Alcoholic Beverage Control Division

Legislative Briefing

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February 1, 2022

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Alcoholic Beverage Control (ABC) Mission

It is the mission of the ABC division to promote, serve and protect the health, safety and welfare of Kansans by regulating the liquor industry, enforcing liquor laws and other laws administered by the Kansas Department of Revenue (KDOR).

ABC Priorities

The ABC division continues to place an emphasis on customer service, helping liquor licensees be compliant with liquor laws and improving division efficiencies and services.

The ABC strives to administer and enforce liquor laws in an efficient, effective, and responsive manner through:

1. Education:
    a. The local ABC enforcement agents hand delivers new licenses to in-state applicants. If the agent's schedule prohibits license delivery, the license is emailed, and the agent performs an educational visit within 14 days.
    b. ABC enforcement agents perform education as requested to licensees and stakeholders.
    c. Enforcement agents focus on changing behavior of repeat violators through education and enforcement efforts. If a licensee fails an underage compliance check, the licensee will get a follow up compliance check with the goal of reducing recidivism.
2. Online Services:
    a. Online new applications, renewal applications, label registration and online application or fine payments. Effective 1/1/21, licensees must apply online. NOTE: The ABC is currently in the request for proposal process as the contract for our current software system expires on 6/30/22.
    b. The ABC website provides:
        i. links to statutes and regulations.
        ii. handbook for each liquor license type that outlines statutory requirements and regulations for that license type.
        iii. links to search public records.
        iv. Links to the ABC Facebook page, which is geared toward licensees and stakeholders.
3. Industry Interaction:
    a. ABC participates in industry meetings.
    b. Provides timely responses to inquiries.
    c. Promotes transparency and open communication.

Shipments of Alcoholic Liquor to Kansas Residents

Common carriers reported 198,556 shipments of known alcoholic liquor to Kansas residents in CY20 and 212,483 shipments in CY21.

ABC reported last year that unlawful shipments of alcoholic liquor is a known problem and continues to be an issue. The only direct to consumer shipments currently authorized by law are shipments of wine provided the winery (in-state and out-of-state) has a Kansas special order shipping license. The most common issues are:

- Unlicensed shipper (spirits, wine or beer). Some of these unlicensed shippers do not have a license in the state they are in nor are they licensed by the Alcohol and Tobacco Tax and Trade Bureau (TTB).
- Licensed special order shippers who ship more than 12 standard cases to an address or person.

It is easy to obtain alcohol ordering online. Unlicensed entities do not label the packages as required by Kansas law. Every shipment of wine to a Kansas consumer shall be clearly marked "alcoholic Beverages, Adult Signature Required". Each carrier must obtain a signature of an adult at least 21 years of age prior to delivering the wine. (K.S.A. 41-350) Last year, I reported to the legislature that during an investigation on unlawful shipments of alcoholic liquor, a common carrier delivered alcohol to a seven-year-old. The package was not marked nor was the shipper licensed.

Additionally, there is a significant loss of revenue due to the State of Kansas in the form of unpaid liquor enforcement tax and gallonage tax.

2021 Legislative Changes

House Bill 2137 – Effective upon publication in the Kansas Register. The full text of the bill may be viewed at http://www.kslegislature.org/li/.

Fulfillment House License

Creates a new license type for fulfillment houses, which allows the licensee to handle all logistics on behalf of a special order shipping license holder, including packaging, warehousing, order fulfillment and shipping services. Each location must be licensed. The license fee is $50 for a two-year term in addition to the application fee and modernization fee. Out-of-state applicants must appoint the Kansas Secretary of State as their resident agent.

Fulfillment house licensees must file a monthly report of their shipments electronically by the 15th of the month following shipments.

Expanded Sunday Sales

Authorizes Sunday sales for Retail Liquor Stores and Cereal Malt Beverage (CMB) Retailers to begin as early as 9 a.m. in cities or counties where Sunday sales have been authorized. The city or county must modify their existing ordinances in order to authorize Sunday sales before noon.

Pursuant to K.S.A. 41-2911(a)(1)(A) (counties) and (b)(1)(A) (cities), any change must be done through ordinance or resolution. If the city or county wishes to make the change, it will require an updated ordinance. The city or county may draft the ordinance or resolution without an election, but it is subject to a 60-day waiting period during which a petition for an election can be filed.

Class A Clubs
Authorizes Class A Clubs to enter into a contract with non-members to host an event provided the Class A Club notifies the ABC electronically at least 48 hours before the event and maintains records for three years. The ABC must make this information available on our website for law enforcement and the public.

Liquor License Applicants
Amends the Liquor Control Act, Club and Drinking Establishment Act and the Cereal Malt Beverage Act to remove any Kansas residency requirement to obtain a liquor license. The director may require fingerprints for out-of-state applicants. An out-of-state applicant must appoint a process agent who is a qualified Kansas resident.

Removes the requirement for an entity to be organized under Kansas laws.

Authorizes issuance of a liquor license to a person whose spouse is a law enforcement officer at the time of application.

Pitchers of Mixed Alcoholic Beverages
Authorizes Drinking Establishments, Class A Clubs, Class B Clubs, Caterers, or Temporary Permit Holders to sell pitchers of mixed alcoholic beverages provided they are at least 25 percent non-alcoholic liquid or other edible substance. A pitcher must be more than 32 ounces and not more than 64 ounces.

