
Alcoholic Beverage Control Division

Legislative Briefing



Debbi Beavers, Interim Director

January 14, 2016

ABC Mission

The Alcoholic Beverage Control (ABC) Division's 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.

ABC Priorities/Initiatives

In order to administer and enforce liquor laws in the most efficient, effective and responsive manner, the agency is driven to:

1. Make it as easy as possible for liquor licensees to comply with liquor laws.
 - A. Enforcement agents are delivering new licenses and educating new business owners/managers on how to comply with liquor laws, sharing best practices and answering questions. This promotes a sense of partnership between licensees and ABC.
 - B. Providing an easily navigated website that provides on-line references licensees may access to assist them in becoming and remaining compliant with liquor laws. Included on our website are:
 - a. Up to date Handbooks for each license type, with the goal of sharing information, statutory requirements and expectations in the clearest of terms
 - b. Statutes and regulations
 - c. Industry forms
 - d. Links to our online systems for licensing, payments and label registration
 - C. Improved interaction with liquor licensees and ABC stakeholders via social media through the ABC Facebook page.
 - D. Conducting routine meetings with liquor industry representatives and performing on premise visits by ABC management to help create and maintain industry understanding, open communication and a sense of transparency.
2. Maintain and improve compliance with statutory laws. Enforcement-related activities are generally being re-allocated with an emphasis on changing the behavior of repeat violators. Follow-up compliance visits are being conducted with the goal of reducing the rate of recidivism.

ABC is placing a greater emphasis on licensee training and support when lesser alleged offenses are discovered.

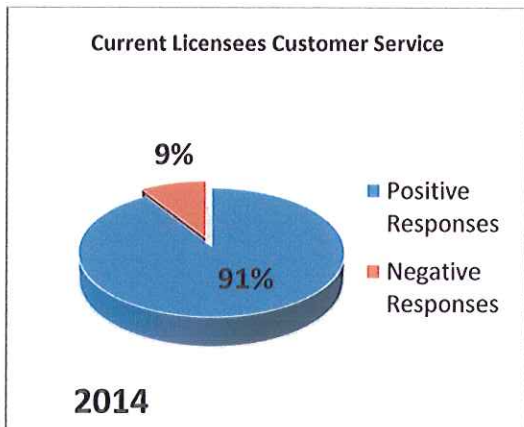
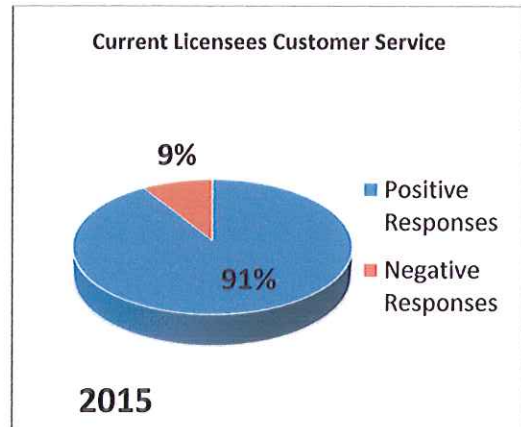
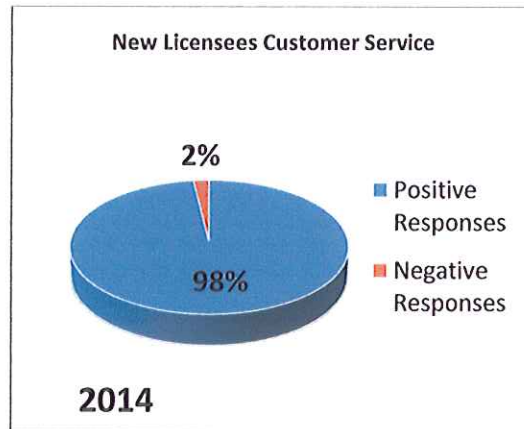
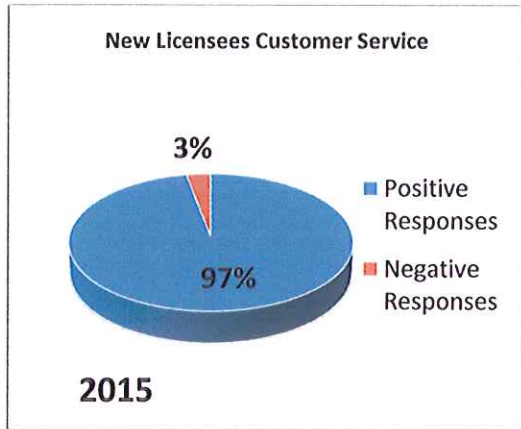
New System Update

In late 2014, we successfully implemented a new computer system – POSSE ABC. Licensees are using the online portal to apply for new licenses, renew their existing licenses and pay online fees or fines via credit/debit card or electronic check. Licensees can also monitor their accounts and the status of their applications through the portal. The user-friendly system guides applicants through the process, reducing errors and making the process much more efficient. The adoption rate of the new online system has exceeded ABC's expectations. Previously, all applications had to be filed via paper rather than electronically. Paper applications are still accepted.

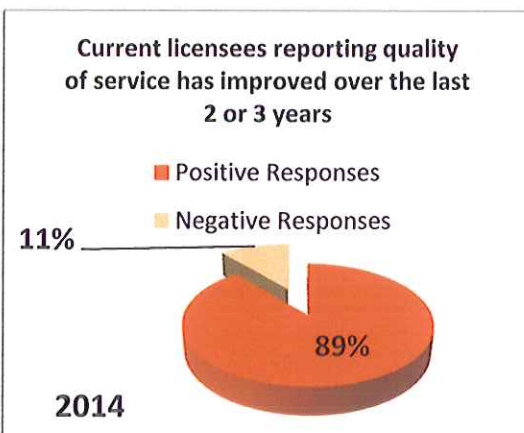
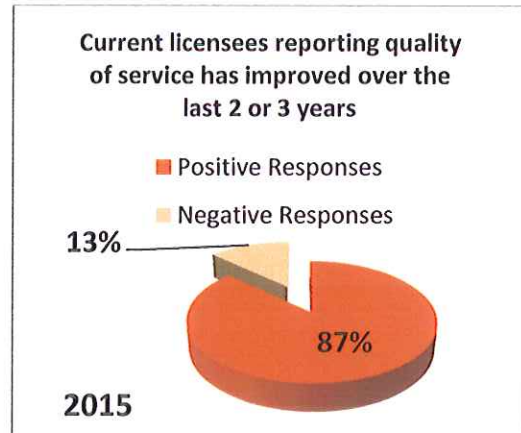
Strategy Paying Off

Our effort to make it as easy as possible for licensees to comply with liquor laws is paying off as measured by anonymous surveys (administered via Survey Monkey). Each month a survey is emailed to all new licensees and to 100 randomly selected current licensees. Survey questions cover customer service and timeliness, agency improvement, enforcement and administration of liquor laws. **New licensees** responded positively to questions at a **97% rate** in 2015.

