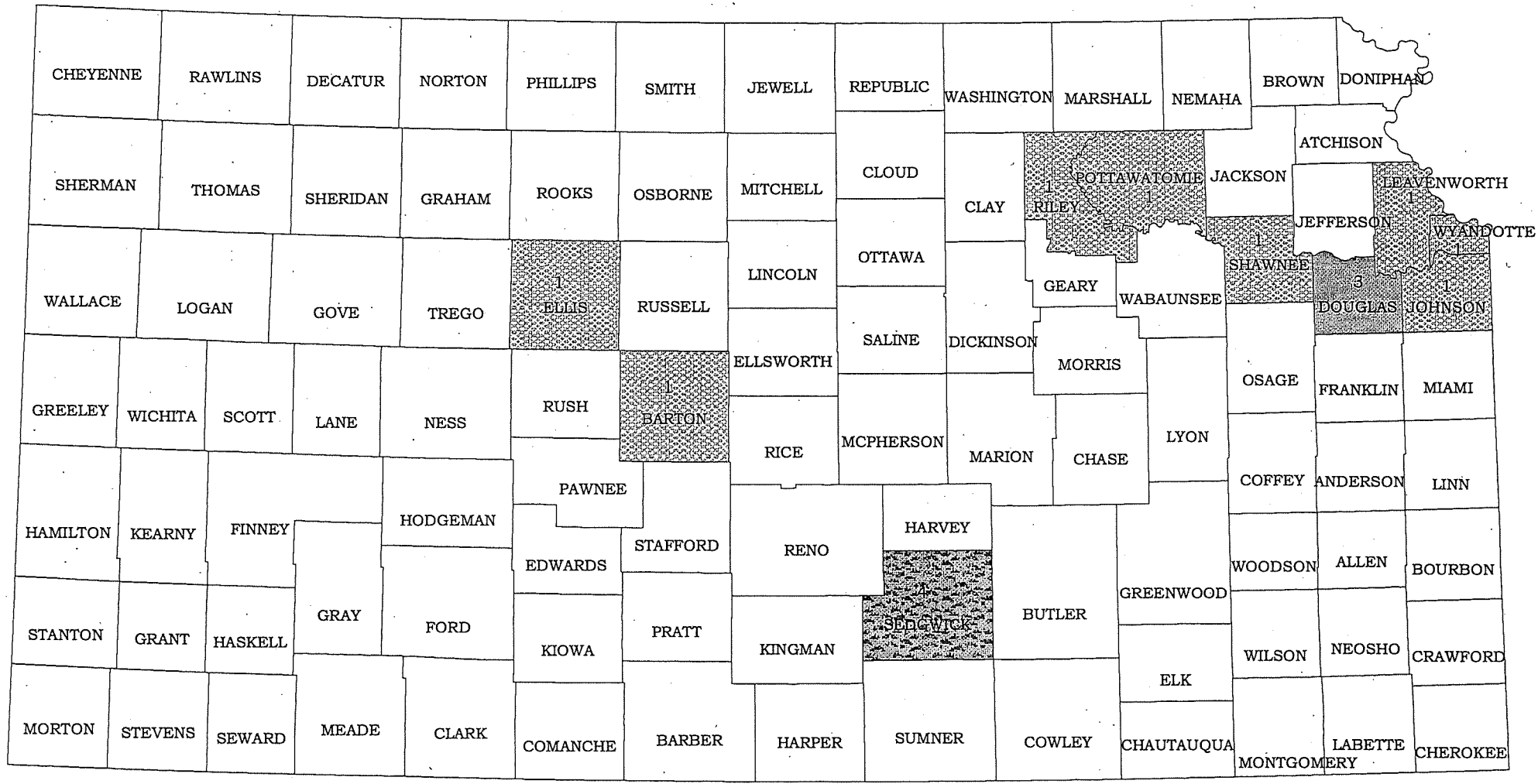
January 13, 2010  
Map #AC10-003

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

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

# Active Kansas Microbrewery Licenses

1-12



January 13, 2010  
Map #AC10-004

# of Counties

- ( 8 )
- ( 1 )
- ( 1 )



# of Licenses Per County

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

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

Total: 15 Active Microbrewery Licenses