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# **Alcoholic Beverage Control Division**

## **Legislative Briefing**

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January 19, 2021

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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.

To administer and enforce liquor laws in the most efficient, effective and responsive manner, the ABC division is striving to make it easier for liquor licensees to comply with liquor laws through:

1. New license delivery:
  - a. Enforcement agents deliver the majority of in-state new licenses in person and educate new business owners/managers, share best practices and answer their questions on how to comply with liquor laws. This promotes a sense of partnership between licensees and the ABC.
  - b. In December 2020, ABC expanded use of our online system to include emailing all permits, out-of-state new licenses and renewed licenses to the applicant. This eliminates postage and mail delays. The licensee/permit holder must print, frame and display the license certificate on the licensed or permitted premises.
2. Online information and services:
  - a. Handbooks for each license/permit type ensuring licensees have statutory requirements and expectations in one easy to read guide.
  - b. Statutes and regulations.
  - c. ABC online system for licensing, label registration and payments.
  - d. ABC public records.
3. Social media:
  - a. The ABC's Facebook page is geared toward education and improved interactions with liquor licensees and the ABC stakeholders. Watch for Tuesday Tips and Friday FAQs.
4. Industry interactions:
  - a. The ABC management conducts and participates in meetings with liquor industry representatives and performs on-premise visits to promote open communication lines and maintain transparency.
5. Enforcement:
  - a. Emphasis is placed on changing the behavior of repeat violators through education and enforcement. Licensees who fail an underage compliance visit will receive a follow-up compliance visit with the goal of reducing the rate of recidivism.

### Shipments of Alcoholic Liquor to Kansas Residents

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

Unlawful shipments of alcoholic liquor are a known problem. During this past year, the ABC conducted a limited scope investigation of *unsolicited* social media advertisements shipping alcoholic liquor to Kansas residents. In the limited scope of 22 vendors, the result of sales and shipments to Kansas residents were as follows:

- Spirits - 95% sold and shipped, which is **not authorized** for direct shipment.
- Beer - 100% sold and shipped, which is **not authorized** for direct shipment.
- Wine - 71% sold and shipped, which is **authorized** with a Kansas special order shipping license.
  - Of these shipments, two orders clearly marked requiring a signature of a person 21 years or older were delivered to an 18-year-old underage cooperating individual who offered her driver's license to the carrier's driver but he opted not to look at it. A criminal citation was issued to the driver and is under review at the DA's office.
  - One box of liquor which was not marked requiring a signature of a person 21 years or older was handed to a 7-year-old. Other unmarked deliveries were left and recovered by minors ages 18, 11 and 7.
  - Fifty percent of the vendors who sold and shipped had no federal license with the Alcohol and Tobacco Tax and Trade Bureau (TTB) and **none** of the vendors had a Kansas special order shipping license (for wine), both of which are required.

In summary, it is clearly easy to order alcoholic liquor online giving easy access to underage individuals. Not only is underage access a problem, but there is a high risk for tainted or counterfeit alcoholic liquor which poses a health risk. The ABC is issuing cease and desist letters to unlawful shippers.

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.

### 2020 Legislative Changes

**House Bill 2016** – Effective June 9, 2020 through January 26, 2021.

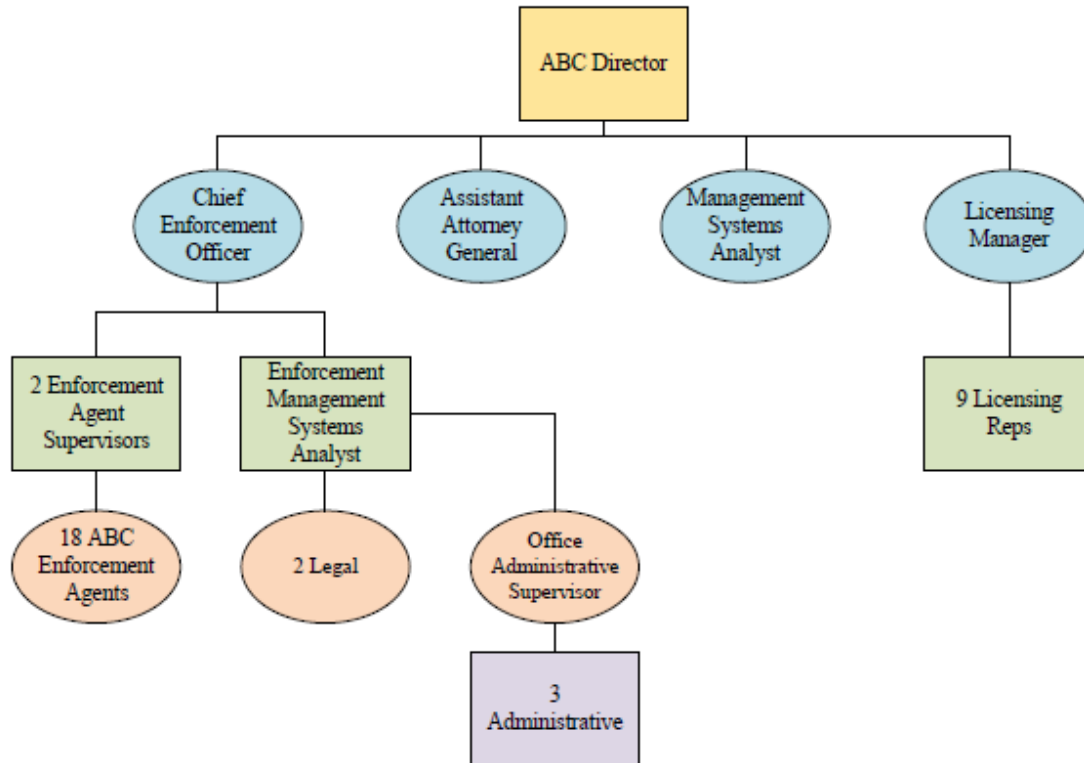
Section 26 of the bill codified Governor Laura Kelly's executive order allowing certain on-premise licensees to sell cocktails and mixed drinks to-go, in accordance with all other to-go sales requirements. Licensed class A clubs, class B clubs and drinking establishments may allow patrons to remove alcoholic liquor that is not in its original container provided:

- a) It must be legal for the licensee to sell the alcoholic liquor;
- b) each container of alcoholic liquor must have been purchased by a patron on the licensed premises;
- c) the licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor; and
- d) before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

## ABC Organizational Chart

The ABC division is comprised of four work units:

- Administration
- Licensing
- Enforcement
- Legal



### Administration

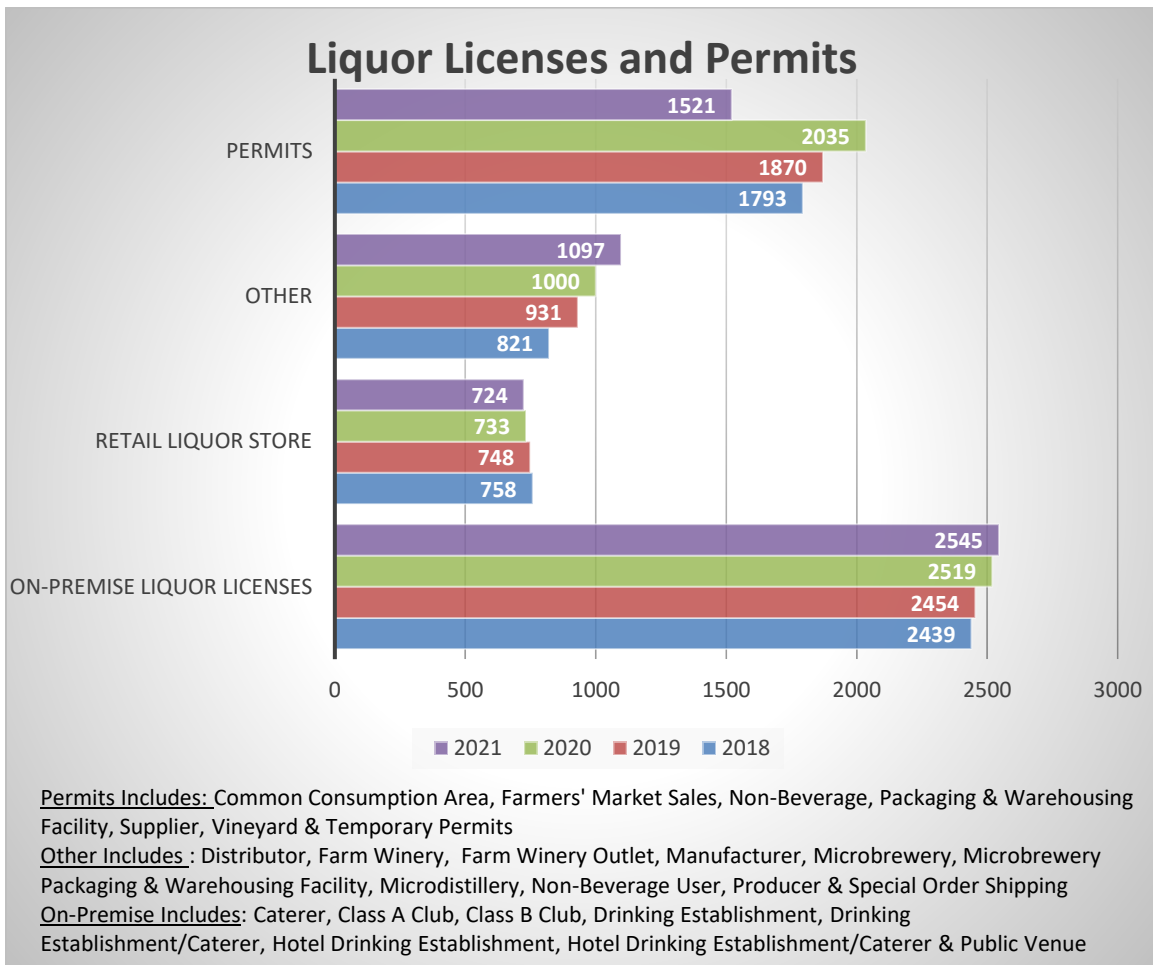
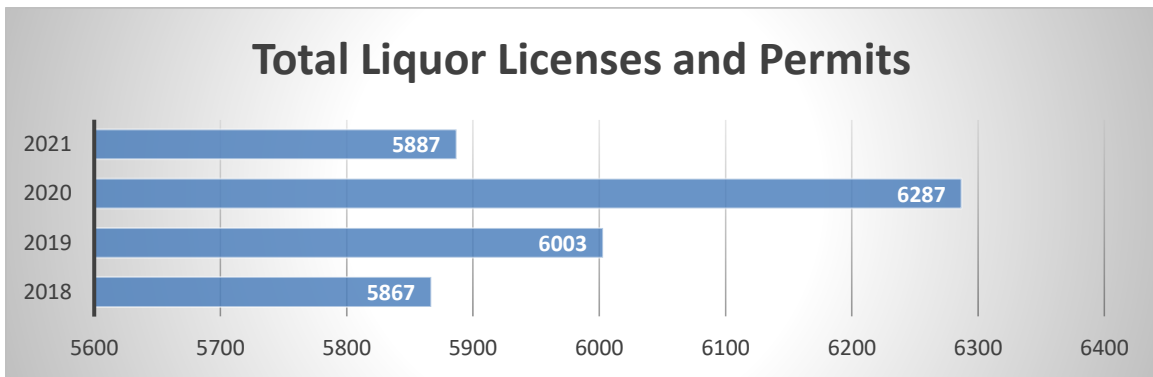
The office administrative supervisor researches and enters purchases, manages multiple federal underage enforcement grants and supervises three administrative positions. Those positions analyze special order shipping and common carrier reports to identify unlawful shipments of alcoholic liquor to Kansas 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 nine licensing representatives who process and issue all liquor licenses and permits, register labels of alcoholic liquor and collect gallonage tax.