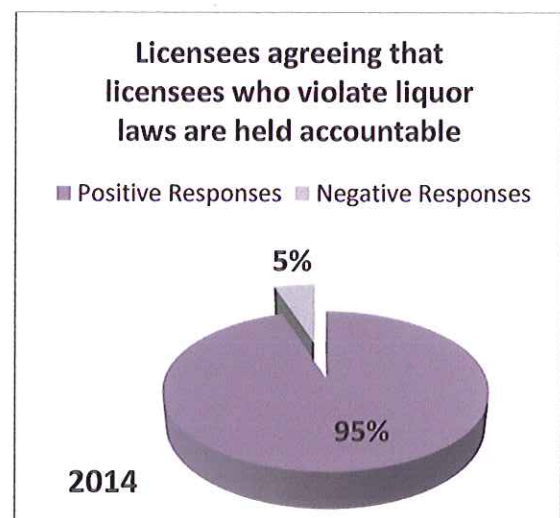
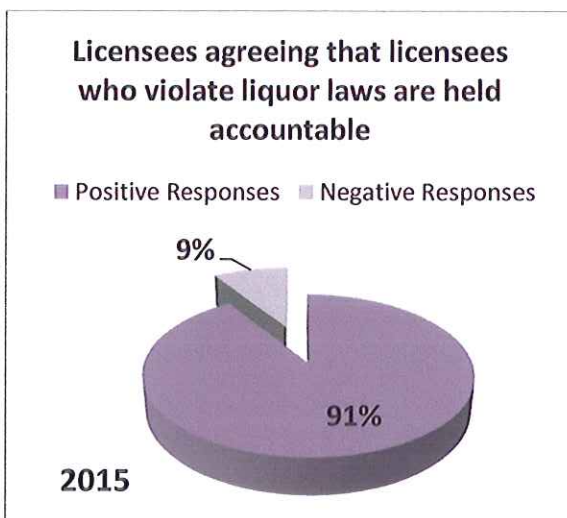
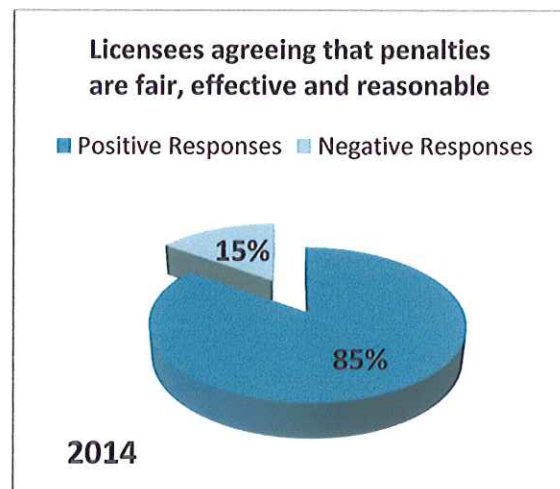
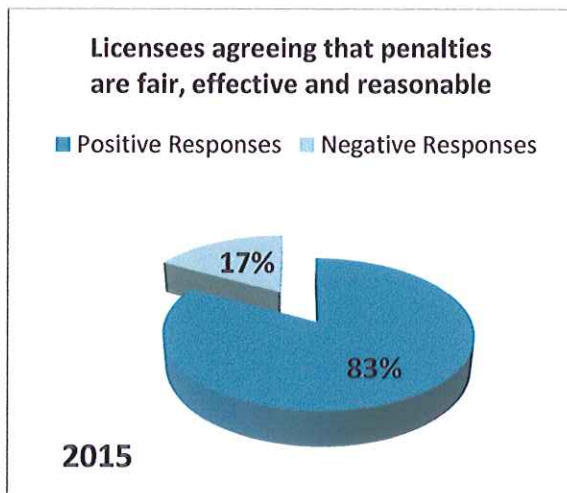
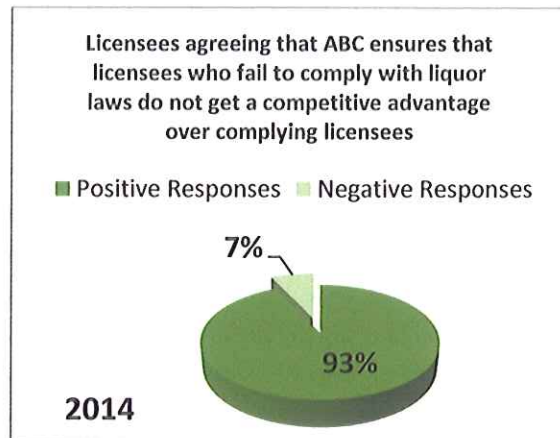
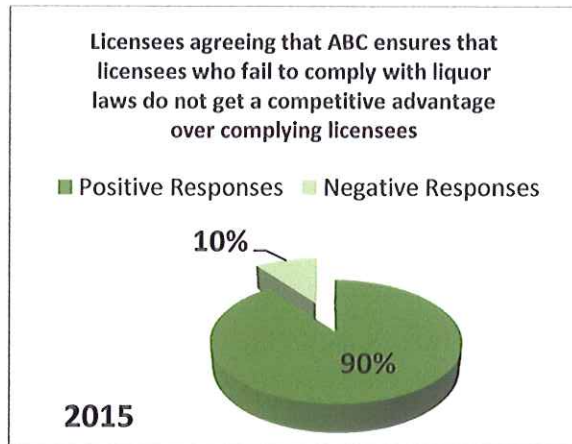
Customer Service



Improvement of agency service



Enforcement-related questions



2015 Legislative Changes

The 2015 legislative session saw numerous liquor-related bills, all of which were ultimately combined into HB 2223. This bill contained the following additions and amendments to Kansas liquor law:

- Allowing for the infusion of alcohol with various fruits, spices, candy, etc.
- Allowing for alcoholic liquor to be dispensed from a machine or container used to chill or mix a particular beverage.
- Providing criteria that allow local law enforcement officers who observe a violation of Kansas liquor laws to report such violation to ABC for potential administrative prosecution. In order for such prosecution to be allowed, the local law enforcement officer must provide written notice to a person in charge of the licensed premises at the time of the violation.
- Prohibiting the sale and service of powdered alcohol in Kansas.
- Allowing drinking establishment, private club and public venue licensees to offer customer self-service of wine from certain automated devices on the licensed premises. This section gave ABC the authority to adopt specific rules and regulations governing the use of these automated devices. These regulations can be found at K.A.R. 14-19-40 (Class A Clubs), 14-20-42 (Class B Clubs) and 14-21-23 (Drinking Establishments), which became effective on October 9, 2015.
- Creating an additional disqualifying factor in the application for licensure: A previous finding by the Director that the applicant held an undisclosed beneficial interest (i.e. “hidden ownership”) in another license.
- Codification of previous ABC policy involving the treatment of limited liability companies (LLCs) for licensure purposes. Specifically, LLCs applying for licensure under the Liquor Control Act (retailers, farm wineries, distributors, etc.) must meet the licensing qualifications of a partnership, while LLCs applying for licensure under the Club and Drinking Establishment Act (Drinking Establishments, private clubs, caterers, etc.) must meet the licensing qualifications of a corporation.
- Clarification that all administrative proceedings conducted by ABC are governed by the Kansas Administrative Procedure Act (KAPA), and that the Secretary of Revenue may designate the Director to be the presiding officer in any such proceeding.
- Removing the Hiram Price Dillon House from the list of exceptions to the general prohibition against consumption of alcoholic liquor on public property, as the Dillon House recently underwent an ownership change and is no longer public property.
- Allowing the consumption of alcoholic liquor on the State Capitol grounds for nonpartisan state functions. Such functions must be approved by the Legislative Coordinating Council before consumption of alcoholic liquor can occur.
- Allowing any unlicensed business to allow its patrons to possess and consume alcohol on the business’ property. This so-called “BYOB” provision is subject to the following limitations:
 - The business cannot have had a liquor license revoked at any point
 - No charge can be made for entry onto the premises, or for the ability to possess or consume alcoholic liquor
 - Any alcoholic liquor must remain in the possession of the patron, and cannot be sold or given away by the owner or employees of the business

