
Alcoholic Beverage Control Division

Legislative Briefing



Doug Jorgensen, Director

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Alcoholic Beverage Control Division’s (ABC) mission is to promote, serve and protect the health, safety and welfare of Kansans by regulating the liquor industry and enforcing the liquor, tobacco and other laws administered by the Kansas Department of Revenue.

Administration

ABC Administrative associates perform 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. FY 2011 and FY 2012 budgets for the division are as follows:

Expenditures	FY 2011 Actual	FY 2012 Budget
Salary & Wages	\$2,611,418	\$2,387,138
OOE	\$201,549	\$312,063
TOTAL	\$2,812,967	\$2,699,201

Licensing

There currently are 4,623 active liquor 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 issuing these licenses and permits, the Licensing Team members fielded 16,915 telephone calls and assisted 512 walk-in customers.

The following is a summary of active liquor licenses by license type for 2008 through 2012:

License Type	2008	2009	2010	2011	2012
Retail Liquor Store	734	742	752	764	761
Class "A" Clubs	300	302	296	287	285
Class "B" Clubs	149	136	128	114	118
Drinking Establishments	1,637	1,672	1695	1,726	1,736
Caterers	137	143	157	181	181
Beer Distributors	41	40	37	36	36
Spirits Distributors	17	15	14	24	24
Wine Distributors	16	15	14	27	27
Microbreweries	16	18	15	20	19
Farm Wineries	19	22	23	29	29
Farm Winery Outlets	6	8	9	10	11
Special Order Shipping			262	380	398
Manufacturers	7	4	5	5	5
Temporary Permits	280	316	315	300	200
Supplier Permits	626	693	773	746	792
Manufacturer Warehouse Permit				1	1
TOTAL	3,985	4,126	4,495	4,650	4,623

The Licensing Team is responsible for collecting the various gallonage taxes, while the Miscellaneous Tax Segment is responsible for collecting liquor enforcement and liquor drink taxes. The following liquor related taxes were collected during FY 2008 through FY 2012.

Gallonage Tax Rates per Gallon:

Alcohol/Spirits	\$2.50
Fortified Wine	\$0.75
Light Wine	\$0.30
Beer and CMB	\$0.18

Tax Type	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
Gallonage – Alcohol and Spirits*	\$8,950,393	\$9,257,287	\$9,156,711	\$9,542,032	\$5,109,352
Gallonage - Beer	\$8,382,304	\$8,713,269	\$8,473,083	\$8,237,208	\$3,808,980
Gallonage - Cereal Malt Beverage	\$2,228,227	\$2,088,508	\$1,989,044	\$1,905,212	\$1,135,838
Gallonage - Wine	\$1,068,393	\$1,088,337	\$1,146,829	\$1,337,687	\$729,287
Gallonage – Farm Wineries	\$18,512	\$20,139	\$19,863	\$17,714	\$12,641
Gallonage - Microbreweries	\$54,643	\$61,121	\$66,104	\$88,064	\$46,434
Gallonage – Special Order Shippers			\$5,991	\$7,604	\$27
Gallonage Tax Total	\$20,702,472	\$21,228,661	\$20,857,625	\$21,135,521	\$10,842,559
Liquor Enforcement (8%tax)	\$49,982,534	\$53,794,049	\$54,826,767	\$56,120,348	\$29,058,202
Liquor Drink (10% tax)**	\$35,613,659	\$36,565,645	\$35,720,462	\$36,012,091	\$18,435,017
TOTAL TAX REVENUE	\$106,298,665	\$111,588,355	\$111,404,854	\$113,267,960	\$58,335,778

* 10% of Gallonage Tax on alcohol and spirits goes to SRS Community Alcoholism and Intoxication Program and 90% to the state general fund.

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

Other related revenue collected by ABC for FY 2008 through FY 2012:

Revenue Source	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
All Liquor Licensing and Registration Fees	\$2,620,664	\$2,619,254	\$2,598,314	\$3,249,252	\$1,852,743
Supplier's Permit	\$18,275	\$19,725	\$20,000	\$20,675	\$4,910
Label Fees	\$717,450	\$692,625	\$765,250	\$809,185	\$186,288
Cereal Malt Beverage Retail Stamp	\$78,405	\$81,825	\$78,325	\$82,440	\$20,675
Gallonage Tax	\$20,702,472	\$21,228,661	\$20,857,625	\$21,135,521	\$10,842,559
ABC Liquor Fines	\$238,095	\$396,983	\$530,743	\$552,871	\$252,594
Total Liquor Revenue Collected	\$24,375,361	\$25,039,073	\$24,850,257	\$25,849,944	\$13,159,769
Cigarette and Tobacco Fines	\$129,854	\$303,115	\$339,310	\$292,230	\$191,890
Drug Tax Collections	\$1,180,969	\$1,053,011	\$1,351,868	\$1,040,648	\$678,390
TOTAL ABC REVENUE COLLECTED	\$25,686,184	\$26,395,199	\$26,541,435	\$27,182,822	\$14,030,049

Liquor Enforcement

The Enforcement Unit provides investigative support for the ABC Director and Chief Enforcement Officer. There are currently 20 agent positions, of which four are 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, local, regional and state public safety coalitions, 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.