To-Go Alcoholic Beverages
Drinking Establishments, Class A Clubs and Class B Clubs are authorized to sell to-go alcoholic liquor or CMB. It must be otherwise legal for the licensee to sell the alcoholic liquor or CMB.

1. Beer, CMB or wine purchased on the licensed premises may be sold to go in its original, unopened container.
2. All opened containers must be resealed and placed in a clear, tamper proof bag.
3. A dated receipt must be given to the patron.
4. Sales of to-go drinks must cease at 11 p.m.
5. If wine was partially consumed on the licensed premises, the licensee may reseal the bottle and place it in the clear, tamper proof bag with a receipt for removal after 11 p.m.

Sales of spirits in the original container is prohibited.

Growlers
Retail Liquor Stores, Drinking Establishments, Class A Clubs and Class B Clubs may sell and refill growlers of beer, domestic beer and CMB provided:

1. The containers are not less than 32 ounces and not more than 64 ounces.
2. They are labeled with the licensee name and type of beer or CMB in the container.
3. They are not sold or removed from the premises after 11:00 p.m.
4. Taxation:
5. Retail Liquor Store sales are subject to liquor enforcement tax.

6. Drinking Establishment, Class A Club and Class B Club sales are subject to liquor drink tax.

Kansas Agricultural Product Requirement
Effective July 1, 2021, the Kansas agricultural product requirement is reduced to 15 percent. This requirement will sunset on January 1, 2023 for a Farm Winery or a Microbrewery who also manufactures hard cider.

CMB Sales
On-premise liquor licensees may purchase, sell and permit consumption of CMB on their licensed premise without obtaining an additional CMB Retailer's license. The sale of CMB for off-premises consumption is not permitted, with the exception of to-go sales conducted pursuant to K.S.A. 41-2653.

Temporary Permit holders, including the Kansas State Fair Temporary Permit holders, may purchase, sell and permit consumption of CMB under their temporary permit issued by the ABC without obtaining an additional CMB retailer's license.

Farm Wineries
Authorizes certain activities to be conducted in accordance with federal law:

1. Transfer or receive wine in bulk containers or packaged wine in bond to any bonded premises.
2. Transfer or receive wine in a bulk container in bond to a distilled spirits plant.
3. Receive distilled spirits in a bulk container.
4. Produce fortified wine with the addition of wine spirits to domestic wine if the added spirits are produced from the same kind of fruit used to produce the wine.
5. Authorizes the importation of wine from outside Kansas for use in the production of domestic wine.
6. Specifies that a farm winery cannot transfer wine in bulk containers to the premises of a brewery.
7. Clarifies that terms not defined in Kansas law will have the same meaning as defined in federal law.

Kansas Manufacturers
Authorizes a Kansas manufacturer to hold one drinking establishment license provided the location is within two miles from the manufacturer's location using the road usually travelled to measure the distance.

The bill requires the drinking establishment to purchase their alcoholic liquor and beer from a retail liquor store that holds a federal basic wholesale permit, distributor or a farm winery. The drinking establishment cannot sell the manufacturer's own brand to the exclusion of other alcoholic liquor.

Producer's License
Requires the county board of commissioners or the ABC Director to approve a CMB retailer's license for the holder of a Producer's license.

Retail Liquor Stores
Authorizes the sale of alcoholic liquor on Memorial Day, Independence Day and Labor Day for cities/counties who have not authorized expanded (Sunday) sales.

Authorizes the sale and delivery of CMB at wholesale to CMB retailers.

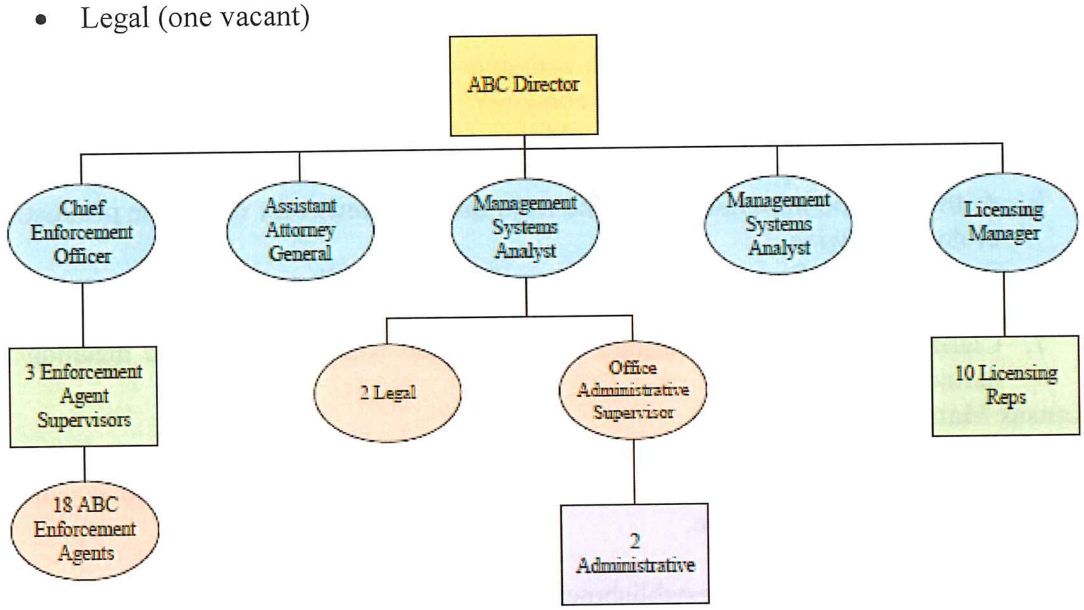
Special Order Shippers
Changes the report of sales and gallonage tax from an annual report to a quarterly report which must be filed electronically by the 15th of each month following the quarter and pay any gallonage tax due.