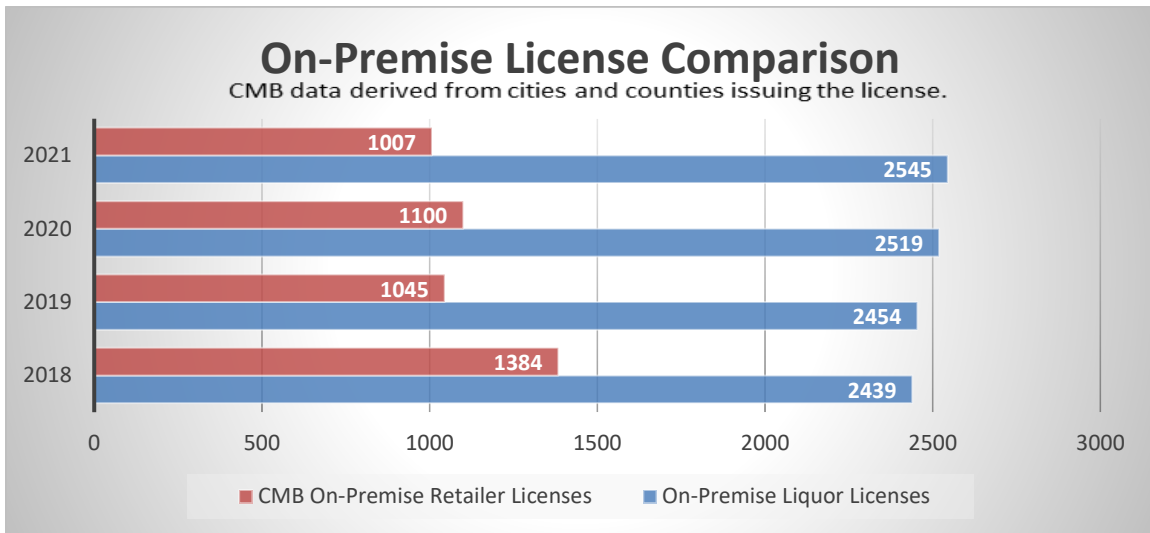
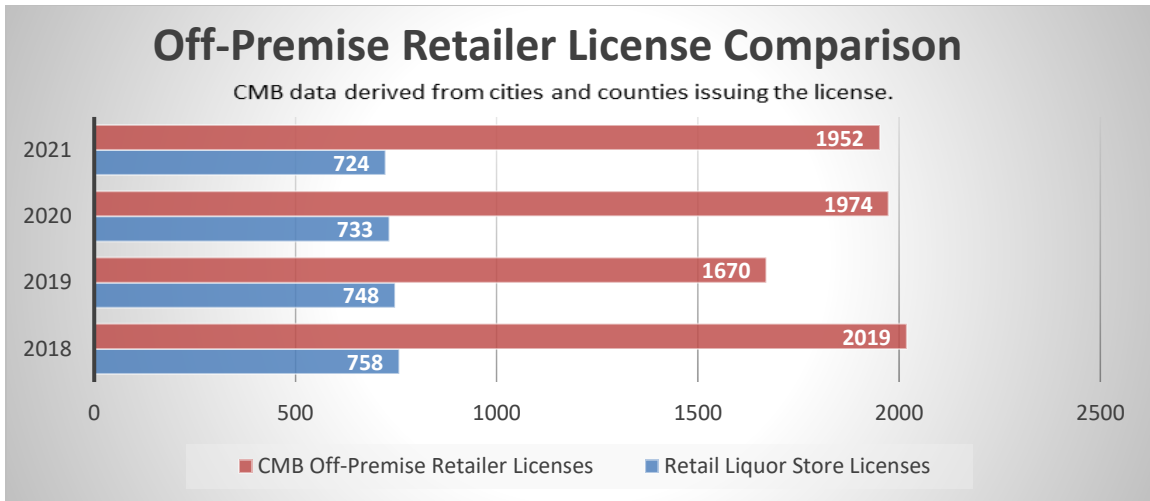
In 2020, 81.4% of all applications were submitted to the ABC online. Effective January 1, 2021, all applications must be submitted online.

The following graphs are snapshots taken each January capturing the number of liquor licenses and permits.



### 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 2017	FY 2018	FY 2019	FY 2020
Liquor License, Registration & Permit fees	\$2,590,848	\$3,562,016	\$2,678,691	\$3,835,764
Label fees	\$1,234,770	\$1,242,960	\$2,097,955	\$1,313,020
CMB Retail Stamps	\$76,375	\$84,925	\$80,250	\$78,300
ABC Liquor Fines	\$359,625	\$317,791	\$461,880	\$268,775
Gallonage – Alcohol & Spirits*	\$10,925,959	\$11,304,926	\$12,145,178	\$11,645,348
Gallonage – Beer	\$7,951,621	\$8,033,170	\$8,341,132	\$9,349,792
Gallonage – CMB	\$1,543,341	\$1,478,506	\$1,256,708	\$599,353
Gallonage – Wine	\$1,652,696	\$1,643,063	\$1,551,001	\$1,547,543
<b>Total</b>	<b>\$26,335,235</b>	<b>\$27,667,357</b>	<b>\$28,612,795</b>	<b>\$28,637,895</b>

\* 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 2017	FY 2018	FY 2019	FY 2020
Liquor Enforcement (8% tax)	\$71,527,599	\$73,474,859	\$74,264,394	\$74,666,698
Liquor Drink (10% tax)*	\$44,164,016	\$46,190,396	\$48,831,089	\$41,399,255
<b>Total</b>	<b>\$115,691,615</b>	<b>\$119,665,255</b>	<b>\$123,095,483</b>	<b>\$116,065,953</b>

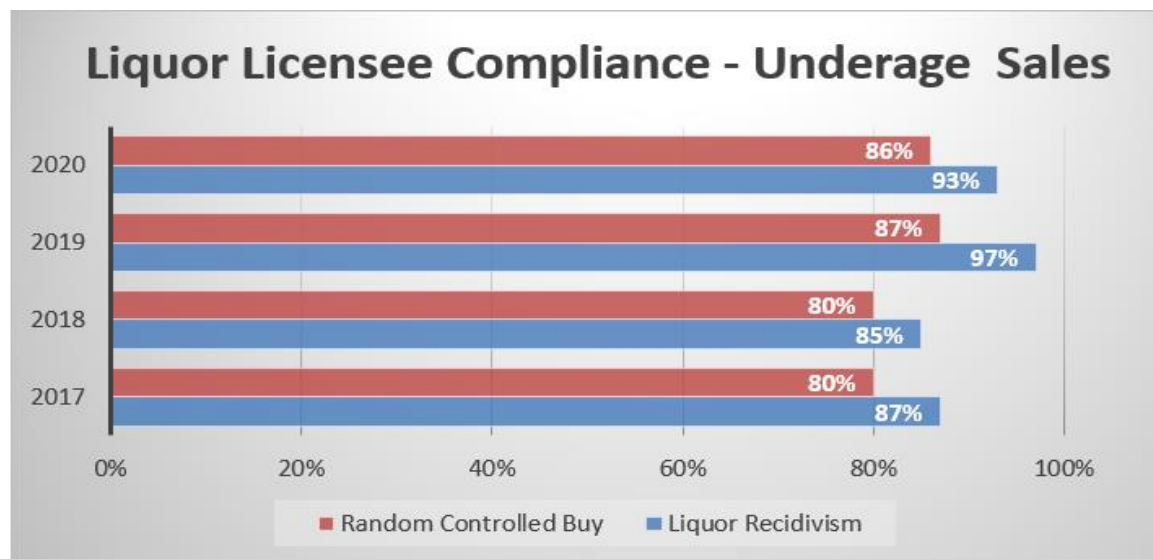
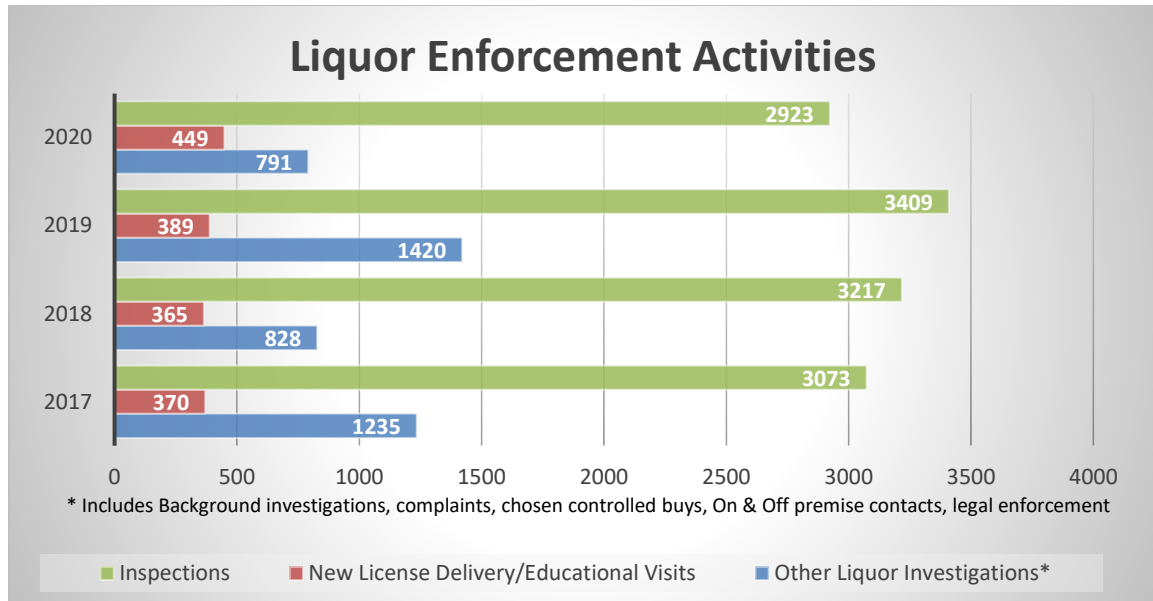
\* 70% of liquor drink tax goes to local alcoholic liquor fund; 5% goes to the KDADS community alcoholism and intoxication program and 25% to the state general fund.