- No possession or consumption of alcoholic liquor can occur between the hours of 12:00 a.m. and 9:00 a.m.
- Allowing distributor licensees to provide samples of spirits, wine or beer to retail licensees and their employees in the course of business or at industry seminars. This sampling can occur on the licensed premises of either licensee, but cannot occur in areas that are open to the public where sales of alcoholic liquor take place.
- Creation of a “vineyard permit,” which is an annual permit that allows for a person who owns a Kansas vineyard with at least 100 vines to sell wine produced, in whole or in part, using grapes grown by the permit holder on the premises covered by the permit. This wine must be manufactured by a licensed farm winery, and can be sold by the individual drink or in the original container for off-premise consumption. Permit holders can also conduct tastings on the permit premises.
- Allowing for the consumption of alcoholic liquor at catered events held on public property.
- Removal of the 10-day notice requirement previously imposed upon caterer licensees. Under the new law, a caterer needs only to provide notice 48 hours before any event. Such notice must be provided to ABC electronically, using a specified section of the agency’s website. Notice is not required for weddings, funerals, events sponsored by religious institutions or business-related meetings or functions.
- Allowing cities to pass ordinances exempting certain liquor-related businesses from the prohibition on being located within 200 feet of a church or school. This allowance only applies to businesses located within a statutorily defined “core commercial district.”
- Allowing the Director, on or after July 1, 2016, to issue a sufficient number of temporary permits for the sale of wine in unopened containers and the sale of beer, wine or both by the glass on the State Fairgrounds. There is no limit to the number of temporary permits that can be issued, but the number must be consistent with the requirements of the State Fair Board.
- Allowing a farm winery to sell at multiple farmer’s markets by applying for a single permit, as opposed to the previous law, which required a separate permit application for each farmer’s market at which the farm winery desired to sell product.

Organizational Units

The Office of Special Investigations (OSI) and Alcoholic Beverage Control have been organizationally separated. ABC is now a standalone bureau within KDOR. The following illustration is a breakdown of personnel assigned.

<u>Unit</u>	<u>FTE</u>
Management	3
Asst. AG	1
Administrative Staff/LAA (Legal)	7.5
Licensing	9
Enforcement	17
Tobacco	12
TOTAL	49.5

Licensing

There are currently 4,891 active liquor licenses and permits. The following is a summary of active liquor licenses by license type for CY2013 through 2016:

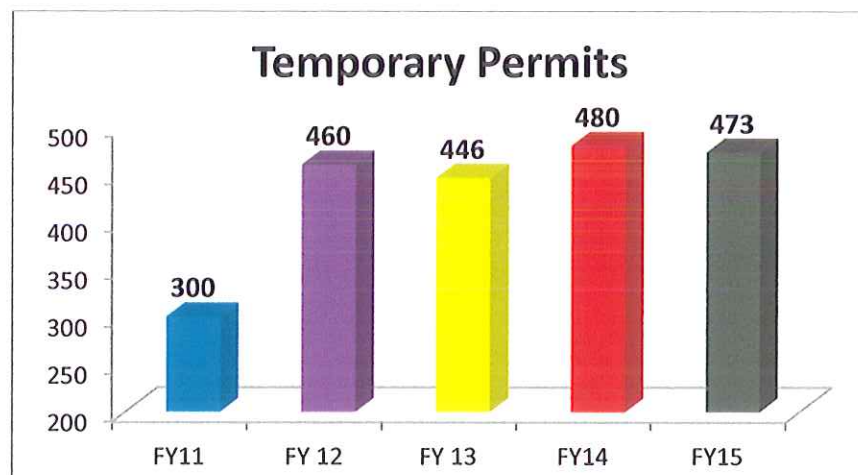
License Type	2013	2014	2015	2016
Retail Liquor Stores	761	752	753	769
Class "A" Clubs	276	264	252	244
Class "B" Clubs	114	101	78	83
Public Venues	4	5	5	5
Drinking Establishments	1751	1788	1797	1827
Caterers	188	192	193	182
Beer Distributors	36	35	35	34
Spirits Distributors	25	26	28	38
Wine Distributors	38	37	41	40
Microbreweries (MB)	19	25	23	33
MB Packaging & Warehousing Facility	1	1	1	
Microdistilleries	2	3	4	4
Non-Beverage User	11	11	11	14
Farm Wineries	31	33	36	37
Farm Winery Outlets	8	10	8	8
Farmers' Market Sales Permit	6	6	6	9
Special Order Shipping	433	478	513	556
Packaging & Warehousing Facility	2	1	1	1
Manufacturers	3	4	2	3
Supplier Permits	835	871	934	1004
TOTAL	4554	4643	4721	4891

Note: Temporary liquor permits have been removed from the above chart and are addressed below.

Trend

Temporary liquor permits have been steadily increasing over the past few years as indicated in the graphic to the right.

Temporary liquor permits are \$25 per day.



Cereal Malt Beverage (3.2% beer) licensing

Cereal Malt Beverage (CMB) retailers are licensed and regulated by the cities and counties. The attached maps show the number of CMB retailers reported to the ABC for calendar year 2015. The locally issued CMB license allows the business to sell cereal malt beverages containing 3.2 percent alcohol by weight or less.

Gallonage Tax

The ABC Licensing Unit is responsible for collecting gallonage taxes while the Miscellaneous Tax Segment, which is part of the Division of Taxation, is responsible for collecting liquor enforcement and liquor drink taxes. The following liquor related taxes were collected during FY 2012- FY 2015.

Gallonage Tax Rates per Gallon:

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

Liquor Tax Revenue:

Tax Type	FY 2012	FY 2013	FY 2014	FY 2015
Gallonage – Alcohol and Spirits*	\$10,039,513	\$11,067,034	\$10,225,181	\$10,498,059
Gallonage - Beer	\$7,771,472	\$7,426,081	\$8,060,582	\$8,149,230
Gallonage - CMB	\$2,081,419	\$1,855,093	\$1,685,221	\$1,566,165
Gallonage - Wine	\$1,735,929	\$1,568,866	\$1,818,040	\$1,721,203
Liquor Enforcement (8%tax)	\$58,861,685	\$60,511,555	\$64,538,260	\$68,505,242
Liquor Drink (10% tax)**	\$38,113,772	\$39,208,693	\$40,619,417	\$42,149,374
TOTAL TAX REVENUE	\$118,603,470	\$121,637,322	\$126,946,701	\$132,589,273

* 10% of Gallonage Tax on alcohol and spirits goes to KDADS 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 KDADS Community Alcoholism and Intoxication Program; and, 25% to the state general fund.

Revenue Collected by ABC for FY 2012 - FY 2015:

Revenue Source	FY 2012	FY 2013	FY 2014	FY 2015
Liquor License, Registration and Permit fees	\$3,577,135	\$2,199,635	\$2,077,790	\$2,322,678
Label fees	\$838,818	\$934,635	\$546,013	\$1,008,480
Cereal Malt Beverage Retail Stamps	\$80,800	\$92,605	\$78,425	\$84,210
Gallonage Tax	\$21,628,013	\$21,917,074	\$22,021,757	\$21,934,870
ABC Liquor Fines	\$445,757	\$488,891	\$605,595	\$471,153
Total Liquor Revenue Collected	\$26,592,683	\$25,632,840	\$25,329,580	\$25,821,391

Liquor license and permit fees range from \$2 - \$10,000 and are deposited in the State General Fund with the exception of 50% of on-premise licenses fees. See attachment for license and permit fees.

Liquor Enforcement

The Enforcement Unit provides investigative services necessary for the agency to effectively enforce the liquor laws. There are currently 17 enforcement agent positions. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations as directed by KDOR. Agents:

- ✓ Perform background investigations relating to liquor license applications
- ✓ Conduct educational visits with new licensees
- ✓ Provide training to licensees, local law enforcement officers, Regional Prevention Centers (RPC) and other interested coalitions
- ✓ Conduct hidden ownership investigations when there is reason to believe the licensee of record is not the true owner
- ✓ Conduct underage enforcement including controlled-buy investigations, bar checks, and furnisher checks
- ✓ Perform private club membership checks
- ✓ Investigate industry complaints
- ✓ Conduct regular compliance inspections
- ✓ Lead or participate in joint enforcement operations with local law enforcement agencies focusing on issues relating to public safety including underage laws, over-service and source investigations
- ✓ Enforce the tax on illegal drugs on behalf of the Director of Taxation

Enforcement agents work closely with local, state and federal law enforcement agencies as well as local, regional and state public safety coalitions. Investigations resulting in alleged criminal violations are presented to the County or District Attorney for possible criminal prosecution against the individual suspect and/or the ABC Assistant Attorney General (AAG) for potential administrative action against the licensee.