The bill also specifies that the effective date of the license is specified on the license.

ABC Organizational Chart

The ABC division when fully staffed has 43 positions, including a new part-time temp position. Currently, we have 10 vacant positions or 26% of our positions are vacant. The ABC is comprised of four work units:

- Administration
- Licensing (two vacant)
- Enforcement (seven vacant)
- Legal (one vacant)



Administration

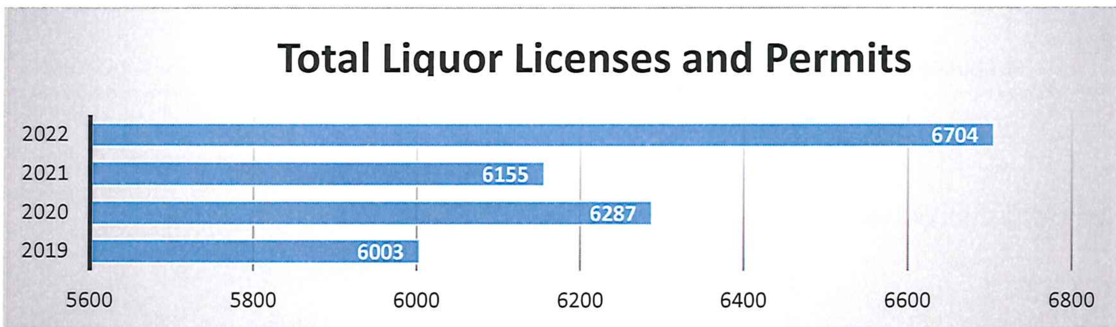
The administrative unit includes an administrative supervisor who researches and enters purchase requests, manages multiple federal underage enforcement grants, and supervises two administrative positions. Those positions analyze special order shipping, fulfillment house and common carrier reports to identify unlawful shipments of alcoholic liquor to Kansas consumers, perform background checks to ensure liquor license applicants are qualified and perform multiple administrative tasks.

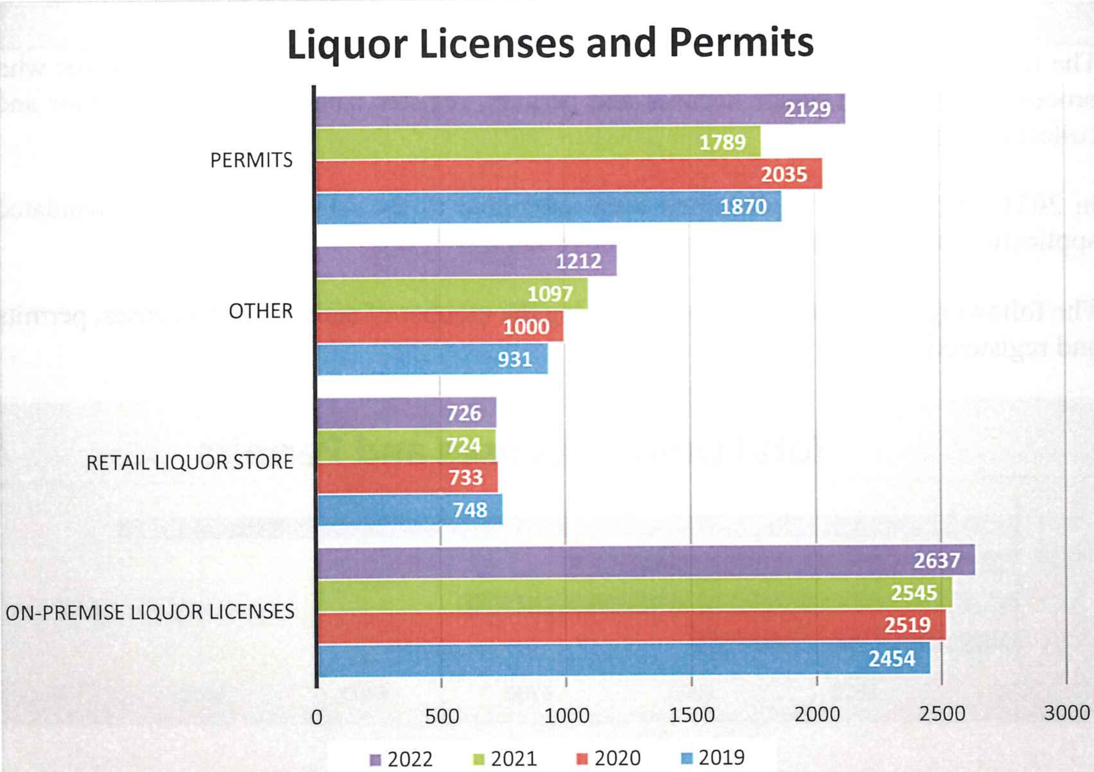
Licensing

The licensing unit is staffed by a licensing manager and ten licensing representatives who process and issue all liquor licenses and permits, register labels of alcoholic liquor and collect gallonage tax.