## 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 two enforcement supervisors commanded by a chief enforcement officer and all are certified law enforcement officers. Enforcement priorities are:

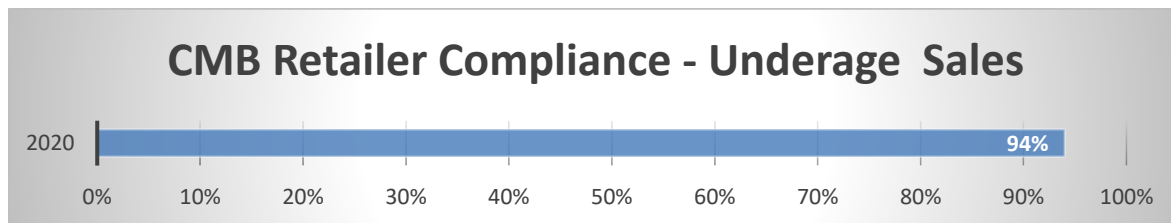
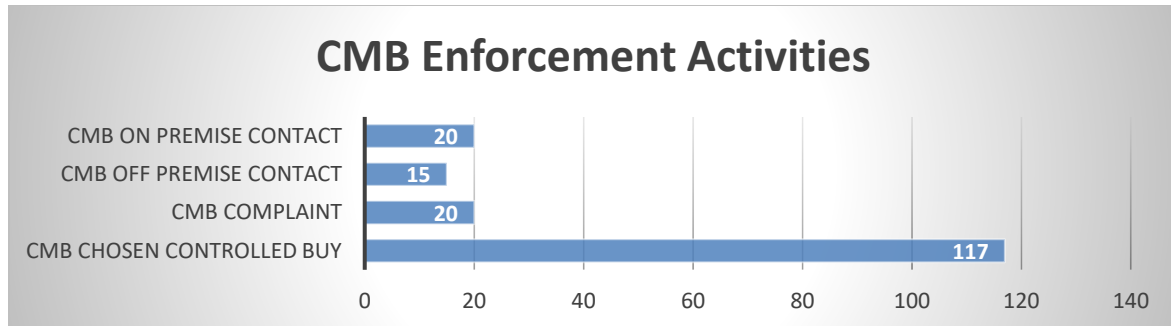
1. Educate and Train
  - a. Liquor licensees, owners and managers on liquor law compliance.
  - b. Local law enforcement officers, regional prevention centers (RPC) and other coalitions.
2. Investigate
  - a. Liquor license applicant qualifications.
  - b. Potential hidden ownerships.
  - c. Underage 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.



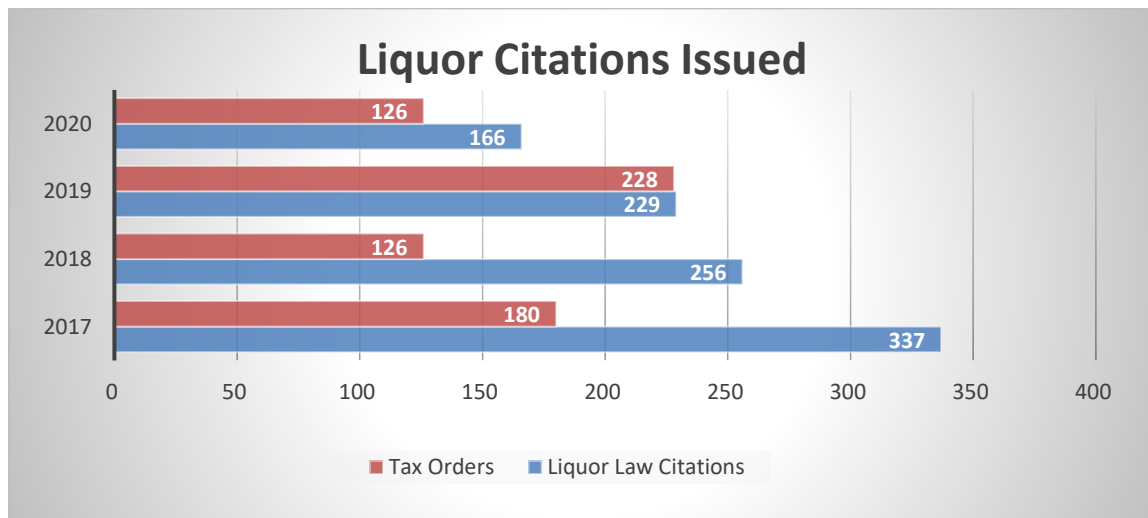


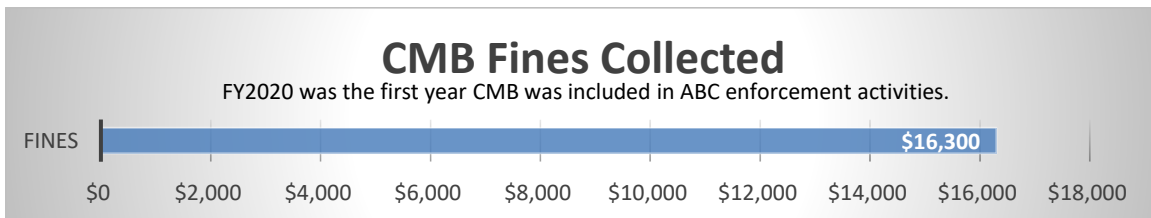
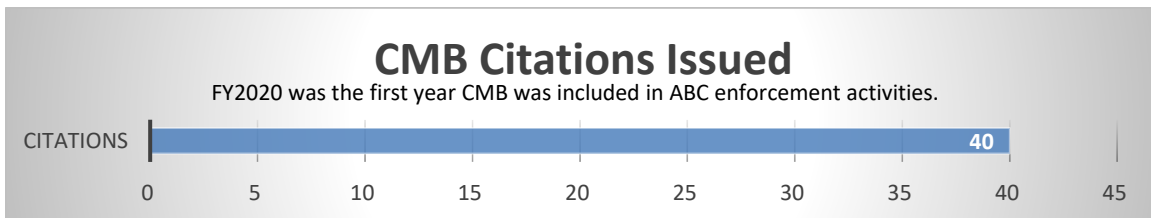
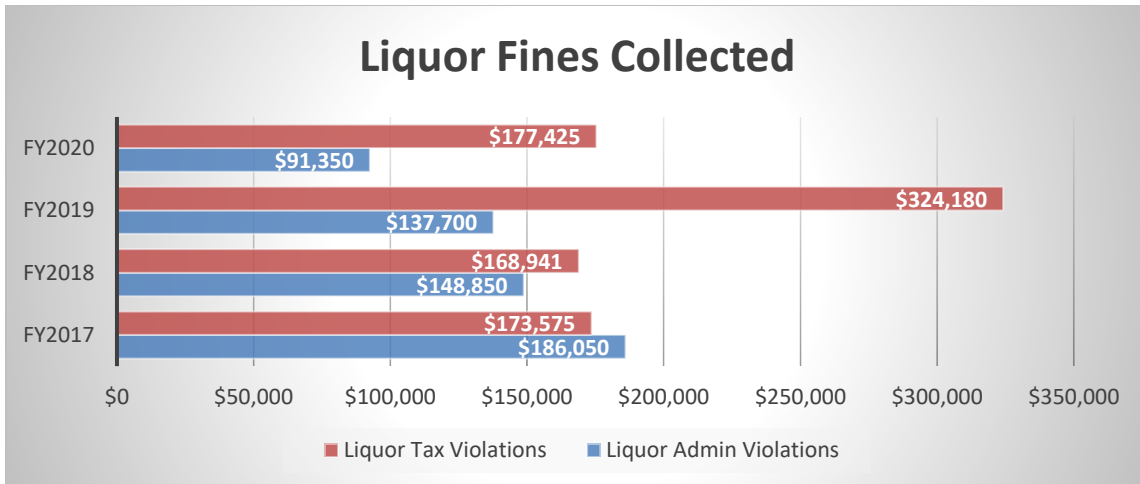
Legislation effective April 1, 2019 allowed CMB retailers to sell beer no more than 6% ABV and charged ABC with oversight of the beer sales. Enforcement agents began checking CMB retailers' underage sales compliance in FY2020 by conducting RCBs; the compliance rate is reflected below.



## Legal

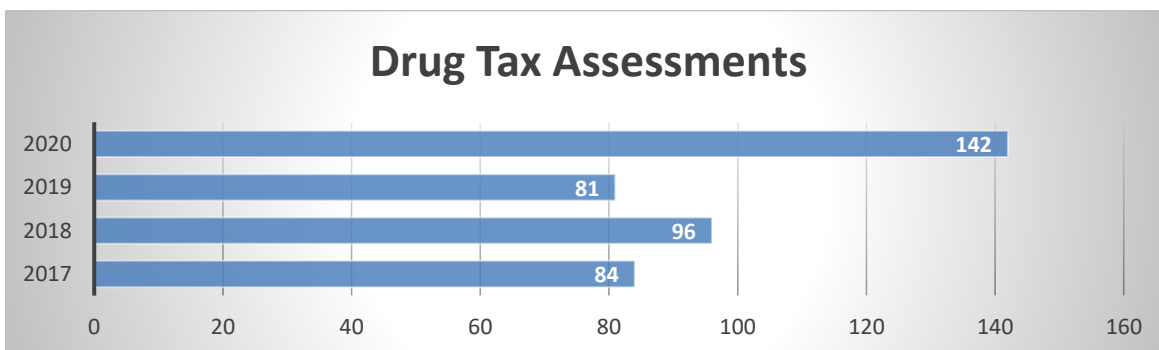
The legal unit is staffed by a legal assistant and an administrative specialist who prepare administrative cases for review by the AAG. They also process legal orders and set dockets for hearings before the director of the ABC, and the legal assistant is the evidence custodian for the division.





### Drug Tax Enforcement

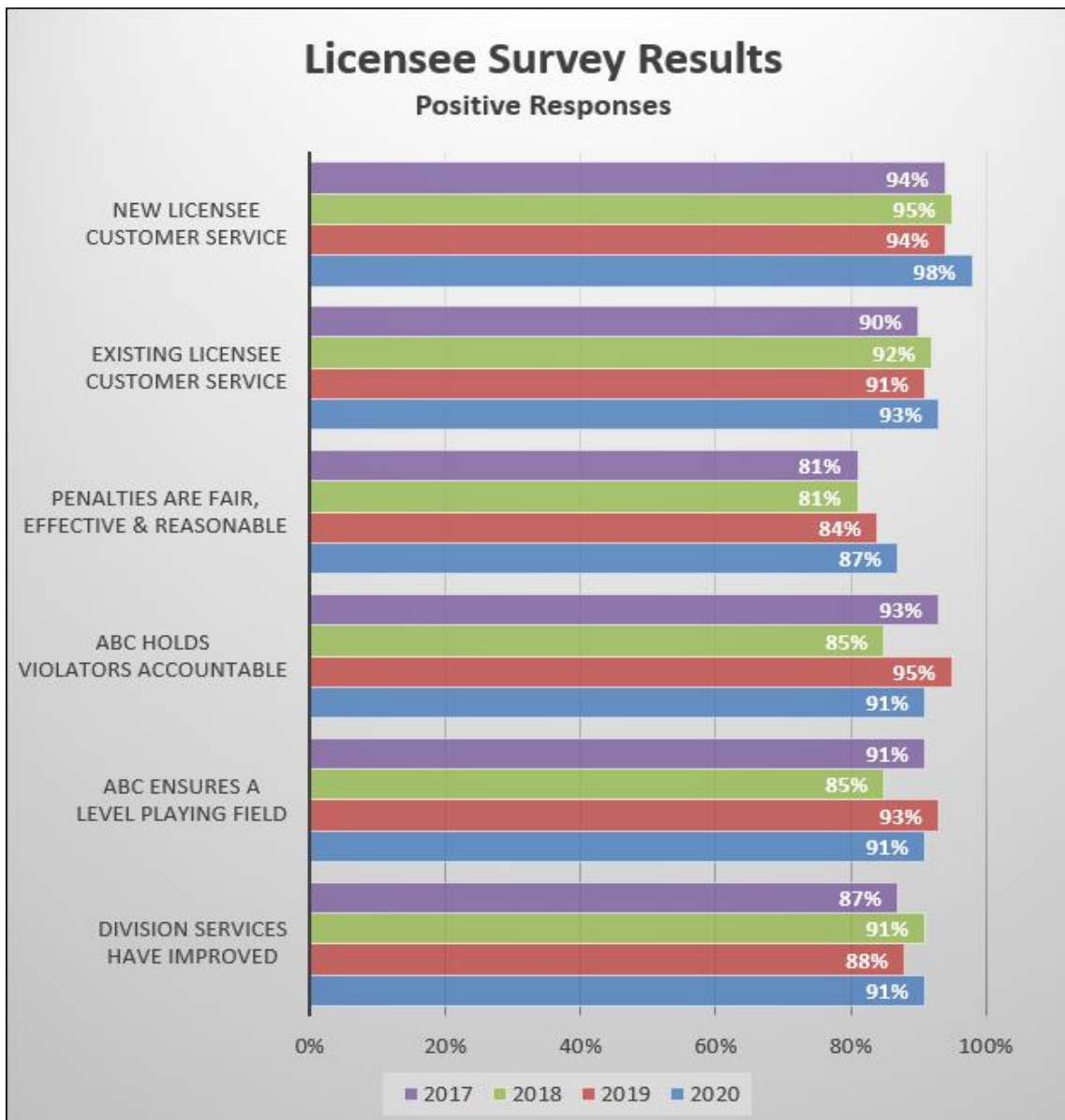
ABC enforcement agents enforce the tax on illegal drugs across the state by issuing drug tax assessments, executing tax warrants and securing property from drug tax violators to satisfy the drug tax debt. A minimum assessment of \$1,000 was established by the division of taxation who is responsible for 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, a total of 4,561 email addresses were sent surveys in 2020. The overall survey responses were 94% positive.