Enforcement Activities for FY 2008 through FY 2012:

Activity	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
INSPECTIONS					
Number Performed	1,757	2,541	2,866	2,843	1,200
Violations	78	150	197	185	55
Compliance Rate	96%	94%	93%	93%	95%
SALES TO MINORS					
Random Controlled Buys Performed	537	420	608	512	276
Violations	110	83	97	83	43
Compliance Rate	80%	80%	84%	84%	84%
Chosen Controlled Buys Performed	615	323	631	728	386
Violations	104	55	101	92	50
Compliance Rate	83%	83%	84%	87%	87%
OTHER ENFORCEMENT ACTIVITY*					
Liquor Investigations Performed	1,132	1,204	1,535	1,210	190
Violations	86	86	155	104	30
Compliance Rate	92%	92%	90%	91%	84%

*Examples of Other Enforcement Activities:

- Bar checks
- Furnishing checks
- Joint enforcement operations with local law enforcement
- Joint enforcement operations for special events only, i.e. Fake St. Patrick's Day
- Process Service
- Retail Liquor Store checks
- Surveillance
- Undercover membership operations
- Fake ID task force

Licensee Administrative Action

Licensee Administrative Action (LAA) is staffed by the Assistant Attorney General (AAG) assigned to the ABC, a legal assistant and one support staff. The AAG reviews the cases presented by enforcement agents 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 liquor citations issued for FY 2008 through FY 2012 and the total fines collected for those years:

Activity	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
CITATIONS					
Liquor	470	645	547	564	182
Tax Orders	144	229	215	211	125
Total Liquor Citations Issued	614	874	762	775	307
FINES					
Liquor	\$105,275	\$243,380	\$367,836	\$361,475	\$140,132
Tax Orders	\$132,820	\$153,603	\$162,907	\$191,396	\$112,462
Total Liquor Fines Collected	\$238,095	\$396,983	\$530,743	\$552,871	\$252,594

ABC HAS ACCEPTED THE FOLLOWING RESPONSIBILITIES IN ADDITION TO ITS STATUTORY REQUIREMENTS:

Cigarette and Tobacco Enforcement (CATE)

Along with a staff attorney and one administrative assistant; The CATE team currently consists of 10 statewide Inspector positions conducting enforcement activities. The CATE Inspectors perform statewide cigarette and tobacco enforcement activities aimed at reducing sales of cigarette and tobacco products to minors. These activities include Inspections at all licensee locations and Controlled Buy visits at all youth accessible retail licensee locations. Targeted enforcement revisits are made at locations that have failed prior enforcement visits.

CATE responsibilities also include conducting 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. According to a draft published on the SRS website, during FFY 2011 ABC Inspectors and Underage Cooperating Individuals (UCI's) performed 330 random buy attempts to measure compliance under the Synar Amendment resulting in 20 sales for a 93% compliance rate. This compares to previous years as follows:

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Activity	FFY 2007	FFY 2008	FFY 2009	FFY 2010	FFY 2011
Attempted Buys	580	413	425	313	330
Sales Made	70	66	33	24	20
Compliance Rate	88%	84%	92%	92%	93%

In 2005, the compliance rate for tobacco sales to minors dropped to 62%. The state had to decide between taking a \$5.4M reduction in IRS block grant funds 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

Outcome for CATE enforcement activities for FY 2008 through FY 2012:

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
Inspections					
Number Performed	1660	2847	3624	2723	1271
Violations	22	47	81	495	48
Compliance Rate	99%	98%	98%	81%	96%

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
Sales to Minors					
Chosen Controlled Buys Performed	1893	3967	5185	5811	1613
Violations	218	440	370	297	87
Compliance Rate	88%	89%	93%	95%	95%

Note: The increase of inspection violations for FY 2011 is due to non-fire safe compliant violations.

On September 9, 2010, ABC was awarded a contract with the Federal Food and Drug Administration (FDA) to conduct, on their behalf, tobacco inspections of retail locations for compliance of FDA regulations pertaining to the advertising and sale of tobacco products to youth. This is an annual contract subject to renewal on a yearly basis. The contract was renewed on September 14, 2011 for FY 2012 with option years for FY 2013 and FY 2014.

To perform the obligations of the FDA contract the CATE team was expanded to include the hiring of a State Program Coordinator, four additional Inspectors and one Administrative Assistant.

In FY 2011 KDOR/ABC entered into a Memorandum of Understanding with the State Fire Marshal's Office to inspect tobacco retailers and seize cigarettes that are not fire safe compliant. The agreement imposes specific duties on the CATE team to seize and pursue administrative cases for certain violations of the Kansas Fire Safety Standard and Firefighter Protection Act. This agreement has been renewed for FY 2012. At the end of the contract term, the agreement will be reviewed for the need of renewal for FY 2013.

Drug Tax Enforcement

ABC enforcement agents work with other law enforcement agencies that are conducting illegal drug investigations to ensure proper assessment of the state drug tax and penalty. Activities include weighing/counting the illegal drugs to determine the amount of tax due, issuing assessment notices to the violator, seizing assets to satisfy the tax and fine liability, and the auction or other disposition of the seized property.

An amount equal to 75% of the drug tax collections is returned to the law enforcement agency(s) conducting the investigation, with the remaining 25% going to the State General Fund.

Activity	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 (6 months)
Assessments	555	549	541	655	254
Amount	\$7,972,261	\$8,461,529	\$18,103,419	\$8,348,844	\$9,653,568
Collected	\$1,180,969	\$1,053,011	\$1,351,868	\$1,040,648	\$678,390

Attached 2012 Maps:

- Liquor-by-the-Drink (Wet/Dry Counties)
- Dry Cities (No Retail Sales)
- Active Off-Premise Retailers
- Active On-Premise Retailers
- Active Distributors
- Active Farm Wineries and Outlets
- Active Microbreweries
- Active Manufacturers
- Active CMB Off-Premise Retailers
- Active CMB On-Premise Retailers