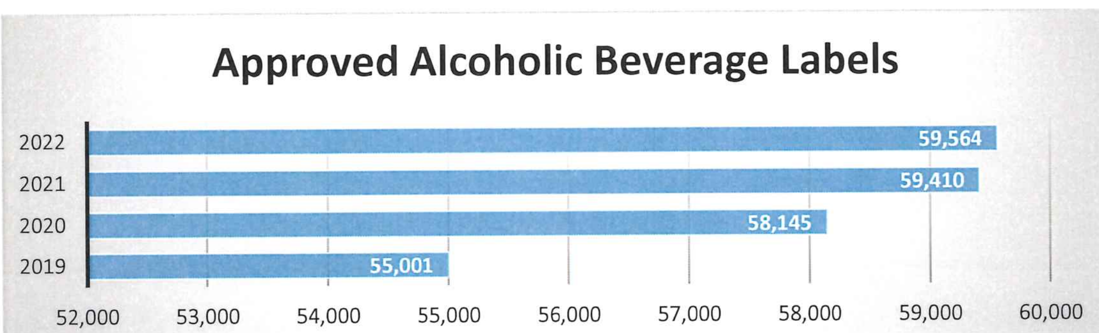
In 2021, 89.5% of all applications were submitted to the ABC online. ABC mandated applications to be submitted online effective January 1, 2021.

The following graphs are snapshots capturing the number of active liquor licenses, permits and registered labels.

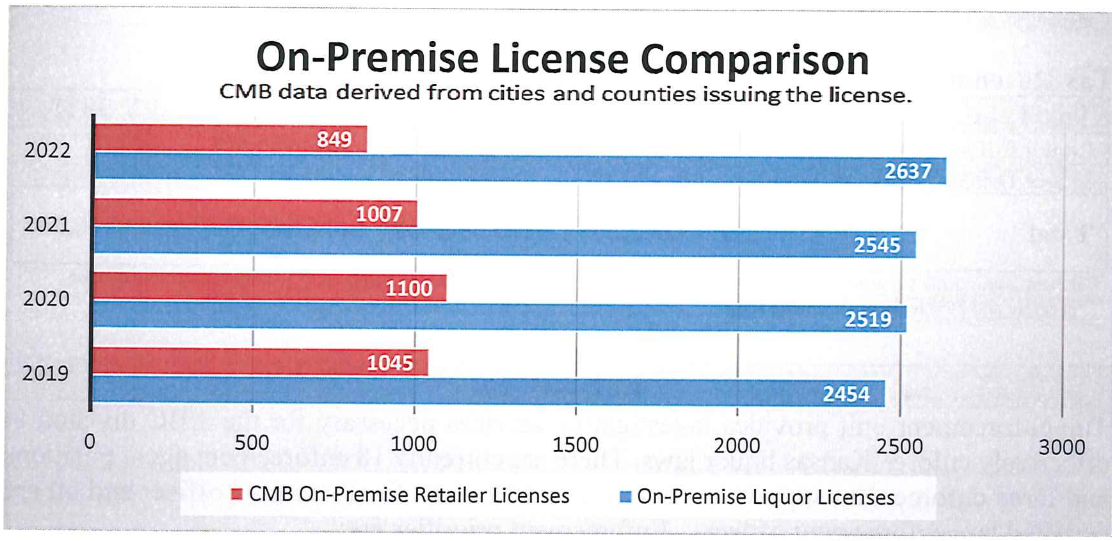




Permits Includes: Common Consumption Area, Farmers' Market Sales, Non-Beverage, Packaging & Warehousing Facility, Supplier, Vineyard & Temporary Permits
Other Includes : Distributor, Farm Winery, Farm Winery Outlet, Manufacturer, Microbrewery, Microbrewery Packaging & Warehousing Facility, Microdistillery, Non-Beverage User, Producer & Special Order Shipping
On-Premise Includes: Caterer, Class A Club, Class B Club, Drinking Establishment, Drinking Establishment/Caterer, Hotel Drinking Establishment, Hotel Drinking Establishment/Caterer & Public Venue



Cereal Malt Beverage (CMB)
CMB retailers are licensed and regulated by the cities and counties. The locally issued CMB license allows the business to sell CMB and flavored malt beverages (FMB) containing 3.2% alcohol by weight (ABW) or less and beer not more than 6% alcohol by volume (ABV) without additional licensing from the ABC.



Gallonage Tax

The licensing unit is responsible for collecting gallonage taxes while the miscellaneous tax segment within the Division of Taxation is responsible for collecting liquor enforcement and liquor drink taxes.