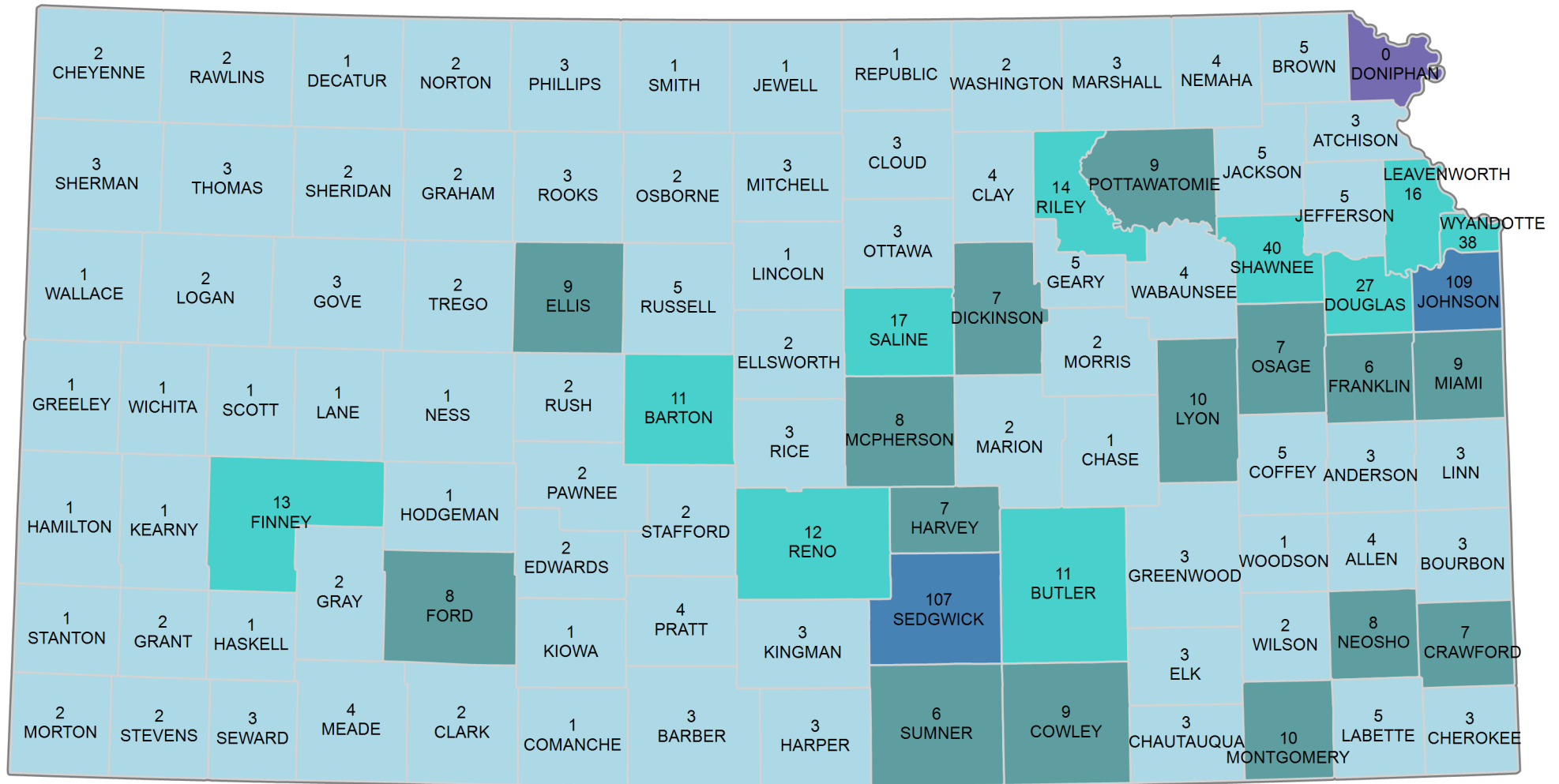
1. **New Licensee Survey.** Sent to all new licensees who provided an email address. Focus is on the licensing experience, license delivery and education provided by their local enforcement agent.: or
2. **Existing Licensee Survey.** Sent to randomly selected existing licensees focusing on customer service, division services and ease of compliance with liquor laws; or
3. **Enforcement Survey.** Sent to randomly selected existing licensees focusing on regulation of the industry and maintenance of a level playing field for licensees.



## **2021 Map Attachments**

1. Off-Premise Retailer Licenses
2. On-Premise Licenses
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
12. Common Consumption Area Permits
13. Producer Licenses

# Kansas Off-Premise Retailer Licenses

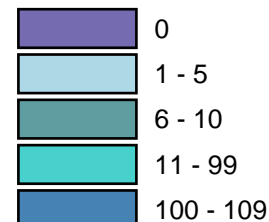


The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database.

# of Counties

- (1)
- (77)
- (15)
- (10)
- (2)

# of Licenses Per County

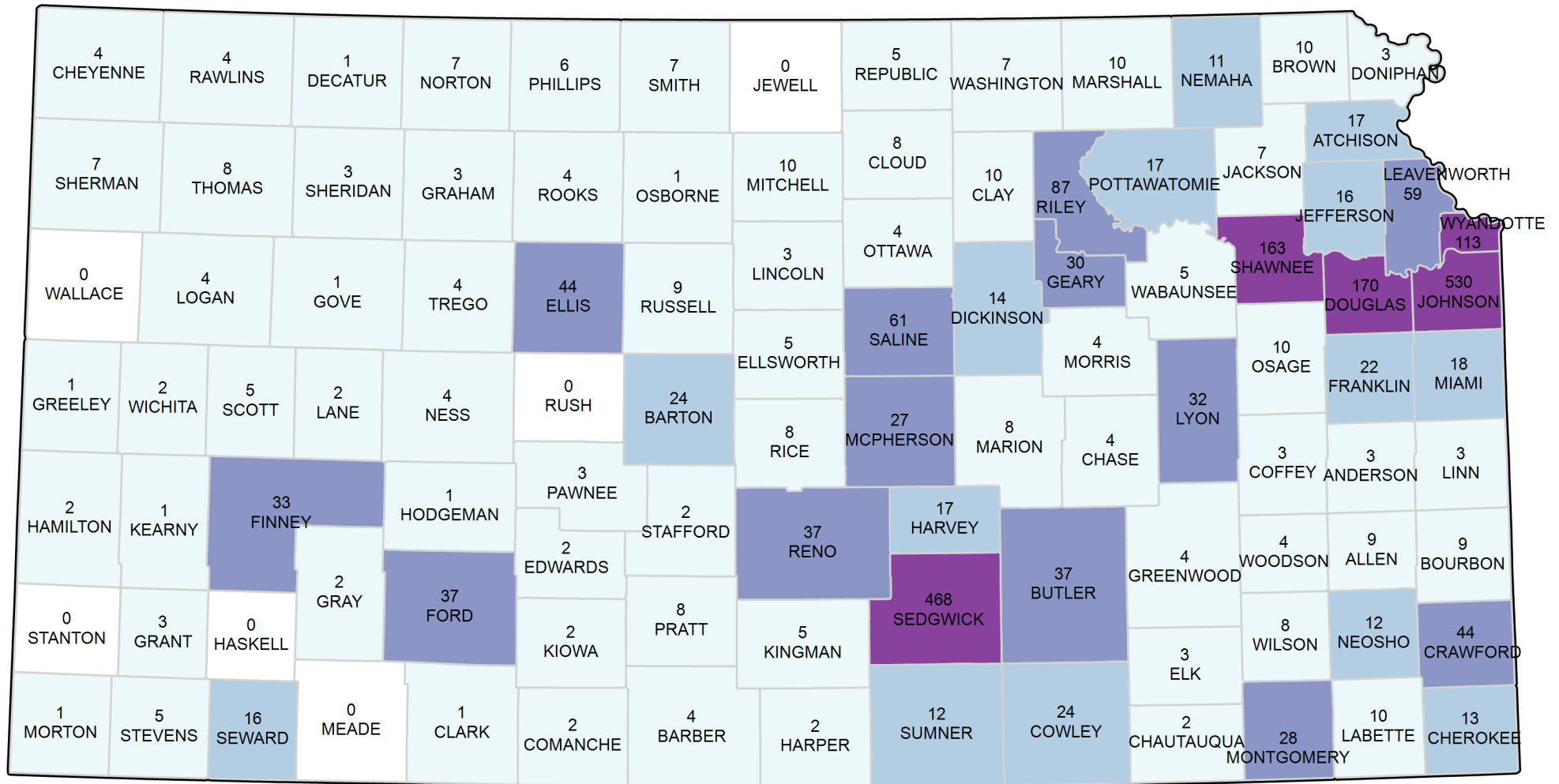


Total: 724 Retailer Licenses



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# Kansas On-Premise Licenses

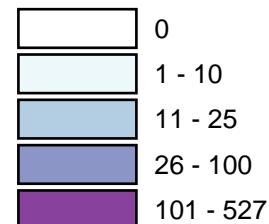


The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database.