Keeping the criminal element out of the liquor industry is a priority of the Division. Hidden ownership investigations can, at times, uncover criminal networks who use liquor businesses to conduct criminal activity. This past June, an ABC-led investigation resulted in federal criminal charges that included 45 counts against six people. Charges included:

- ✓ Making false claims of U.S. citizenship
- ✓ Harboring illegal aliens
- ✓ Bank fraud
- ✓ Unlawful employment of illegal aliens
- ✓ Document fraud
- ✓ Use of fraudulently obtained Social Security numbers
- ✓ Wire fraud

The press release from the U.S. Attorney's Office can be found at the link below.

<http://www.justice.gov/usao-ks/pr/couple-india-arrested-alien-employment-case>

Enforcement Activities for FY 2012 to FY2015:

Activity Performed	FY 2012	FY 2013	FY 2014	FY 2015
SALES TO MINORS				
Random Controlled Buys Performed	490	538	479	421
Violations	79	93	74	67
Compliance Rate	84%	83%	85%	84%
Recidivism - RCB Performed		83	87	58
Compliance Rate		88%	86%	90%
Inspections	2787	2796	1889	2364
New License Delivery – Educational visits	458	384	405	424
Other Liquor Investigations	1034	1289	1277	1415

Licensee Administrative Action

The Licensee Administrative Actions (LAA) Unit is staffed by an Assistant Attorney General (AAG) assigned to the ABC, a legal assistant and one administrative specialist. The AAG reviews 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 2010 through FY 2015 and the total fines collected for those years:

Activity	FY 2012	FY 2013	FY 2014	FY2015
CITATIONS				
Liquor Law Violations	517	435	318	338
Tax Orders	230	220	245	327
Total Liquor Citations Issued	747	655	563	665
FINES				
Liquor Law Violations	\$226,879	\$304,580.47	\$411,089.96	\$171,100.00
Tax Orders	\$218,878	\$185,310.64	\$194,505.11	\$297,202.24
Total Liquor Fines Collected	\$445,757	\$489,891.11	\$605,595.07	\$468,302.24

Administration

The ABC Administrative Unit performs general staff support and related work such as budget preparation and maintenance, personnel record keeping, management of equipment, records and systems. Division funding is provided through the vehicle operating fund.

Drug Tax Enforcement

ABC agents enforce the tax on illegal drugs across the state. Agents issue drug tax assessments and execute tax warrants, seizing property from drug dealers to satisfy the drug tax debt. Drug

taxes collected are distributed as follows: 75% to the local law enforcement agency that conducted the drug investigation and the remaining 25% is deposited into the state general fund.

Drug Tax Collections

Activity	FY 2012	FY 2013	FY 2014	FY 2015
No. of Assessments	655	466	312	288
Collected	\$1,245,610	\$1,280,399	\$1,452,241	\$1,037,492

Cigarette and Tobacco Enforcement (CATE)

The compliance rate for tobacco sales to minors dropped to 62% in 2005 - well below the federally required 80% rate. At that time, the state had to decide between taking a \$5.4M reduction in prevention and treatment block grant funds or pay a \$2.2M penalty to be used to raise the compliance rate. The Kansas Department for Aging and Disability Services (KDADS) entered into an Interagency Agreement with ABC to create the CATE Unit.

The CATE Unit began in July 2007 and is partially funded annually through KDADS. The objective of the CATE Unit is to ensure compliance with the Synar Amendment and protect federal block grant funds received by KDADS by strengthening enforcement of the cigarette and tobacco laws. It also enhances the KDOR effort to enforce the cigarette and tobacco products act, the requirements for the sale of cigarettes, and any amendments or regulations adopted thereunder. In addition to CATE objectives, CATE conducts the compliance checks under the Synar Amendment and contracts with the Federal Food and Drug Administration (FDA) to conduct tobacco inspections.

The CATE Unit consists of 9 statewide inspectors partially funded by the FDA, one half-time attorney, two administrative positions (one funded by the FDA and one funded through KDADS) and a program coordinator position.

State of Kansas CATE Responsibilities:

CATE inspectors perform statewide cigarette and tobacco enforcement activities aimed at reducing sales of cigarette and tobacco products to minors. These activities include controlled-buy investigations at all youth accessible retail licensee locations. Follow-up enforcement revisits and inspections are made at locations that have sold to a minor.

Outcome for CATE enforcement activities for FY 2012 – FY 2015:

Inspections	FY 2012	FY 2013	FY 2014	FY 2015
Number Performed	3221	2750	2860	2883
Violations	143	144	85	64
Compliance Rate	96%	95%	97%	99%

Sales to Minors	FY 2012	FY 2013	FY 2014	FY 2015
Other Controlled Buys Performed	3083	3107	2979	3022
Violations	166	144	158	250
Compliance Rate	95%	95%	97%	92%

Synar Responsibilities:

CATE inspector responsibilities include conducting controlled-buy investigations 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 federal block grant monies allocated to Kansas for substance abuse programs.

Activity	FFY 2012	FFY 2013	FFY 2014	FFY 2015
Attempted Buys	337	131	364	443
Sales Made	10	7	37	40
Compliance Rate	97%	94%	88%	91%

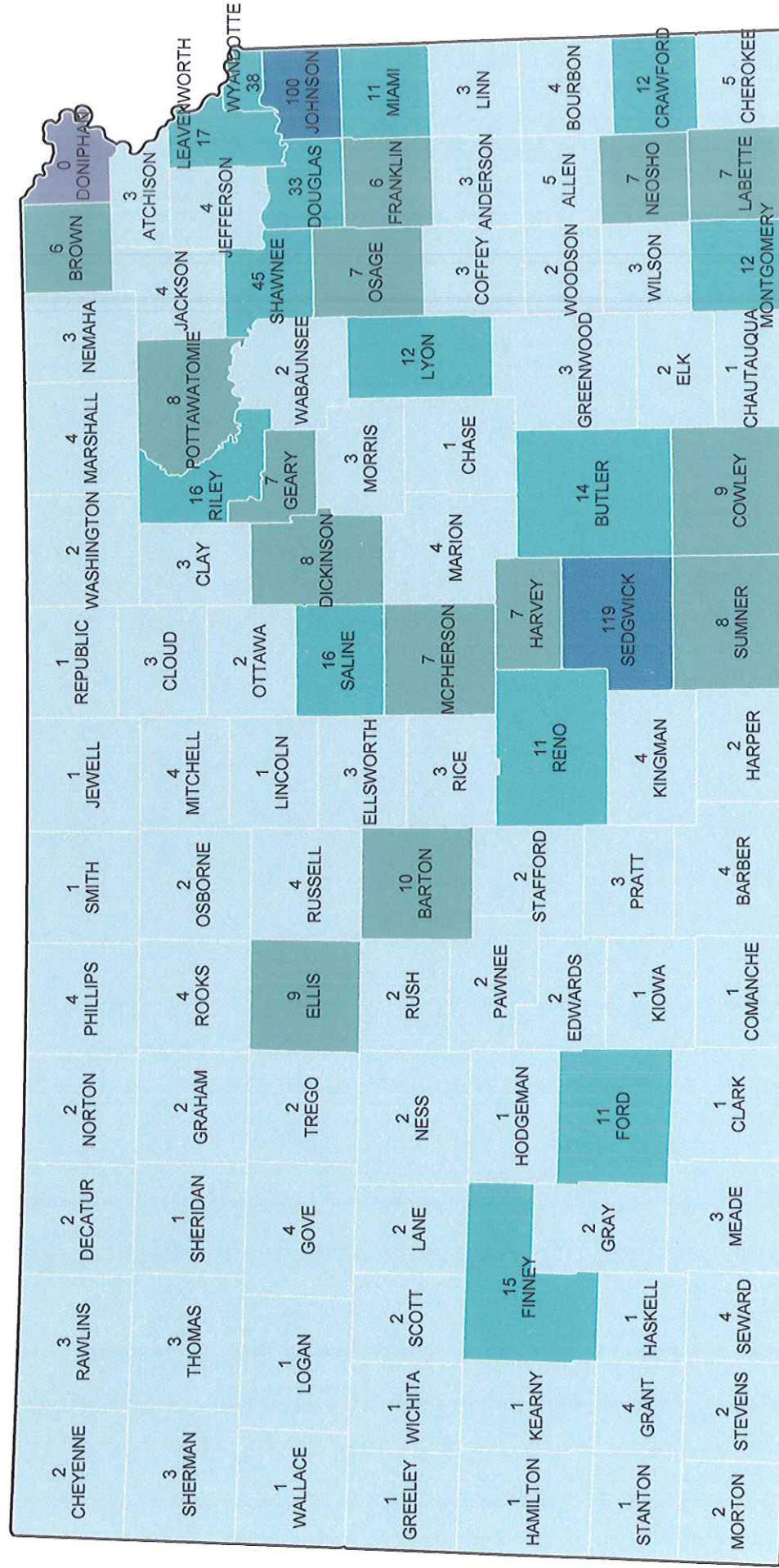
Food and Drug Administration (FDA) Responsibilities:

In 2010 ABC was awarded a contract with the 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 currently with renewal options through FFY2017. The FDA contract allowed expansion of the CATE Unit to perform the obligations of the contract. It also funds the administrative position and partially funds the program coordinator.

Attachments:

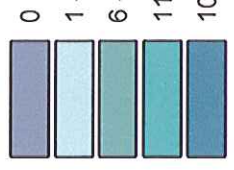
1. Retailer Licenses
2. On-Premise Licensees
3. Liquor-by-the-Drink (Wet/Dry Counties)
4. Dry Cities (No Retail Sales)
5. Distributor Licenses
6. Farm Winery and Outlet Licenses
7. Microbrewery Licenses
8. Microdistillery Licenses
9. Manufacturer Licenses
10. CMB Off-Premise Retailers – licensed & regulated by cities and counties
11. CMB On-Premise Retailers – licensed & regulated by cities and counties

Kansas Retailer Licenses



January 6, 2016

of Licenses Per County



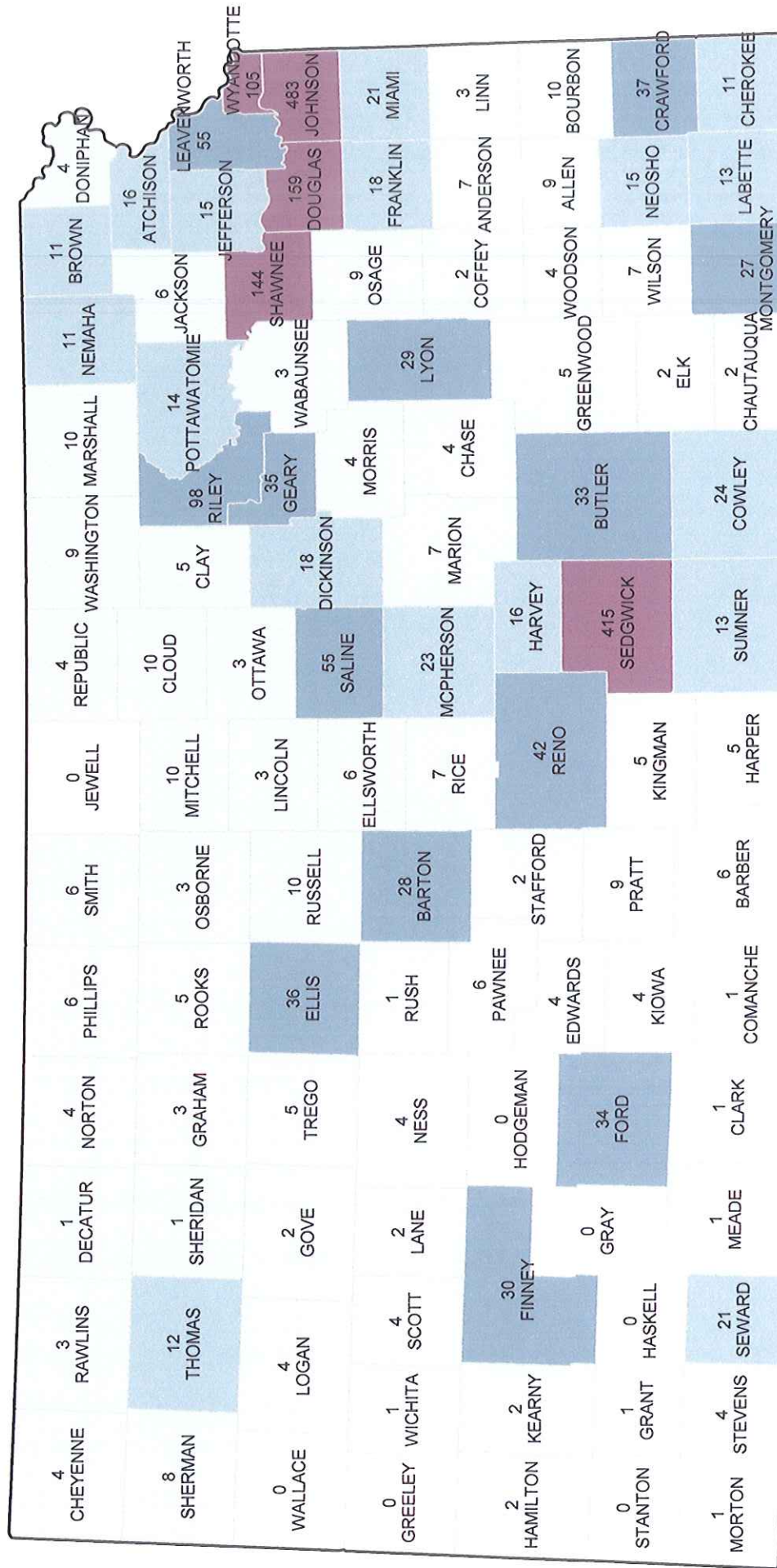
Total: 768 Retailer Licenses

of Counties

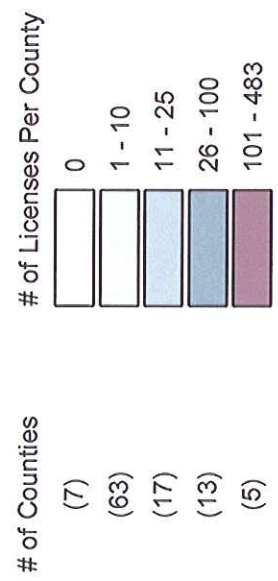
- (1)
- (74)
- (14)
- (14)
- (2)

