

MINUTES

HOUSE AND SENATE COMMITTEES ON FEDERAL AND STATE AFFAIRS

September 16, 1993
Room 313-S -- Statehouse

Members Present

House Committee

Representative Clyde Graeber, Chairperson
Representative Lisa Benlon, Vice-Chairperson
Representative Kathleen Sebelius, Ranking Minority Member
Representative Garry Boston
Representative Darlene Cornfield
Representative Ray L. Cox
Representative Cindy Empson
Representative Ruby Gilbert
Representative Phill Kline
Representative Robert Krehbiel
Representative Richard Lahti
Representative Al Lane
Representative Eloise Lynch
Representative Don Myers
Representative Blaise Plummer
Representative Thomas A. Robinett, Jr.
Representative Rand Rock
Representative L. Candy Ruff
Representative Don Smith
Representative Sabrina Standifer
Representative Carolyn Weinhold
Representative Steve Wiard
Representative Kenny A. Wilk

Senate Committee

Senator Lana Oleen, Chairperson
Senator Ben Vidricksen, Vice-Chairperson
Senator Rip Gooch
Senator Sherman Jones
Senator Lillian Papay
Senator Sandy Praeger
Senator Al Ramirez
Senator Carolyn Tillotson

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SEP 16 1993
Legislative
Administrative Services

Members Absent

Senator Mark Parkinson
Senator Anthony Hensley
Senator Doug Walker

Staff Present

Mary Galligan, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
June Evans, Secretary

Others Present

See attached list.

September 16, 1993 Morning Session

The House and Senate Federal and State Affairs committees met in Room 313-S -- Statehouse. The Senate Chairperson called the meeting order and announced that Janet Chubb, Executive Director of the Kansas Racing Commission would give a briefing on proposed 1994 legislation.

Janet Chubb, Executive Director of the Kansas Racing Commission, stated that while testifying before the House Federal and State Affairs Committee on July 16, 1993, members requested additional information. She said she would begin by responding to those questions (see Attachment 1).

A member asked whether the structure of the Racing Commission should be changed. Ms. Chubb stated that the Commission is a regulatory body, not a promotional body, which distinguishes it from some other racing commissions in the country. No major structural changes are sought at the present time.

A member asked how judges and stewards were paid. Ms. Chubb stated, they are salaried employees of the Commission, and are in the unclassified civil service. One concern is that when a judge or steward goes on vacation or sick leave, another person is brought in to fulfill that role at the track, the state is essentially paying two salaries. The work schedule for these positions is monitored very carefully to try to avoid those situations, but these are state employees who accumulate sick and vacation leave.

Ms. Chubb reviewed changes requested in 1993 S.B. 411 and S.B. 412 as well as other amendments to the Parimutuel Racing Act being requested by the Racing Commission (see Attachment 2).

In regard to the new statutory limitation on recruiting minors to appear in advertisements (L. 1992, Ch. 299, §5) the Commission does not yet have a position. The Commission was not aware of the amendment and, some unintentional violations have occurred. An Attorney General's opinion has been requested. The Racing Commission wants tracks to be wholesome environments so families can attend.

Afternoon Session

Chairperson Graeber stated the purpose of the afternoon's meeting was to review the state's liquor laws. Mary Galligan, Kansas Legislative Research Department, gave a briefing on those laws and recent proposed amendments (see Attachments 3 and 4).

Ms. Galligan noted that a member had asked prior to the meeting whether a person could order wine from an out-of-state winery. She stated that would be in violation of the Kansas law. She said that her research showed between nine and 12 states have reciprocal statutes under which adult residents may order wine for personal use, and not retail sale, directly from a winery in a state with a reciprocal law. The shipper and requester must be over 21 years of age. There generally is a limit on the amount of wine that may be shipped. Taxes are typically not collected (Wisconsin is an exception). Advertising is limited in the receiving states.

The Chairperson thanked Mary Galligan for her work and presentation and asked the Committee to keep the material for reference during the 1994 Session.

*(Attachment 5)

The Chairperson recognized Jim Conant, Division of Alcoholic Beverage Control (ABC)* of the Department of Revenue. Mr. Conant stated that ABC administers and enforces the Liquor Control Act, the drug tax statutes, and statutes governing licensing and taxation of bingo games in Kansas. The Division issues liquor licenses; conducts field enforcement activities, including auditing and inspection of bingo licensees; collects liquor taxes; and conducts administrative hearings on violations of the Act.

The Division also houses the Department of Revenue's Criminal Tax Fraud Unit. This unit is responsible for investigating suspected illegal activity relating to the reporting and payment of drug, liquor, sales and other taxes collected by the Department. However, liquor law enforcement is the Division's primary mission.

The total expenditure for operating ABC for FY 1993 was \$2.3 million. Total receipts collected by the Division during FY 1993 were in excess of \$60 million.

A member asked how long the criminal fraud unit had been in existence?

Mr. Conant responded, six years.

A member asked how the drug tax stamps are issued.

Mr. Conant stated, ABC educates local law enforcement that tax is due on illegal substances. Failure to pay the tax is a criminal violation. If the procedure works perfectly, ABC is notified ahead of time by local law enforcement they are going to make a bust. ABC agents go with the local officers and to identify assets. Once officers seize the illegal substance, it is measured.

Testing needs to be completed before collecting the tax. It is a jeopardy assessment. The state has the reasonable expectation that the taxpayer is going to try to hide assets or leave the state with them. The state has the right to seize property, money, or other things of value, to satisfy the liability immediately. If a bust takes place at night ABC agents are at the bank the next morning. The state confiscates any items necessary to satisfy the debt. That property is held until all appeals have been exhausted, then the property is sold at auction.

A member asked whether there was security in the ABC office to guard against problems that might arise when people come in to pay the drug tax.

Mr. Conant stated, there is at least one armed person in the office at all times, but not as a security force. Some tax receipts are is remitted by mail. ABC is not prepared to deal with problems like those that occurred at the Federal Building.

A member asked how many employees are assigned to night work watching bars and liquor stores. Mr. Conant replied, 12.

A member asked how many problems with liquor law violations occurred in grocery/convenience stores.

Mr. Conant stated, there are a lot, but that he had no statistics.

A member asked whether liquor licenses are issued to retailers who owe taxes.

Mr. Conant replied that ABC has to issue liquor licenses even if a licensee owes sales tax or withholding tax. Taxes can run \$10,000 a month for a large licensee. When a licensee who is behind in tax payments is threatened with being closed, taxes are usually received.

A member asked whether it would be a good idea for liquor stores to be able to accept credit cards as a means of reducing the amount of cash.

Mr. Conant replied, liquor stores are robbed of money, not liquor, so possibly that would be a good idea.

Mr. Conant informed the Committee that ABC is relocating its office to Townsite Plaza. The office is currently located in a high crime area near downtown Topeka. The new facility will provide more useable space and greater security.

Prepared by June Evans
Edited by Mary Galligan

Approved by Senate Committee on:

November 22, 1993

Approved by House Committee on:

November 29, 1993

Date:

GUEST REGISTER

[illegible]

Date: 9/16/93

GUEST REGISTER

NAME	ORGANIZATION	ADDRESS
Janet Chubb	KRC	3400 Van Buren Topeka
Jim & Sonia Yount	K.A.H.R.A.	Valley Falls, Kas.
Michele Bivins for R.E. "Jack" Duncan	K.W.S.W.A	2145 W 7th Topeka KS 66603-3200
Allen Jones	KBI	Topeka
Whitney Duncan	Petersonhill's Associates	Topeka
Kathy Peterson	Distilled Spirits	Topeka
Tom Burgess	Sunflower Racing	Topeka
Dan Hammer		Topeka
Jim Allen	Camp town	Topeka
Ken Bahr	Anheuser-Busch	"
Bruce Rimbo	The Woodlands	O.P.
Denny Burgess	Sunflower Racing	Topeka
Deborah D Cox	KS Racing Commission	Topeka
Kenneth G. HARJO	KS RACING Commission	TOPEKA
Joni McFarlane	Observer	Topeka

STATE OF KANSAS



KANSAS RACING COMMISSION

3400 Van Buren
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August 18, 1993

Representative Clyde D. Graeber
Chair
House Federal and State
Affairs Committee
2400 Kingman
Leavenworth KS 66048

Dear Representative Graeber:

When I testified before the House Federal and State Affairs Committee on July 16, 1993, members requested additional information, which I am providing by this letter. The Kansas Racing Commission and I have discussed these matters, and members have directed the transmission of this information to you.

Commission operations are funded out of the state racing fund. Each month, any balance exceeding \$200,000 is transferred to the state gaming fund. The commission administers six additional funds. They are listed on the first attachment to this letter, and FY 1993 activity for the funds is stated there. The attachment is an update of the document that appears in the commission's 1992 annual report, a copy of which was delivered to committee members on July 16.

One member observed that the operational expenses of the commission have not declined as attendance and the parimutuel handle have. An important consideration is the strict regulatory oversight mandated by the parimutuel racing act. The oversight is not affected by a reduction in revenues. For instance, commission annual reports indicate the commission performed drug tests on greyhounds as follows: 10,753 samples in FY90, 8,176 samples in FY91 and 9,727 in FY92. They indicate the commission issued 8,476 occupation licenses in FY90, 6,733 in FY91 and 5,629 in FY92. Although policy may affect these numbers from time-to-time (e.g. a decision to run additional tests for suspected drugs), the legislative mandate to test racing animals and to license each person who works at the racetrack facility does not change. Among others, these duties protect fundamental security interests, including the integrity

Sept. 16, 1993 House + Senate Federal Attachment
+ State Affairs # 1

of racing and wagering. As to these and related responsibilities, there is no direct correlation between the expense for performance of the responsibilities and a decline in attendance and handle.

Another inquiry concerned the number of commission employees. The 1992 annual report reflects 32.0 FTE for 1990-1991 and 40.5 for 1991-1992. The FTE for 1992-1993 is 50.5, which includes nine FTE that will remain vacant until the Camptown racetrack at Frontenac opens. The remaining FTE is an office assistant I assigned to the commission office at Topeka. This position is filled and supports staff with current licensee matters relating to the Camptown project.

The jump from 32 FTE reported in 1990 and 1991 to 40.5 FTE reported for 1991-1992 is primarily attributed to a change in the employment status of stewards and racing judges. They were originally identified as independent contractors. The commission was advised the status was incorrect, and in 1991 the 7.5 positions were identified as employees of the commission. (The internal figures on page eight of the commission's 1992 annual report are incorrect. The 1990-1991 column should reflect zeros by stewards and judges, and the 1991-1992 column should reflect 6.0 FTE for judges and 1.5 FTE for stewards.)

The remaining FTE reported in 1991-1992 is an office assistant position. The position is filled and is part of the clerical pool in Topeka.

Another question addressed the number of racing states. There are 43 states in which parimutuel wagering has been legalized; however, only 40 presently conduct parimutuel race meetings. Missouri, Tennessee and Indiana currently are not racing. Thirty-eight states conduct parimutuel horse racing. Virginia is among these, with a limited but significant steeplechase event. Of the racing states, 19 conduct parimutuel greyhound racing. Vermont is among these, although it is not presently conducting races. This information is provided by the executive director of the Association of Racing Commissioners International (ARCI).

The committee inquired about the number of racing states that have single gaming agencies charged with oversight of multiple gaming activities. The ARCI reports that seven states currently have some form of single-agency oversight for multiple gaming activities. They include Wisconsin, about which the committee has been briefed; Connecticut, which has a division of special revenue regulating racing, off-track betting and lottery; Iowa, which has a racing and gaming board regulating parimutuel racing and riverboat gaming; Maine, which is presently considering putting video gaming under the agency regulating harness racing;

New York, which has an agency regulating off-track betting, lottery, bingo and parimutuel wagering; South Dakota, which has a commission on gaming regulating parimutuel and video; and Nevada, which has a newly-formed gaming control board. The ARCI states that the Nevada racing commission was recently eliminated, and parimutuel has been reassigned to the control board. (See copy of news article attached.) The ARCI director adds that since Nevada has only two or three small fair meetings, the effect is not so great as it would be elsewhere. The ARCI has not adopted any policy concerning whether single-agency regulation of multiple gaming activities is effective or recommended. However, the ARCI director states that the subject is an agenda item for the ARCI board of director's meeting presently scheduled for mid-August.

The commission appreciates the opportunity to respond to these inquiries. If there is additional information that would assist the committee, please do not hesitate to contact me.

Respectfully,



Janet A. Chubb
Executive Director

93JAC186-dpb

Attachments

cc: Kansas Racing Commissioners
Mary Galligan
Deborah D. Cox

Kansas Racing Commission
Fund Activity
FY 93

	State Racing <u>Fund</u>	County Fair Horse Racing <u>Fund</u>	Horse Breeding Development <u>Fund</u>	Racing Investigative <u>Expense Fund</u>	Greyhound Breeding Development <u>Fund</u>	Racing Reimbursable <u>Expense Fund</u>	Racing Applicant <u>Deposit Fund</u>	<u>Total</u>
Beginning balance (7-1-92)	920,409	--	152,996	16,729	254,988	229,093	556,872	2,131,087
<u>Receipts</u>								
Revenue	7,604,345	387,392	412,558	5,005	929,313	570,701	18,336	9,927,650
Secretary of state transfer ¹	13,361	--	--	--	--	--	--	13,361
<u>Disbursements</u>								
Operating expenditures	(1,727,674)	--	(312,874)	(16,842)	(761,998)	(705,841)	--	(3,525,229)
Gaming fund transfer ²	(5,822,044)	--	--	--	--	--	--	(5,822,044)
Greyhound tourism fund transfer ³	--	--	--	--	(139,397)	--	--	(139,397)
Kansas bureau of investigation transfer ⁴	(289,984)	--	--	--	--	--	--	(289,984)
Ending balance (6-30-93)	<u>698,413</u>	<u>387,392</u>	<u>252,680</u>	<u>4,892</u>	<u>282,906</u>	<u>93,953</u>	<u>575,208</u>	<u>2,295,444</u>

¹ Reimbursement for a portion of the cost of software that was transferred to the secretary of state

² Transfer of the state gaming fund per K.S.A. 74-8826(c).

³ Transfer to the greyhound tourism fund per K.S.A. 74-8831(c).

⁴ Transfer to the Kansas bureau of investigation for the purpose of financing a portion of the cost of operation and general expense of the Kansas bureau investigation gaming unit.

Speedhorse
July 16, 1993

Vol. 17 - No. 20

Nevada Loses Racing Commission

Las Vegas, NV—In a plan intent to streamline and reorganize state government, the Nevada Legislature gave final approval to the largest reorganizational legislation for the State since 1963. One hundred and twenty State boards, commissions and departments were recommended for consolidation into other State agencies. After more than 50 years in existence regulating live horse, mule and greyhound racing in the State, the Nevada Racing Commission will be disbanded and their responsibilities transferred to the Nevada Gaming Control Board.

Although the Chief Deputy Attorney General for the State of Nevada stated the Gaming Control Board was no better qualified to regulate live racing than they were to oversee the medical or nursing professions, the legislation passed both houses of the Legislature and was signed into law by Governor Bob Miller.

Sharon Brandsness of Las Vegas, a Commissioner since 1977 and currently the Acting Director for the Commission stated, "I'm sorry to see this happen. Regulating live racing is quite different than regulating simulcast racing from another state into a Nevada race and sports book. However," she continued, "no one, certainly not me, wants to argue with their Governor when he is attempting to keep the State economically sound."

Among other areas, her main concerns have to do with the horsemen's needs and safety factors at the tracks. "Hopefully," Brandsness continued, "the Control Board will seek some guidance from our staff, all of whom are horsemen, who know and appreciate the sacrifices out-of-state horsemen make when coming into Nevada to race. It should be an interesting summer of racing," she predicts.

Currently Nevada has mixed Quarter Horse and Thoroughbred fair meets in Ely and Elko, and mixed Quarter Horse, Thoroughbred, and mule racing in Winnemucca. Elko is the home of the Elko Futurity, formerly the Inter-Mountain Quarter Horse Futurity, a Grade III Stakes race.

The change over is expected to be completed by July 31st. 🐾

Annual Report



1992

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*Kansas Racing Commission
c/o The Woodlands
P. O. Box 12306
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Kansas City, KS 66112-2036
Phone: (913) 788-3621
Fax: (913) 788-3881*

*Kansas Racing Commission
c/o Wichita Greyhound Park
P. O. Box 277
1500 E. 77th Street North
Valley Center, KS 67147-0277
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Fax: (316) 755-3110*

STATE OF KANSAS



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March 2, 1993

RE: Kansas Racing Commission Annual Report 1992

Dear Recipient:

The Kansas Racing Commission is pleased to forward a copy of its 1992 Annual Report.

This report is a narrative summary of the regulatory responsibilities of the commission and a statistical summary of the racing activities in the state of Kansas. A one page executive summary may be found on page 4.

If you have questions or would like us to forward additional copies, please feel free to contact the Topeka office at (913) 296-5800.

Respectfully,

A handwritten signature in cursive script that reads "Janet A. Chubb".

Janet A. Chubb
Executive Director

Enclosure

JAC:kab
KAB9318

STATE OF KANSAS



KANSAS RACING COMMISSION

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February 12, 1993

The Honorable Joan Finney
Governor
State of Kansas
State Capitol - Second Floor
Topeka, Kansas 66612-1590

Dear Governor Finney:

On behalf of the Kansas Racing Commission, I am pleased to present to you the 1992 Annual Report of the Kansas Racing Commission.

The report is a narrative and statistical summary of the regulatory responsibilities of the commission for calendar year 1992.

The parimutuel racing industry in Kansas represents a very important segment of the state's economy, not only as reflected by the operations of the racing facilities themselves, including those projected at the future planned Frontenac greyhound track and the desired development of a county fair type racing program in other parts of the state, but also through the economic activity represented by the breeding, development and related support activities for the racing animals throughout the state. The industry faces great challenges and the commission will do all that is possible, within its authority, to assist, and will continue to assure the integrity of parimutuel racing in Kansas.

The commission looks forward to working with you and your staff, and the legislative branch of government, in carrying out its responsibilities in this important area.

Respectfully,

Robert C. Londerholm, Sr.

Robert C. Londerholm, Sr., Chairman
Kansas Racing Commission

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Executive Summary

- ***Organizational Structure***

The Kansas Racing Commission is a five-member board, appointed by the governor. The commission appoints an executive director, who serves at the pleasure of the commission, administering its policies and enforcing its regulations. A staff of 41.5 full-time employees served the commission at its Topeka office and racetrack field offices in 1992.

- ***Parimutuel Revenues***

In calendar year 1992 almost \$240,000,000 was wagered at the Kansas racetrack facilities in Kansas City and Wichita.

- ***Receipt and Disbursement of Racing Funds***

In calendar year 1992 over 8.3 million dollars generated by parimutuel racing was deposited into the state racing fund.

- ***Kansas Horse and Greyhound Breeding Development Funds***

The Kansas horse and greyhound breeding development funds are established by the racing act to provide financial incentives for persons participating in the horse and greyhound racing and breeding industries in Kansas. In 1992 \$1,052,922 was paid to the breeding development funds.

- ***Greyhound and Horse Research Grants***

Since the advent of parimutuel racing, the Kansas Racing Commission has awarded research money for the prevention of injuries and diseases of greyhounds and horses in the amount of \$857,482. In 1992 grants totaled \$305,598 for greyhound research projects.

- ***Charitable Contributions***

Kansas nonprofit organizations and associations received \$983,052 in charitable contributions from organization licensees TRAK East and Wichita Greyhound Charities, Inc.

- ***Legislative Amendments***

The Kansas parimutuel racing act was amended in 1992 to permit the simulcasting of horse and greyhound races at Kansas racetrack facilities. One-third of the parimutuel taxes from the simulcast races is to be paid to the newly-created county fair horse racing benefit fund.

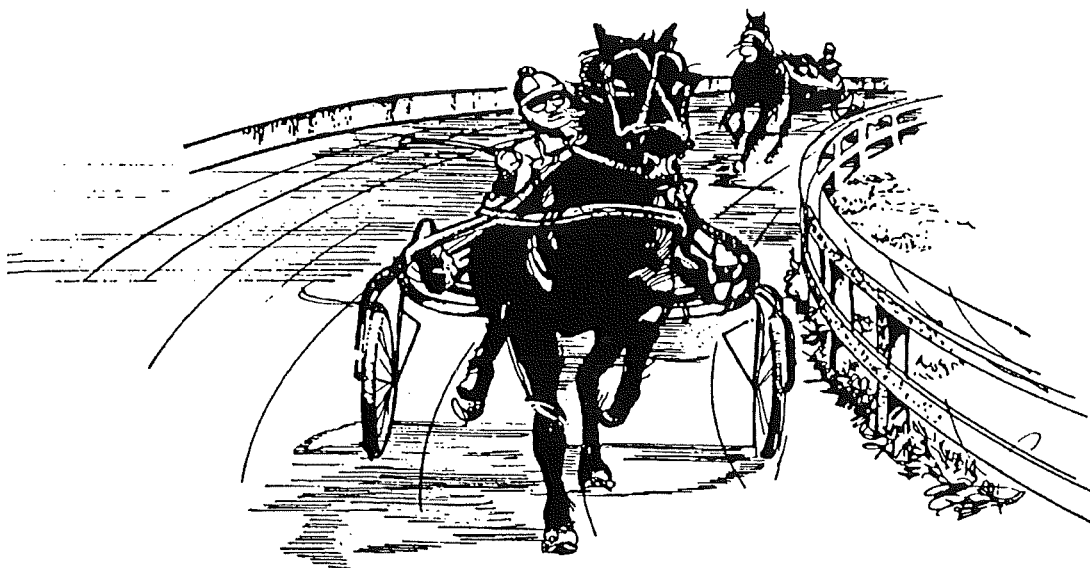
History

On November 4, 1986, Kansas voters approved a constitutional amendment permitting the regulation, licensing and taxing of parimutuel horse and greyhound racing to be conducted by bona fide nonprofit organizations. The constitutional language states a minimum tax of not less than 3% nor more than 6% of all money wagered. Finally, it specifically prohibits off-track betting. In May, 1987, the Kansas legislature enacted the Kansas parimutuel racing act, which may be found at K.S.A. 74-8801 et seq.

Among other duties, the racing act charges the five-member Kansas Racing Commission with:

- implementing and enforcing regulations to ensure the integrity of racing and wagering and to provide for the humane treatment of racing animals.
- granting organization, facility owner and facility manager licenses for the construction and operation of Kansas racetracks.
- granting concessionaire, totalisator and occupation licenses for the conduct of such businesses at Kansas racetracks.
- granting simulcasting licenses for the displaying of simulcast horse and greyhound races at Kansas racetracks.