Gallonage Tax Rates per Gallon

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

CMB and Liquor Revenue

Revenue Collected by the ABC

Revenue Source	FY 2018	FY 2019	FY 2020	FY 2021
Liquor License, Registration & Permit fees	$3,562,016	$2,678,691	$3,835,764	$3,233,159
Label fees	$1,242,960	$2,097,955	$1,313,020	$1,541,918
CMB Retail Stamps	$84,925	$80,250	$78,300	$75,840
ABC Liquor Fines	$317,791	$461,880	$268,775	$131,511
Gallonage – Alcohol & Spirits*	$11,304,926	$12,145,178	$11,645,348	$13,870,982
Gallonage – Beer	$8,033,170	$8,341,132	$9,349,792	$10,543,754
Gallonage – CMB	$1,478,506	$1,256,708	$599,353	$108,585
Gallonage – Wine	$1,643,063	$1,551,001	$1,547,543	$1,661,511
Total	**$27,667,357**	**$28,612,795**	**$28,637,895**	**$31,167,260**

* 10% of gallonage tax on alcohol and spirits goes to Kansas Department of Aging and Disability Services (KDADS) community alcoholism and intoxication program and 90% to the state general fund.

Tax Revenue Collected by the Division of Taxation

Tax Type	FY 2018	FY 2019	FY 2020	FY 2021
Liquor Enforcement (8% tax)	$73,474,859	$74,264,394	$74,666,698	$81,877,899
Liquor Drink (10% tax)*	$46,190,396	$48,831,089	$41,399,255	$41,378,455
Total	**$119,665,255**	**$123,095,483**	**$116,065,953**	**$123,256,354**

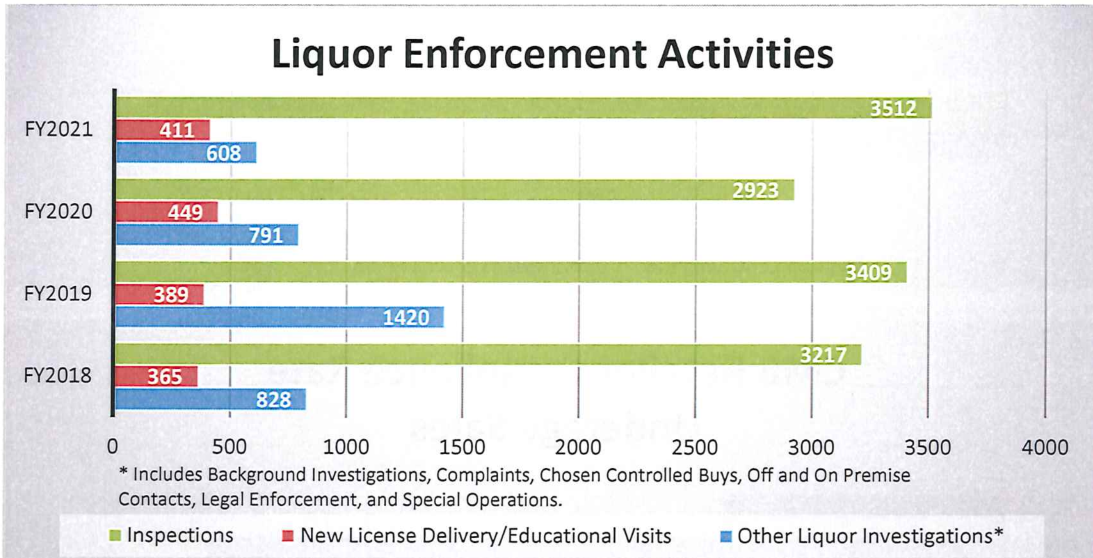
* 70% of liquor drink tax goes to local alcoholic liquor fund; 5% goes to the KDADS community alcoholism and intoxication program and 25% to the state general fund.

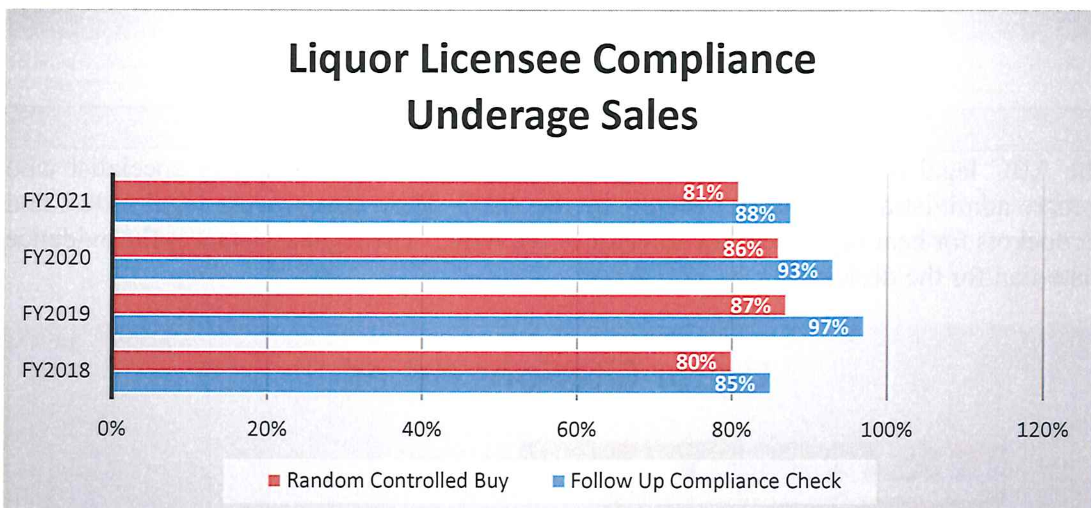
Enforcement

The enforcement unit provides investigative services necessary for the ABC division to effectively enforce Kansas liquor laws. There are currently 18 enforcement agent positions and three enforcement supervisors commanded by a chief enforcement officer and all are certified law enforcement officers. Enforcement priorities are:

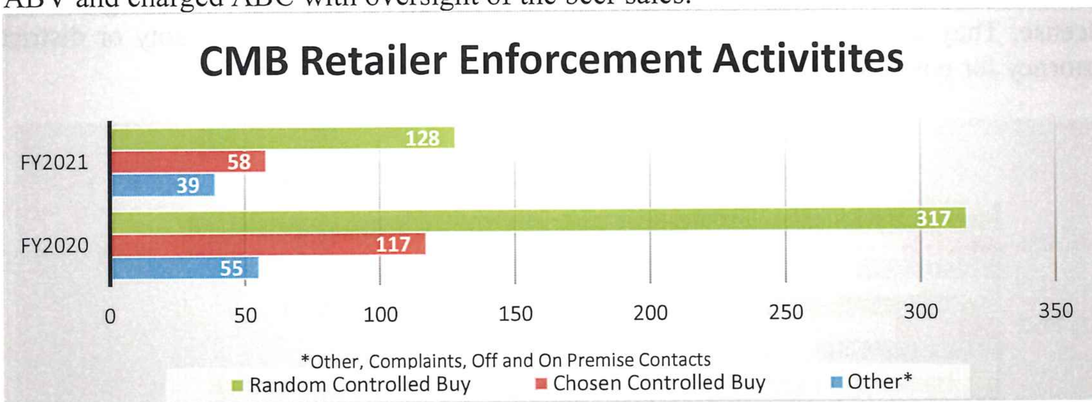
1. Educate and Train
   a. Liquor licensees, owners and managers on liquor law compliance.
   b. Local law enforcement officers, regional prevention centers (RPC) and other coalitions.
2. Investigate
   a. Liquor license applicant qualifications.
   b. Potential hidden ownerships.
   c. Underage enforcement activities including controlled-buy investigations, bar checks and furnisher checks for liquor and CMB.
   d. Complaints. 100% of all complaints are investigated.
3. Enforce
   a. Liquor laws through routine inspections.
   b. Joint enforcement operations with other law enforcement agencies focusing on issues related to public safety including underage laws, over-service and source investigations (i.e., Fake ID Task Force and Operation Safe Streets).
   c. The tax on illegal drugs on behalf of the director of taxation.

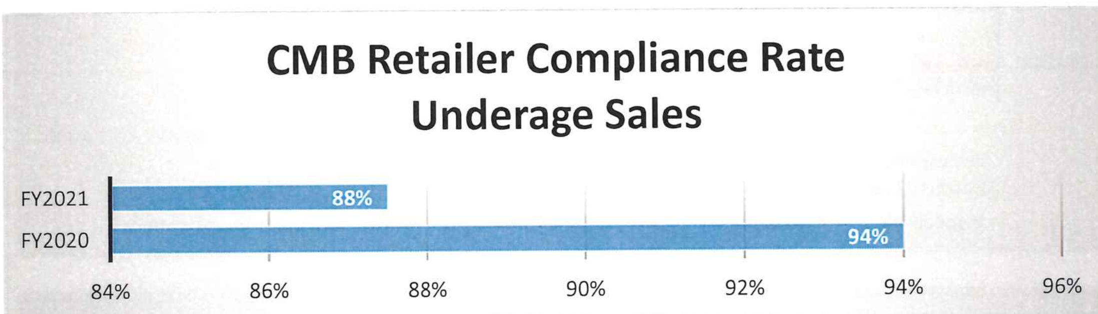
Enforcement agents present investigations resulting in alleged administrative violations to the ABC Assistant Attorney General (AAG) for potential administrative action against the license. They also present cases of alleged criminal violations to the county or district attorney for possible criminal prosecution against the individual suspect.





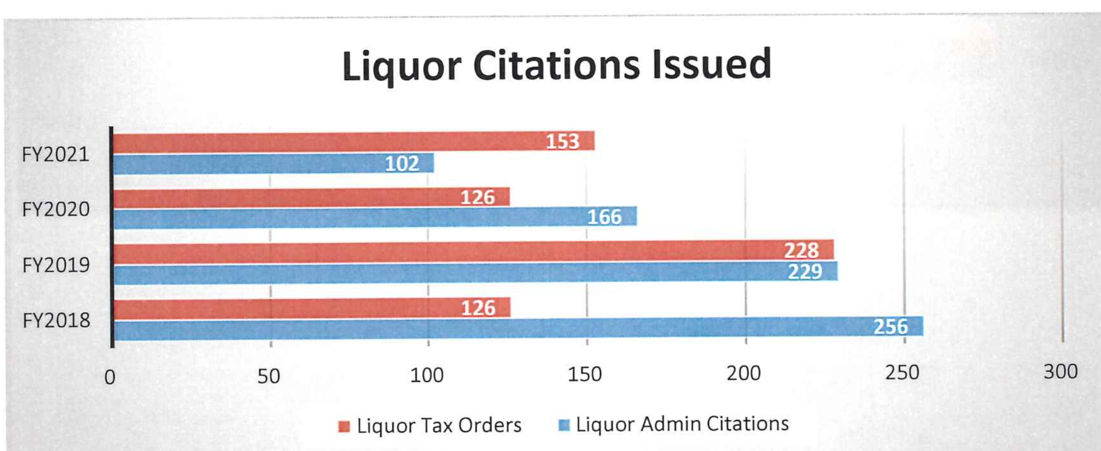
Legislation effective April 1, 2019 allowed CMB retailers to sell beer no more than 6% ABV and charged ABC with oversight of the beer sales.