# of Counties

- (6)
- (67)
- (14)
- (13)
- (5)

# of Licenses Per County

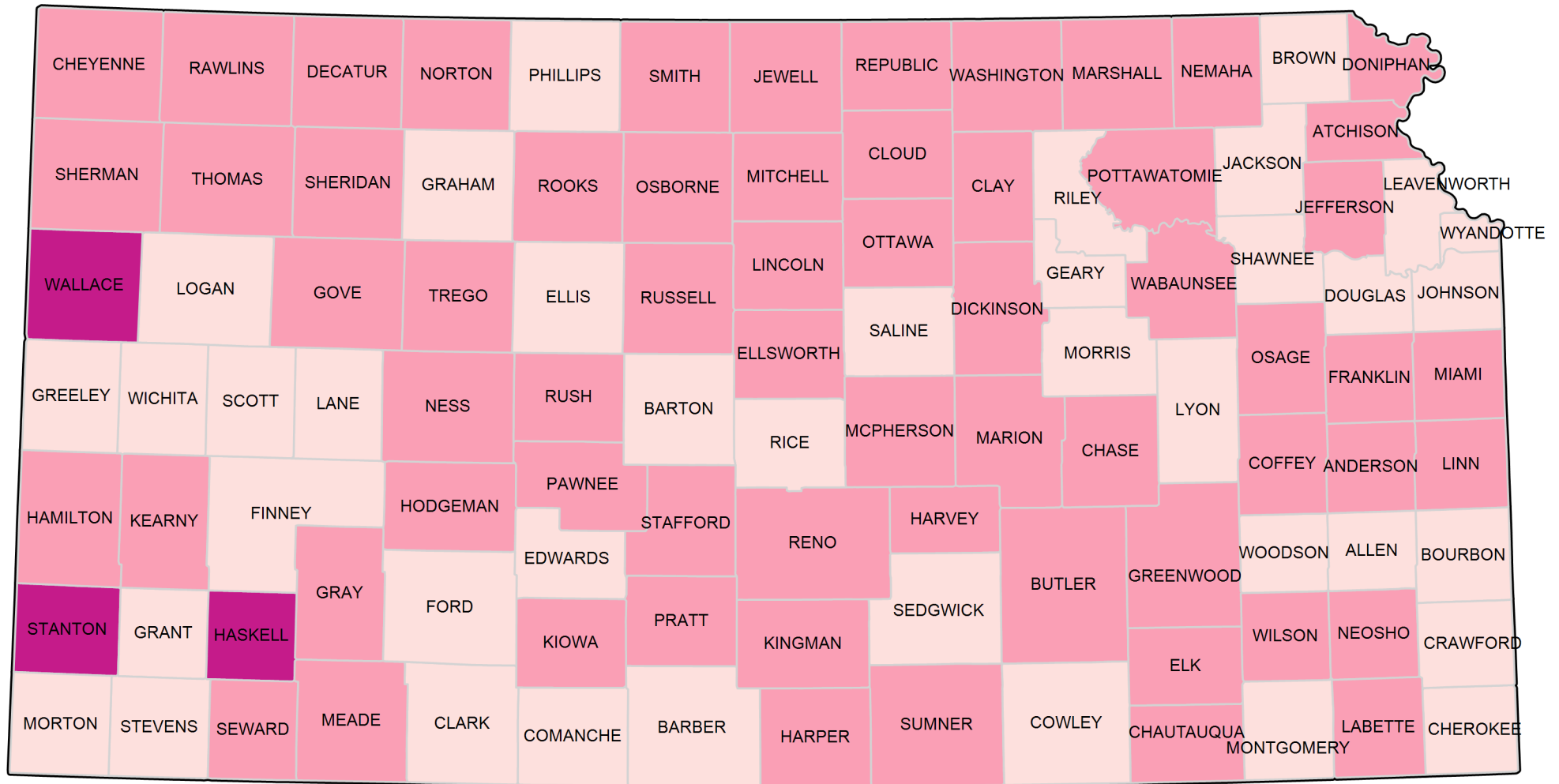


Total: 2,545 On-Premise Licenses



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



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

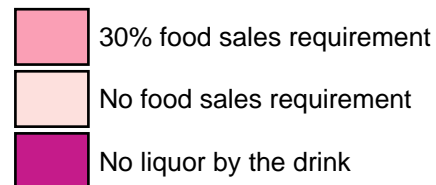
# of Counties

(63)

(39)

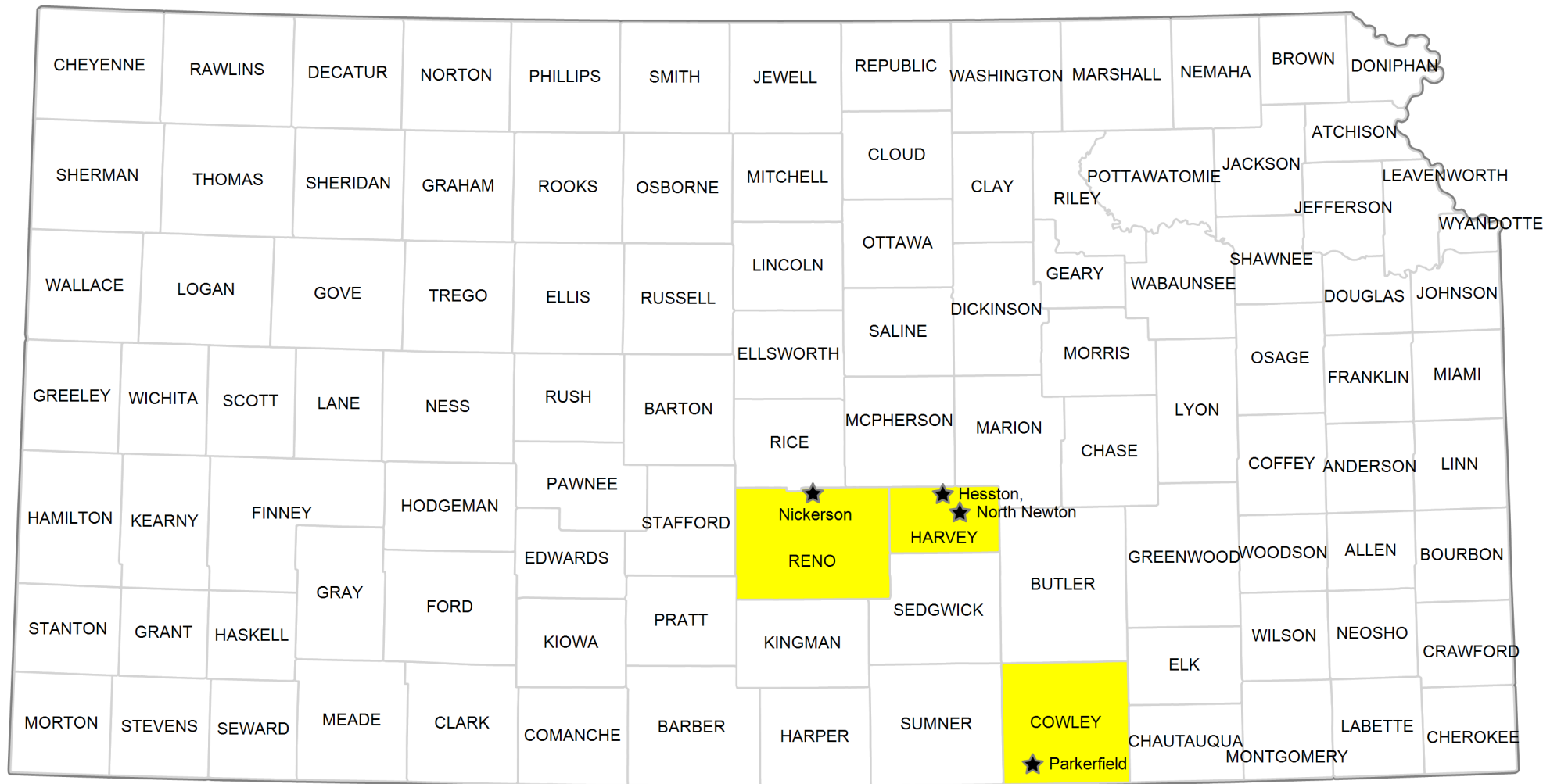
(3)

Total: 105



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# Kansas Map of Dry Cities (No Retail Liquor Store Sales)



Name of the City, County

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

Parkerfield (Cowley County)

Hesston, North Newton (Harvey County)

Nickerson (Reno County)

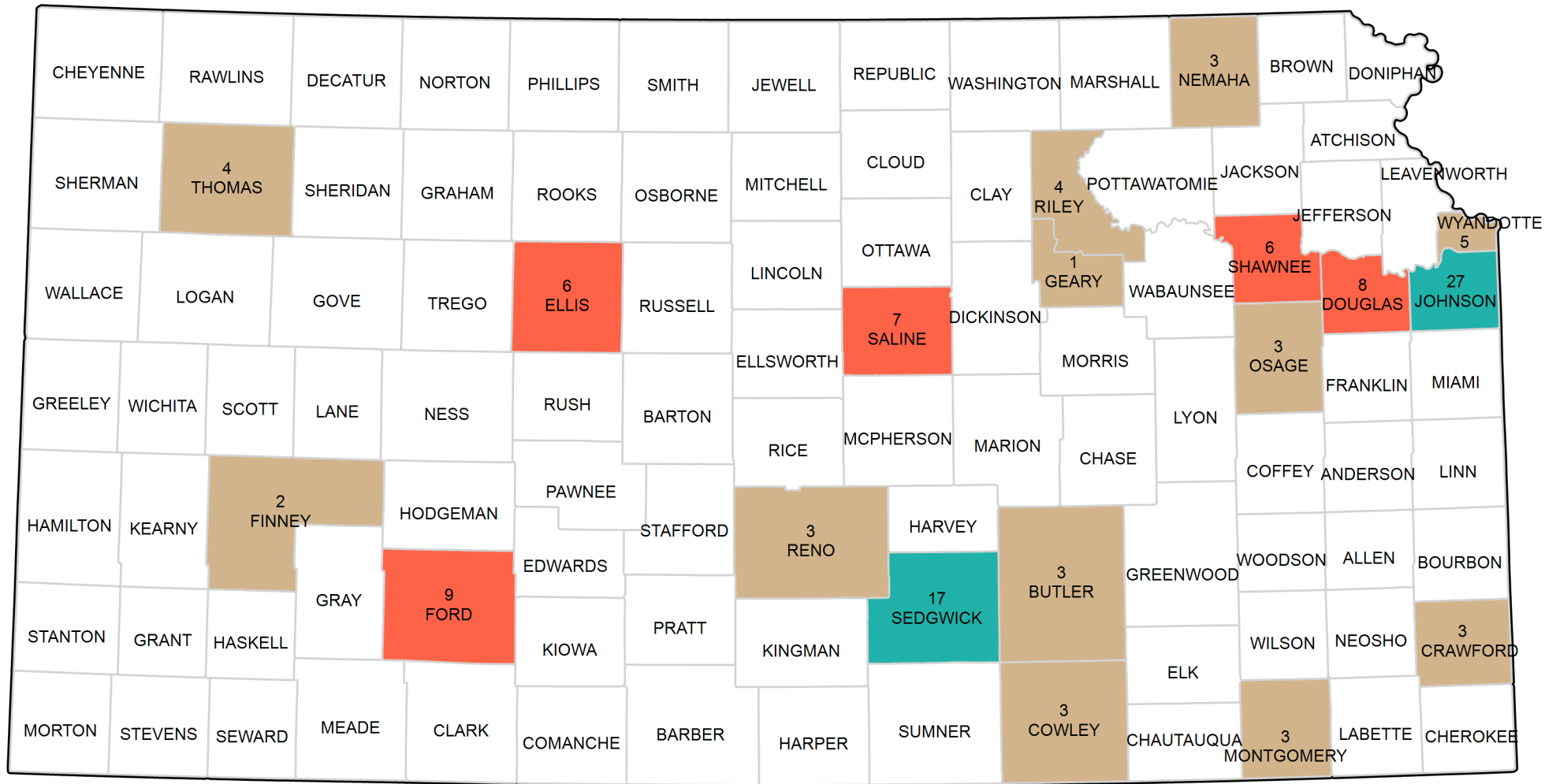
Total: 4 Dry Cities



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# Kansas Distributor Licenses