***Rooks County Free Fair
Harness Horse Racing
First Parimutuel Race in Kansas
Monday, August 15, 1988***



Commission Members



(Left to Right) - O. H. Peltzer, R.C. Londerholm, Sr., Dr. D.E. Kobuszewski, H.P. Martin, P.Coder

Commission members are appointed by the governor. Each serves a three-year term. The current commissioners and their respective terms are:

Robert C. Londerholm, Sr., Chairman

Olathe, Kansas

Term expires: June 30, 1995

Peggy Coder, Vice-Chairman

Independence, Kansas

Term expires: June 30, 1993

Dr. Denise E. Kobuszewski, Secretary

Valley Falls, Kansas

Term expires: June 30, 1995

H. Philip Martin, Member

Larned, Kansas

Term expires: June 30, 1993

Oscar H. Peltzer, Member

Wichita, Kansas

Term expires: June 30, 1994

Commission Meetings

During 1992, the commission met bi-weekly for regular sessions in various locations throughout the state. There were 25 regular sessions held at the Topeka office or at the racetrack facilities. In addition to the regular sessions, meetings were held to conduct hearings and informal inquiries. The commission's meetings are conducted in accordance with the Kansas open meetings act K.S.A. 75-4317 et seq. Between meetings commission members are kept informed through mailings and telephone communication with staff.

Commission Membership to ARCI

In 1992, the Kansas Racing Commission gained additional insight through participation in the Association of Racing Commissioners International (ARCI). Focus areas included consideration of uniform rules, licensing reciprocity, impact of expanded gaming on parimutuel racing and policy issues facing regulators. ARCI is a nonprofit corporation established to encourage regulation of North American racing and wagering.

Commission Chairman Robert C. Londerholm, Sr. addressed the annual meeting of ARCI by providing an overview of Indian gaming activities and legal ramifications under federal and state laws and regulations. Observations were also made as to the need for expanded communications between federal and state agencies. Commissioner Londerholm serves on the Indian Gaming Committee of ARCI.

Commissioner H. Philip Martin was elected to the board of directors of ARCI to represent region 6, central area. Membership on the board will provide a means for the Kansas commission to keep abreast of changes in parimutuel racing nationally and internationally and should further serve as an avenue for positive suggestions on programs implemented in Kansas.

The Quality Assurance Program of ARCI underwent significant structural changes in 1992 to assure that ARCI was the appropriate organization, as regulator, to set standards for drug testing in the racing industry. The committee is dedicated to provide assistance to racing jurisdictions and laboratories that provide testing to assure that regulations prohibiting use of performance altering drugs will not be permissible in horse and greyhound racing. Specific procedures are being formulated with the assistance of a recognized resource laboratory so there may be uniformity throughout the country. Commissioner Martin is a member of the ARCI Drug Testing and Quality Assurance Committee.

Executive Director Dana Nelson, Vice-Chairperson of the Uniform Rules Committee of ARCI, assisted at the annual meeting in the presentation of recommendations to adopt uniform regulations to assure consistency among the states while maintaining integrity.

The commissioners serve on several other committees of ARCI:

- H. Philip Martin Constitution and Bylaws
- Peggy Coder Quarter Horse Racing, Totalisator Standards
- Robert C. Londerholm, Sr. Judiciary and Legislative

Commission Staff

Fiscal Years	<u>1990 - 1991</u>	<u>1991 - 1992</u>	<u>1992-1993</u>
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Full Time Employees

Topeka Office

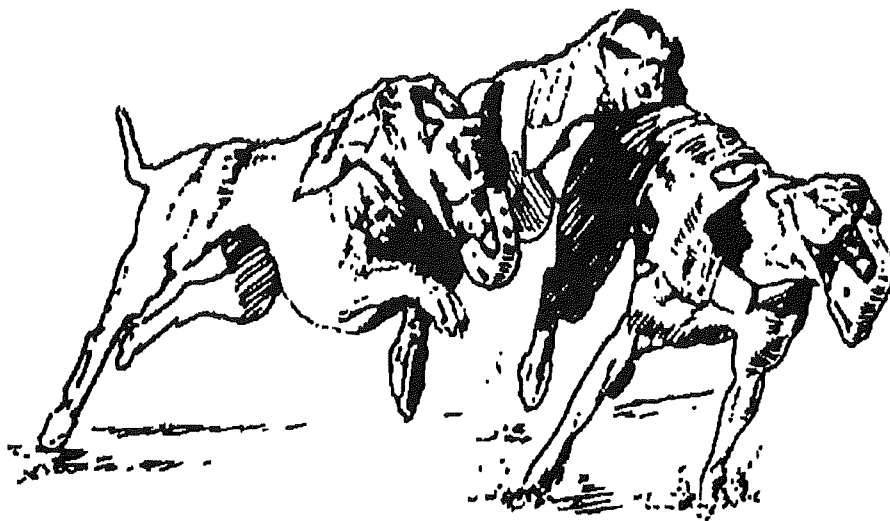
Unclassified	6.0	6.0	6.0
Classified	<u>14.0</u>	<u>14.0</u>	<u>15.5</u>
Total	<u>20.0</u>	<u>20.0</u>	<u>21.5</u>

Field Offices

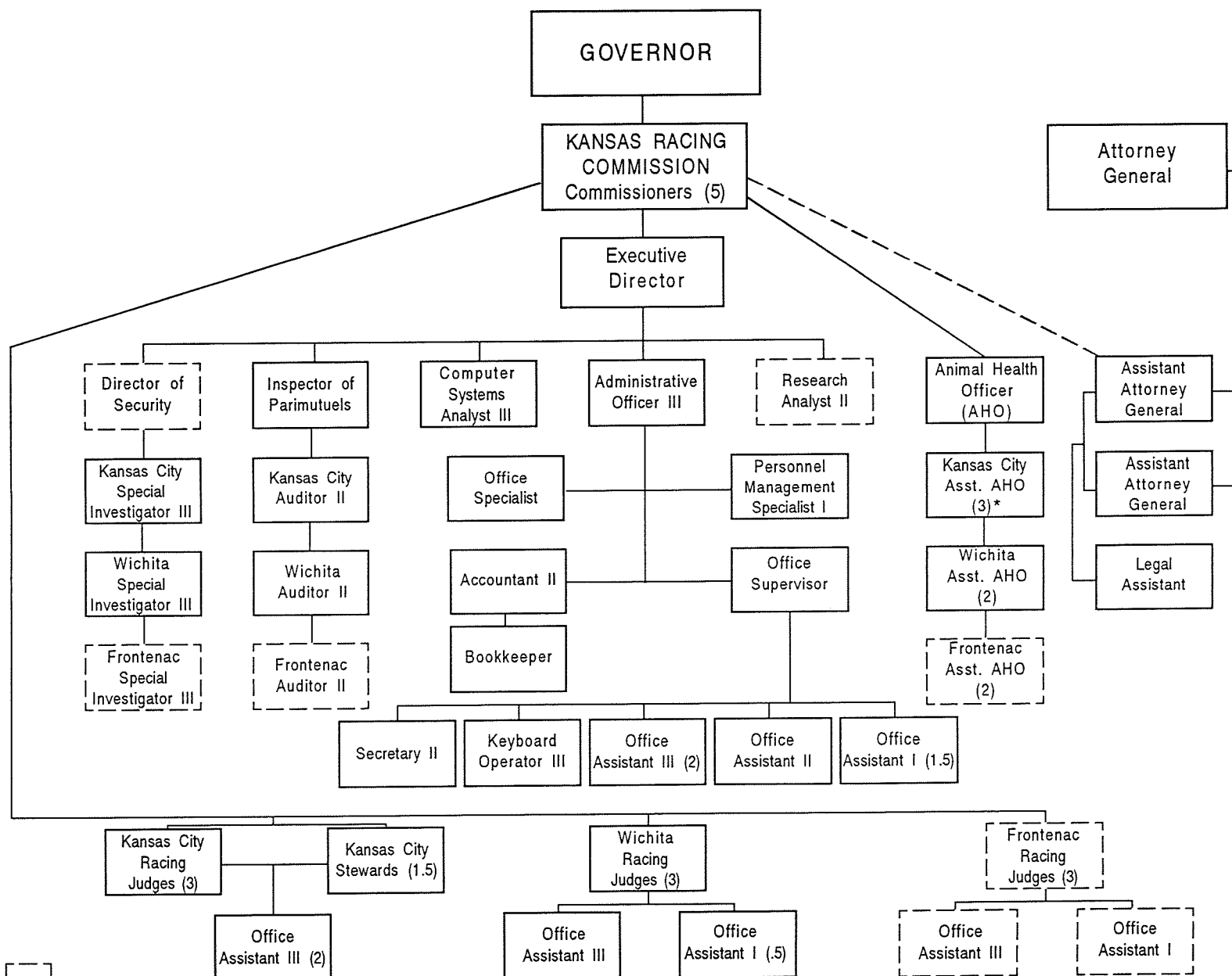
Unclassified	6.0	5.0	7.0
Classified	6.0	8.0	11.5
Judges	6.0	0.0	9.0
Stewards	<u>1.5</u>	<u>0.0</u>	<u>1.5</u>
Total	<u>12.0</u>	<u>20.5</u>	<u>29.0</u>

Total FTE	<u>32.0</u>	<u>40.5</u>	<u>50.5¹</u>
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¹NOTE: 9 FTE vacant until racetrack facility opens at Frontenac.



Organizational Chart



Indicates vacant position
50.5 Total FTE

* One Kansas City animal health officer position vacant

Feb. 12, 1993

1992 In Review

Kansas has long been a leader for the breeding of racing greyhounds. There are farms, owners, and trainers from Kansas with Kansas facilities leading the nation in greyhound farms and facilities. A survey conducted last year by the ARCI established beyond doubt that Kansas is also the leader nationwide in both the number of ongoing greyhound research projects, and many times over the leader in money expended for greyhound research. This fund was established by legislation and has been implemented every year by the Kansas Racing Commission.

Early in 1992 there was a respiratory epidemic that occurred on the east coast which resulted in greyhound race cancellations, many sick dogs and a few deaths. Kansas tracks, in consultation with veterinarians, quarantined their facilities in an attempt to prevent the spread of this disease into Kansas. Despite preventive measures taken, the disease did involve both tracks before the summer was over. Death loss among the greyhounds was minimal, but the mortality forced many scratches and cancellations.

After a comprehensive investigation and licensing hearing, the commission granted a facility owner and facility manager license to Camptown Greyhound Racing, Inc. The group is to construct, own and operate a greyhound racetrack for organization licensee TRAK Southeast at Frontenac, Kansas. Currently the group is completing financial arrangements for the commission's approval. TRAK Southeast's proposal for a racetrack in southeast Kansas was first presented to the commission in 1988.

There has been a move nationwide to adopt licensing reciprocity. The commission implemented a limited fingerprint reciprocal program during the horse racing season in 1992. Kansas reciprocated with four states by recognizing that the applicant had submitted to fingerprinting in another state. This was attested to on a fingerprint affidavit form submitted with the occupation license application. The commission is aware there were some problems experienced during implementation of the limited reciprocal program and will continue to evaluate this program before further implementation.

In February 1992 the Kansas Racing Commission hosted the first annual parimutuel auditor's conference in Kansas City. Sixty-three participants from twenty-four states plus Canada and Jamaica attended the two-day conference. In addition, the commission's inspector of parimutuels was one of four auditors on the ARCI national audit team. The team provided audit oversight for the electronic transfer of multi-state wagering into one common pool for the four National Pick-6 wagers and the Pick-7 wager on the Breeders' Cup races.

In July 1992 a casetracking program was implemented. This program provides the ability to track all administrative hearings conducted by judges, stewards or commission appointed hearing officers. The data in casetracking is accessible to all commission staff through the AS400 computer system and sometime in the future will provide the ability to cross-reference data between occupation licensing and casetracking programs. A majority of the administrative hearings pertain to racing violations committed by licensees and require the tracking of rulings such as suspensions or fine payments and their current license status. A total of 166 case files were established in casetracking between July 15 and December 31, 1992.

Fund Operating Statement

	STATE RACING FUND	COUNTY FAIR HORSE RACING FUND	HORSE BREEDING DVELP. FUND	RACING INVESTIGATIVE EXPENSE FUND	GREYHOUND BREEDING DEVELP. FUND	RACING REIMBURSABLE EXPENSE FUND	RACING APPLICANT DEPOSIT FUND	TOTAL
BEGINNING BALANCE (1-1-92)	1,162,727	--	334,993	14,837	425,208	244,123	545,531	2,727,419
<u>RECEIPTS</u>								
REVENUE	8,386,309	211,146	204,280	24,329	848,642	600,194	20,886	10,295,786
SECRETARY OF STATE TRANSFER ¹	13,361	--	--	--	--	--	--	13,361
<u>DISBURSEMENTS</u>								
OPERATING EXPENDITURES	(1,683,708)	--	(338,040)	(19,355)	(584,025)	(617,939)	--	(3,243,067)
GAMING FUND TRANSFER ²	(6,870,720)	--	--	--	--	--	--	(6,870,720)
GREYHOUND TOURISM FUND TRANSFER ³	--	--	--	--	(113,262)	--	--	(113,262)
KANSAS BUREAU OF INVESTIGATION TRANSFER ⁴	(301,257)	--	--	--	--	--	--	(301,257)
ENDING BALANCE (12-31-92)	<u>706,712</u>	<u>211,146</u>	<u>201,233</u>	<u>19,811</u>	<u>576,563</u>	<u>226,378</u>	<u>566,417</u>	<u>2,508,260</u>

¹Reimbursement for a portion of the cost of software that was transferred to the Secretary of State.

²Transfer to the State Gaming Fund per K.S.A. 74-8826(c).

³Transfer to the Greyhound Tourism Fund per K.S.A. 74-8831(c).

⁴Transfer to the Kansas Bureau of Investigation for the purpose of financing a portion of the cost of operation and general expense of the Kansas Bureau of Investigation gaming unit.

Parimutuel Revenues and Wagering Dollar

To safeguard the interest of the wagering public and the state, the commission employs a full-time auditing staff consisting of an inspector of parimutuels and two auditors. The inspector of parimutuels is housed at the Topeka office and oversees the auditors located at each racetrack facility.

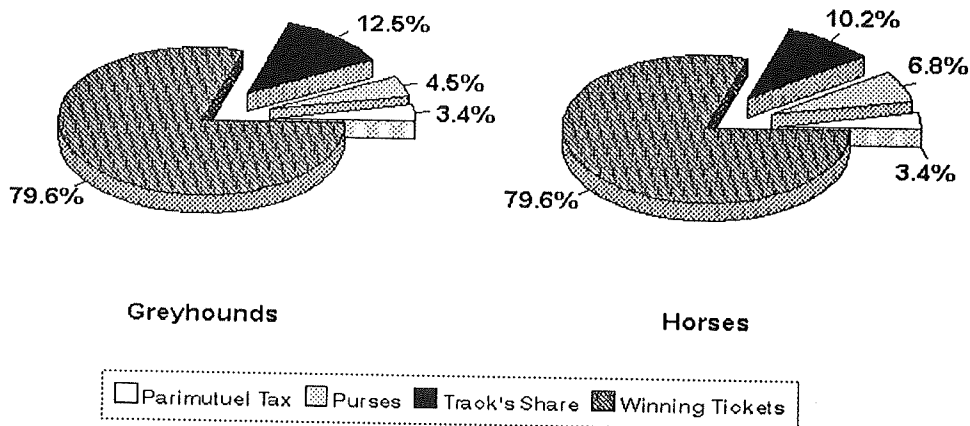
The auditing staff is responsible for carrying out and monitoring a variety of duties, including:

- totalisator system's software and manual operations
- the processing of all parimutuel wagering
- purse payments to horse and greyhound owners
- admissions tax collection
- processing unclaimed winning tickets
- program information release
- Kansas breed development programs fund
- review of licensee's financial statements

The completion of these tasks assists in assuring the wagering public and state that the correct amount of dollars are being distributed as described in the parimutuel racing act.

Following is a series of charts and tables providing the results of revenue generated by parimutuel wagering.

1992 Wagering Dollar



State Racing Fund Collections

Calendar Year 1992

	<u>Kansas City</u>		<u>Wichita</u>	
	<u>Horse</u>	<u>Greyhound</u>	<u>Greyhound</u>	<u>Total</u>
Handle				
Live	\$11,695,835	\$133,833,288	\$68,706,091	\$214,235,214
Simulcast-Horse	4,418,390	14,037,040	38,298	18,493,728
Simulcast-Dog	6,013,219	59,843	903,139	6,976,201
Total Handle	\$22,127,444	\$147,930,171	\$69,647,528	\$239,705,143
Attendance	177,471	1,171,236	629,216	1,977,923
Race Days	63	240	308	611
Performances	63	357	435	855
Revenue				
Parimutuel Tax:				
Live	\$ 388,908	\$ 4,550,095	\$ 2,436,558	\$ 7,375,561
Simulcast	229,692	341,662	21,354	592,708
Total Tax	\$ 618,600	\$ 4,891,757	\$ 2,457,912	\$ 7,968,269
Other Revenue:				
Admissions Tax	\$ 15,658	\$ 121,663	\$ 85,276	\$ 222,597
License Fees	14,495	20,109	13,955	48,559
Fines Paid	6,250	6,850	7,585	20,685
Daily License Fee	25,400	97,600	0 ¹	123,000
Total Other Rev.	\$ 61,803	\$ 246,222	\$ 106,816	\$ 414,841
Total Revenue	\$ 680,403	\$ 5,137,979	\$ 2,564,728	\$ 8,383,110²
Averages				
Revenue per performance	\$10,800	\$14,392	\$5,896	\$9,805
Handle per performance	\$351,229	\$414,370	\$160,109	\$280,357
Attendance per performance	2,817	3,281	1,446	2,313

¹Collected after January 1, 1993.

²Does not include concessionaire and totalisator license applications fees of \$2,700 and miscellaneous revenue of \$499.

Breeding Development Funds

Kansas Horse Breeding Development Fund

In 1992 a total of \$204,280 was collected for this fund and \$338,040 was dispersed from the Kansas Horse Breeding Development Fund. The chart below shows how the funds were distributed.

	<u>Woodlands</u>	<u>Wichita</u>	<u>State Total</u>
Revenue			
Breakage	\$203,964	\$316	\$204,280
¹ Unclaimed Winning Tickets	<u>0</u>	<u>0</u>	<u>0</u>
Total Revenue	<u>\$203,964</u>	<u>\$316</u>	<u>\$204,280</u>
Expenditures			
Purse Supplements	\$305,427	N/A	\$305,427
Stakes Race Supplements	15,000	N/A	15,000
Research Grants	<u>17,613</u>	<u>N/A</u>	<u>17,613</u>
Total Expenditures	<u>\$338,040</u>	<u>N/A</u>	<u>\$338,040</u>

¹Unclaimed winning tickets are collected sixty days following the end of season.

Greyhound Breeding Development Fund

In 1992 a total of \$848,642 was collected for this fund and \$692,287 was dispersed from the Kansas Greyhound Breeding Development Fund. The chart below shows how the funds were distributed.

Actual Revenue	State Total
Unclaimed winning tickets	<u>\$848,642</u>
Total Revenue	\$848,642
Actual Expenditures	
Breed Stakes Race Awards	\$145,000
Research Grants	<u>439,025</u>
Greyhound Tourism Fund	<u>113,262</u>
Total Actual Expenditures	\$697,287

Note: Breakage revenue collected by the greyhound tracks amounted to \$613,752. This was expended one-half for Kansas breed purse supplements and one-half for open stakes race awards.

Distribution of Handle

Calendar Year 1992

Woodlands - Horse

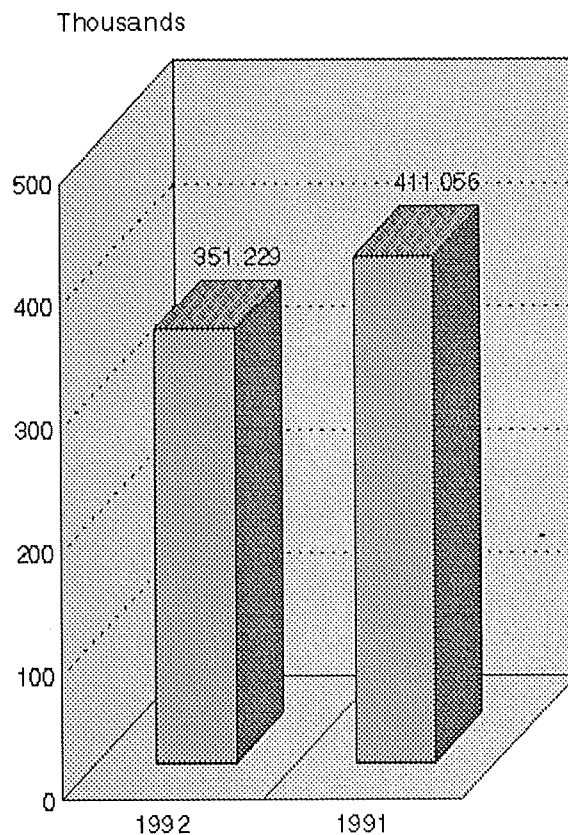
Handle			\$ 22,127,444
Takeout			
	Parimutuel Tax	\$ 618,600	
	Purses ¹	1,420,013	
	Track Commission	<u>2,251,984</u>	
Total Takeout			<u>4,290,597</u>
	Return to Wagering Public ²		<u>\$ 17,836,847</u>

¹Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

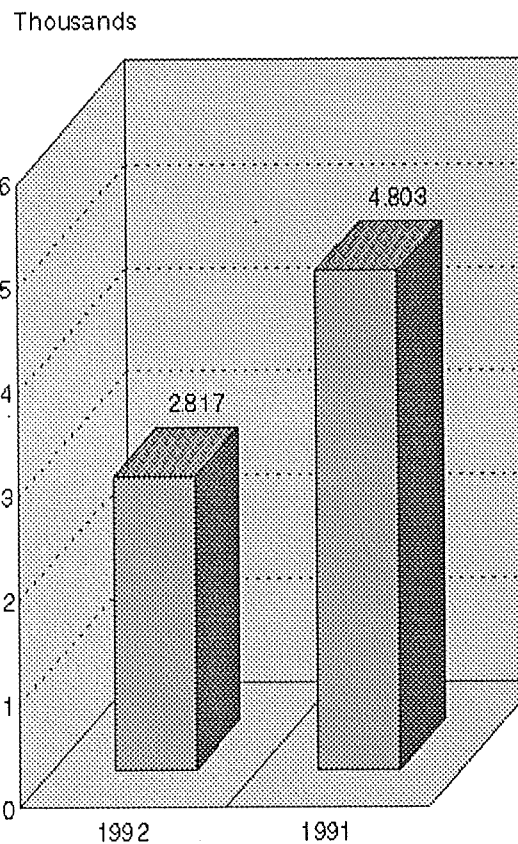
²Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$138,315. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