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

Kansas On-Premise Licenses



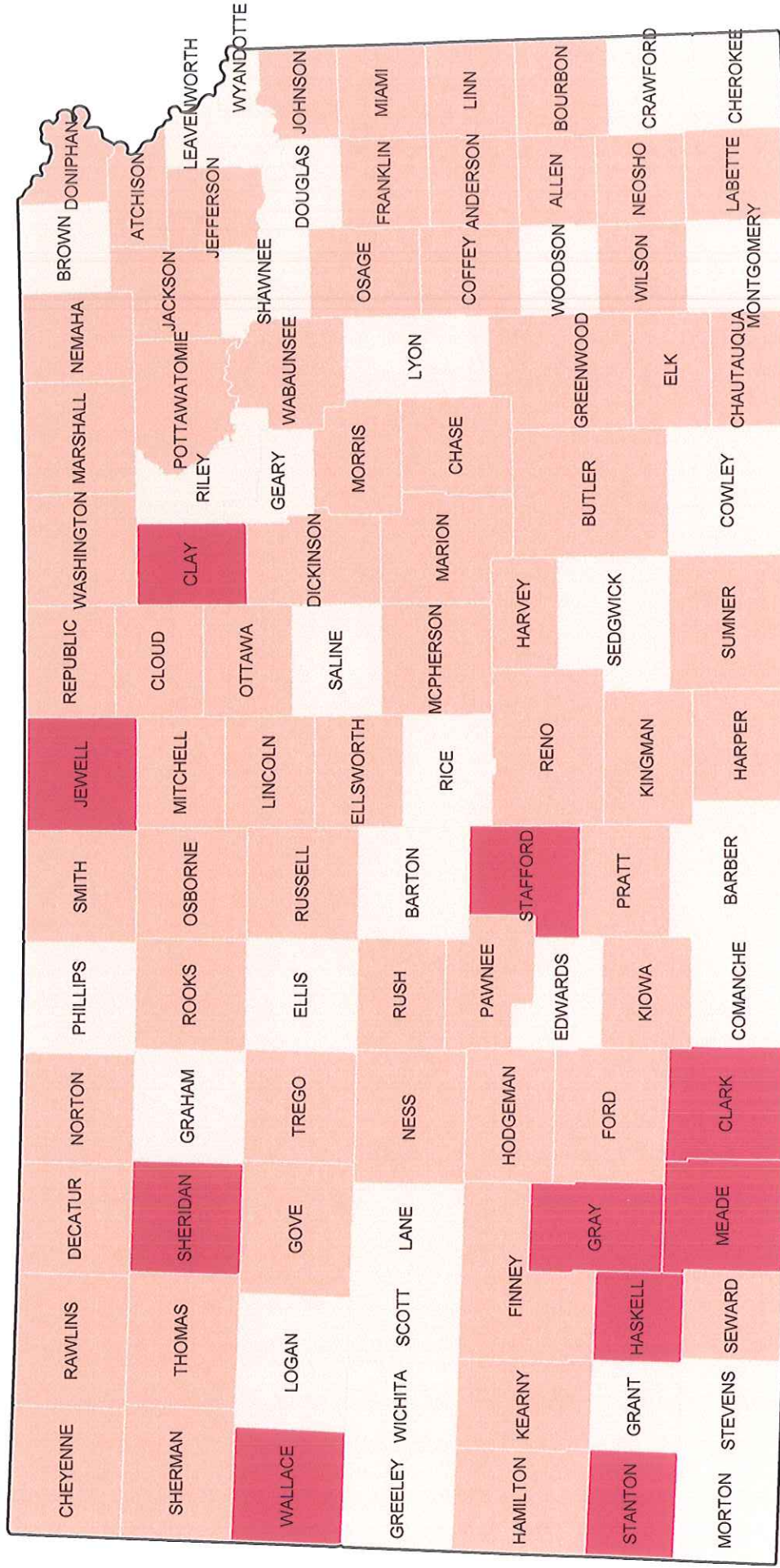
January 6, 2016



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

Total: 2,403 On-Premise Licenses

Kansas Liquor by the Drink Map (Wet and Dry Counties)



The data used for this map was submitted by the Kansas county clerks.

of Counties
 (64)
 (31)
 (10)
 Total: 105

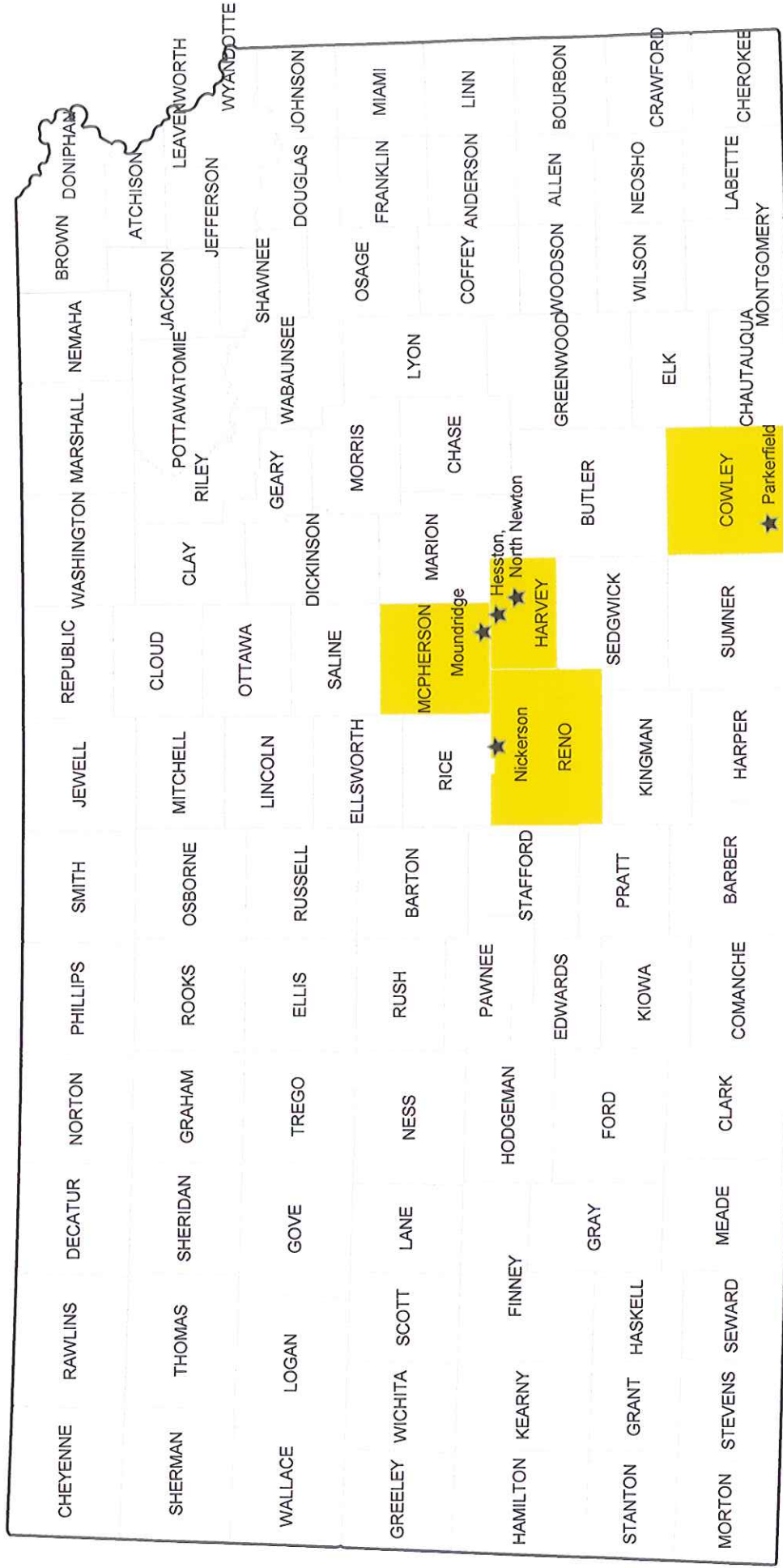
30% food sales requirement
 No food sales requirement
 No liquor by the drink



January 6, 2016

Kansas Map of Dry Cities

(No Retail Liquor Store Sales)



January 6, 2016

Name of the City, County
Moundridge (McPherson County)
Parkerfield (Cowley County)
Hesston, North Newton (Harvey County)
Nickerson (Reno County)
Total: 5 Dry Cities

The data used for this map
was submitted
by the Kansas city clerks.