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

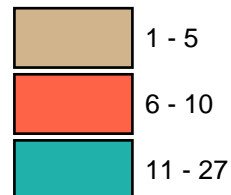
# of Counties

(12)

(5)

(2)

### # of Licenses Per County

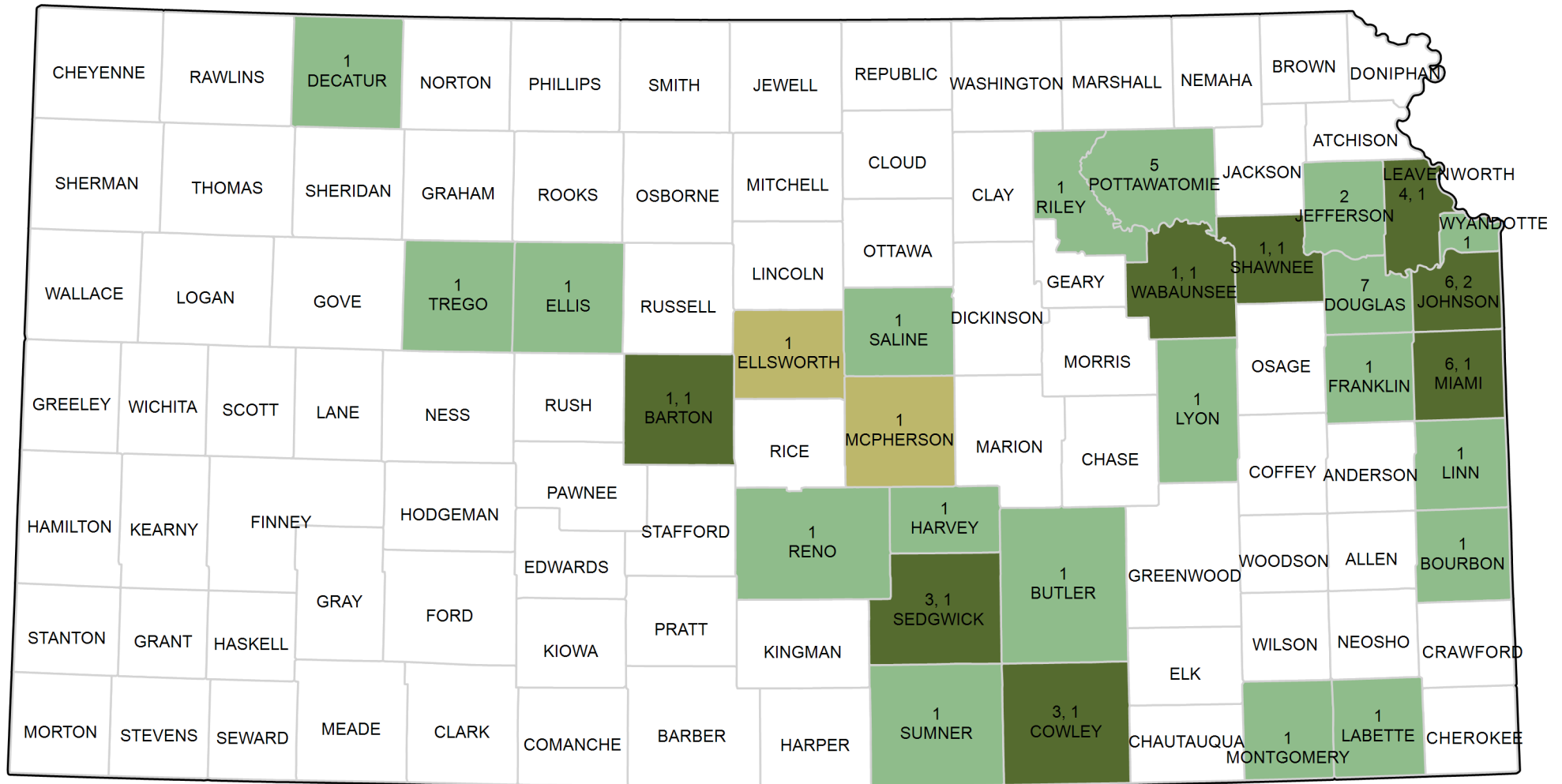


**Total: 117 Distributor Licenses**



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# Kansas Farm Winery and Outlet Licenses



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

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

# of Counties  
(19)  
(8)  
(2)

Counties with Wineries and Outlets



Farm Wineries

Farm Wineries and Farm Winery Outlets

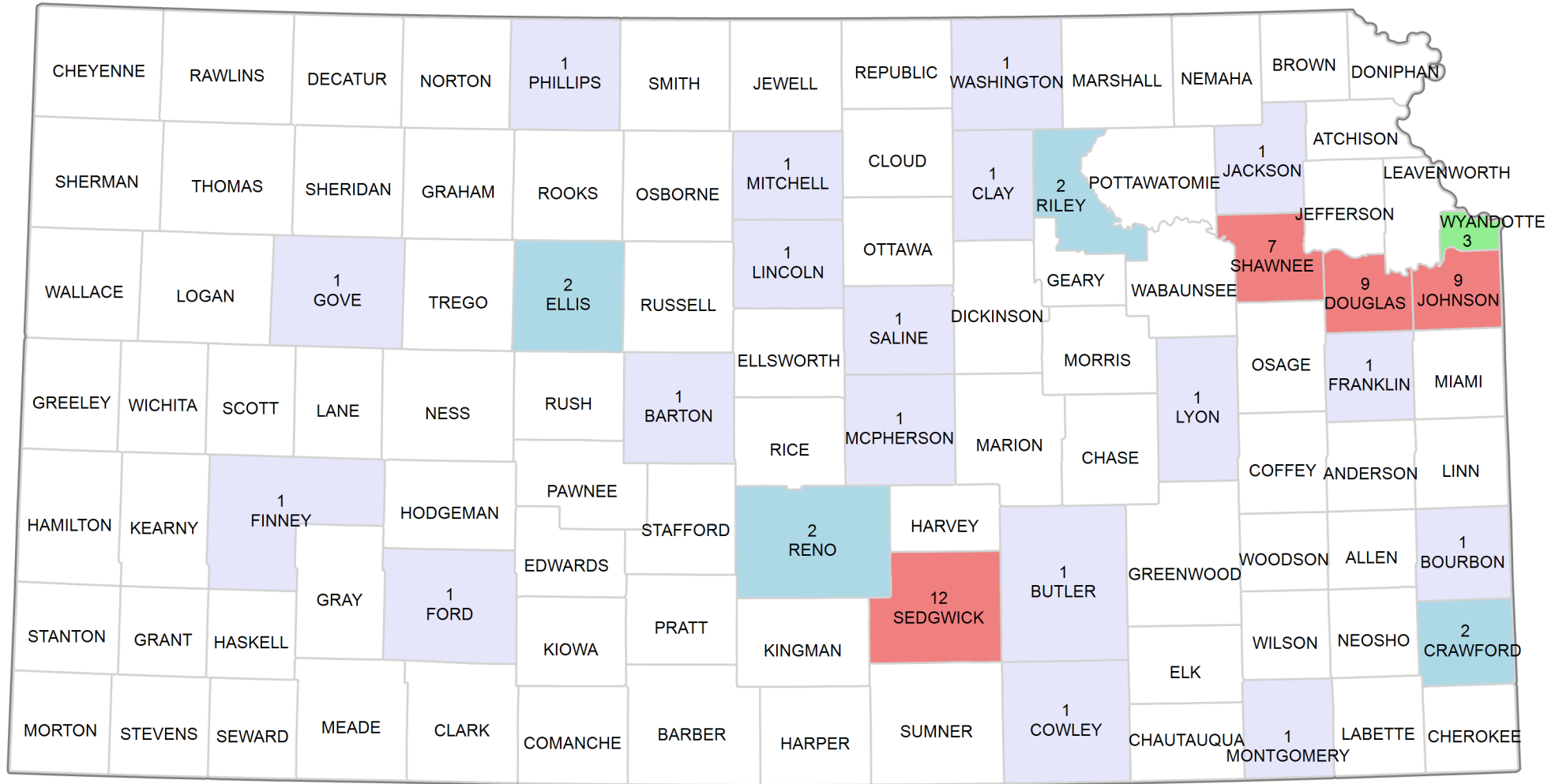
Farm Winery Outlets

Total: 55 Farm Winery Licenses  
11 Farm Winery Outlet Licenses



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# Kansas Microbrewery Licenses



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

# of Counties

(18)

(4)

(1)

(4)