Average Handle



Average Attendance



Calendar Year 1992

Woodlands - Greyhound

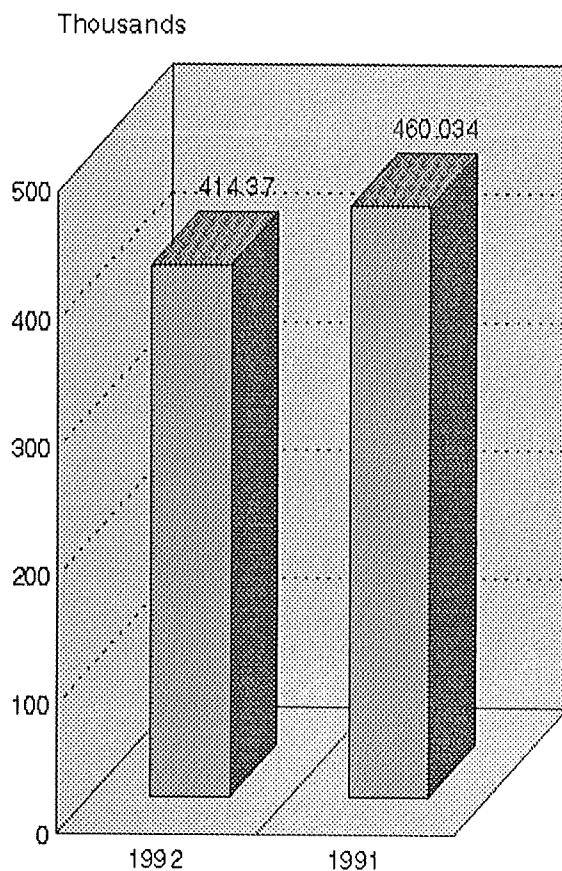
Handle			\$147,930,171
Takeout			
	Parimutuel Tax	\$ 4,891,757	
	Purses ¹	6,946,799	
	Track Commission	<u>18,175,837</u>	
Total Takeout			<u>30,014,393</u>
	Return to Wagering Public ²		<u>\$117,915,778</u>

¹Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

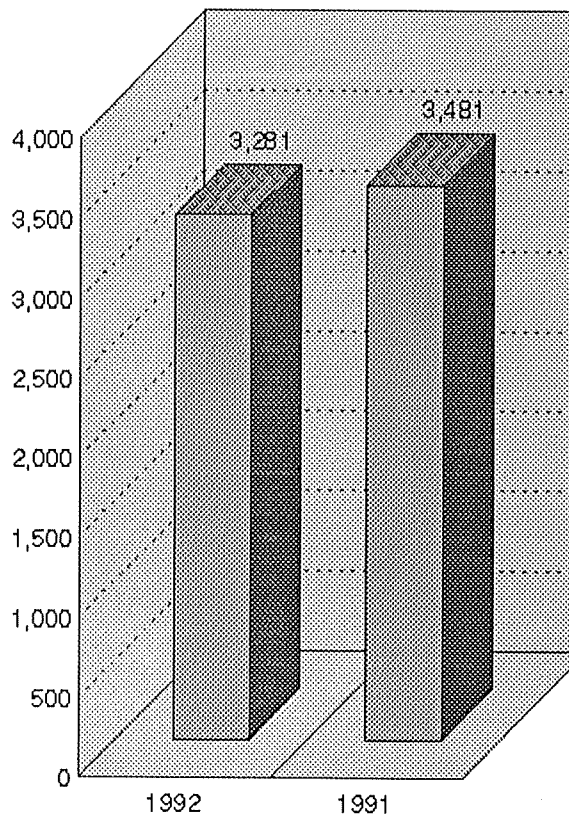
²Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$527,321. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

Average Handle



Average Attendance



Calendar Year 1992

Wichita Greyhound Park

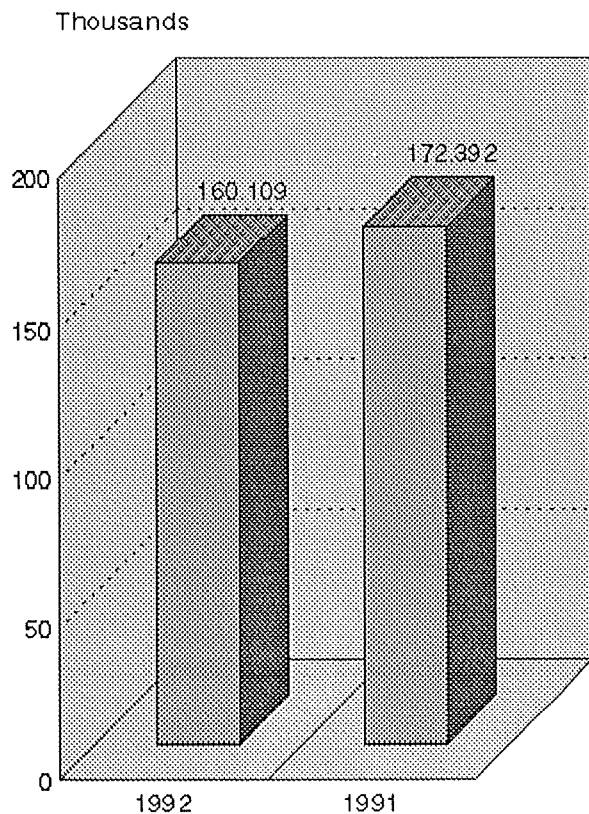
Handle			\$ 69,647,528
Takeout			
	Parimutuel Tax	\$2,457,912	
	Purses ¹	3,272,191	
	Track Commission	<u>8,193,230</u>	
Total Takeout			<u>13,923,333</u>
	Return to Wagering Public ²		<u>\$ 55,724,195</u>

¹Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

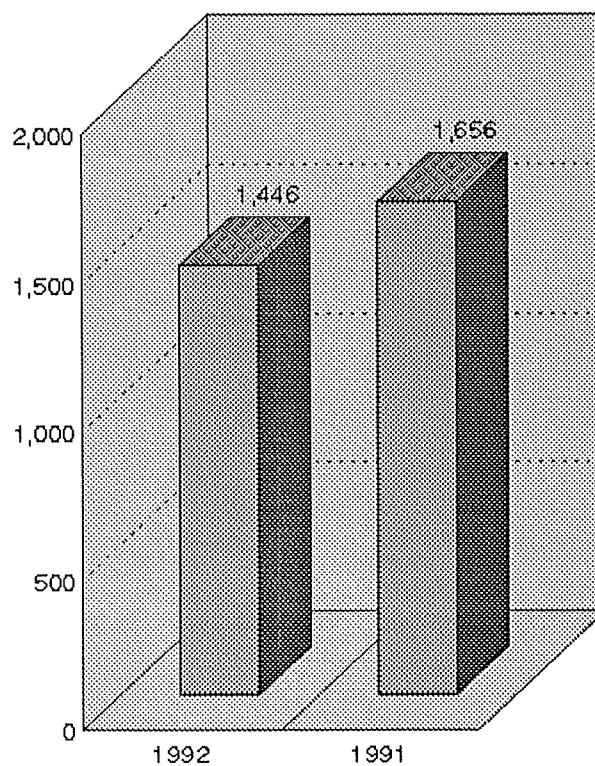
²Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$167,338. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

Average Handle



Average Attendance



Organization Licensees

At this time, two separate organizations and their not-for-profit entities, the Woodlands and Wichita Greyhound Park operate live parimutuel races in the state.

The Woodlands, Kansas City

On July 23, 1988, a dual racetrack facility license was granted to Sunflower Racing, Inc., and The Racing Association of Kansas East (TRAK East). The facility, known as the Woodlands, is the first dual racetrack facility built in the United States.

The Woodlands' 1992 race dates for the greyhounds ran from January through August and November through December, with 357 performances. The race dates for the horses began August 14 and ended November 1, with 63 performances.

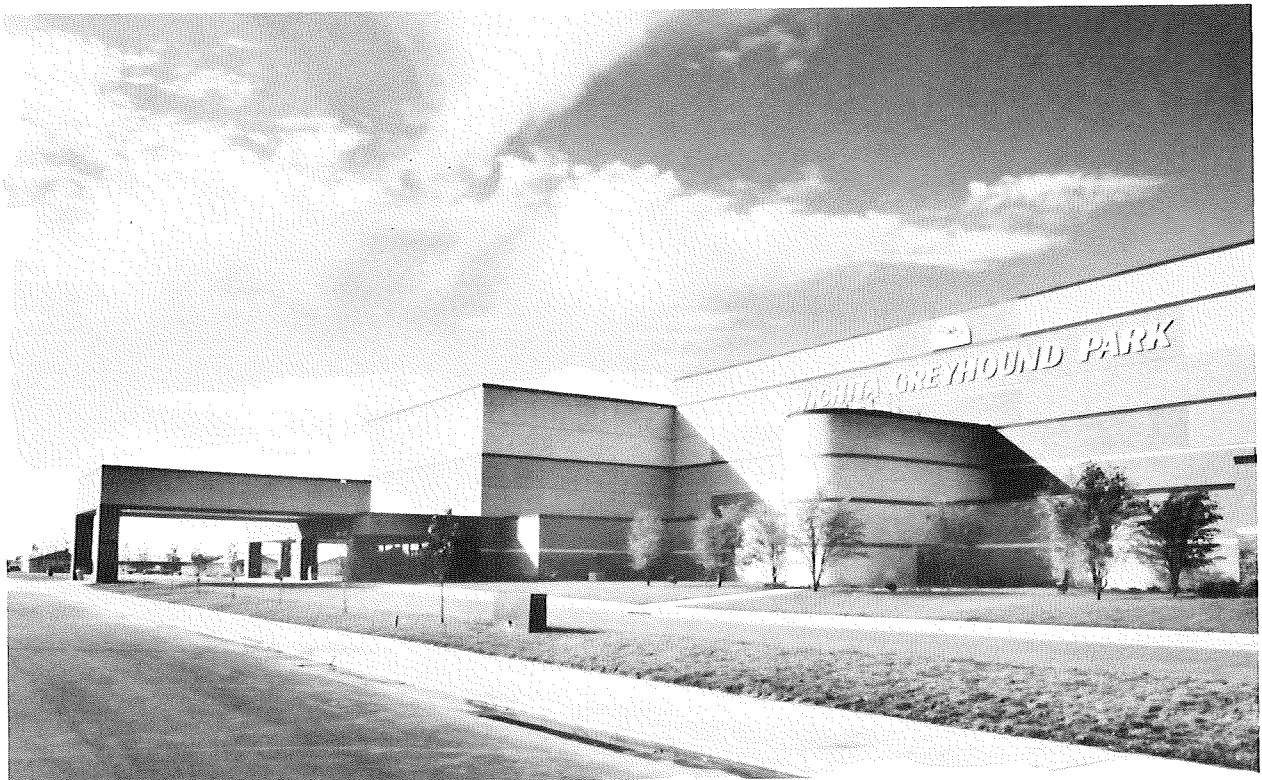
The Woodlands sponsored the Sunflower Stakes Race during the 1992 season, and paid out a total of \$150,000. This is the largest stakes race sponsored by a single track in the country.



Wichita Greyhound Park, Wichita

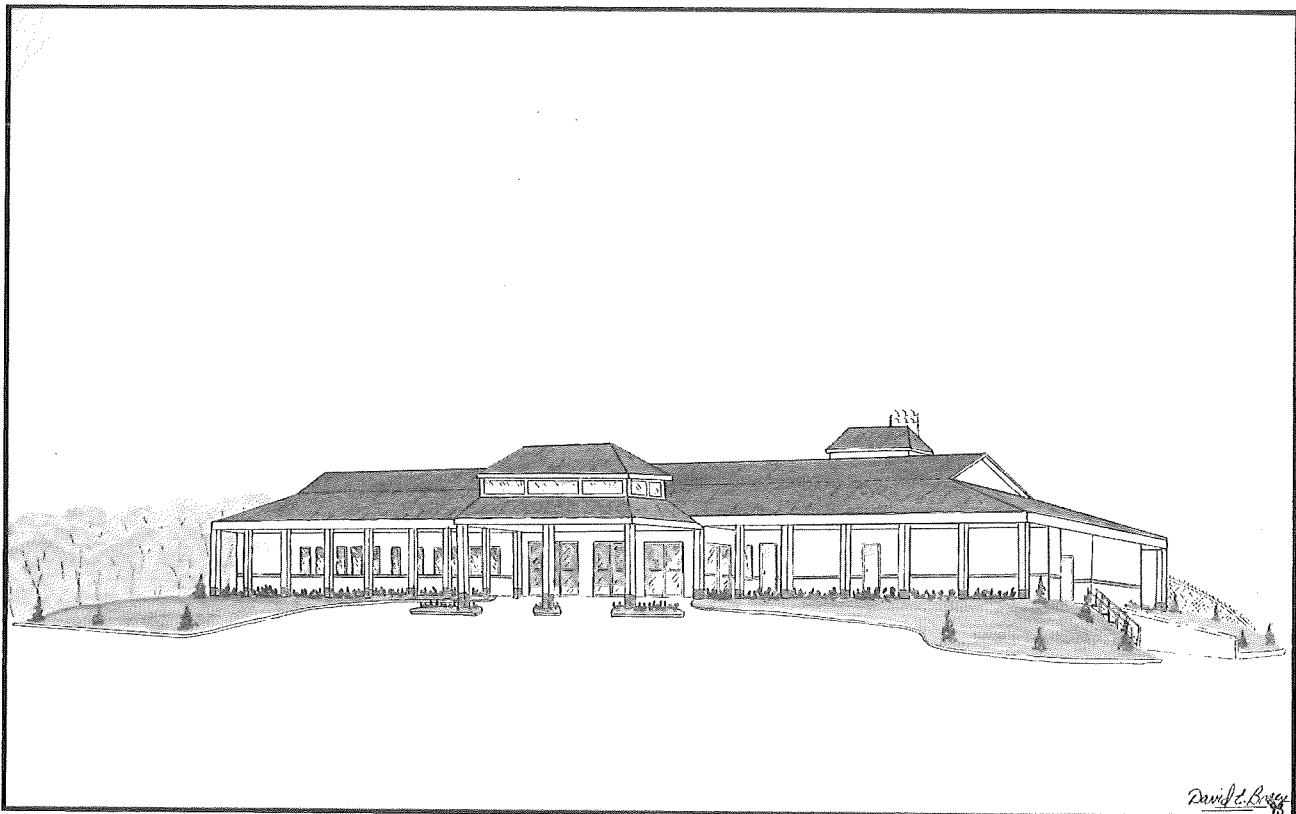
Wichita Greyhound Park, Inc. and Wichita Greyhound Charities, Inc. were granted a license to build and operate a greyhound racetrack facility on September 23, 1988. During the 1992 racing season the facility conducted 435 performances. The greyhound season runs from January 1 through December 31 annually.

Wichita Greyhound Park sponsored the third Great Kansas Shoot Out. The race paid out a total of \$80,000. The Great Kansas Shoot Out was among the top major stakes races held nationally in 1992.



Camptown Greyhound Racing, Frontenac

Camptown Greyhound Racing, Inc. was granted a facility owner and facility manager license to construct, own and operate a greyhound racetrack for organization licensee TRAK Southeast. On the date of this annual report, Camptown is completing financial arrangements so that they may be submitted to the commission for final approval.



Licensing

The licensing program serves the public, racetrack personnel and racing industry personnel and ensures the integrity of the racing industry in Kansas by licensing individuals who work at the racetrack facility. Licenses are also granted to nonprofit organizations, facility owners, facility managers, totalisators, concessionaires and simulcasting entities. Shareholders and principals are subject to a background investigation before they are licensed by commission. In addition, all entities who own racing animals are required to register with the commission annually.

Occupation Licenses

Occupation licenses are issued for a period of one year to individuals who work at the racetrack facility. A total of 5,629 occupation licenses were issued for 1992 beginning on December 1, 1991 through November 30, 1992 (see following chart for more detail). An occupation license is evidenced by a licensee wearing a photo identification badge bearing the licensee's name and the occupation category. All badges are color coded and validated for the appropriate track for security reasons. Each new applicant is fingerprinted for purpose of a background check. A total of 1,371 sets of fingerprints were submitted to the Kansas Bureau of Investigation in 1992, and 457 licensees participated in the commission's fingerprint reciprocal program during the horse racing season.

Registrations

The commission requires the registration of all corporations, partnerships, syndicates or other associations or entities who are the legal owner of a horse or greyhound and further requires that each shareholder shall be licensed as an owner. Stable names and kennel names used must also register with the commission. There were over 580 registrations received during the 1992 calendar year.

Concessionaire Licenses

A concessionaire license is required before any entity may sell goods at a racetrack facility. In 1992 there were 14 concessionaire licenses approved for the purpose of selling goods at the racetrack facility. These goods included food and beverages for patrons, tack and equipment for racing animals, feed for racing animals and tip sheets.

Totalisator Licenses

Statutory authority was established in 1992 mandating the licensing of totalisator companies who provide services to Kansas racetrack facilities. In December, 1992 the commission received one application for a totalisator license. This application is being reviewed by staff before granting a totalisator license.

1992 Occupation Licenses and Fees

Occupation License Category	The Woodlands	Wichita Greyhound	Topeka	Total Licenses	Fee	Total Fees
Administration****(7)	27	34	2	63	\$20	\$1,190
Administrative Support	91	21	0	112	5	560
Admissions/Parking Attd.	74	67	0	141	5	705
Announcer	1	3	0	4	5	20
Apprentice Jockey	11	0	0	11	10	110
Assistant Racing Secretary	1	3	0	4	10	40
Assistant Starter	16	11	0	27	5	135
Assistant Trainer	93	65	0	158	10	1580
Authorized Agent	6	1	0	7	10	70
Blacksmith/Plater/Farrier	13	1	0	14	10	140
Brakeman	5	5	0	10	10	100
Breed Registry	0	0	0	0	10	0
Chart Writer	3	3	0	6	10	60
Clerk of Scales	4	5	0	9	10	90
Clocker/Assistant Clocker	2	0	0	2	10	20
Colors Attendant	1	0	0	1	5	5
Concession Employee*(1)	411	235	0	646	5	3,255
Concession Operator**(1)	7	1	0	8	10	75
Director of Racing	1	1	0	2	20	40
Director of Security	1	1	0	2	20	40
Emergency Med. Technician	0	4	0	4	5	20
Exercise Person	43	0	0	43	5	215
Gen. Mgr./Asst. Gen. Mgr	0	0	0	0	20	0
Groom/Hot Walker	179	0	0	179	5	895
Horseman/Kennel Rep.*(1)	2	0	0	2	10	10
Horseman's Bookkeeper	0	0	0	0	10	0
Identifier	1	0	0	1	10	10
Jockey	87	0	0	87	10	870
Jockey Agent	15	0	0	15	10	150
Jockey Guild Manager/Rep.	0	0	0	0	10	0
Jockey Room Attendant	0	0	0	0	5	0
Kennel Helper	41	28	0	69	5	345
Kennel Master	0	0	0	0	20	0
Kennel Owner****(7)	42	27	1	70	20	1,330
Lead Out	53	93	0	146	5	730
Lure Operator	4	3	0	7	10	70
Maintenance	87	99	0	186	5	930

Note: Data reflects licenses issued for 1992.

* Licenses issued at no charge.

** License issued at \$5.00 as additional.

***Total of owner licenses include converted temporary licenses made permanent where no fee was charged.

****Additional at \$10.00.

Occupation License Category	The Woodlands	Wichita Greyhound	Topeka	Total Licenses	Fee	Total Fees
Medical Attendant	15	0	0	15	\$ 5	75
Mutuel Employee*(1)	260	120	0	380	5	1,895
Mutuel Manager	0	0	0	0	10	0
Official	1	0	0	1	10	10
Outrider	2	0	0	2	10	20
Owner*(2) *** (9)	1,498	447	35	1,980	10	19,690
Owner/Asst, Trainer**** (7)	22	7	0	29	20	510
Owner By Open Claim	0	0	0	0	10	0
Owner/Trainer**** (14)	255	12	13	280	20	5,460
Paddock Attendant	0	0	0	0	5	0
Paddock Judge	3	3	0	6	10	60
Patrol Judge	4	12	0	16	10	160
Photo Finish Operator	2	3	0	5	10	50
Pony Person	32	0	0	32	5	160
Practicing Veterinarian	12	1	1	14	10	140
Practicing Asst. Vet.	3	0	0	3	5	15
Program Manager	0	0	0	0	20	0
Promotion Manager	1	0	0	1	20	20
Racing Judge	5	4	0	9	0	0
Racing Secretary**** (1)	3	2	0	5	20	90
Security	79	70	0	149	5	745
Service Provider	69	71	0	140	5	700
Starter	5	2	0	7	10	70
Steward	4	0	0	4	0	0
Supervisor of Mutuels	1	0	0	1	20	20
Testing Technician	8	7	0	15	5	75
Timer	0	0	0	0	10	0
Selection Sheet Operator	9	0	0	9	10	90
Totalisator Employee	15	6	0	21	5	105
Track Superintendent	2	0	0	2	10	20
Trainer	135	42	1	178	10	1,780
Valet	4	0	0	4	5	20
Video Operator	11	2	0	13	10	130
Temporary Horse Owner	9	0	0	9	100	900
Duplicate Badges	130	133	0	263	10	2,630
TOTALS	3,921	1,655	53	5,629		\$49,420.00

Note: Data reflects licenses issued for 1992.

* Licenses issued at no charge.

** License issued at \$5.00 as additional.

***Total of owner licenses include converted temporary licenses made permanent where no fee was charged.

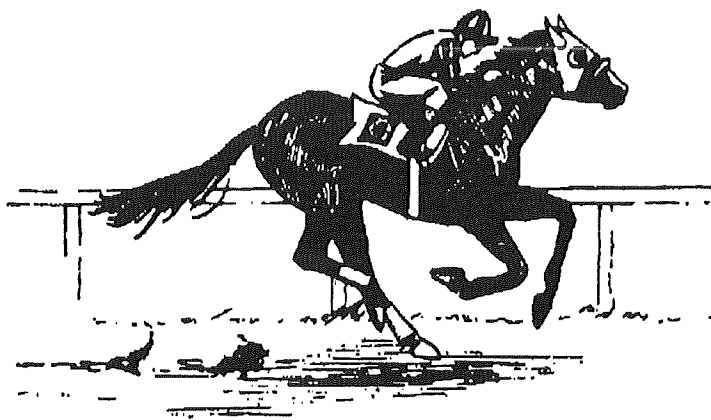
****Additionals at \$10.00.

Legal

Two assistant attorneys general and one legal assistant office with commission staff and assist the commission in all legal matters, including the enforcement of the Kansas parimutuel racing act and racing regulations. Their daily responsibilities include prosecution of legal matters pending before the commission, the board of stewards and racing judges, the district and appellate courts and other state agencies. They monitor agency compliance with the Kansas open meetings and open records acts, review licensee contracts and agreements, review licensee compliance with racing laws and research legal issues referred by the commission.

Administrative hearings of importance to the commission in 1992 covered diverse legal and racing issues. The commission concluded a comprehensive investigation and hearing in the matter of Camptown Greyhound Racing's application for a facility owner and facility manager license in Crawford County, Kansas. The final order details the corporate reorganization of the Camptown group and authorizes it to construct and operate a greyhound racetrack for the organization licensee TRAK Southeast. The commission completed annual reviews for the Woodlands racetrack at Kansas City and Wichita Greyhound Park at Wichita. The case tracking computer system, now on-line at the commission's Topeka and racetrack offices, records that the commission, its appointed hearing officers, stewards and racing judges have considered 166 administrative matters between July 15 and December 31, 1992.