[illegible]

Kansas
Department of Revenue
Alcoholic Beverage Control

# of Counties	# of Licenses Per County
(12)	1 - 5
(4)	6 - 10
(2)	11 - 25

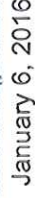
Total: 99 Distributor Licenses

[illegible]

For Dark Green counties, the left number represents Farm Wineries and the right number represents Farm Winery Outlets.

Total:

37 Farm Winery Licenses
8 Farm Winery Outlet Licenses



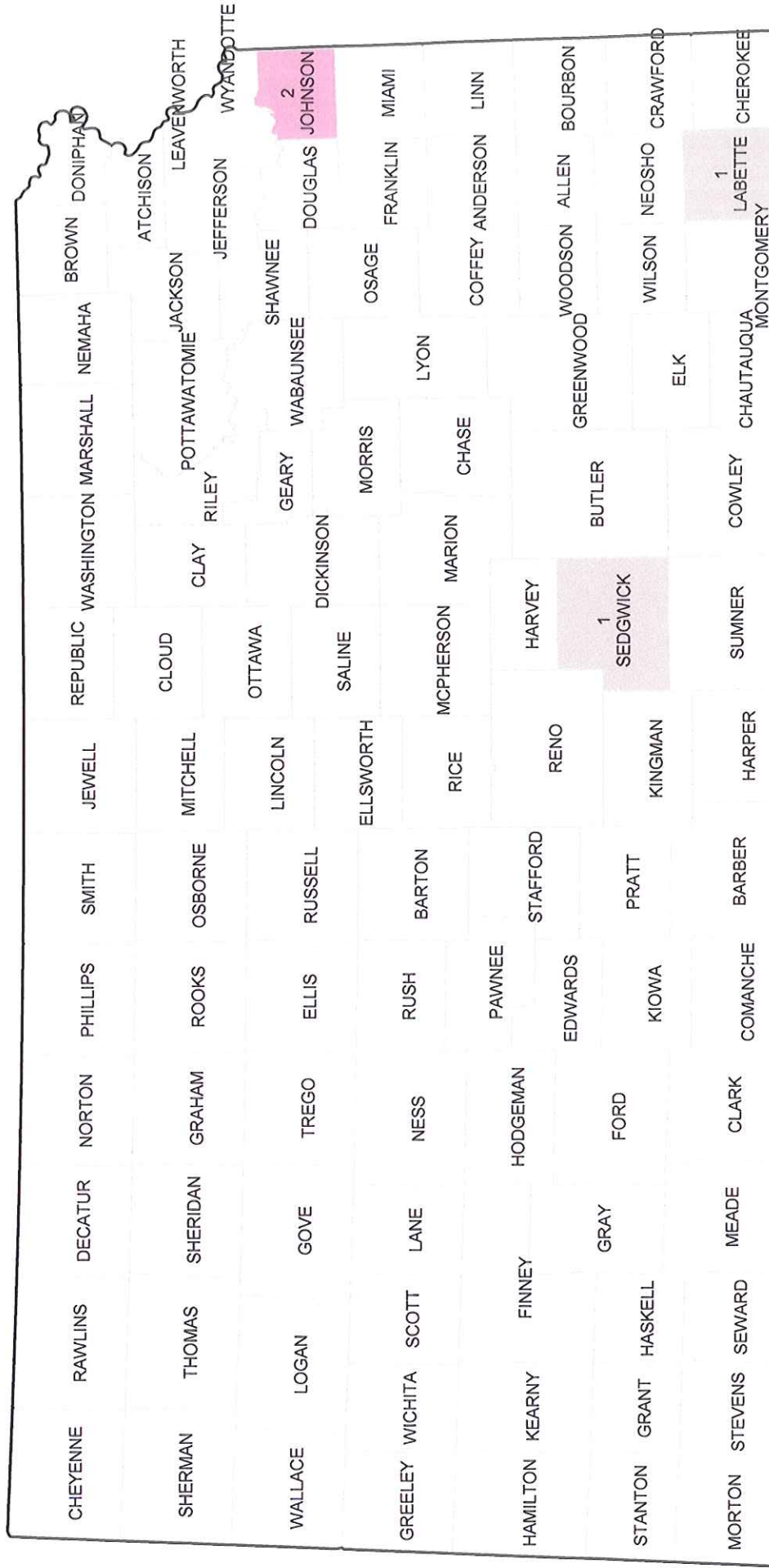
[illegible]

Kansas
Department of Revenue
Alcoholic Beverage Control

# of Counties	# of Licenses Per County
(9)	1
(3)	2
(1)	3
(2)	5+

Total: 33 Microbrewery Licenses

Kansas Microdistillery Licenses



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

January 6, 2016

Total: 4 Microdistillery Licenses

A map of Kansas showing all 105 counties. Two counties are highlighted: Lyon County (yellow) and Atchison County (orange). Lyon County is labeled with a '1' and Atchison County with a '2'. The map includes the state's outline and the names of all counties.