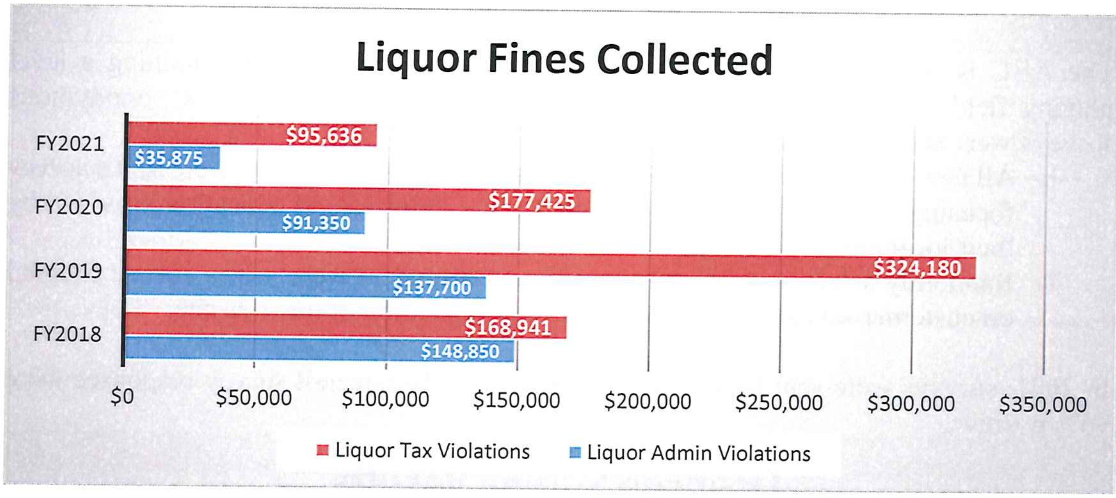


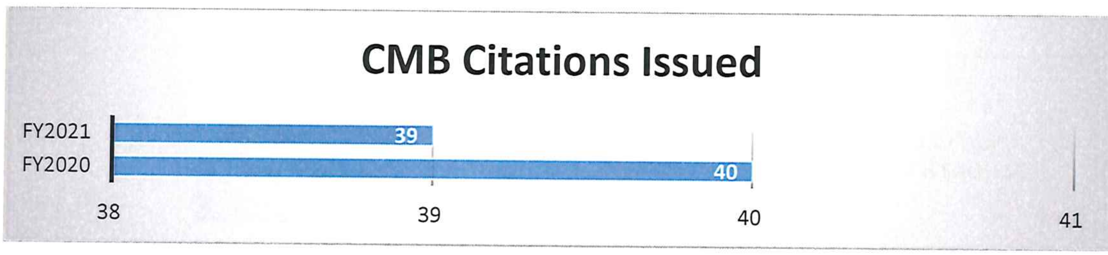


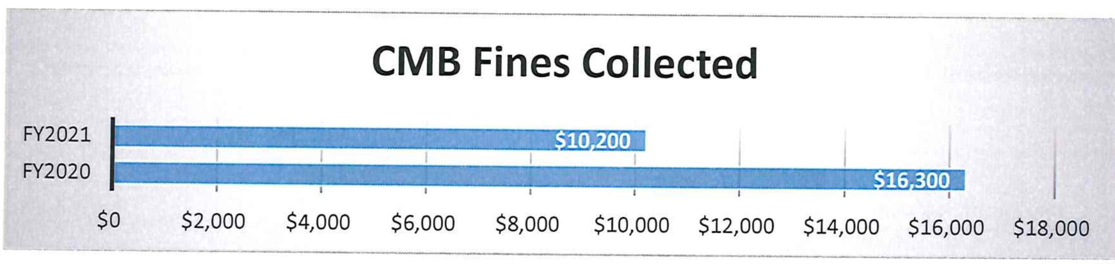
ABC Legal

The ABC legal unit is staffed by a legal assistant and an administrative specialist who prepare administrative cases for review by the AAG. They also process legal orders and set dockets for hearings before the director of the ABC. The legal assistant is the evidence custodian for the division.