The racing act and commission regulations undergo constant review and amendment as the state's experience with parimutuel racing and wagering grows. During 1992



the commission formally adopted regulations that provide simplified and less costly procedures and requirements for county fair associations and horsemen's nonprofit groups to conduct race meetings. The racing act was amended during the 1992 legislative session so that some monies generated by simulcasting would be paid to a newly-created county fair

horse racing benefit fund. Now in its sixth year, Kansas racing law continues to mature in response to a diverse racing industry.

Security

The parimutuel racing act requires the Kansas Racing Commission to employ security personnel to help regulate parimutuel racing. The security division was established to enforce state laws and to ensure licensees comply with the provisions of the parimutuel act and rules and regulations of the commission.

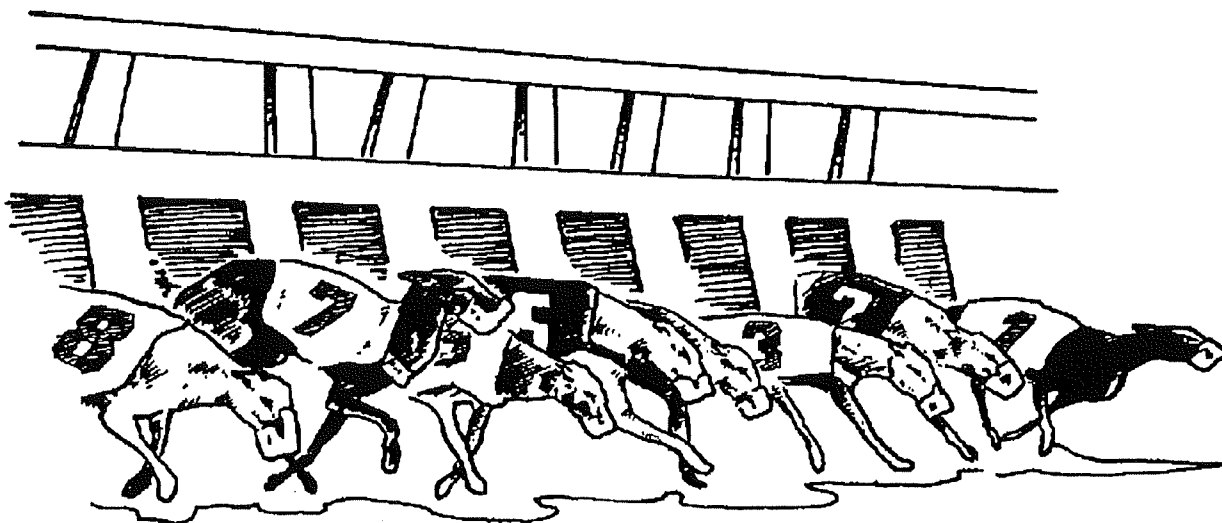
Presently the security division consists of a director, one law enforcement person at Wichita and one law enforcement person at Kansas City.

Allowing only qualified persons to participate in parimutuel racing in Kansas is one of the most important objectives of the commission. To obtain that goal, the security division must carry out several key assignments.

Security personnel are responsible for investigating, examining and reviewing backgrounds of commission employees, license applicants and licensees as assigned. Records from federal, state and local law enforcement agencies, as well as the ARCI, are checked for discrepancies in license applications.

The security division provided twelve background investigations in 1992, and reviewed several hundred license applications. The security division has the overall responsibility of safeguarding the interest and welfare for the racing commission and public.

Each licensed track must provide security for racing at it's particular location. The commission's security division monitors track-hired security and their activities. They verify the security officers' qualifications and evaluate the track's security plan, manpower needs and provide direction on improvement. The security division also assists other racing commission staff when inspecting kennels, stables and jockey quarters.



The Kansas parimutuel racing act provides that there be licensed veterinarians serving the commission as advisors in matters of veterinary medicine. At all times commission veterinarians are to serve and protect the health and well being of the racing animals. A veterinarian serves the commission staff in Topeka, and two veterinarians serve as animal health officers at each racetrack.



The animal health officers are responsible for conducting veterinary services for racing animals. This includes physical examinations prior to racing, observation for lameness, illness, or any other condition which would prevent the animal from racing to its potential. The official veterinarians are also responsible for treating emergencies of a veterinary nature encountered during the running of the race. In consultation with the judges or stewards, they are allowed to determine which animals may be scratched from racing due to injury, disease or disability.

Racing animals are subject to drug testing to deter the use of drugs to influence the outcome of a race. The animal health officer at each track is charged with obtaining blood and/or urine samples to be submitted to a racing chemistry drug testing laboratory. A concerted effort is made to obtain the desired specimens from the animals and deliver them to the laboratory under strict chain of custody procedures, so that a given specimen is unadulterated and from the chosen animal.

The contracts to do the drug testing for the racing animals in Kansas are subject to the bidding process under administrative procedures in Kansas. Iowa State University provided laboratory services until August 1992. The results of its testing are listed on the next page. The Center for Tox Services secured the contract for greyhound testing starting in August 1992 and Harris Laboratories secured the contract for horse testing in August 1992.

1992 Summary of Horse Testing

Analysis and Reporting by Harris Laboratories, Phoenix, Arizona

	Urine	Blood
Total Samples Tested	1,170	119
Total Positive Tests	5	10

Phenylbutzone and Oxyphenbutazone were the drugs reported as overages.
Other positives include flunixin and dexamethasone.

1992 Summary of Greyhound Testing

	Urine
Total Samples Tested	9,727
Total Positive Tests	131

Analysis and Reporting by Racing Chemistry, Iowa State University January 1, 1992 through August 13, 1992

Detected Drugs	Positive Tests
Azobenzene	6
DMSO	3
Butazolidin	6
PEG*	5
Procaine*	16
Sulfa Drug*	28
Timethoprim*	5

Analysis and Reporting by Center for Tox Services, Tempe, Arizona August 17, 1992 through December 31, 1992

Detected Drugs	Positive Tests
DMSO	30
Procaine*	35
Hydrocortisone	5
Flunixin	1
Procaine > 4.6 ug/ml.	1

* In greyhound racing these drugs are deemed to be detected as part of the food chain.

The total laboratory fees for 1992 were \$303,165.

Research Grants Awarded in 1992

Kansas is on the cutting edge in providing funds for greyhound and horse research. Each year revenues derived from unclaimed wagering tickets are distributed to designated researchers. The parimutuel racing act states that 35% of the unclaimed tickets fund is allocated to research for greyhound injuries and diseases and 5% is allocated to equine research.

In 1990 and 1991 a total of \$551,884 was awarded for greyhound and equine research projects. Since the time the first parimutuel race took place in Kansas nearly three years ago, the Kansas Racing Commission has awarded \$857,482 to greyhound and equine research projects. The following projects are those which received funding in 1992:

Greyhound Research Projects

- | | |
|----------|--|
| \$51,083 | (001) The development and validation of a track surface instrument to monitor track safety. Dr. Robert L. Gillette, Carol J. Zebas, P.E.D., the University of Kansas. |
| \$75,000 | (006) The use of acid-stable interferon to augment the immune system of racing greyhounds. Dr. Deborah Briggs, Dr. Scott McVey, Dr. Robert M. Phillips, Dr. Tandall J. Basaraba, Dr. Kristina J. Hennessy, Kansas State University. |
| \$ 8,000 | (007) Clinical, histomorphometric, and mechanical effects of therapeutic ultrasound on healing of a collagenase - induced tendon injury in the greyhound. Dr. James Roush, Dr. Oarl Gaughan, Dr. Cynthia P. Godshalk, Kansas State University. |
| \$10,000 | (008) Biomechanical Strength and Healing of Transected Common Digital Extensor Tendons in the Greyhound After Repair Tendon Plating or Three-Loop Pulley. Dr. James Roush, Kansas State University. |
| \$20,000 | (011) Scintigraphic Evaluation of Synovitis in the Greyhound. Dr. James J. Hoskinson, Dr. Earl M. Gaughan, Dr. Ron M. McLaughlin, Dr. Derek Mosier, Kansas State University. |
| \$13,015 | (012) The Role of Computerized Force Plate Gait Analysis in Improving Greyhound Racing. Dr. Ron McLaughlin, Dr. Earl Gaughan, Kansas State University. |
| \$35,000 | (015) Babesiosis in Kansas Greyhounds. Dr. Michael Dryden, Dr. Polly Schoning, Dr. Laine Cowan, Dr. Nathan Gabbert, Kansas State University. |
| \$23,500 | (016) Bald Thigh Syndrome in Greyhounds. Dr. Polly Schoning, Dr. Laine Cowan, Dr. Nathan Gabbert, Kansas State University. |
| \$10,000 | (017) Greyhound Racetrack Deaths. Dr. Polly Schoning, Kansas State University. |
| \$60,000 | (018) Vaccine Development for Prevention of Salmonellosis in Greyhounds. Dr. Scott McVey, Dr. M.M. Chengappa, Dr. Derek Mosier, Dr. Nathan Gabbert, Kansas State University. |

Charitable Contributions

The racing act directs that each organization licensee must distribute net earnings to 501(c)(3) nonprofits who are domiciled in and who will expend the monies in Kansas. In 1992 alone, TRAK East, associated with the Woodlands Race Course and Woodlands Kennel Club, distributed \$333,052 to 49 nonprofit organizations, and Wichita Greyhound Charities, Inc., associated with Wichita Greyhound Park, distributed \$650,000 to 111 nonprofit organizations. The following reflects how these charitable distributions improve the quality of life for Kansans:

TRAK East

Alliance Against Family Violence, Inc.	\$ 5,000
Associated Youth Services	6,000
Bert Nash Community Mental Health Center, Inc., The	3,000
Big Brothers/Sisters of Manhattan	5,000
Big Brothers/Sisters of Topeka Inc.	4,000
Bourbon County CASA of the Sixth Judicial District, Inc.	4,000
Boys and Girls Club of Lawrence	2,353
Casa of Riley County, Inc.	4,000
Cedar House, Inc.	1,500
Chelsea Coalition, Inc.	6,000
Clinicare Family Health Services, Inc.	20,000
Community Child Care Center and Preschool, Inc.	2,000
Domestic Violence Emergency Services	5,000
Emmaus House	4,000
Family Life Center of Butler County, The	4,200
Geary Community Healthcare Foundation, The	400
Greyhound Hall of Fame, Inc.	1,000
Head Injury Assoc. of KS and Greater Kansas City	7,000
Homecare	4,000
Hospice Care in Douglas Co.	7,000
K.C.K. Huggers, Inc.	1,000
Kansas Alliance for the Mentally Ill	10,200
Kansas Children's Service League	16,000
Kansas City, Kansas School Foundation for Excellence, Inc.	4,000
Kansas City, Kansas Alcohol Safety Action Project	2,500
Kansas City, Kansas, Neighborhood Housing Services	12,000
Kansas City, Kansas Spanish Speaking Office, Inc.	3,504
Kansas Council Race Track Chaplaincy of America	4,000
Kansas Jaycees Cerebral Palsy Foundation, The	5,000
Kansas Specialty Dog Service, Inc.	15,000
Kaw Valley Center	20,000
Leavenworth Road Association	5,000
Manhattan Emergency Shelter, Inc.	4,000

Martin Luther King Urban Center, Inc.	\$15,000
McPherson Health Care Foundation, Inc.	5,000
Midwest Cancer Foundation	2,500
National Agricultural Center and Hall of Fame, The	5,000
Old Olathe Naval Air Museum, Inc.	4,000
Operation Wildlife, Inc.	6,000
Safehome, Inc.	7,500
Southview Hospice	15,000
Southwest Boulevard Family Health Care	12,000
St. Joseph Care Center	17,500
Temporary Lodging for Children	5,000
University of Kansas Medical Center Auxilary, Inc.	6,800
Vernon Multipurpose Center	10,000
Visions of Hope, Inc./CASA	2,153
Washburn Endowment Association	5,000
Young Men's Christian Association of Kansas City, Kansas	16,942

Wichita Greyhound Charities Inc.

Accent on Kids, Inc. - Ronald McDonald Houses	4,000
Adult Day Health Care Center	2,000
Alliance for the Mentally Ill in Sedgwick County	1,200
American Diabetes Association	1,000
American Red Cross, Midway Kansas Chapter	5,000
Ark City Arts Council	2,400
Arts Council of Dickinson County	2,500
Assistance League of Wichita	4,700
Association of Community Arts Agencies of Kansas	2,100
Association for Retarded Citizens of Sedgwick County	2,000
Augusta Arts Council	3,000
Augusta Historical Society	3,800
Big Brothers & Sisters of Sedgwick County	3,000
Big Brutus	1,000
Botanica - The Wichita Gardens	3,000
Boy Scouts of America - Kanza Council	1,000
Boys & Girls Clubs of Wichita, Inc.	4,000
Butler County Historical Society	2,000
Care and Share.	1,000
Cherokee Strip Land Rush Museum	4,000
Children's Museum of Wichita	25,000
Civic Enterprises Foundation	5,000
Decatur Area Theatre Association	5,000
Dodge City Area Arts Council	1,400
Donald J. Allen Memorial Huntington's Disease Clinic	1,900
Dyck Arboretum of the Plains	6,500

Elm Acres Youth Home, Inc.	\$ 5,000
Family Crisis Center	3,000
Four Winds Girl Scout Council	1,000
Fresh Start Shelter	4,000
Friends of Wichita Art Museum	8,500
General Federation of Women's Clubs of Kansas	3,000
Gerard House, Incorporated	5,000
Goodwill Industries/Easter Seal Society of Kansas	10,000
Greenwood County Child Care Center	3,000
Greyhound Hall of Fame, Inc.	12,500
Harvey County Historical Society	1,500
Historic Midtown Citizens Association	7,500
Historical Museum of Anthony, Inc.	6,000
Hunter Health Clinic	12,300
Hutchinson Symphony Association	6,000
Hutchinson Theatre Guild, Inc.	1,000
Institute of Logopedics	10,500
Jolly Junction Child Care Center, Inc.	1,000
Kansas Bluegrass Association	1,500
Kansas Child Abuse Prevention Council	4,000
Kansas Children's Service League	4,000
Kansas Cosmosphere and Space Center	25,000
Kansas Elks Training Center	10,000
Kansas Foodbank Warehouse	13,500
Kansas Jaycees Cerebral Palsy Foundation	3,500
Kansas Public Telecommunications Service, Inc.	10,000
Kansas Shrine Bowl	5,000
Kansas Special Olympics	10,000
Kansas Specialty Dog Service	10,000
Kansas Watercolor Society	1,300
Kiowa Historical Society	1,000
Literacy Volunteers of America - Wichita Area	9,000
Lutheran Social Service	7,000
Make-A-Wish Foundation of Kansas	8,500
Maude Carpenter Children's Center	7,500
Medical Service Bureau, Inc.	3,000
Mental Health Association - Residential Care	2,000
Mental Health Association of South Central Kansas	2,700
Mental Health Association in Reno County	1,500
Metropolitan Ballet of Topeka	10,000
Metropolitan Ballet of Wichita	8,000
Mid-America All Indian Center, Inc.	5,000
Mid-Kansas Community Action Program	5,000
Music Theatre for Young People	5,000
Music Theatre of Wichita, Inc.	20,000

Neodesha Arts Association	\$ 1,200
Neurofibromatosis, Kansas Inc.	700
Newton Meals on Wheels	3,000
Northwest Kansas Family Shelter, Inc.	3,000
Occupational Center of Central Kansas, Inc.	3,000
Old Cowtown Museum	14,500
Old Cowtown Museum (Emergency Relief)	8,500
Opera Kansas Society, The	2,000
Parkside Homes, Inc.	15,000
Peabody Historical Society	3,000
Professional Care	5,000
Project Awareness for Major Mental Illness	7,200
Radio Kansas	5,800
Salina Arts and Humanities Commission	2,000
Salina Emergency Aid/Food Bank, Inc.	2,500
Sedgwick County Zoo and Botanical Gardens	40,000
Senior Services, Inc.	4,000
Spina Bifida Association of Kansas	2,000
Topeka Civic Theatre	1,500
United Cerebral Palsy of Kansas	5,000
United Methodist Youthville	5,000
Warren Hall Coutts III (Memorial Museum of Art)	3,000
Wichita Area Girl Scouts	4,000
Wichita Area Sexual Assault Center	5,000
Wichita Asian Association	1,000
Wichita Chamber Chorale, Inc.	2,000
Wichita Children's Home	8,000
Wichita Children's Theatre and Dance Center	3,000
Wichita Council for the Preschool Blind, The	3,500
Wichita Crime Stoppers, Inc.	2,500
Wichita Jazz Festival Council, Inc.	5,000
Wichita Park Alliance	15,000
Wichita Public Library Foundation	1,800
Wichita Symphony Society, Inc.	20,000
Wichita-Sedgwick County Arts and Humanities Council	2,000
Wichita-Sedgwick County Cities in Schools, Inc.	15,000
Wichita-Sedgwick County Regional Prevention Center	3,500
Wichita-Sedgwick County Regional Prevention Center	1,000
Winfield Arts and Humanities Council	1,500
YWCA of Wichita	14,000

SENATE BILL No. 412

By Committee on Federal and State Affairs

3-8

AN ACT amending the Kansas parimutuel racing act; amending K.S.A. 74-8801, 74-8802, 74-8810, 74-8818, 74-8837 and 74-8838 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-8801 is hereby amended to read as follows: 74-8801. K.S.A. 74-8801 through ~~74-8834~~ 74-8839 *and amendments thereto* shall be known and may be cited as the Kansas parimutuel racing act and shall apply to all horse race meetings, ~~whether or not at which~~ parimutuel wagering is used or intended to be used at such meetings, and to all greyhound race meetings at which parimutuel wagering is used or intended to be used.

Sec. 2. K.S.A. 74-8802 is hereby amended to read as follows: 74-8802. As used in this act unless the context otherwise requires:

(a) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds:

(1) A multiple of \$.10, for parimutuel pools from races conducted in this state; and

(2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combined wagering pools.

(b) "Commission" means the Kansas racing commission created by this act.

(c) "Concessionaire licensee" means a person, partnership, corporation or association licensed by the commission to utilize a space or privilege within a racetrack facility to sell goods.

(d) "Dual racetrack facility" means a racetrack facility for the racing of both horses and greyhounds or two immediately adjacent racetrack facilities, owned by the same licensee, one for racing horses and one for racing greyhounds.

(e) "Executive director" means the executive director of the commission.

(f) "Facility manager licensee" means a person, partnership, corporation or association licensed by the commission and having a contract with an organization licensee to manage a racetrack facility.

(g) "Facility owner licensee" means a person, partnership, corporation or association, or the state of Kansas or any political sub-

1 division thereof, licensed by the commission to construct or own a
2 racetrack facility but does not mean an organization licensee which
3 owns the racetrack facility in which it conducts horse or greyhound
4 racing.

5 (h) "Financial interest" means an interest that could result di-
6 rectly or indirectly in receiving a pecuniary gain or sustaining a
7 pecuniary loss as a result of ownership or interest in a business
8 entity or activity or as a result of a salary, gratuity or other com-
9 pensation or remuneration from any person.

10 (i) "Greyhound" means any greyhound breed of dog properly
11 registered with the national greyhound association of Abilene,
12 Kansas.

13 (j) "Horsemen's association" means any association or corporation:

14 (1) All officers, directors, members and shareholders of which
15 are licensed owners of horses or licensed trainers of horses, or both;

16 (2) which is applying for or has been issued a facility owner
17 license authorizing ownership of Eureka Downs; and

18 (3) none of the officers, directors, members or shareholders of
19 which holds another facility owner license or is an officer, director,
20 member or shareholder of another facility owner licensee.

21 (k) "Horsemen's nonprofit organization" means any nonprofit
22 organization:

23 (1) All officers, directors, members or shareholders of which are
24 licensed owners of horses or licensed trainers of horses, or both;
25 and

26 (2) which is applying for or has been issued an organization li-
27 cense authorizing the conduct of horse races at Eureka Downs.

28 (l) "Host facility" means the racetrack at which the race is run
29 or, if the race is run in a jurisdiction which is not participating in
30 the interstate combined wagering pool, the racetrack or other facility
31 which is designated as the host facility.

32 (m) "Host jurisdiction" means the jurisdiction where the host
33 facility is located.

34 (n) "Interstate combined wagering pool" means a parimutuel pool
35 established in one jurisdiction which is combined with comparable
36 parimutuel pools from one or more racing jurisdictions for the pur-
37 pose of establishing the amount of money returned on a successful
38 wager in the participating jurisdictions.

39 (o) "Intertrack wagering" means wagering on a simulcast race at
40 a licensed racetrack facility or at a facility which is licensed in its
41 racing jurisdiction to conduct live races.

42 (p) "Intrastate combined wagering pool" means a parimutuel pool
43 which is combined with comparable parimutuel pools from one or

1 more racetrack facilities for the purpose of establishing the amount
2 of money returned on a successful wager at the participating racetrack
3 facilities.

4 (q) "Kansas-whelped greyhound" means a greyhound whelped
5 and raised in Kansas for the first six months of its life.

6 (r) "Minus pool" means a parimutuel pool in which, after de-
7 ducting the takeout, not enough money remains in the pool to pay
8 the legally prescribed minimum return to those placing winning
9 wagers, and in which the organization licensee would be required
10 to pay the remaining amount due.

11 (s) "Nonprofit organization" means:

12 (1) A corporation which is incorporated in Kansas as a not-for-
13 profit corporation pursuant to the Kansas general corporation code
14 and the net earnings of which do not inure to the benefit of any
15 shareholder, individual member or person; or

16 (2) a county fair association organized pursuant to K.S.A. 2-125
17 *et seq.* and amendments thereto.

18 (t) "Occupation licensee" means a person licensed by the com-
19 mission to perform an occupation or provide services which the
20 commission has identified as requiring a license pursuant to this act.

21 (u) "Off-track wagering" means wagering on a simulcast race at
22 a facility which is not licensed in its jurisdiction to conduct live
23 races.

24 (v) "Organization licensee" means a nonprofit organization li-
25 censed by the commission to conduct races pursuant to this act and,
26 if the license so provides, to construct or own a racetrack facility.

27 (w) "Parimutuel pool" means the total money wagered by indi-
28 viduals on one or more horses or greyhounds in a particular horse
29 or greyhound race to win, place or show, or combinations thereof,
30 as established by the commission, and, except in the case of an
31 interstate or intrastate combined wagering pool, held by the organ-
32 ization licensee pursuant to the parimutuel system of wagering. There
33 is a separate parimutuel pool for win, for place, for show and for
34 each of the other forms of betting provided for by the rules and
35 regulations of the commission.

36 (x) "Parimutuel wagering" means a form of wagering on the out-
37 come of horse and greyhound races in which those who wager pur-
38 chase tickets of various denominations on one or more horses or
39 greyhounds and all wagers for each race are pooled and the winning
40 ticket holders are paid prizes from such pool in amounts proportional
41 to the total receipts in the pool.

42 (y) "Race meeting" means the entire period of time for which
43 an organization licensee has been approved by the commission to

1 hold live or simulcast horse or greyhound races at which parimutuel
2 wagering is conducted or to hold horse races at which parimutuel
3 wagering is not conducted, including such additional time as des-
4 ignated by the commission for the conduct of official business before
5 and after the races.