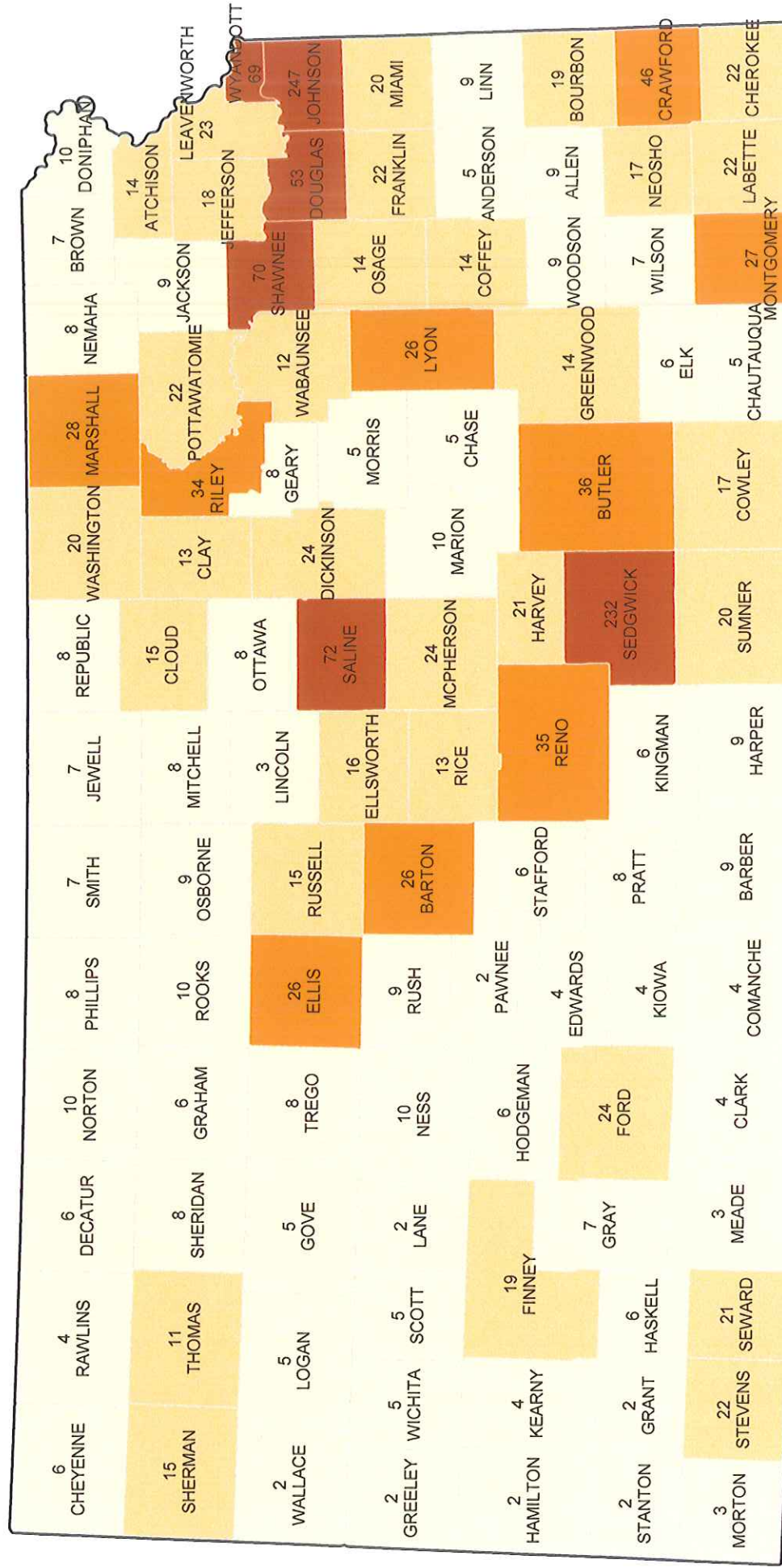
Cheyenne	Rawlins	Decatur	Norton	Phillips	Smith	Jewell	Republic	Washington	Marshall	Nemaha	Brown	Doniphan
Sherman	Thomas	Sheridan	Graham	Rooks	Osborne	Mitchell	Cloud	Clay	Pottawatomie	Jackson	Atchison	Leavenworth
Wallace	Logan	Gove	Trego	Ellis	Russell	Lincoln	Ottawa	Saline	Dickinson	Shawnee	Jefferson	Wyandotte
Greeley	Wichita	Scott	Lane	Ness	Rush	Barton	Ellsworth	Morris	Osage	Franklin	Miami	
Hamilton	Kearny	Finney	Hodgeman	Pawnee		Rice	McPherson	Marion	Chase	Coffey	Anderson	Linn
Stanton	Grant	Haskell	Gray	Ford			Harvey	Butler	Greenwood	Woodson	Allen	Bourbon
Morton	Stevens	Seward	Meade	Clark	Comanche	Barber	Kingman	Sedgwick	Elk	Wilson	Neosho	Crawford
						Harper	Sumner	Cowley	Chautauqua	Labette	Cherokee	Montgomery



Manufacturer	# of Counties	# of Licenses Per County
1	(1)	1
2	(1)	2

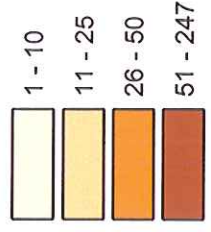
Total: 3 Manufacturer Licenses

Kansas Cereal Malt Beverage Licenses Off-Premise Retailers



January 6, 2016

of Off-Premise Retailers Per County



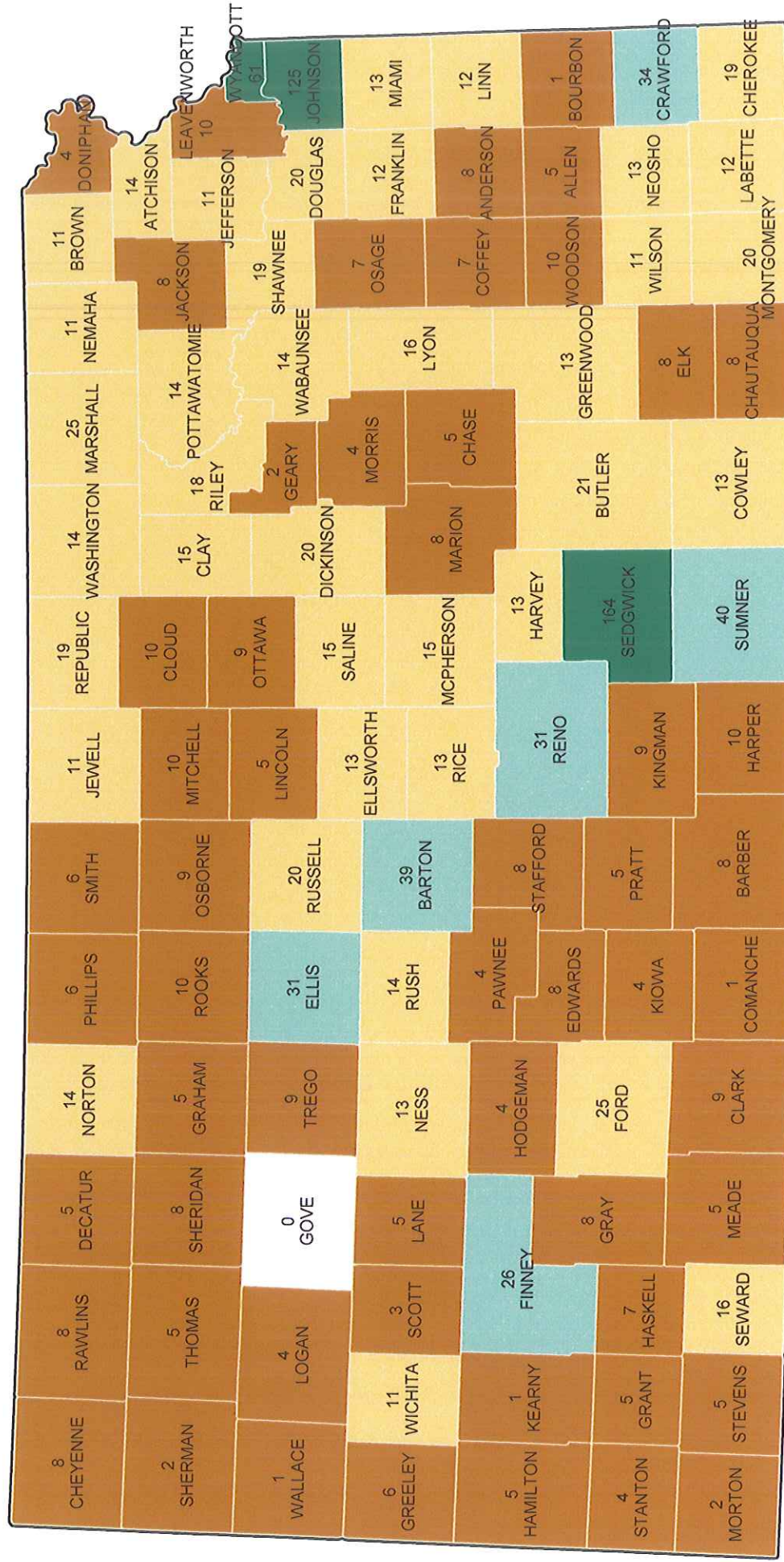
of Counties

(59)
(31)
(9)
(6)

The data used for this map was derived from the 2015 Cereal Malt Beverage applications and stamp reports received from the cities and counties by the Alcoholic Beverage Control.

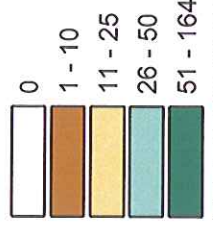
Total: 1,954 CMB Off-Premise Retailers

Kansas Cereal Malt Beverage Licenses On-Premise Retailers



January 6, 2016

of On-Premise Retailers Per County



of Counties

(1)
(56)
(39)
(6)
(3)

The data used for this map was derived from the 2015 Cereal Malt Beverage applications and stamp reports received from the cities and counties by the Alcoholic Beverage Control.

Total: 1,485 CMB On-Premise Retailers