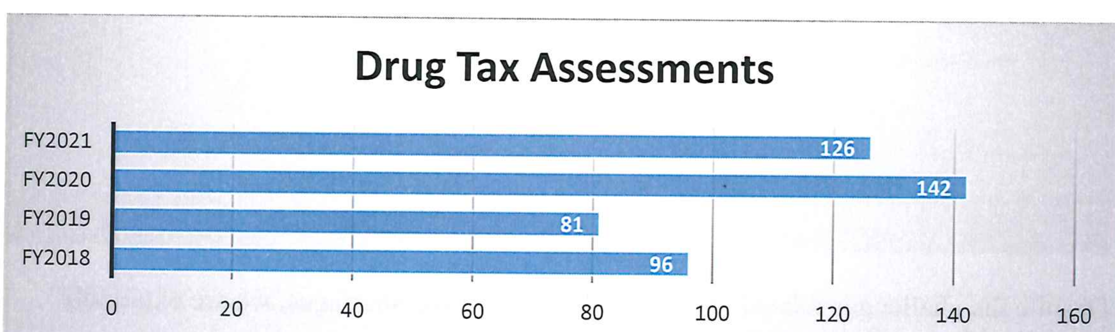






Drug Tax Enforcement

ABC enforcement agents enforce the tax on illegal drugs across the state by issuing drug tax assessments, executing tax warrants, and securing property from drug tax violators to satisfy the drug tax debt. A minimum assessment of $1,000 was established by the division of taxation who is responsible for collecting the tax.

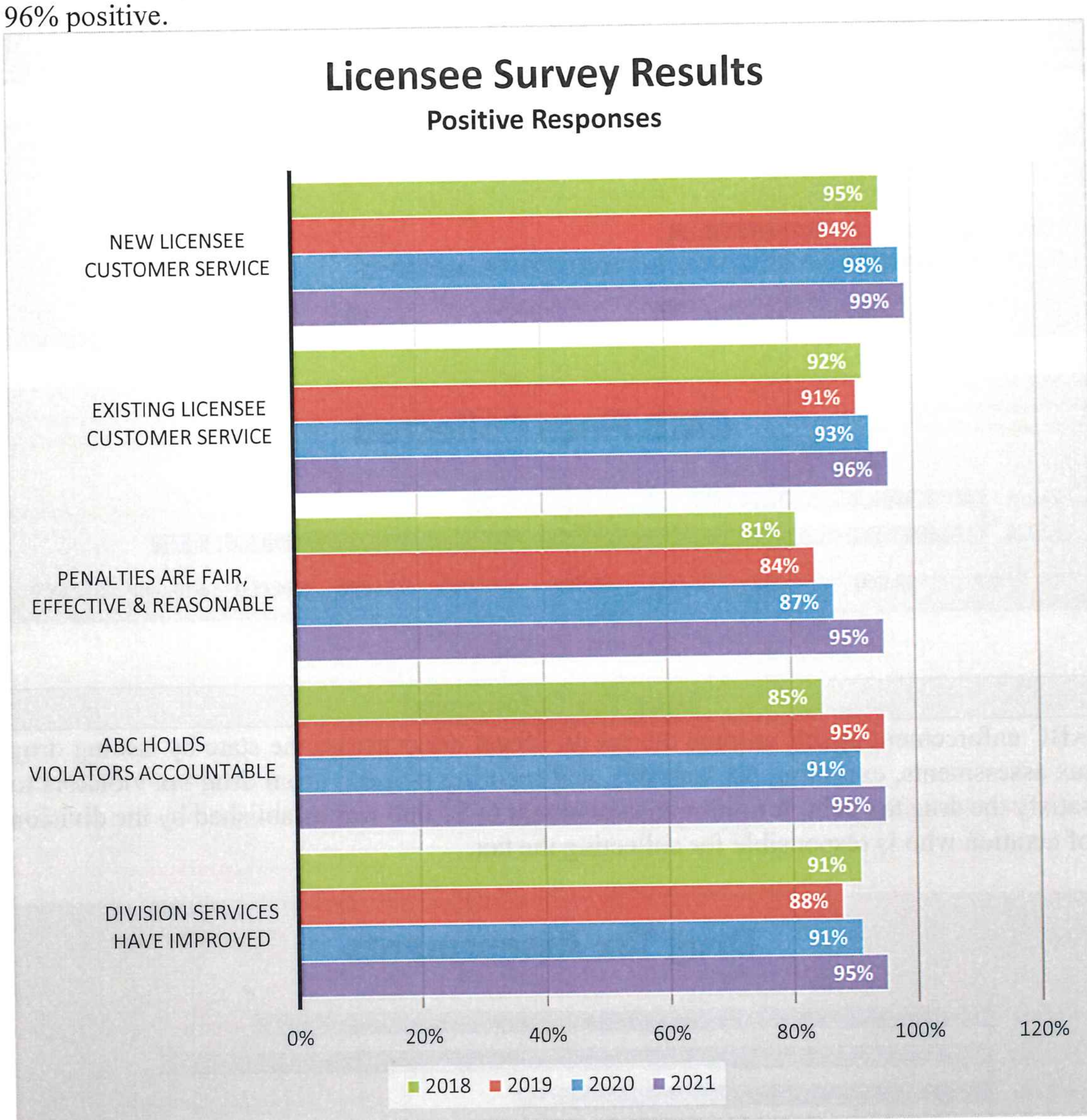


Licensee Surveys

The ABC is focused on providing excellent customer service and maintaining a level playing field. To measure the effectiveness and perception of the ABC, anonymous surveys were sent as follows:

1. All new licensees/permit holders who provided an email address were sent a survey focusing on the licensing experience, license delivery and education provided by their local enforcement agent.
2. Randomly selected existing licensees/permit holders were sent a survey focused on customer service, division services and regulation of the industry.

In 2021, surveys were sent to 3550 email addresses. The overall survey responses were 96% positive.



Despite the challenges related to COVID-19 and staffing shortages, we are extremely pleased with the survey results.