6 ~~(z)~~ "Racing jurisdiction" or "jurisdiction" means a govern-
7 mental authority which is responsible for the regulation of live
8 or simulcast racing in its jurisdiction.

9 ~~(aa)~~ (z) "Racetrack facility" means a racetrack within Kansas used
10 for the racing of horses or greyhounds, or both, including the track
11 surface, grandstands, clubhouse, all animal housing and handling
12 areas, other areas in which a person may enter only upon payment
13 of an admission fee or upon presentation of authorized credentials
14 and such additional areas as designated by the commission.

15 ~~(aa)~~ "Racing jurisdiction" or "jurisdiction" means a governmental
16 authority which is responsible for the regulation of live or simulcast
17 racing in its jurisdiction.

18 ~~(bb)~~ "Racing or wagering equipment or services licensee" means
19 any person, partnership, corporation or association licensed by the
20 commission to provide integral racing or wagering equipment or
21 services, as designated by the commission, to an organization
22 licensee.

23 ~~(bb)~~ (cc) "Recognized greyhound owners' group" means the duly
24 recognized group elected by a majority of the Kansas licensed grey-
25 hound owners at the racetrack facility.

26 ~~(ee)~~ (dd) "Recognized horsemen's group" means the duly rec-
27 ognized group, representing the breeds of horses running at a race-
28 track facility, elected by a majority of the licensed owners and
29 trainers at the racetrack facility. If the licensee does not have a
30 recognized horsemen's group, the commission shall designate as the
31 recognized horsemen's group one that serves another organization
32 licensee, but not one that serves a county fair association organization
33 licensee.

34 ~~(dd)~~ (ee) "Simulcast" means a live audio-visual broadcast of an
35 actual horse or greyhound race at the time it is run.

36 ~~(ee)~~ (ff) "Takeout" means the total amount of money withheld
37 from each parimutuel pool for the payment of purses, taxes and the
38 share to be kept by the organization licensee. Takeout does not
39 include the breakage. The balance of each pool less the breakage is
40 distributed to the holders of winning parimutuel tickets.

41 ~~(ff)~~ "Totalisator licensee" means any person, partnership,
42 corporation or association licensed by the commission to pro-
43 vide totalisator equipment or services to an organization

1 licensee.

2 Sec. 3. K.S.A. 74-8810 is hereby amended to read as follows:
3 74-8810. (a) It is a class A misdemeanor for any person to have a
4 financial interest, directly or indirectly, in any racetrack facility
5 within the state of Kansas or in any host facility for a simulcast race
6 displayed in this state:

7 (1) While such person is a member of the commission or during
8 the five years immediately following such person's term as member
9 of the commission; or

10 (2) while such person is an officer, director or member of an
11 organization licensee, other than a county fair association or horse-
12 man's nonprofit organization, or during the five years immediately
13 following the time such person is an officer, director or member of
14 such an organization licensee.

15 (b) It is a class A misdemeanor for any member, employee or
16 appointee of the commission, including stewards and racing judges,
17 to knowingly:

18 (1) Participate in the operation of or have a financial interest in
19 any business which has been issued a concessionaire license, ~~total-~~
20 ~~isator racing or wagering equipment or services~~ license, facility
21 owner license or facility manager license, or any business which sells
22 goods or services to an organization licensee;

23 (2) participate directly or indirectly as an owner, owner-trainer
24 or trainer of a horse or greyhound, or as a jockey of a horse, entered
25 in a race meeting conducted in this state;

26 (3) place a wager on an entry in a horse or greyhound race
27 conducted by an organization licensee; or

28 (4) accept any compensation, gift, loan, entertainment, favor or
29 service from any licensee, except such suitable facilities and services
30 within a racetrack facility operated by an organization licensee as
31 may be required to facilitate the performance of the member's,
32 employee's or appointee's official duties.

33 (c) It is a class A misdemeanor for any member, employee or
34 appointee of the commission, or any spouse, parent, grandparent,
35 brother, sister, child, grandchild, uncle, aunt, parent-in-law, brother-
36 in-law or sister-in-law thereof, to:

37 (1) Hold any license issued by the commission, except that a
38 steward or racing judge shall hold an occupation license to be such
39 a steward or judge; or

40 (2) enter into any business dealing, venture or contract with an
41 owner or lessee of a racetrack facility in Kansas.

42 (d) It is a class A misdemeanor for any officer, director or member
43 of an organization licensee, other than a county fair association or

1 horsemen's nonprofit organization, to:

2 (1) Receive, for duties performed as an officer or director of such
3 licensee, any compensation or reimbursement or payment of ex-
4 penses in excess of the amounts provided by K.S.A. 75-3223 and
5 amendments thereto for board members' compensation, mileage and
6 expenses; or

7 (2) enter into any business dealing, venture or contract with the
8 organization licensee or, other than in the capacity of an officer or
9 director of the organization licensee, with a facility owner licensee,
10 facility manager licensee, ~~totalisator~~ *racing or wagering equipment*
11 *or services* license or concessionaire licensee, or with any host facility
12 for a simulcast race displayed in this state.

13 (e) It is a class A misdemeanor for any facility owner licensee or
14 facility manager licensee, other than a horsemen's association, or any
15 officer, director, employee, stockholder or shareholder thereof or
16 any person having an ownership interest therein, to participate di-
17 rectly or indirectly as an owner, owner-trainer or trainer of a horse
18 or greyhound, or as a jockey of a horse, entered in a live race
19 conducted in this state.

20 (f) It is a class A misdemeanor for any licensee of the commission,
21 or any person who is an officer, director, member or employee of
22 a licensee, to place a wager at a racetrack facility located in Kansas
23 on an entry in a horse or greyhound race if:

24 (1) The commission has by rules and regulations designated such
25 person's position as a position which could influence the outcome of
26 such race or the parimutuel wagering thereon; and

27 (2) such race is conducted at or simulcast to the racetrack facility
28 where the licensee is authorized to engage in licensed activities.

29 (g) It is a class B misdemeanor for any person to use any animal
30 or fowl in the training or racing of racing greyhounds.

31 (h) It is a class A misdemeanor for any person to:

32 (1) Sell a parimutuel ticket or an interest in such a ticket to a
33 person knowing such person to be under 18 years of age, upon
34 conviction of the first offense;

35 (2) accept, transmit or deliver, from a person outside a racetrack
36 facility, anything of value to be wagered in any parimutuel system
37 of wagering within a racetrack facility, upon conviction of the first
38 offense;

39 (3) administer or conspire to administer any drug or medication
40 to a horse or greyhound within the confines of a racetrack facility
41 in violation of rules and regulations of the commission, upon con-
42 viction of the first offense;

43 (4) possess or conspire to possess, within the confines of a race-

1 track facility, any drug or medication for administration to a horse
2 or greyhound in violation of rules and regulations of the commission,
3 upon conviction of the first offense;

4 (5) possess or conspire to possess, within the confines of a race-
5 track facility, equipment for administering drugs or medications to
6 horses or greyhounds in violation of rules and regulations of the
7 commission, upon conviction of the first offense;

8 (6) enter any horse or greyhound in any race knowing such horse
9 or greyhound to be ineligible to compete in such race pursuant to
10 K.S.A. 74-8812 and amendments thereto; or

11 (7) prepare or cause to be prepared an application for registration
12 of a horse pursuant to K.S.A. 74-8830 and amendments thereto
13 knowing that such application contains false information.

14 (i) It is a class E felony for any person to:

15 (1) Sell a parimutuel ticket or an interest in such a ticket to a
16 person knowing such person to be under 18 years of age, upon
17 conviction of the second or a subsequent offense;

18 (2) accept, transmit or deliver, from any person outside a race-
19 track facility, anything of value to be wagered in any parimutuel
20 system of wagering within a racetrack facility, upon the second or
21 a subsequent conviction;

22 (3) conduct or assist in the conduct of a horse or greyhound race,
23 or the display of a simulcast race, where the parimutuel system of
24 wagering is used or is intended to be used and where no license
25 has been issued to an organization to conduct or simulcast such race;

26 (4) enter any horse or greyhound in any race conducted by an
27 organization licensee knowing that the class or grade in which such
28 horse or greyhound is entered is not the true class or grade or
29 knowing that the name under which such horse or greyhound is
30 entered is not the name under which such horse or greyhound has
31 been registered and has publicly performed;

32 (5) use or conspire to use any device, other than an ordinary
33 whip for horses or a mechanical lure for greyhounds, for the purpose
34 of affecting the speed of any horse or greyhound at any time during
35 a race conducted by an organization licensee;

36 (6) administer or conspire to administer any drug or medication
37 to a horse or greyhound within the confines of a racetrack facility
38 in violation of rules and regulations of the commission, upon con-
39 viction of the second or a subsequent offense;

40 (7) possess or conspire to possess, within the confines of a race-
41 track facility, any drug or medication for administration to a horse
42 or greyhound in violation of rules and regulations of the commission,
43 upon conviction of the second or a subsequent offense;

- 1 (8) possess or conspire to possess, within the confines of a race-
2 track facility, equipment for administering drugs or medications to
3 horses or greyhounds in violation of rules and regulations of the
4 commission, upon conviction of the second or a subsequent offense;
- 5 (9) sponge the nostrils or windpipe of a horse for the purpose
6 of stimulating or depressing such horse or affecting its speed at any
7 time during a race meeting conducted by an organization licensee;
- 8 (10) alter or attempt to alter the natural outcome of any race
9 conducted by, or any simulcast race displayed by, an organization
10 licensee or transmit or receive an altered race or delayed broadcast
11 race if parimutuel wagering is conducted or solicited after off time
12 of the race;
- 13 (11) influence or attempt to influence, by the payment or promise
14 of payment of money or other valuable consideration, any person to
15 alter the natural outcome of any race conducted by, or any simulcast
16 race displayed by, an organization licensee;
- 17 (12) influence or attempt to influence any member, employee or
18 appointee of the commission, by the payment or promise of payment
19 of money or other valuable consideration, in the performance of any
20 official duty of that member, employee or appointee;
- 21 (13) fail to report to the commission or to one of its employees
22 or appointees knowledge of any violation of this act by another person
23 for the purpose of stimulating or depressing any horse or greyhound,
24 or affecting its speed, at any time during any race conducted by an
25 organization licensee;
- 26 (14) commit any of the following acts with respect to the prior
27 racing record, pedigree, identity or ownership of a registered horse
28 or greyhound in any matter related to the breeding, buying, selling
29 or racing of the animal: (A) Falsify, conceal or cover up, by any
30 trick, scheme or device, a material fact; (B) make any false, fictitious
31 or fraudulent statement or representation; or (C) make or use any
32 false writing or document knowing that it contains any false, fictitious
33 or fraudulent statement or entry; or
- 34 (15) pass or attempt to pass, cash or attempt to cash any altered
35 or forged parimutuel ticket knowing it to have been altered or forged.
- 36 (j) No person less than 18 years of age shall purchase a parimutuel
37 ticket or an interest in such a ticket. Any person violating this
38 subsection shall be subject to adjudication as a juvenile offender
39 pursuant to the Kansas juvenile offenders code.
- 40 (k) Possession of any device described in subsection (i)(5) by an-
41 yone within the confines of a racetrack facility shall be prima facie
42 evidence of intent to use such device.
- 43 Sec. 4. K.S.A. 74-8818 is hereby amended to read as follows:

1 74-8818. (a) At each race meeting held pursuant to this act The
2 commission shall appoint three individuals to be stewards or racing
3 judges. *Only three such individuals shall serve at each race meeting*
4 *held pursuant to this act.* One shall be designated as the chief
5 steward or chief racing judge and the other two as associate stewards
6 or associate racing judges. Stewards and racing judges shall be em-
7 ployees of the commission who shall serve at the pleasure of the
8 commission and shall be in the unclassified service under the Kansas
9 civil service act. The compensation of the stewards and racing judges
10 shall be an amount fixed by the commission and shall be paid by
11 the commission. The commission may require an organization li-
12 censee to reimburse the commission for compensation paid to the
13 stewards and racing judges for their services performed at race meet-
14 ings conducted by that organization licensee. Any moneys received
15 by the commission for that purpose shall be remitted promptly by
16 the commission to the state treasurer, who shall deposit the entire
17 amount in the state treasury and credit it to the racing reimbursable
18 expense fund created by K.S.A. 74-8827 and amendments thereto.
19 All other racing officials at a race meeting shall be approved by the
20 commission and compensated by the organization licensee. The stew-
21 ards, racing judges and other racing officials shall enforce the civil
22 provisions of this act and any rules and regulations of the commission
23 and shall submit written reports of the activities and conduct of the
24 race meetings to the commission.

25 (b) Each steward or racing judge shall be required to obtain an
26 occupation license from the commission pursuant to K.S.A. 74-8816
27 and amendments thereto prior to performing any duties as a steward
28 or a judge.

29 (c) The commission shall require applicants *each applicant* for
30 a license as a steward or racing judge to pass an examination on
31 matters relating to the duties of stewards or racing judges *unless*
32 *the applicant submits proof satisfactory to the commission that the*
33 *applicant has passed an examination in another jurisdiction which*
34 *the commission finds equivalent to the examination given by the*
35 *commission.* Examinations shall be held at such times and places as
36 determined by the commission. Notice of the times and places of
37 the examinations shall be given as determined by the commission.
38 The commission shall prepare both written and oral examinations to
39 be taken by persons applying for licensure as stewards or racing
40 judges, requesting and taking into consideration suggestions from
41 representatives of horsemen and horsewomen, greyhound owners,
42 organization licensees, stewards, racing judges and other interested
43 and knowledgeable parties as to the content thereof.

1 (d) The commission may examine any person who:

2 (1) Has not been convicted of a crime involving moral turpitude
3 or of a felony;

4 (2) has completed an accredited senior high school or its
5 equivalent;

6 (3) has been given a physical examination by a licensed physician
7 within 60 days prior to the date of application for the steward's
8 examination, indicating at least 20/20 vision or vision corrected to
9 at least 20/20, and normal hearing ability;

10 (4) has: (A) At least five years' experience in the horse or grey-
11 hound racing industry as a licensed trainer or jockey; (B) at least 10
12 years' experience in the horse or greyhound racing industry as a
13 licensed owner whose experience, knowledge, ability and integrity
14 relative to the industry are known to the commission; (C) at least
15 three years' experience as a licensed racing official, racing secretary,
16 assistant racing secretary or director of racing; or (D) experience in
17 the racing industry of a character and for a length of time sufficient,
18 in the opinion of the commission, to be substantially equivalent to
19 the experience requirement of subsection (d)(4)(A), (B) or (C).

20 (e) For the purpose of subsection (d)(4), one year's experience
21 shall mean at least 100 days actually worked within one calendar
22 year.

23 (f) An original license for a steward or racing judge issued pur-
24 suant to the provisions of this act shall be issued for the calendar
25 year in which it is issued and shall be renewable for a period not
26 to exceed three years as established by rules and regulations of the
27 commission. The commission shall establish a license fee schedule
28 consistent with the different periods for which such licenses may be
29 granted. The license shall be valid at all race meetings in this state
30 during the period for which it is issued, unless it is suspended or
31 revoked prior to the expiration of such period.

32 Sec. 5. K.S.A. 74-8837 is hereby amended to read as follows:
33 74-8837. (a) No organization licensee or facility manager licensee
34 shall permit any business not owned and operated by the organization
35 licensee to provide ~~totalisator equipment or services~~ *integral rac-*
36 *ing or wagering equipment or services, as designated by the com-*
37 *mission, to an organization licensee unless such business has been*
38 *issued a totalisator racing or wagering equipment or services license*
39 *by the commission. Such equipment and services include but are*
40 *not limited to totalisator, photo finish, video replay and video re-*
41 *ception and transmission equipment or services.*

42 (b) Businesses required to be licensed pursuant to this section
43 shall apply for ~~totalisator licenses~~ in a manner and upon forms pre-

or racing judge's

racing or wagering equipment
or services licenses

scribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. ~~Totalisator Racing~~

~~or wagering equipment or services~~ licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of application fees

and license fees for ~~totalisator licenses~~ based upon the type and size of business. The application fee shall not be refundable if the business fails to qualify for a license. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(c) The commission may require applicants as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search without warrant the licensee's premises and personal property and the persons of its owners, officers and employees while engaged in the licensee's business within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating criminal violations of this act or violations of rules and regulations of the commission.

(d) Denial of a ~~totalisator racing or wagering equipment or services~~ license by the commission shall be in accordance with the Kansas administrative procedure act. The commission may refuse to issue a ~~totalisator racing or wagering equipment or services~~ license to any business if any person having an ownership interest in such business, any person who is an officer of such business or any person employed by such business within the racetrack facility:

(1) Has been convicted of a felony in a court of any state or of the United States or has been adjudicated in the last five years, in any such court of committing as a juvenile an act which, if committed by an adult, would constitute a felony;

(2) has been convicted of a violation of any law of any state or of the United States involving gambling or controlled substances or

racing or wagering equipment
or services licenses

1 has been adjudicated in the last five years in any such court of
2 committing as a juvenile an act which, if committed by an adult,
3 would constitute such a violation;

4 (3) fails to disclose any material fact or provides information,
5 knowing such information to be false, in connection with the ap-
6 plication for the license; or

7 (4) has been found by the commission to have violated any pro-
8 vision of this act or any rule and regulation of the commission.

9 (e) The commission may suspend or revoke the ~~totalisator racing~~
10 ~~or wagering equipment or services~~ license of any business for any
11 reason which would justify refusal to issue such a license. Proceedings
12 to suspend or revoke such license shall be conducted by the com-
13 mission or its appointed hearing officer in accordance with the pro-
14 visions of the Kansas administrative procedure act.

15 (f) The commission may provide by rules and regulations for the
16 temporary suspension of a ~~totalisator racing or wagering equipment~~
17 ~~or services~~ license by summary adjudicative proceedings in accor-
18 dance with the Kansas administrative procedure act upon finding
19 that there is probable cause to believe that grounds exist for a
20 permanent suspension or revocation of such license. Such suspension
21 shall be for a period not exceeding 30 days. Upon expiration of such
22 suspension, the license shall be restored unless the license has been
23 suspended or revoked as a result of proceedings conducted pursuant
24 to subsection (e).

25 (g) This section shall be part of and supplemental to the Kansas
26 parimutuel racing act.

27 Sec. 6. K.S.A. 74-8838 is hereby amended to read as follows:

28 74-8838. (a) The state treasurer shall credit 1/3 of the taxes on the
29 takeout from parimutuel pools for simulcast races, as certified by
30 the executive director, to the county fair horse racing benefit fund,
31 which is hereby created in the state treasury.

32 (b) Moneys in the county fair horse racing benefit fund shall be
33 expended only for:

34 (1) Reimbursement of the commission for the cost of stewards
35 and assistant animal health officers performing services *at race meet-*
36 *ings conducted by a horsemen's nonprofit organization at Eureka*
37 *Downs and at race meetings conducted by county fair associations;*

38 (2) paying the costs of *totalisator expenses incurred by an or-*
39 *ganization licensee that is a horsemen's nonprofit organization, for*
40 *race meetings conducted by such organization at Eureka Downs,*
41 *and totalisator expenses incurred by organization licensees that are*
42 *county fair associations;*

43 (3) paying the costs of background investigations of members of

1 county fair associations that are required under the Kansas par-
2 imutuel racing act for members of a horsemen's nonprofit organi-
3 zation conducting or applying to conduct race meetings at Eureka
4 Downs and for members of county fair associations;

5 (4) purse supplements at race meetings conducted by a horse-
6 men's nonprofit organization at Eureka Downs and at race meetings
7 conducted by county fair associations;

8 (5) basic operating assistance grants to an organization licensee
9 that is a horsemen's nonprofit organization, for race meetings con-
10 ducted by such organization at Eureka Downs, and to organization
11 licensees that are county fair associations; and

12 (6) costs to organization licensees that are county fair asso-
13 ciations for employment of key racing officials, as determined by
14 the commission, incurred by an organization licensee that is a horse-
15 men's nonprofit organization, for race meetings conducted by such
16 organization at Eureka Downs, and by organization licensees that
17 are county fair associations.

18 (c) The commission shall adopt rules and regulations establishing
19 procedures for distributing moneys in the county fair horse racing
20 benefit fund to nonprofit horsemen's organizations and county fair
21 associations for the purposes provided by this section.

22 (d) Expenditures from the county fair horse racing benefit fund
23 related to the conduct of a race meeting shall not be allocated to
24 any county fair association organization licensee for a period ex-
25 ceeding 21 days.

26 (e) Expenditures from the county fair horse racing benefit fund
27 shall be made in accordance with appropriation acts upon warrants
28 of the director of accounts and reports issued pursuant to vouchers
29 approved by the chairperson of the commission or a person desig-
30 nated by the chairperson.

31 (f) This section shall be part of and supplemental to the
32 Kansas parimutuel racing act.

33 Sec. 7. K.S.A. 74-8801, 74-8802, 74-8810, 74-8818, 74-8837 and
34 74-8838 are hereby repealed.

35 Sec. 8. This act shall take effect and be in force from and after
36 its publication in the statute book.

SENATE BILL No. 411

By Committee on Federal and State Affairs

3-8

8 AN ACT amending the Kansas parimutuel racing act; relating to
9 parimutuel tellers; amending K.S.A. 74-8819 and repealing the
10 existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 74-8819 is hereby amended to read as follows:

14 74-8819. (a) Organizations licensed pursuant to K.S.A. 74-8813 or
15 74-8814, and amendments thereto, may conduct parimutuel wagering
16 on the results of horse and greyhound races held on dates and at
17 racetrack facilities approved by the commission and on simulcast
18 races as provided by K.S.A. 74-8836. All persons participating in
19 such wagering shall be present within the confines of the approved
20 racetrack facility.

21 (b) Organization licensees shall issue a ticket to each person plac-
22 ing a wager, which ticket shall show the date and number of the
23 race, the amount wagered and the number of the horse or greyhound
24 selected by the person. The licensee may receive wagers on horses
25 or greyhounds to finish first, second, third, fourth or any combination
26 thereof within the same race or among two or more live races con-
27 ducted or simulcast races displayed on the same day at the same
28 racetrack facility, as authorized by the commission.

29 (c) After wagering has been closed for each live race conducted
30 by the licensee, the organization licensee may deduct an amount
31 not exceeding 18% of the total wagered in each parimutuel pool and
32 the balance, less the breakage, shall be paid to holders of winning
33 tickets for that pool in accordance with procedures authorized by
34 the commission. The commission may authorize a higher amount not
35 exceeding 22% to be deducted from the total wagered in parimutuel
36 pools for multiple and exotic bets.

37 (d) From the amount deducted as provided in subsection (c), the
38 organization licensee shall pay the purses as provided in K.S.A. 74-
39 8820 and amendments thereto and the tax as specified in K.S.A.
40 74-8823 and amendments thereto. The balance of the amount de-
41 ducted shall be used for the purposes of the organization licensee
42 as such purposes have been represented to the commission.

43 (e) The provisions of K.S.A. 74-8836 shall govern takeout and its

1 distribution in the case of simulcast races displayed by an organization
2 licensee.