# of Licenses Per County



1



2



3



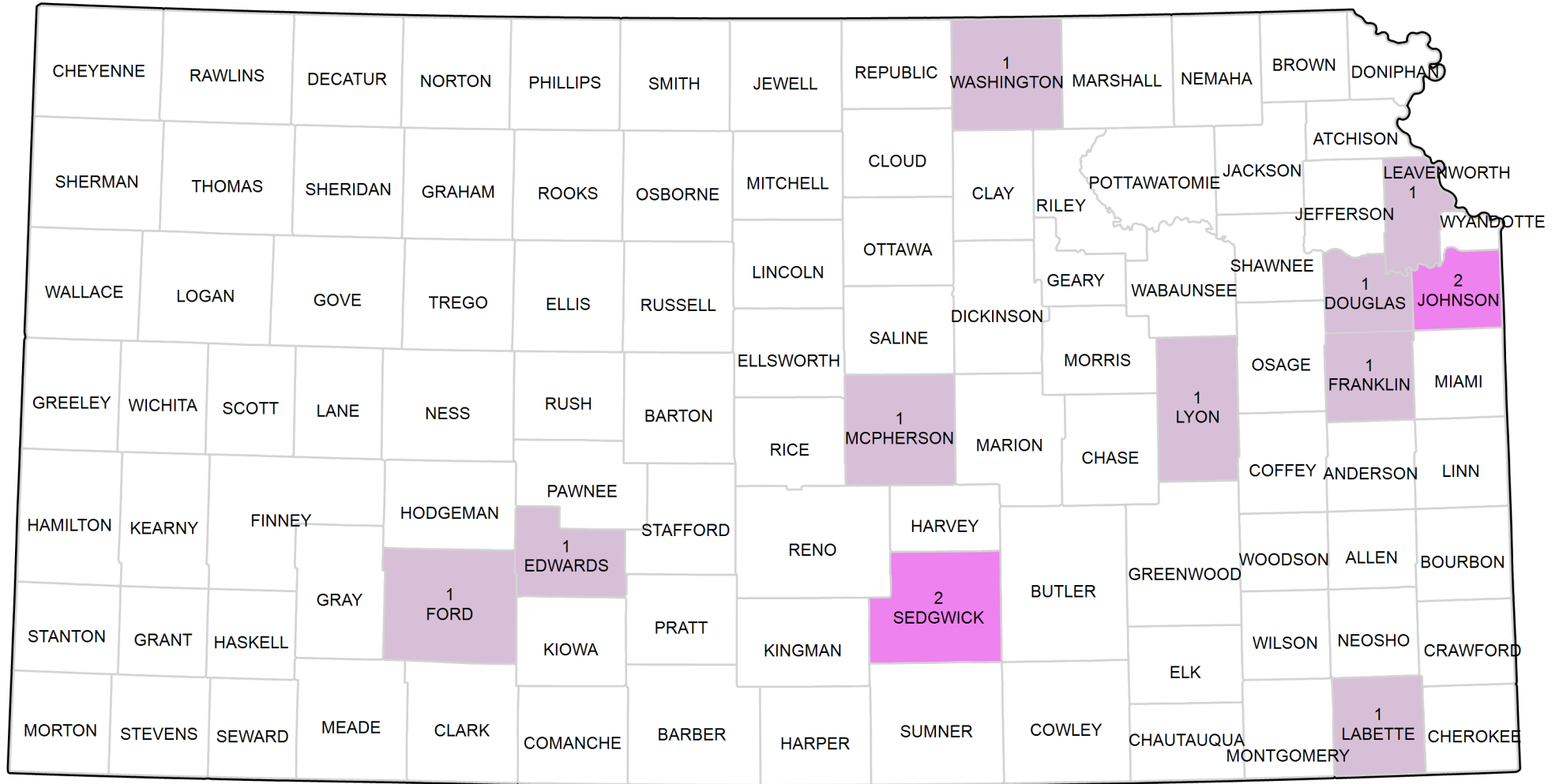
5+

Total: 66 Microbrewery Licenses



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# Kansas Microdistillery Licenses



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

# of Counties

(9)

(2)

# of Licenses Per County



1



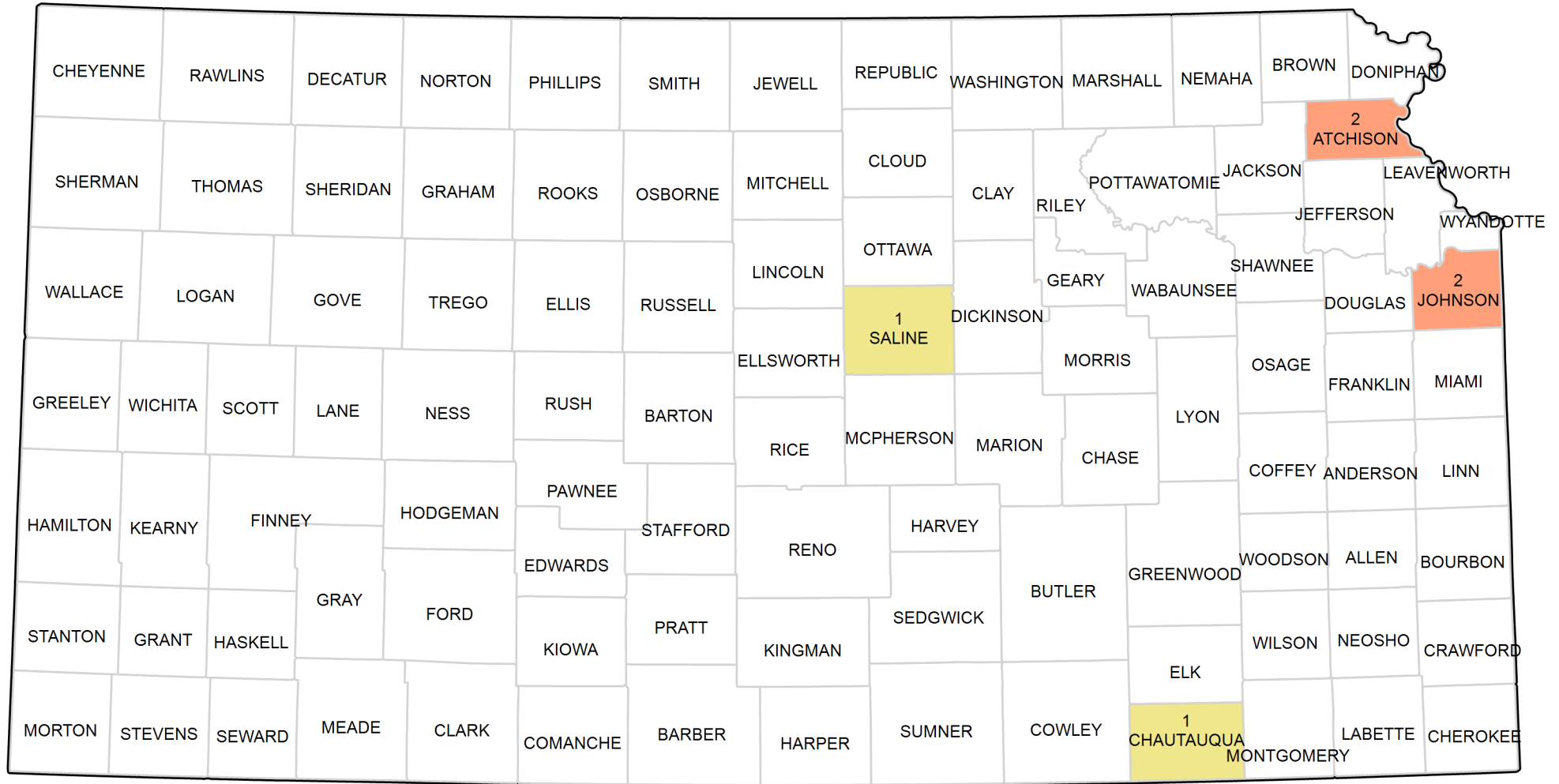
2

Total: 13 Microdistillery Licenses



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# Kansas Manufacturer Licenses



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

# of Counties

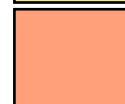
(2)

(2)

# of Licenses Per County



1



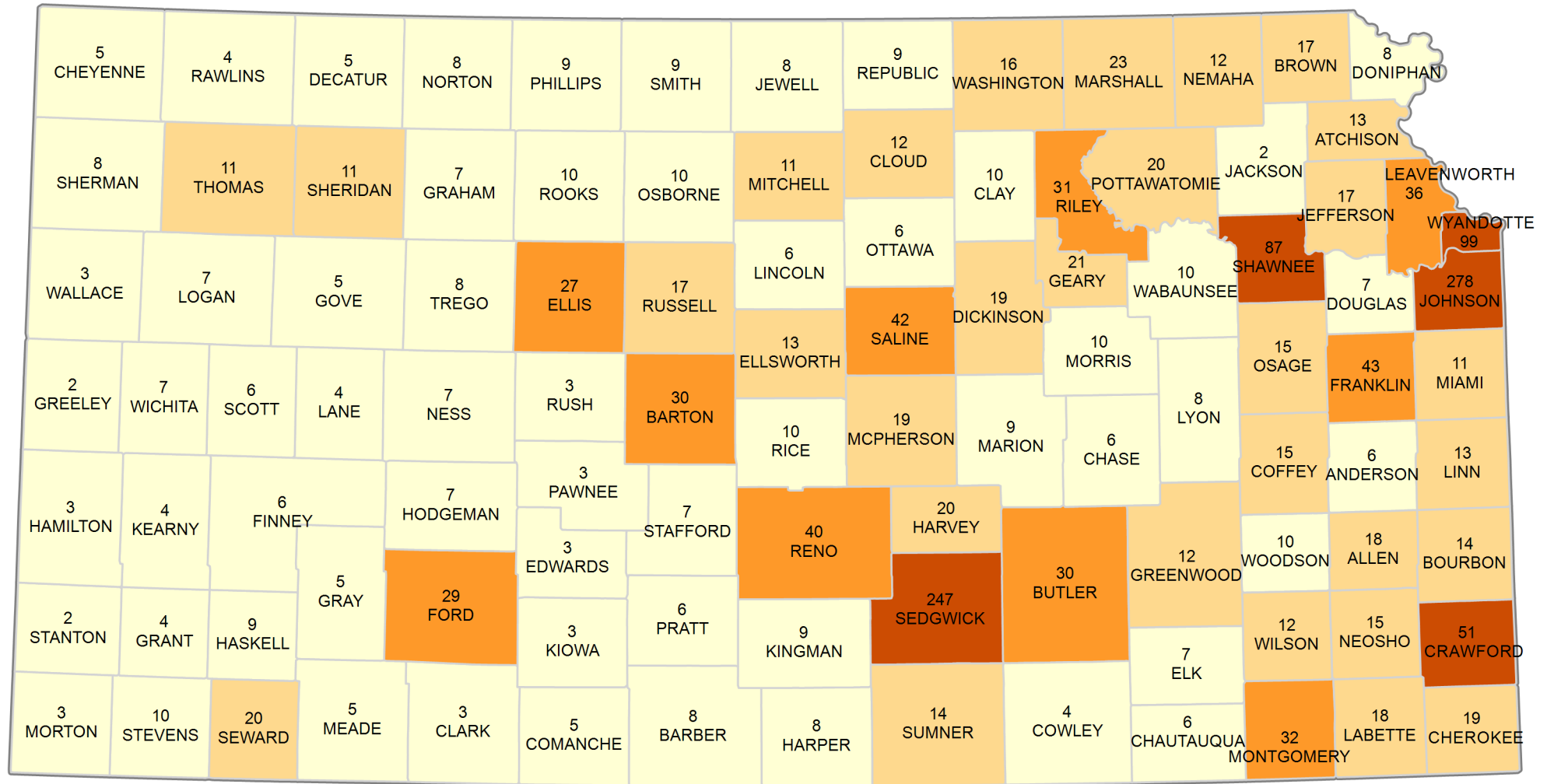
2

Total: 6 Manufacturer Licenses



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# Kansas Cereal Malt Beverage Off-Premise Retailers



# of Counties

(60)

(30)

(10)

(5)