3 (f) No organization licensee shall loan money or any other thing
4 of value to any person for the purpose of permitting that person to
5 wager on any race. In accordance with written procedures that have
6 received the prior approval of the commission, each organization
7 licensee shall be authorized to deduct from the wages of a parimutuel
8 teller the actual monetary shortages detected in the organization
9 licensee cashbox that is assigned to the teller.

10 (g) All parimutuel tellers and clerks shall be employees of the
11 organization licensee approved by the commission to conduct the
12 parimutuel wagering at a race meeting.

13 Sec. 2. K.S.A. 74-8819 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after
15 its publication in the statute book.

(j) "Horsemen's association" means any association or corporation:

(1) All officers, directors, members and shareholders of which are licensed owners of horses or licensed trainers of horses, or both;

(2) which is applying for or has been issued a facility owner license authorizing ownership of ~~Eureka Downs~~; and

(3) none of the officers, directors, members or shareholders of which holds another facility owner license or is an officer, director, member or shareholder of another facility owner licensee.

a racetrack facility at which a fair meeting is licensed

(k) "Horsemen's nonprofit organization" means any nonprofit organization:

(1) All officers, directors, members or shareholders of which are licensed owners of horses or licensed trainers of horses, or both; and

(2) which is applying for or has been issued an organization license authorizing the conduct of horse races at ~~Eureka Downs~~.

K.S.A. 74-8802.

(s) "Nonprofit organization" means:

(1) A corporation which is incorporated in Kansas as a not-for-profit corporation pursuant to the Kansas general corporation code and the net earnings of which do not inure to the benefit of any shareholder, individual member or person; or

(2) a ~~county fair association organized pursuant to K.S.A. 2-125 et seq. and amendments thereto.~~

(t) "Occupation licensee" means a person licensed by the commission to perform an occupation or provide services which the commission has identified as requiring a license pursuant to this act.

(u) "Off-track wagering" means wagering on a simulcast race at a facility which is not licensed in its jurisdiction to conduct live races.

(v) "Organization licensee" means a non-profit organization licensed by the commission

K.S.A. 74-8802.

(y) "Race meeting" means the entire period of time for which an organization licensee has been approved by the commission to hold live or simulcast horse or greyhound races at which parimutuel wagering is conducted ~~or to hold horse races at which parimutuel wagering is not conducted~~, including such additional time as designated by the commission for the conduct of official business before and after the races.

K.S.A. 74-8802 .

(bb) "Recognized ~~greyhound~~^{kennel} owners' group" means the duly recognized group elected by a majority of the Kansas licensed ~~greyhound~~ owners at the racetrack facility.

(cc) "Recognized horsemen's group" means the duly recognized group, representing the breeds of horses running at a racetrack facility, elected by a majority of the licensed owners and trainers at the racetrack facility. If the licensee does not have a recognized horsemen's group, the commission shall designate as the recognized horsemen's group one that serves another organization licensee, but not one that serves a county fair association organization licensee.

(o) The commission may receive from ~~the~~ ^{commission security personnel,} Kansas bureau of investigation or other criminal justice agencies such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of ~~licensees of the commission and applicants for licensure, including applicants for simulcasting licenses, by the commission.~~ ^{employees of the commission and applicants for employment} Upon the written request of the chairperson of the commission, the commission may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of licensees of and applicants for licensure by the commission. Disclosure or use of any information received by the commission pursuant to this subsection, or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the commission in a hearing held pursuant to this act.

(p) The commission, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to receive and discuss information received by the commission pursuant to subsection (o) and to negotiate with licensees of or applicants for licensure by the commission regarding any such information.

*

or horsemen's nonprofit organization
as designated by the commission

the following which applies for an organization license and the license fee for any of the following granted an organization license shall be \$100 for each day of racing approved by the commission:

(1) Any fair association ~~other than the Greenwood county and Anthony fair associations, organized pursuant to K.S.A. 2-125 et seq. and amendments thereto, or the national greyhound association of Abilene, Kansas, if:~~ (A) Such association conducts not more than two race meetings each year; (B) such race meets are held within the boundaries of the county where the applicant is located; and (C) such race meetings are held for a total of not more than 21 days per year; or

~~(2) the Greenwood county fair association or the Anthony fair association with respect to race meetings conducted by such association at Eureka Downs or Anthony Downs, respectively, or a horsemen's nonprofit organization with respect to race meetings conducted by such organization at Eureka Downs, for which the number of race meetings and days, and the dates thereof, shall be specified by the commission.~~

(b) The application fee for a ~~county~~ ^{*} fair association applying for an organization license to conduct only harness horse races without parimutuel wagering shall be \$50 for each application, and no license fee shall be required of such association for any day of a race meeting of less than 10 days of only harness horse racing without parimutuel wagering.

(c) The commission shall adopt rules and regulations providing for simplified and less costly procedures and requirements for ~~county~~ fair associations and horsemen's nonprofit organizations applying for or holding a license to conduct race meetings.

(d) The Kansas bureau of investigation shall investigate:

(1) The president, vice-president, secretary and treasurer of a ~~county~~ fair association, and such other members as the commission considers necessary, to determine eligibility for an organization license;

(2) each officer and each director of a nonprofit horsemen's organization, and such other members or shareholders as the commission considers necessary to determine eligibility for an organization license.

(e) Except as otherwise provided by this section, all applicants for organization licenses for the conduct of race meetings pursuant to the provisions of this section shall be required to comply with all the provisions of K.S.A. 74-

74-8814. Same; fair associations and national greyhound association; fees; licensure procedures and requirements. (a) Subject to the provisions of subsection (b), the commission shall establish by rules and regulations an application fee not exceeding \$500 for any of

~~1 of the commission designated pursuant to this section. Employees of
2 the commission shall report immediately any criminal violations of
3 this act or other suspected criminal activity at a racetrack facility
4 to the Kansas bureau of investigation. Employees of the Kansas
5 bureau of investigation shall report any violations or suspected vi-
6 olations of the rules and regulations adopted pursuant to this act
7 to the executive director or to employees of the commission designated
8 pursuant to this section.~~

Section 1 9 ~~[Sec. 2. K.S.A. 74-8818]~~ is hereby amended to read as follows:

10 74-8818. (a) At each race meeting held pursuant to this act The
11 commission shall appoint three individuals to be stewards or racing
12 judges. Only three such individuals shall serve at each race meeting
13 held pursuant to this act. One shall be designated as the chief
14 steward or chief racing judge and the other two as associate stewards
15 or associate racing judges. Stewards and racing judges shall be
16 employees of the commission who shall serve at the pleasure of the
17 commission and shall be in the unclassified service under the Kansas
18 civil service act. The compensation of the stewards and racing judges
19 shall be an amount fixed by the commission and shall be paid by
20 the commission. ~~The commission may require an organization licensee
21 to reimburse the commission for compensation paid to the stewards
22 and racing judges for their services performed at race meetings
23 conducted by that organization licensee. Any moneys received by the
24 commission for that purpose shall be remitted promptly by the com-
25 mission to the state treasurer, who shall deposit the entire amount
26 in the state treasury and credit it to the racing reimbursable expense
27 fund created by K.S.A. 74-8827 and amendments thereto. All other
28 racing officials at a race meeting shall be approved by the commission
29 and compensated by the organization licensee. The stewards, racing
30 judges and other racing officials shall enforce the civil provisions
31 of this act and any rules and regulations of the commission and shall
32 submit written reports of the activities and conduct of the race
33 meetings to the commission.~~

34 [(b) Each steward or racing judge shall be required to obtain
35 an occupation license from the commission pursuant to K.S.A. 74-
36 8816 and amendments thereto prior to performing any duties as a
37 steward or a judge.

38 [(c) The commission shall require applicants for a license as a
39 steward or racing judge to pass an examination on matters relating
40 to the duties of stewards or racing judges. Examinations shall be
41 held at such times and places as determined by the commission.
42 Notice of the times and places of the examinations shall be given as
43 determined by the commission. The commission shall prepare both

{ three individuals
to serve as full-time

{ Such stewards

{ Before July 1, 1994,
the commission also may
contract with individ-
uals to serve as
stewards or racing
judges as needed in the
absence of a full-time
steward or racing
judge.

(b) All amounts, other than the application fee, which the commission collects from applicants for licensure pursuant to subsection (a) of K.S.A. 74-8813 or subsection (c) of K.S.A. 74-8815, and amendments thereto, shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the racing investigative expense fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(c) All expenses of investigation of an applicant's qualifications for an organization license, facility owner license or facility manager license shall be paid from the racing investigative expense fund. Whenever another state agency assists the commission in such investigation and incurs costs in addition to those attributable to the operations of such agency, such additional costs shall be paid from the racing investigative expense fund. The furnishing of assistance in such investigation shall be a transaction between the commission and the respective agency and shall be settled in accordance with K.S.A. 75-5516 and amendments thereto.

(d) This section shall be part of and supplemental to the Kansas parimutuel racing act.

History: L. 1988, ch. 317, § 4; April 7.

74-8836. Simulcasting; licensing and regulation. (a) Any organization licensee that conducts at least 150 days of live racing during a calendar year or a ~~county~~ fair association that conducts fewer than 22 days of live racing during a calendar year may apply to the commission for a simulcasting license to display simulcast horse or greyhound races and to conduct intertrack parimutuel wagering thereon. If the organization licensee conducts races at a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the application. A simulcasting license granted to a ~~county~~ fair association that conducts fewer than 22 days of live racing shall restrict the ~~county~~ fair association's display of simulcast races to a number of days, including days on which it conducts live ~~horse~~ races, equal to not more than twice the number of days on which it conducts live races.

(b) (1) A simulcasting license granted to an organization licensee other than a ~~county~~ fair association shall authorize the display of simulcast races at the racetrack facility where the live races are conducted. If a simulcasting licensee conducts live horse races on a day when simulcast races are displayed by the licensee and the licensee conducts fewer than 10 live horse races on such day, not less than 80% of the races on which wagers are taken by the licensee during such day shall be live races conducted by the licensee. If a simulcast licensee conducts live greyhound races on a day when simulcast races are displayed by the licensee and the licensee conducts fewer than 13 live greyhound races during a performance on such day, not less than 80% of the races on which wagers are taken by the licensee during such performance shall be live races conducted by the licensee.

(2) A simulcasting license granted to a ~~county~~ fair association shall authorize the display of simulcast races at the racetrack facility where the races are conducted only if live races are scheduled for two or more days of the same calendar week, except that the licensee may conduct simulcast races in the week immediately before and immediately after a live meeting if the total number of days on which simulcast races are displayed does not exceed the total authorized in subsection (a). In no case shall the live meet or simulcast races allowed under this subsection exceed nine consecutive weeks. For purposes of this subsection, a calendar week shall be measured from Monday through the following Sunday.

(3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2), a ~~county~~ fair association may apply to the commission for not more than five additional days of simulcasting of special events. In addition, the commission may authorize a ~~county~~ fair association to display additional simulcast races but, if such county fair association is less than 100 miles from an organization licensee that is not a ~~county~~ fair association, it must also secure written consent from that organization licensee.

(4) Notwithstanding the provisions of subsection (b)(1), if an emergency causes the cancellation of all or any live races scheduled for a day or performance by a simulcasting licensee, the commission or the commission's designee may authorize the licensee to display any simulcast races previously scheduled for such day or performance.

(c) Notwithstanding the provisions of subsection (b)(1), the commission may authorize the licensee to display simulcast special racing events as designated by the commission.

(c) The application for a simulcasting license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall be in a form and include such information as the commission prescribes.

(d) To qualify for a simulcasting license the applicant shall:

* (1) Comply with the interstate horse racing act of 1978 (15 U.S.C. 3001 *et seq.*) as in effect December 31, 1991;

(2) submit with the application a written approval of the proposed simulcasting schedule signed by: (A) The recognized horsemen's group for the track, if the applicant is licensed to conduct only horse races; (B) the recognized ~~greyhound~~ owners' group, if the applicant is licensed to conduct only greyhound races and only greyhound races are to be simulcast; (C) both the recognized ~~greyhound~~ owners' group and a recognized horsemen's group, if the applicant is licensed to conduct only greyhound races and horse races are to be simulcast; (D) the recognized ~~greyhound~~ owners' group, if the applicant is licensed to conduct both greyhound and horse races, only greyhound races are to be simulcast and races are to be simulcast only while the applicant is conducting live greyhound races; (E) the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound and horse races, only horse races are to be simulcast and races are to be simulcast only while the applicant is conducting live horse races; or (F) both the recognized ~~greyhound~~ owners' group and the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound races and horse races and horse races are to be simulcast while the applicant is conducting live greyhound races or greyhound races are to be simulcast while the applicant is conducting live horse races; and

(3) submit, in accordance with rules and regulations of the commission and before the simulcasting of a race, a written copy of each contract or agreement which the applicant proposes to enter into with regard to such race, and any proposed modification of any such contract or agreement.

(e) The term of a simulcasting license shall be one year.

(f) A simulcasting licensee may apply to the commission or its designee for changes in the licensee's approved simulcasting schedule if such changes are approved by the respective ~~greyhound~~ owners' group or recognized horsemen's group needed throughout the term of the license. Application shall be made upon forms furnished by the commission and shall contain such information as the commission prescribes.

(g) Except as provided by subsection (j), the takeout for simulcast horse and greyhound races shall be the same as it is for the live horse and greyhound races conducted during the current or next live race meeting at the racetrack facility where the simulcast races are displayed. For simulcast races the tax imposed on amounts wagered shall be as provided by K.S.A. 74-8823 and amendments thereto. The simulcasting licensee shall be entitled to retain sufficient revenue to pay expenses directly related to the simulcast race or performance. The commission, by rules and regulations, shall define what constitutes such expenses. Of the balance of the takeout remaining after deduction of taxes and expenses, 50% shall be paid to the simulcasting licensee. The remainder shall be used for purses, as follows:

(1) For purses for greyhound races conducted by the licensee, if the simulcast race is a greyhound race and the licensee conducts only live greyhound races;

(2) for purses for horse races conducted by the licensee, if the simulcast race is a horse race and the licensee conducts only live horse races;

(3) for purses, as determined by both the recognized horsemen's group and the recognized ~~greyhound~~ owners' group, if the simulcast race is a greyhound race and the licensee does not conduct or is not currently conducting live greyhound races; or

(4) for purses, as determined by both the recognized horsemen's group and the recognized ~~greyhound~~ owners' group, if the simulcast is a horse race and the licensee does not conduct or is not currently conducting live horse races.

(h) Except as provided by subsection (j):

(1) If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto,

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for breakage and unclaimed winning ticket proceeds from live horse races.

(2) If a simulcasting licensee has a license to conduct live greyhound races and the licensee displays a simulcast greyhound race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live greyhound races.

(3) If a simulcasting licensee has a license to conduct live racing of only horses and the licensee displays a simulcast greyhound race, unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8822, and amendments thereto, for unclaimed winning ticket proceeds from live greyhound races. Breakage for such races shall be distributed for use to benefit greyhound racing as determined by the commission.

(4) If a simulcasting licensee has a license to conduct live racing of only greyhounds and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races.

(i) The commission may approve a request by two or more simulcasting licensees to combine wagering pools within the state of Kansas pursuant to rules and regulations adopted by the commission.

(j) (1) The commission may authorize any simulcasting licensee to participate in an interstate combined wagering pool with one or more other racing jurisdictions.

(2) If a licensee participates in an interstate pool, the licensee may adopt the takeout of the host jurisdiction or facility, except that the takeout shall not be more than 20% on win, place and show bets and not more than 25% on all other bets. The amount and manner of paying purses from the takeout in an interstate pool shall be as provided by subsection (g).

(3) The tax imposed on amounts wagered in an interstate pool shall be as provided by K.S.A. 74-8823 and amendments thereto. Parimutuel taxes may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(4) Breakage for interstate combined wagering pools shall be calculated in accordance

with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h).

(5) Upon approval of the respective recognized ~~greyhound~~ owners' group or recognized horsemen's group, the commission may permit an organization licensee to simulcast to other racetrack facilities or off-track wagering or intertrack wagering facilities in other jurisdictions one or more races conducted by such licensee, use one or more races conducted by such licensee for an intrastate combined wagering pool or use one or more races conducted by such licensee for an interstate combined wagering pool at off-track wagering or inter-track wagering locations outside the commission's jurisdiction and may allow parimutuel pools in other jurisdictions to be combined with parimutuel pools in the commission's jurisdiction for the purpose of establishing an interstate combined wagering pool.

(6) The participation by a simulcasting licensee in a combined interstate wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction which the licensee is physically located.

~~*(k)~~ This section shall be part of and supplemental to the Kansas parimutuel racing act.

History: L. 1992, ch. 27, § 2; April 9.

74-8837. Totalisator licenses. (a) No organization licensee or facility manager licensee shall permit any business not owned and operated by the organization licensee to provide totalisator equipment or services to an organization licensee unless such business has been issued a totalisator license by the commission.

(b) Businesses required to be licensed pursuant to this section shall apply for totalisator licenses in a manner and upon forms prescribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. Totalisator licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of

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new (k): If the simulcasting licensee and the recognized horsemen's group or recognized kennel owner's group are unable to agree concerning any simulcasting request, the matter shall be submitted to the commission for determination.

* Fair association benefit fund

74-8838. ~~County fair horse racing~~ benefit fund. (a) The state treasurer shall credit $\frac{1}{3}$ of the taxes on the takeout from parimutuel pools for simulcast races, as certified by the executive director, to the ~~county fair horse racing~~ benefit fund, which is hereby created in the state treasury.

(b) Moneys in the ~~county fair horse racing~~ benefit fund shall be expended only for:

(1) Reimbursement of the commission for ~~its~~ administrative costs, including ~~the cost of stewards and assistant animal health officers performing services at race meetings conducted by county fair associations;~~ racing judges

(2) paying the costs of totalisator expenses incurred by organization licensees that are ~~county fair associations;~~ or horsemen's nonprofit organization as designated by the commission

(3) paying the costs of background investigations of members of ~~county fair associations;~~ that are required under the Kansas parimutuel racing act;

(4) purse supplements at race meetings conducted by ~~county fair associations;~~

(5) basic operating assistance grants to organization licensees that are ~~county fair associations;~~ and

(6) costs to organization licensees that are ~~county fair associations;~~ for employment of key racing officials, as determined by the commission.

(c) The commission shall adopt rules and regulations establishing procedures for distributing moneys in the ~~county fair horse racing~~ benefit fund to ~~county fair associations;~~ for the purposes provided by this section.

(d) Expenditures from the ~~county fair horse racing~~ benefit fund related to the conduct of a race meeting shall not be allocated to any ~~county fair association;~~ for a period exceeding 21 days.

(e) Expenditures from the ~~county fair horse racing~~ benefit fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(f) This section shall be part of and supplemental to the Kansas parimutuel racing act.

History: L. 1992, ch. 256, § 12; July 1.

* amend references to named fund throughout racing act

74-8839. Advertisement or promotion of parimutuel wagering, minors. No licensee of the Kansas racing commission shall recruit for employment or as a volunteer any person under 18 years of age for the purpose of appearing, being heard or being quoted in any advertising or promotion of parimutuel wagering or racing with parimutuel wagering in any electronic or print media.

MEMORANDUM

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September 16, 1993

To: House and Senate Committees on Federal and State Affairs
From: Mary Galligan, Principal Analyst
Re: Kansas Liquor Laws

How Has Kansas Policy Regarding Regulation of Alcohol Evolved?

Some major events in the evolution of liquor policy in Kansas are listed below.

- 1880 Voters approved (92,302 to 84,304) an amendment to the *Kansas Constitution* prohibiting the manufacture and sale of intoxicating liquors (Article 15, §10).
- 1934 Voters rejected (347,644 to 436,688) a proposed constitutional amendment to authorize the Legislature to regulate and tax liquor.
- 1937 The Legislature enacted the law that categorizes beer with an alcohol content of 3.2 percent or less alcohol by weight as cereal malt beverage (CMB) which was excluded from the definition of intoxicating liquor. The law authorized sale of CMB for both on- and off-premise consumption throughout the state.
- 1948 Voters approved (422,294 to 358,310) an amendment to the *Kansas Constitution* that authorized the Legislature to ". . . regulate, license and tax the manufacture and sale of intoxicating liquor . . . regulate the possession and transportation of intoxicating liquor." (Art. 15, §10) The amendment also "forever prohibited" the open saloon. The amendment meant that package liquor sales could be authorized and regulated, but that sale of liquor by the drink in public places was prohibited.
- 1949 The Legislature enacted the Liquor Control Act. The Act authorized package sale of liquor in counties in which the 1948 amendment had been approved. The Act created a system of regulating, licensing, and taxing those package sales. The Division of Alcoholic Beverage Control (ABC) was created to enforce the Act.
- 1959 The Legislature enacted the "minimum price law" which required manufacturers and suppliers to sell liquor to distributors in Kansas at the same price and without discrimination. Manufacturers' price lists were to be filed with the Director of ABC. Manufacturers also were required to file suggested wholesale and retail price lists with the Director. Distributors were required to file current price lists with the Director and

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were prohibited from selling liquor to retailers at any price other than that posted with the Director. The Director of ABC was authorized to promulgate rules and regulations prohibiting distributors and retailers from selling liquor below manufacturers' suggested case and bottle prices filed with the Director of ABC.

Prior to enactment of statutes regulating liquor pricing, prices were controlled by regulation. The regulation was overturned by the courts in 1958.

- 1961 Amendment of the minimum price law established guidelines for the ABC Board of Review to use to set minimum wholesale and retail liquor prices.
- 1965 The Legislature enacted laws providing for licensure and regulation of liquor sales in private clubs. Such clubs were allowed under the constitutional prohibition because they were not open to the public.
- 1970 Blood alcohol level at which a driver was presumed to be under the influence of alcohol was lowered from .15 percent to .1 percent.
- 1978 Restaurants were authorized to sell liquor if they derived at least 50 percent of gross receipts from the sale of food and are located in counties that approved such sales at the 1978 general election. These establishments were not subject to the ten-day waiting period and membership dues requirements of the private club law.
- 1979 Private clubs were statutorily authorized to sell liquor by the drink to members and guests. The law eliminated "liquor pools" and permitted class B clubs that derived a minimum of 50 percent of their gross receipts from the sale of food to establish reciprocal relationships with other similar clubs. Those agreements provided members of one participating club with access to all participating clubs. Class A clubs also were authorized to enter into reciprocal agreements

The 10 percent "drink tax" was imposed in lieu of the retail sales tax on sales of liquor by clubs. Revenue from the tax is credited to the Local Alcoholic Liquor Fund from which allocations are made to cities and counties based on the amount collected from clubs located in that jurisdiction. A city or county receiving an allocation must credit moneys as follows:

- one-third to the general fund
- one-third to a special parks and recreation fund
- one-third to a special alcohol programs fund

An exclusive territorial franchise system for liquor wholesalers was established. Under the system, each liquor wholesaler was required to file with the ABC the territory agreed upon by the wholesaler and the manufacturer, within which the wholesaler will sell the manufacturer's products to retailers. A manufacturer cannot grant a franchise for a particular territory to more than one wholesaler.

Minimum wholesale prices were no longer established by the state. Minimum price mark-ups for retailers were to be determined by the Alcoholic Beverage Control Board of Review.

- 1982 Private clubs were authorized to sell CMB for on-premise consumption only at any time liquor is sold (prior law provided for different hours of sale for liquor and CMB at clubs). Authority for clubs to sell CMB for off-premise consumption was repealed.

Blood alcohol content of .1 percent becomes *prima facie* evidence that a driver is under the influence of alcohol to a degree that renders the person incapable of driving safely.

- 1983 Farm wineries were permitted to manufacture and sell table wine containing 14 percent or less alcohol made from Kansas-grown products. Farm wineries were authorized to sell their products to wholesalers and to consumers for off-premise consumption.

- 1985 The minimum legal age for possession and consumption of CMB was raised to 21 for persons born after July 1, 1966.

CMB sold in private clubs was subject to the 10 percent "drink tax."

"Happy hour ban" enacted. Certain promotional practices by clubs and CMB retailers were prohibited (see Table 5).

Hotels were permitted to enter into agreements with class B clubs whereby hotel guests could be issued temporary memberships in the club.

The Legislature approved the resolution proposing to amend the *Constitution* to permit the sale of liquor by the drink in public places.

The Liquor Law Review Commission was appointed by Governor Carlin to conduct a comprehensive review of Kansas' liquor laws and to make recommendations for amendments.

- 1986 Voters approved (489,646 to 325,505) the constitutional amendment permitting sale of liquor by the drink in establishments open to the public.

The Liquor Law Review Commission issued its report with recommendations for changes in statutes and rules and regulations.

- 1987 Drinking establishments were created as a category of licensee permitted to sell liquor by the drink. The bill also provided for sale of liquor by the drink on unlicensed premises by licensed caterers and by persons holding temporary permits.

Liquor and beer wholesalers were permitted to sell bulk wine directly to caterers, clubs, and drinking establishments. Beer distributors were permitted to sell beer directly to caterers, clubs, and drinking establishments. Liquor retailers were permitted to deliver

products to caterers, clubs, and drinking establishments located in the same or adjacent counties.

The Attorney General issued an opinion that minimum price mark-ups are illegal.

Retail sale of liquor at less than acquisition cost was prohibited by statute.

Microbreweries were created as a category of licensee. Microbreweries manufacture beer with 8 percent or less alcohol content and have capacities of 10,000 or fewer barrels per year.

The Alcoholic Beverage Board of Review was abolished.

Price and brand advertising of liquor was permitted.

Sunday sale of CMB was permitted in restaurants that derive 30 percent or more of gross receipts from sale of food if they were located in a city or county that authorized such sales by ordinance or resolution.

Boating under the influence of alcohol (blood alcohol content of .1 percent or greater) was made a misdemeanor.

1988 Farm wineries were permitted to sell directly to clubs, drinking establishments, and retailers.

1990 The 10 percent "drink tax" was imposed on sale of liquor by the drink by persons holding temporary permits.

The Nonalcoholic Malt Beverages Act authorized distribution, sale, and taxation of malt beverages containing less than one-half of 1 percent alcohol. Those beverages may be sold by liquor retailers, clubs, drinking establishments, and CMB retailers. Nonalcoholic malt beverages were subject to the same taxes as CMB.

1991 Required periodic price posting by suppliers and wholesalers was replaced by registration.

1992 Farm wineries were permitted to operate a maximum of two licensed outlets for off-premise sale of domestic wine and for wine tasting if the outlet is located in a county where liquor can be sold by the drink.

Microbrewery licensees were authorized to obtain caterer licenses.

Liquor retailers were authorized to sell nonalcohol items included by manufacturers in packages of liquor. Retailers also were authorized to distribute free advertising specialties.

1993 The blood alcohol content at which a person is found to be driving or operating a boat under the influence of alcohol was lowered from .1 percent to .08 percent.

Minimum liquor container size law was repealed.

What Types of Alcoholic Beverages are Available in Kansas?

Alcoholic liquor in Kansas law includes spirits, wine, and beer containing over 3.2 percent alcohol by weight. Spirits are defined in statute to be any distilled alcoholic beverage including brandy, rum, whiskey, and gin, among others.

Cereal Malt Beverage (CMB or 3.2 beer) is beer containing 3.2 percent or less alcohol by weight.

Nonalcoholic Malt Beverage (nonalcohol beer or NAB) is beer containing .5 percent or less alcohol by weight.

Domestic Wine contains not more than 14 percent alcohol by volume and is manufactured by farm wineries from Kansas-grown agricultural products.

Domestic Beer contains 8 percent or less alcohol by weight and is manufactured by microbreweries from Kansas-grown agricultural products.

What State Agency is Responsible for Regulating the Liquor Industry in Kansas?

The Division of Alcoholic Beverage Control of the Department of Revenue was created by enactment of the Liquor Control Act to license and regulate the liquor industry and enforce liquor laws.

Who Can Legally Buy and Sell Liquor in Kansas?

The *Kansas Constitution* authorizes the Legislature to prohibit intoxicating liquor in certain areas. The Legislature also is authorized to regulate, license, and tax the manufacture and sale of liquor and to regulate the possession and transportation of liquor. The Legislature has done so through enactment of the Liquor Control Act and the Club and Drinking Establishment Act.

The liquor distribution system in Kansas is referred to as a "three tier system" because all liquor (except domestic wine and beer) and CMB must be distributed from manufacturer to distributor (commonly called wholesaler) to retailer. Farm wineries may sell directly to retailers, clubs, drinking establishments, caterers, and consumers. Microbreweries also may sell their products directly to consumers. Farm wineries and microbreweries also may be licensed as clubs or drinking establishments and microbreweries may be licensed as caterers for sale of liquor by the drink to consumers. Clubs, drinking establishments, and caterers may purchase beer and bulk wine directly from wholesalers, but all other liquor must be purchased from a liquor retailer. Consumers and temporary permit holders must purchase liquor from licensed retail liquor stores.

Table 1 displays current categories of liquor licensees and the market niche occupied by each. Table 2 displays major statutory provisions that govern the two primary sources of beer for off-premise consumption -- retail liquor stores and CMB retailers. Tables 3 and 4 display qualifications individuals and businesses must meet to obtain a liquor license.

TABLE 1

Liquor Licensees, Their Suppliers, and Their Markets

<u>Licensee/Permittee</u>	<u>Buys From</u>	<u>Sells To</u>
Manufacturer	N/A	Distributors and nonbeverage users
Distributor (wholesalers)	Manufacturer	Retail liquor stores; other distributors; beer and bulk wine only to clubs, drinking establishments, and caterers
Retail Liquor Store	Distributor	Consumers (off-premise), clubs, drinking establishments, caterers, and temporary permit holders (may deliver to clubs and drinking establishments)
Farm Winery	N/A	Wine distributors, retail liquor stores, clubs, drinking establishments, caterers, and consumers (off-premise)
Microbrewery	N/A	Beer distributors and consumers (off-premise)
Club	Distributor (beer and bulk wine only) retail liquor store, farm winery	Members, their families and guests (on-premise only)
Drinking Establishment	Distributor (beer and bulk wine only) retail liquor store, farm winery	General public (on-premise only)
Caterer	Distributor (beer and bulk wine only) retail liquor store, farm winery	General public (on-premise only)
CMB Retailer		
Off-Premise	Beer distributor	General public (off-premise only)
On-Premise	Beer distributor	General public (on-premise only)

TABLE 2

BUSINESSES LICENSED TO SELL BEER

Statutory Provision	Retail Liquor Store	CMB Retailer (off-premise)
License Issued By	State	City or County
Licensee Qualification	<ul style="list-style-type: none"> • 10 year U.S. Citizen¹ • 4 year Kansas Resident² • No felons; no persons convicted of prostitution, gambling/morals • No prior license revocations³ • 21 years of age • May not be, appoint, or supervise any law enforcement official⁴ or be employed by ABC • May be a licensed CMB retailer⁵ • Must own premises or have a valid lease for at least 3/4 of license period • Upon initial application, the applicant's spouse also must meet qualifications for licensure other than citizenship, residency, and age 	<ul style="list-style-type: none"> • U.S. Citizen • 1 year Kansas Resident • 6 months resident of county from which license is sought; good character reputation in community where resident • No felony conviction in preceding 2 years; no conviction for moral turpitude, drunkenness, DUI, or any liquor violation • NA • Same • NA • NA • NA • Same
Business Arrangements Eligible for License	<p><u>Partnerships</u> -- All partners qualify as individuals</p> <p><u>Corporations</u> -- Not eligible for licensure</p> <p><u>Trust</u> -- All grantors, beneficiaries, and trustees must meet qualifications, except for age of beneficiary, as individuals</p>	<p><u>Partnerships</u>, if all partners qualify as individuals</p> <p><u>Corporations</u>, if all officers, managers, directors, and stockholders with >25% of stock would qualify as individuals⁶</p> <p>Business may be operated by an agent if the agent qualifies as an individual</p>
License and Application Fees	<p>License Fee: \$250, annually</p> <p>Application Fee: \$50, initial; \$10, renewal</p> <p>Local License Tax: \$100-300, annually</p> <p>Total: \$400-600, initial</p> <p>\$360-560, renewal</p>	<p>License Fee: \$25-50, annually</p> <p>Application Fee: \$25, annually</p> <p>State Stamp: \$25</p> <p>Total: \$75-100, annually</p>
Products	Beer, wine, spirits, NAB	CMB, NAB
Days of Sale	No sales on: Sunday, election days ⁷ certain holidays ⁸	No sales on Sundays or election days
Hours	No sales between 11:00 p.m. and 9:00 a.m. ⁹	No sales between midnight and 6:00 a.m.
Discounts	No sales at less than cost ¹⁰	May sell at less than cost and may receive quantity discounts from wholesalers
Credit Sales	No	No

Statutory Provision	Retail Liquor Store	CMB Retailer (off-premise)
Advertising	No hand bills, bill boards ¹¹ , or window displays of liquor	No restrictions
Employee Age	Must be 21 or older	Must be 18 or older
Buys From	Licensed wholesalers No credit purchasers	Same
Sells To	<ul style="list-style-type: none"> • Consumers, clubs, drinking establishments, caterers, and holders of temporary permits • May deliver product to clubs, drinking establishments, and caterers 	Consumers
Location of Licensed Premises	<ul style="list-style-type: none"> • Must be in areas zoned for commercial use if jurisdiction is zoned • Cannot be in city that does not permit retail liquor stores • Cannot be within 200 feet of school, college, or church • Cannot have inside entrance or opening that connects with another business 	City or county may establish zones in which CMB retailers may not be located
Other Sales	<ul style="list-style-type: none"> • May <u>not</u> sell any products other than liquor, products or materials included by the manufacturer in the package, and nonalcoholic beer, except lottery tickets • May give away advertising specialties • May <u>not</u> charge a delivery fee • May <u>not</u> provide entertainment nor have pinball machines, or games of skill or chance on the premises 	<ul style="list-style-type: none"> • No limitations regarding nonalcohol products that may be sold on licensed premises

- 1) Spouse of deceased licensee may be licensed if a U.S. citizen for less than ten years or if that person becomes a citizen within one year of the licensee's death.
- 2) The requirement does not apply upon the tenth and subsequent renewals if a resident agent has been appointed.
- 3) A license may be issued after ten years from revocation if the previous license was revoked for conviction of a misdemeanor.
- 4) An exception to the supervision provision is provided for members of a city or county governing body.
- 5) CMB and liquor cannot be sold for off-premise consumption at the same location.
- 6) If any manager, officer, director, or stockholder owning more than 25% of the corporate stock has had a CMB license revoked or has been convicted of a violation of the Kansas Drinking Establishment Act or CMB laws, the corporation could not receive a CMB retailer license.
- 7) "Election days" include any national, state, county, or municipal general or primary election. The prohibition against liquor sales on election days applies to the time when polls are open within the jurisdiction where the election is being held.
- 8) Holidays on which liquor stores must be closed: Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.
- 9) By ordinance, a city may require liquor stores to close prior to 11:00 p.m., but not before 8:00 p.m.
- 10) Wholesalers cannot grant retailers quantity discounts (by regulation). Sales at less than cost are permitted when a retailer is closing out stock, selling damaged or deteriorated stock, or selling under court order.
- 11) In a 1992 opinion (92-14) the Attorney General stated that the statute that attempts to prohibit liquor retailers from advertising by means of billboards (K.S.A. 1992 Supp. 41-714) is so vague as to be unenforceable.

TABLE 3

Licensee Qualifications -- Individual Applicant

	U.S. Citizen	Kansas Resident	Record	Age	Other Employment	Hold 3.2 License?	Control of Premise?	Spouse	Beneficial Interests?
Manufacturer	10 year	5 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	N/A
Nonbeverage User	10 year	N/A	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	N/A
Spirits Distributor	10 year	10 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold more than one distributor's license. No other interest allowed.
Wine Distributor	10 year	10 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold more than one distributor's license. No other interest allowed.
Beer Distributor	10 year	1 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold more than one distributor's license. No other interest allowed.
Farm Winery	10 year	4 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold club or D.E. license. No other interest allowed.
Microbrewery	10 year	4 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold club, D.E., or caterer license. No other interest allowed.
Retailer	10 year ¹	4 year ⁴	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	No beneficial interest in any other license
Class A Club	10 year	1 year + current resident of county	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed. ⁵
Class B Club	10 year	1 year + current resident of county	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed.
Drinking Estab. Caterer Hotel	10 year	1 year + current resident of county	No felony, prostitution, gambling morals conviction, no license revocation ²	21	May not be, appoint, or supervise any law enforcement official ³ or be employed by the director	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application; must be fully qualified other than citizenship, residency, and age; renewal, N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed.

1) Spouse of deceased retail licensee may be licensed if U.S. citizen or becomes U.S. citizen within one year of licensee's death.

2) License may be issued after lapse of ten years from date of revocation if license was revoked for conviction of a misdemeanor

3) Except as member of city or county governing body.

4) Does not apply upon tenth and subsequent renewals if resident agent has been appointed.

5) Class A club officer, director, or board member may be a distributor or retailer if they do not sell to the club.

SOURCE: Division of Alcoholic Beverage Control

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TABLE 4

BUSINESS TYPES ELIGIBLE FOR LICENSE

	Individual	Partnership	Corporation	Trust
Manufacturer	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers and directors, or stockholders holding more than 25% must be fully qualified as individuals except for citizenship or residence	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Nonbeverage User	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers and directors, or stockholders holding more than 25% must be fully qualified as individuals except for citizenship or residence	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Spirits Distributor	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Wine Distributor	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Beer Distributor	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Farm Winery	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	stockholders owning aggregate 50% must be fully qualified as individuals, all others must be fully qualified except for citizenship or residency	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Microbrewery	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	stockholders owning aggregate 50% must be fully qualified as individuals, all others must be fully qualified except for citizenship or residency	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Retailer	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	may not hold retail liquor license	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Class A Club (nonprofit social, fraternal, or veterans)	may not hold Class A club license	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Class B Club	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Drinking Estab. Caterer Hotel	fully qualified as described in individual applicant graph	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Source: Division of Alcoholic Beverage Control				

Where Can Consumers Legally Purchase Alcoholic Beverages in Kansas?

Beer, wine, and spirits for off-premise consumption (package sales) must be purchased at a retail liquor store. Retail liquor stores also may sell NAB. Farm wineries and microbreweries may sell their products, domestic wine, and domestic beer, to the public for off-premise consumption. CMB may be purchased from any locally licensed CMB retailer. In the case of off-premise sales, licensed CMB retailers are commonly grocery and convenience stores. State law requires that CMB and alcoholic liquor be sold at retail in separate places. That restriction applies only to off-premise sales.

Liquor may be purchased for consumption on the licensed premises in class A or B clubs, and drinking establishments. CMB may be purchased for on-premise consumption at locally licensed bars and restaurants and in clubs and drinking establishments that also hold a local CMB license. Farm wineries and microbreweries also serve samples of their products on the licensed premises if they are located in a county that approved liquor by the drink. Farm wineries and microbreweries also may be licensed as clubs or drinking establishments in which case they can sell liquor by the drink in accordance with those licenses. Licensed caterers and holders of temporary permits may sell liquor by the drink in public places that are not licensed premises.

Except in clubs, liquor by the drink is specifically prohibited except where voters approved the liquor by the drink constitutional amendment that was on the 1986 general election ballot. That amendment authorized the Legislature to provide for liquor by the drink in establishments that derive 30 percent or more of gross receipts from the sale of all food and beverages from food. The amendment also authorized the Legislature to provide for temporary permits to serve liquor by the drink at public places. Temporary permits can only be issued in those counties that have approved liquor by the drink. The amendment also authorized the Legislature to provide for a subsequent county referendum in which voters may:

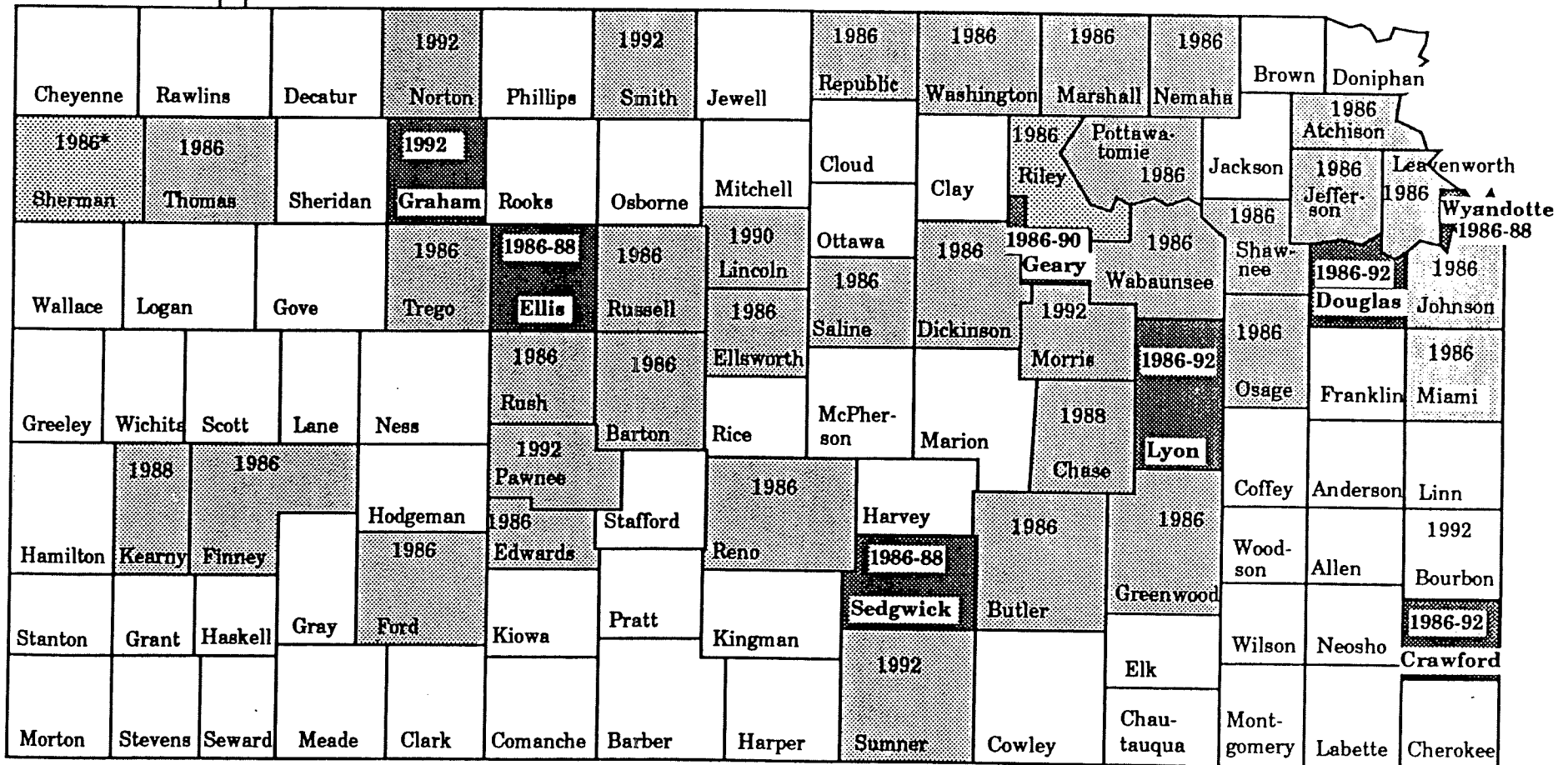
- prohibit liquor by the drink in that county
- remove the minimum food sale requirement
- permit liquor by the drink in places that meet the 30 percent minimum food sale requirement

Attachment 1 shows the counties in which liquor by the drink is legal in Kansas. Table 5 displays some restrictions that apply to package and by-the-drink sales of liquor and CMB by licensees that have permanent premises. Attachments 2 and 3 summarize rights and restrictions that apply to licensed caterers and holders of temporary permits.

3-11

Kansas Liquor-By-The-Drink

January 1, 1993



☐ No Liquor-By-The-Drink

 Liquor-by-the-drink allowed with 30% food requirement

 Liquor-by-the-drink allowed with no food requirement

* Year county voted for liquor-by-the-drink/remove the 30% food requirement

Source: Alcoholic Beverage Control

ATTACHMENT 2

CATERERS

Caterers are authorized to sell liquor by the drink on unlicensed premises that may be open to the public. Caterers may only sell liquor by the drink in counties where such sales have been approved by voters.

Caterers must:

- meet the minimum food sales requirement that applies to drinking establishments unless that requirement has been removed through a county referendum
- maintain a principle place of business in a county that permits liquor by the drink
- notify the Alcoholic Beverage Control a minimum of ten days prior to an event at which liquor will be sold
- notify the police chief or county sheriff with jurisdiction over the location of the catered event

Caterers may share a portion of their receipts with person who hired them.

Prohibitions against special promotions, such as "happy hour", that apply to on-premise licensees also apply to caterers (see "Discounts" on Table 5).

License requirements are the same as for clubs and drinking establishments except for the requirement to conduct business only on licensed premises (see Tables 3 and 4).

Retailers may deliver liquor to caterers.

Caterers must collect drink tax on sales of liquor.

ATTACHMENT 3

TEMPORARY PERMITS

The Secretary of Revenue is authorized to issue temporary permits which allow permit holders to sell liquor by the drink in public, unlicensed places in counties that have approved liquor by the drink. Holders of temporary permits need not be caterers and caterers do not need to secure temporary permits for catered events.

Applicants for temporary permits must:

- make application for the permit at least 14 days prior to the event
- state in the application the purpose for which proceeds from sale of liquor will be used and use proceeds only for those purposes
- sell liquor only on premises located where city and county zoning permit the sale of liquor by the drink
- limit liquor sale activity to three consecutive days

Applicants are limited to four temporary permits per year.

Prohibitions against special promotions, such as "happy hour," that apply to on-premise licensees and caterers also apply to holders of temporary permits (see "Discounts" on Table 5).

Employees of temporary permit holders must meet the same requirements as employees of licensees in regard to age and criminal background.

Temporary permit holders must purchase liquor from licensed retailers.