# Per County

1 - 10

11 - 25

26 - 50

51 - 278

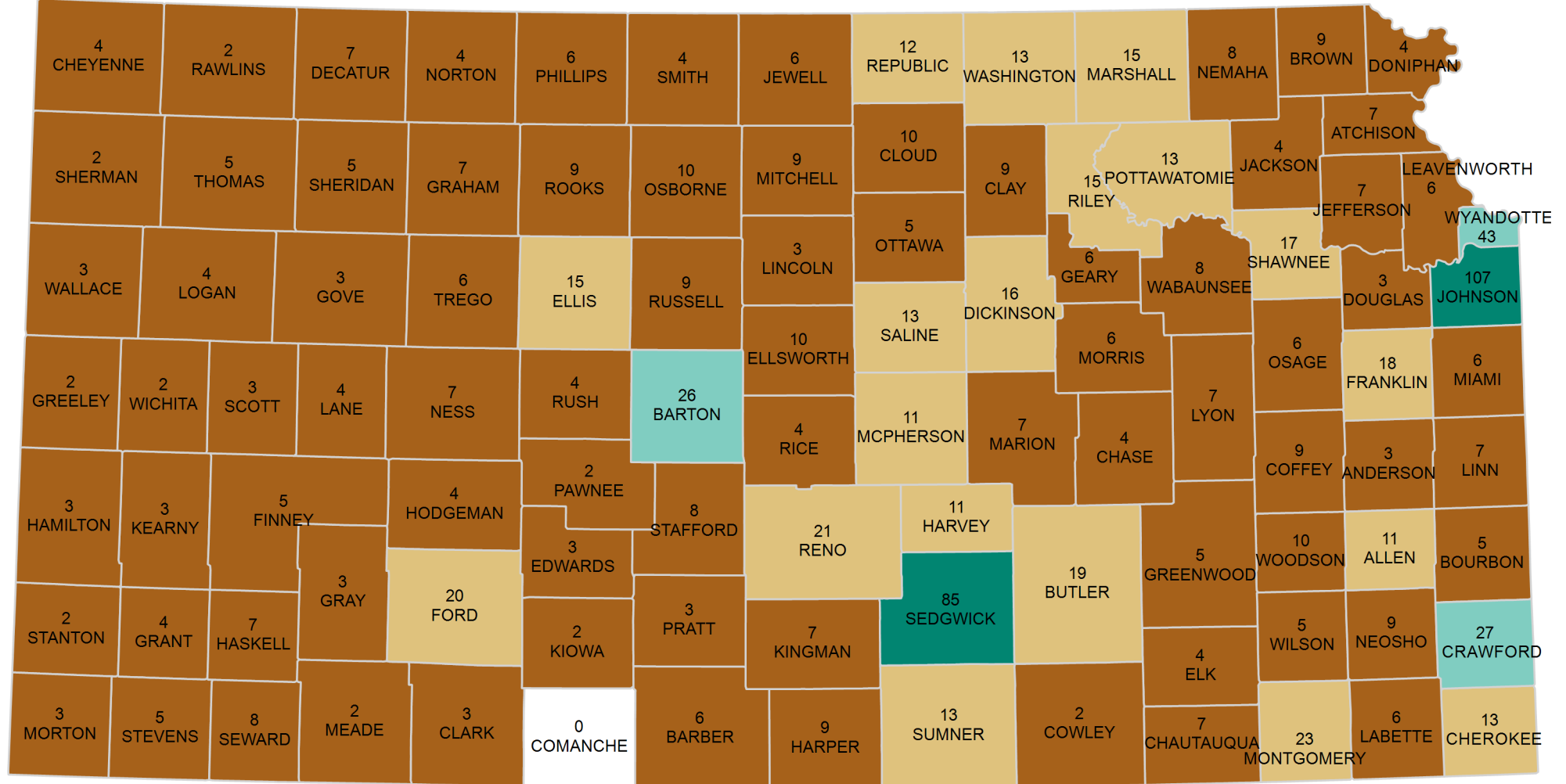
Total: 1,952 CMB Off-Premise Retailers

The data used for this map was derived from the Cereal Malt Beverage applications and stamp reports submitted to the Alcoholic Beverage Control by the city and county clerks.



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# Kansas Cereal Malt Beverage On-Premise Retailers



# of Counties

## # Per County

(1)

0

(80)

1 - 10

(19)

11 - 25

(3)

26 - 50

(2)

51 - 107

Total: 1,007 CMB On-Premise Retailers

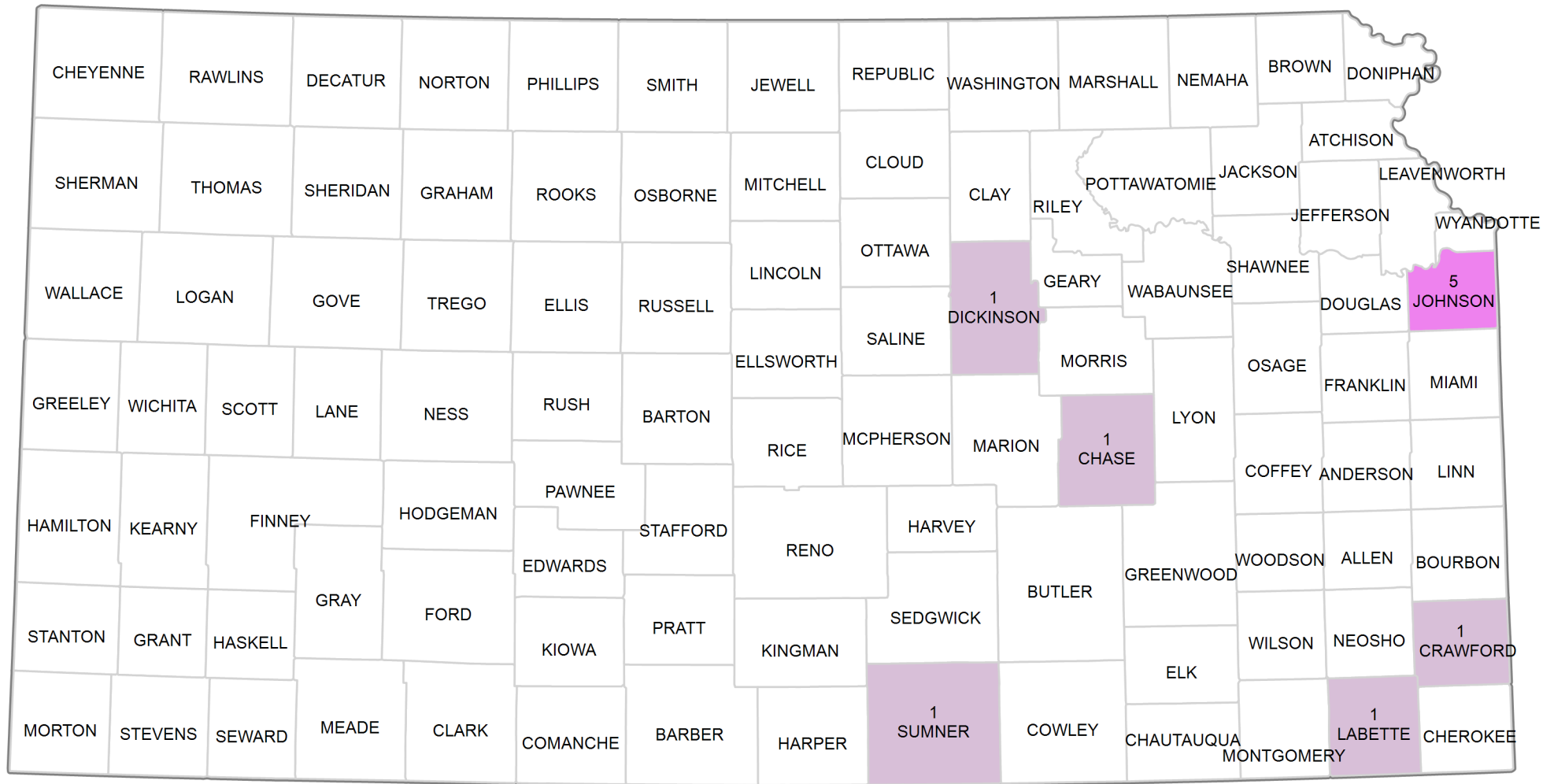
The data used for this map was derived from the Cereal Malt Beverage applications and stamp reports submitted to the Alcoholic Beverage Control by the city and county clerks.



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# Kansas Common Consumption Area Permits



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

# of Counties

# of Permits

(5)



1 to 4

(1)



5 to 9

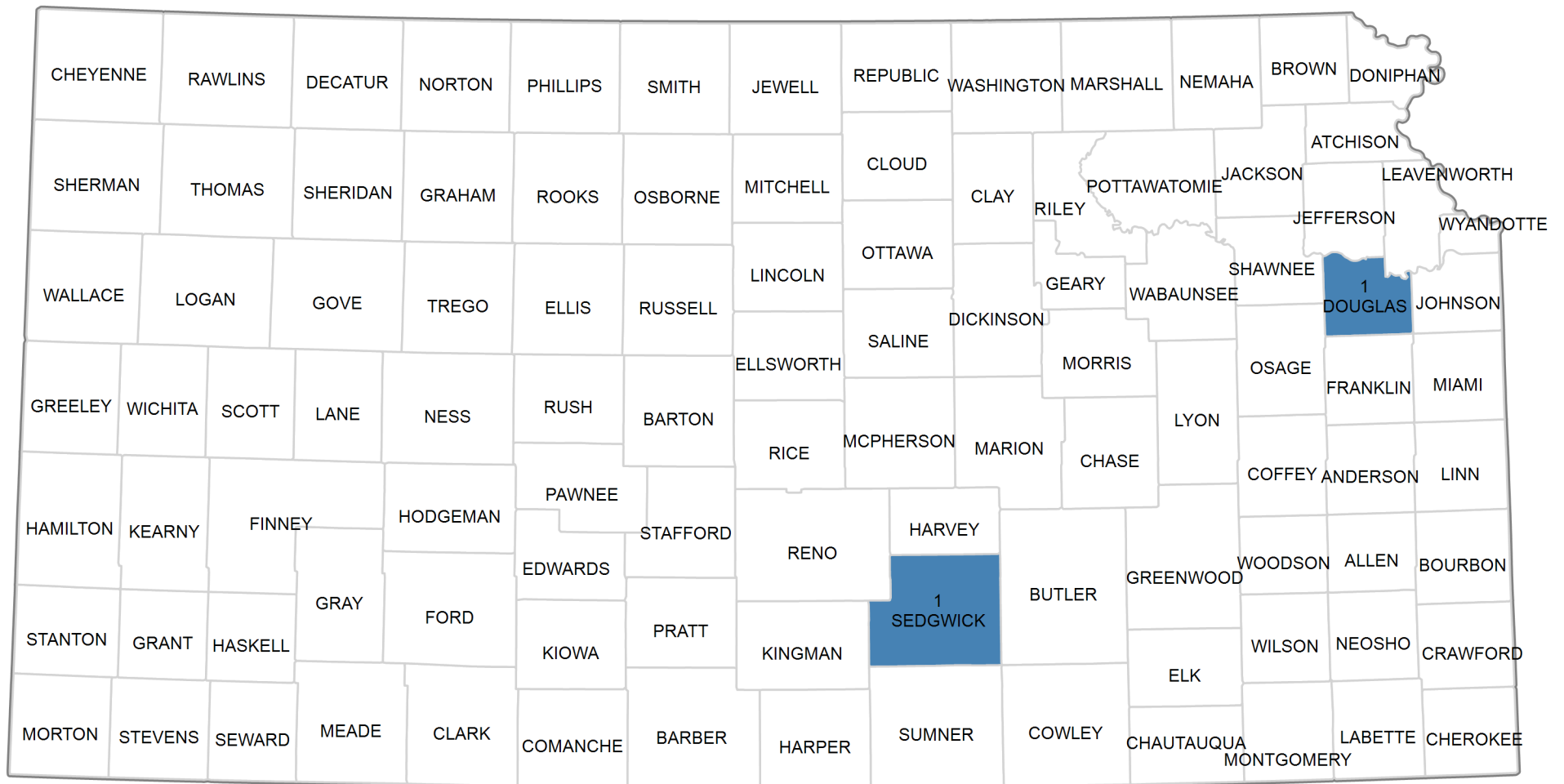
Total: 10 Common Consumption Permits



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# Kansas Producer Licenses



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

# of Counties

(2)

# Per County



1

Total: 2 Producer License(s)



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