Liquor sold by holders of temporary permits is subject to the 10 percent drink tax.

TABLE 5

WHERE, WHEN, AND HOW IS LIQUOR SOLD TO THE PUBLIC?

TYPE OF SALES	PRODUCTS	DAYS	HOURS	DISCOUNTS	CREDIT SALES	ADVERTISING	EMPLOYEE AGE
PACKAGE SALES							
Retail Liquor Stores	Beer ¹ , wine, spirits, non-alcohol beer (NAB) ²	No sales on: Sunday, election days ³ , certain holidays ⁴ .	No sales between 11 p.m. and 9 a.m. ⁵	No sales at less than cost. ⁶	No	No handbills, billboards ⁷ , or window displays of liquor.	Must be 21 or older.
CMB Retailers (off-premise)	CMB, NAB	No sales on Sunday or election days.	No sales between midnight and 6 a.m. ⁸	May sell at less than cost and may receive quantity discounts from wholesalers.	No	No restrictions.	Must be 18 or older to sell CMB.
Farm Wineries, outlets, and Microbreweries	Domestic wine (farm wineries) Domestic beer (microbreweries)	Any days. Limited Sunday hours.	No sales between midnight and 6 a.m. Sunday sales permitted between noon and 6 p.m.	NA	No	Any advertising is subject to approval by the Director of Alcoholic Beverage Control.	Persons employed in manufacture, sale, or serving must be 18 or older. Those under 21 must be supervised by someone 21 or older.
BY THE DRINK							
Clubs & Drinking Establishments Microbreweries and Farm Wineries ⁹	Beer, wine, spirits, NAB, CMB ¹⁰	Any days.	No sales between 2 and 9 a.m.	No free drinks, no sales at less than cost. No public "all you can drink" for one price promotions. No sales at price less than that charged the general public. Cannot offer drinks as prizes. No "happy hour" promotions. Increased alcohol content in drink must result in proportional increase in price. Free food and entertainment permitted at any time.	Permitted	No advertising of prohibited promotions (see "Discounts").	Must be 21 or older to mix and dispense drinks. Must be 18 or older to serve drinks.
CMB retailers (on-premise)	CMB, NAB	No sales on Sunday in bars. Restaurants may sell on Sunday if authorized by local governing body. No election day sales.	No sales between midnight and 6 a.m. except in clubs and drinking establishments.		No ¹¹		Must be 18 or older to serve and dispense CMB.

1. Malt beverage containing more than 3.2 percent alcohol by weight.

2. Malt beverage containing not more than .5 percent alcohol by weight.

3. "Election days" include any national, state, county, or municipal general or primary election. The prohibition against liquor sales on election days applies to the time when polls are open within the jurisdiction where the election is being held.

4. Holidays on which liquor stores must be closed: Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

5. By ordinance, a city may require liquor stores to close prior to 11:00 p.m., but not before 8:00 p.m.

6. Wholesalers cannot grant retailers quantity discounts (by regulation). Sales at less than cost are permitted when a retailer is closing out stock, selling damaged or deteriorated stock, or selling under court order.

7. In a 1992 opinion (92-14) the Attorney General stated that the statute that attempts to prohibit liquor retailers from advertising by means of billboards (K.S.A. 1992 Supp. 41-714) is so vague as to be unenforceable.

8. City or county governing bodies may, by ordinance or resolution, prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary, and health conditions of CMB licensees and may establish zones within which CMB retailers may not be located.

9. Microbreweries and farm wineries located in counties that permit liquor by the drink may offer free samples of their product. In order to sell liquor by the drink, microbreweries and farm wineries must be licensed as clubs or drinking establishments, in which case they must adhere to requirements for those licenses. Microbreweries also may be licensed as caterers and, if so, would follow those statutes.

10. Clubs and drinking establishments may also have a locally issued license to sell CMB.

11. CMB may be sold on credit in clubs and drinking establishments. In restaurants and bars that only sell CMB, no sales may be made on credit.

Who Can Work in Licensed Liquor Establishments in Kansas?

Individuals who sell and dispense alcoholic liquor generally must be 18 years of age or older. Persons under 21 must, in most cases be under the supervision of someone who is 21 or older. Felons generally cannot work in licensed establishments. Table 6 summarizes statutory restrictions on employment by various types of licensees.

Statutes do not impose any restrictions on employees of liquor manufacturers or distributors.

TABLE 6
QUALIFICATIONS FOR EMPLOYMENT

<u>Licensee/Employer</u>	<u>Minimum Age</u>	<u>Supervision Required</u>	<u>Other</u>
Liquor Retailer	21	NA	No convicted felons
CMB Off-Premise Retailer	18	NA	NA
CMB On-Premise Retailer Only	18 in restaurants (> =50% food sales) 21 in bars	NA	NA
Clubs and Drinking Establishments	18 for serving of liquor 21 for mixing or dispensing	Licensee, permit holder, or employee who is 21 or older	No convicted felons, or perpetrators of morals violations; no persons found guilty of violation of liquor laws for 2 years after adjudication
Microbrewery	18 for manufacture, sale, or serving	Licensee or employee 21 or older	No convicted felons employed in connection with manufacture or sale of alcohol.
Farm Winery	21 for mixing or dispensing		

TABLE 7

WHAT FEES ARE CHARGED TO OBTAIN AND RENEW LIQUOR AND CMB LICENSES?

Licensee	License Fee	Application/Registration Fee	Local License Tax	
CLUB <u>Class A</u> Fraternal or War Veterans Social Club < 500 members Social Club > 500 members <u>Class B</u>	 \$250 500 1,000 1,000	\$50 initial application \$10 renewal application	Optional annual tax \$100 - \$250	
Drinking Establishment	\$1,000			
Caterer	\$500			NA
Temporary Permittee	\$25/day			NA
Manufacturer Spirits Wine Beer	 \$2,500 500 \$200-\$1,600	\$50 initial application \$10 renewal application	Optional annual tax not to exceed amount of state li- cense fee	
Distributor Spirits Wine Beer	 \$1,000			
 Microbrewery Farm Winery Outlet	 \$250 50			NA
Liquor Retailer	\$250		Mandatory annual license tax \$100-\$300	
CMB Retailer Off Premise	\$25 - \$50		\$25 ¹	NA
CMB Retailer On Premise	\$25 - \$200	NA		
1) Applicants for new and renewal CMB retailer licenses must submit the application and \$25 to the Director of ABC as well as to the local licensing entity. Upon receipt of the application and fee, the Director must authorize a state stamp be placed on the license. No license may be issued or renewed without a state stamp. The statute does not give the Director of ABC any authority to approve or reject applications for licensure.				

How is Liquor Taxed in Kansas?

Gallonage Tax

Spirits	\$2.50
Wine (14% alcohol or less)	.30
Wine (over 14% alcohol)	.75
Beer and CMB	.18

Gallonage tax is paid by the Kansas manufacturer or by the first person in the state who receives the product. Since there currently are no licensed manufacturers in Kansas, the gallonage tax is paid by farm wineries, microbreweries, and by distributors.

Gallonage tax is not applied to amounts of a gallon or less brought into the country by a private citizen for personal use. Other exceptions include sacramental wine and alcohol sold to nonbeverage user licensees.

Liquor Enforcement

This 8 percent tax is paid by the consumer in lieu of retail sales tax on liquor and NAB purchased from licensed liquor retailers, farm wineries, and microbreweries. The tax is also paid by clubs and drinking establishments on purchases they make from retail liquor stores and from wholesalers.

Since 1987, the enforcement tax has been collected on sales of CMB by wholesalers directly to clubs, drinking establishments, and caterers. Prior to that, the enforcement tax was not applied to any CMB sales. The enforcement tax rate was increased from 4 percent to the current 8 percent in 1983.

Drink Tax

The drink tax at the rate of 10 percent of gross receipts is imposed on sales of liquor and CMB by clubs, drinking establishments, caterers, and holders of temporary permits. The tax is paid by the consumer to the licensee or permit holder. Like the enforcement tax, this tax is paid in lieu of retail sales tax. Drink tax is collected on sales of CMB only by on-premise CMB licensees who are also liquor licensees.

Retail Sales Tax

The state retail sales tax of 4.9 percent, plus applicable local sales tax, is collected on sales of CMB by CMB licensees who are also not liquor licensees, *e.g.*, CMB bars, restaurants, and grocery stores. Sale of CMB by clubs was subject to retail sales tax until 1985 when those sales became subject to the drink tax.

Table 8 displays the allocation of state taxes and fees levied on liquor and liquor licensees. The table also includes amounts credited to each state fund during FY 1993.

TABLE 8

HOW ARE STATE LIQUOR TAXES AND FEES DISTRIBUTED?

Tax/Fee	SGF	Community Alcoholism & Intoxication Programs Fund ¹	Alcoholism Treatment Fund ²	Local Alcoholic Liquor Fund ³	Local Unit General Fund
TAXES					
Gallonage Tax (Beer, CMB, Wine)	100%	--	--	--	-
FY 1993 Receipts	\$ 3,455,355				
Gallonage Tax (Spirits)	90%	10%	--	--	--
FY 1993 Receipts	\$ 5,753,120	\$ 639,235			
Enforcement Tax (in lieu of sales tax on retail liquor sales)	100%	--	--	--	
FY 1993 Receipts	\$ 24,386,463				
Drink Tax (in lieu of sales tax on sales by clubs, drinking establishments, and caterers)	25%	5%	--	70%	
FY 1993 Receipts	\$ 4,380,870	\$ 876,174	--	\$ 12,266,438	
Retailer Sales Tax (on CMB sales by retailers who are not also liquor licensees)	100% (state rate 4.9%)	--	--	--	100% of local option sales tax
City & Township License Tax on Liquor Retailers (required by state law)	--	--	--	--	\$73,900 to \$221,700
FEES					
Club, Drinking Establishment, and Caterer Annual License Fees	50%	--	50%	--	
FY 1993 Receipts	\$ 765,677		\$ 765,677		
Club, Drinking Establishment, and Caterer Application Fees; Temporary Permit Fee; Manufacturer, Wholesaler, Retailer, etc. Registration and License Fees	100%	--	--	--	
FY 1993 Receipts	\$ 355,489				
CMB Retailer Application Fee (state stamp)	100%	--	--	--	
FY 1993 Receipts	\$ 98,747				

- 1) Revenue to the fund is expended by the Secretary of SRS to provide financial assistance to community-based alcoholism and intoxication treatment programs. Funds may be used to: match federal Title XX funds to purchase treatment services; provide start-up or expansion grants for halfway houses or rehabilitation centers; purchase services from treatment facilities for low-income persons who are not eligible for Medicare or Medicaid assistance; and assist with development programs for prevention, education, early identification, and facility assistance and review team. Alcohol treatment programs at Topeka, Osawatomie, and Larned State Hospitals and programs at Rainbow Mental Health Facility may not receive support from this fund.
- 2) Revenue to the fund is to be used by the Secretary of SRS to implement the Secretary's responsibilities to establish, coordinate; and fund programs for prevention and treatment of alcohol abuse.
- 3) Each city with a population of over 6,000 and each county receives 70 percent of the amount of drink tax collected in that jurisdiction. In addition counties receive 23 1/3 percent of the amount collected in cities with populations under 6,000. Counties and the larger cities must divide their receipts equally between their general funds, parks and recreation funds, and special alcohol and drug programs funds. Small cities must divide their receipts equally between their general funds and parks and recreation funds. Counties receiving receipts attributable to taxes collected in smaller cities must credit those moneys to the county's special alcohol and drug programs fund. The statute (K.S.A. 79-41a04) contains special provisions for use of drink tax revenue received by Butler County and cities in that county. Half of revenue distributed to cities in Butler County and one-third of revenue to the county may be used for establishment and operation of a domestic violence program operated by a private nonprofit organization.

What is the Role of Local Units of Government in Regard to Liquor Sales in Their Jurisdictions?

The most extensive authority for local units of government in regulating sale of alcoholic beverages is in the licensure and regulation of the sale of CMB. CMB licenses are issued by cities and counties. City and county governing bodies have authority to dictate hours of closing, standards of conduct, and rules and regulations regarding the moral, sanitary and health conditions of CMB retailers and to establish zones in which CMB may not be sold. CMB-only retail establishments are regulated by and their license requirements are enforced by localities, not by the ABC.

Voters in Kansas have some ability to limit liquor, but not CMB, sales in localities. By statute, retail liquor store licenses cannot be issued for stores located in first or second class cities or in third class cities located in a township where the voters did not approve the 1948 constitutional amendment that permitted the Legislature to regulate, license, and tax the manufacture and sale of liquor and regulate possession and transportation of liquor, unless voters subsequently authorized

retail sales in that locality. The *Constitution* prohibits sale of liquor by the drink in public places in counties where voters did not approve the 1986 constitutional amendment, unless voters subsequently voted to permit liquor by the drink. The *Constitution* also permits voters to remove or impose a 30 percent food sales requirement on public places that sell liquor by the drink in their county.

Local units of government also have some role in the process of granting retail liquor store licenses. City or township governing bodies may make advisory recommendations to the Secretary of Revenue relative to the granting or refusal to grant a retail liquor license. The Secretary is not bound to follow those recommendations.

As indicated in Table 7, above, cities and townships may levy an annual occupation or license tax on manufacturers and distributors at a rate that does not exceed the annual state license fee. Cities and townships are required to levy an annual \$100 to \$300 occupation or license tax on liquor retailers. Other local license and occupation taxes on these licensees are prohibited by statute. Cities and counties are authorized to levy an annual \$100 to \$250 occupation or license tax on clubs and drinking establishments.

Licensed liquor establishments and events at which liquor is sold under the authority of a temporary permit must be in locations that are properly zoned for those businesses, if they are located in a jurisdiction that is zoned. Liquor retailers, farm

As outlined in *Kansas Local Government Law: 1991 Edition*, cities may:

- provide more stringent closing hours for private clubs than state law requires;
- prohibit open containers of cereal malt beverages;
- adopt city ordinances which declare as unlawful or prohibit the same acts that are proscribed under the Kansas Liquor Control Act;
- authorize liquor consumption on the premises of municipally-owned buildings;
- hold a drinking establishment license under certain circumstances;
- regulate conduct and entertainment where cereal malt beverages are sold;
- exempt themselves from statutory limits on cereal malt beverage license fees.

Sunday sale of liquor and CMB may not be authorized by home rule, nor may a city authorize consumption of alcohol on state-owned property.

wineries, and microbreweries cannot be established within 200 feet of any existing public or parochial school or college or church. Those businesses also must be in buildings that conform to local building ordinances. Licensees also must conform to local ordinances and resolutions regarding signs and outdoor advertising of their businesses. Cities may require retail liquor stores to close prior to 11:00 p.m., but cannot require closing prior to 8:00 p.m.

Cities are prohibited from enacting ordinances that conflict with the Club and Drinking Establishment Act. Cities may enact ordinances that conform with the Act, but the minimum penalty imposed by those ordinances cannot exceed the minimum penalty imposed by the Act. Cities and counties may enact local ordinances and resolutions that impose penalties that are more stringent than state law for possession and consumption of liquor by minors.

MEMORANDUM

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September 14, 1993

To: House and Senate Committees on Federal and State Affairs

Re: 1987-1993 Alcohol Bills Provisions Not Enacted in Subsequent Legislation

Below is a brief summary of all alcohol-related bills considered but not enacted from 1987 through 1993. A few observations might be helpful concerning the format. First, this memorandum organizes bills by categories. A bill may be listed under more than one category. Second, bills are listed under each category in numerically sequential order (Senate followed by House), as well as in chronological order. Third, because many bills include more than one alcohol-related subject area, the bold print refers specifically to the category under which the bill is classified. Fourth, the last formal action on the bill follows the bill number. Of course, all bills, other than those under consideration in 1993, are dead, but the last action indicates the degree of consideration accorded any bill. Frequently, provisions of bills that were considered by both houses in one legislative session were incorporated in some manner into legislation enacted in a subsequent session. Fifth, references to the disposition of provisions in a bill may be made to existing law (the law now "on the books") or to legislation enacted in a given year. Sometimes, legislation enacted in a given year was subsequently amended. Therefore, such legislation is not necessarily identical to existing law. Finally, any bill that was not enacted under a given bill number, but was subsequently enacted in the identical version under another bill number, is not included in this summary. However, those bills which included several provisions (some, but not all, of which were subsequently enacted) are included in this summary and, to the greatest extent possible, references are made to indicate the inclusion of such provisions in enacted legislation.

Licensee Powers/Requirements/Restrictions

1987 S.B. 129 -- Conference Committee -- Would have amended qualifications for licensure (later incorporated into statute). Would have deleted the \$15,000 amount for bonds required under existing law of alcoholic liquor (now spirits) distributors and the \$5,000 amount for bonds required of beer distributors. Would have deleted the requirement that an application for licensure of a wholesaler or distributor of CMB or wine include the \$1,000 bond requirement.

1987 S.B. 352 -- Not recommended by House Federal & State Affairs Committee -- With minor exceptions, provisions of the bill were incorporated into legislation enacted subsequently concerning qualifications for certain licenses for the manufacture or sale of alcoholic beverages.

1987 S.B. 356 -- Killed on Senate Final Action -- Would have authorized licensed retailers to sell, in addition to alcoholic liquor, drink mixers or any other items used for mixing and

Attachment 4
House & Senate Federal
& State Affairs
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serving drinks, as defined by rules and regulations. Would have deleted the prohibition against selling liquor or CMB on election days. Would have authorized licensed retailers and farm wineries to sell liquor or licensed retailers to sell CMB on credit (all provisions not found in existing law).

1987 S.B. 360 -- Not recommended by Senate Federal and State Affairs Committee -- Would have required the licensing of certain servers of alcoholic beverages. Would have required the Secretary of Revenue to establish standards for alcoholic liquor server education programs.

1987 S.B. 399 -- Not recommended by Senate Federal and State Affairs Committee -- Would have permitted manufacturers and distributors of alcoholic beverages to hold seminars for licensees of such beverages.

1987 S.B. 402 -- Not recommended by Senate Federal and State Affairs Committee -- Would have provided for the regulation and licensure of microbreweries (some, but not all provisions, were incorporated into enacted 1987 Sub. for S.B. 141; conditions for licensure to be met by microbreweries are different in S.B. 402 than in the enacted bill).

1987 S.B. 403 -- Not recommended by Senate Federal and State Affairs Committee -- Would have pertained to the sale of liquor in public places and the licensure and regulation of liquor (many but not all provisions were incorporated into enacted 1987 Sub. for S.B. 141).

1988 S.B. 480 -- Died in Senate Federal and State Affairs Committee -- Would have explicitly provided for the sale of spirits to licensed caterers and club and drinking establishments (this is currently permitted in the section of the law excepting a prohibition in K.S.A. 41-701, but not in conditions for a spirits distributor's license). Would have required the filing of a written statement by a licensed distributor of agreement to sell, without discrimination concerning price, to licensed clubs or drinking establishments any kind of alcoholic liquor (under existing law, only wine and beer), to which such distributor is authorized to sell.

1988 S.B. 544 -- Died in Senate Federal and State Affairs Committee -- Would have authorized the sale of CMB on Sunday for off-premise consumption provided that Sunday sales are authorized by city or county ordinance.

1988 S.B. 559 -- Died in Senate Federal and State Affairs Committee -- Would have authorized distributors to claim and receive a refund for taxes imposed on alcoholic liquor sold to a federal military installation (similar provision enacted in 1989 H.B. 2237.) Would have defined a drinking establishment as a "restaurant," which would derive 30 percent of all its gross receipts from sales of food and beverages on such premises based on a 90-day period (or longer upon determination by the Secretary of Revenue). (Same percentage applies to definition of "restaurant" in existing law; however, receipts are based on a 12-month period.) Would have included provisions for a temporary permit. (Provisions concerning temporary permits were enacted in 1990 S.B. 516).

1988 S.B. 560 -- Died in Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content. Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers and liquor retailers (not allowed under existing law). Would have permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). Would have imposed an annual fee for a manufacturer's license to manufacture beer and CMB (permitted under existing law). Would have allowed a beer distributor to sell beer (as

defined in bill) to CMB retailer licensees (not permitted under existing law). Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law).

1988 S.B. 671 -- Died in Senate Federal and State Affairs Committee -- Would have required (existing law is permissive) rules and regulations to regulate and control the advertising of alcoholic liquor. Would have included specific items to be addressed by rules and regulations. Would also have allowed credit cards to be used for the purchase of alcoholic liquor sold by a licensed retailer, microbrewery, or farm winery. (Existing law does not allow such purchases to be made on credit.)

1988 Sub. for H.B. 2707 -- Died in Conference Committee -- Would have amended various alcoholic beverage laws: (1) grounds for defense to a prosecution if alcoholic liquor or CMB is sold to a minor -- here under 16 years old (another version of this bill reflecting this intent was enacted in 1989 H.B. 2237); (2) authorization to issue a license under the Liquor Control Act to a person, or employ a person, convicted of a nonviolent felony if that person was sentenced to probation for that felony not less than 15 years preceding application for the license and if that person is determined to be habilitated (there is no such exception in existing law); (3) authorization for alcoholic liquor to be sold at retail in places of business where entrances and openings connect with lobbies, hallways, or other common areas of a hotel (this provision is not included in existing law); (4) same provisions on advertising as S.B. 671 (above); (5) same provisions on credit card sales as S.B. 671 (above); expansion of the exclusionary clause in the definition of "beneficial interest" in the Club and Drinking Establishment Act (not in existing law); (6) same definition of "restaurant" as in S.B. 559 (above); authorization for Class B clubs on trains to establish rules and regulations for temporary club memberships (not in existing law); provisions for temporary permits (provisions concerning temporary permits were enacted in 1990 S.B. 516).

1988 H.B. 2746 -- Died in Conference Committee -- Would have reduced the number of years from 10 (existing law) to five that a person would have to be a U.S. citizen to be eligible for a liquor license. Would have included the same provision concerning the felony exception as contained in Sub. for H.B. 2707 (above) and would have applied that exception to prohibitions against employment of persons with felony records.

1988 H.B. 3124 -- Died in Conference Committee -- Would have amended the definition of "restaurant" in the Club and Drinking Establishment Act (similar definition to existing law). Would have authorized the employment of a person under the Liquor Control Act, who was convicted of a nonviolent felony (excluding several specified offenses), if that person was sentenced to probation for that felony not less than 28 years preceding application for the license and if that person had not been convicted of any other misdemeanor offenses, other than minor traffic offenses, since conviction (there is no such exception in existing law).

1989 S.B. 90 -- Not recommended by Senate Committee of the Whole -- Would have allowed sales of CMB for off-premise consumption on Sundays. (Same provisions are included as in 1988 S.B. 544 above, except for the requirement that the retailer must be licensed by the county or city where such sales had been authorized by ordinance).

1989 S.B. 93 -- Died in Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content. Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers and liquor retailers (not allowed under existing law). Would have

permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). Would have allowed a beer distributor to sell beer (as defined in bill) to CMB retailer licensees (not permitted under existing law). Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law). (See 1988 S.B. 560.)

1990 S.B. 761 -- Died in Senate Federal and State Affairs Committee -- Would have changed the hours for sales of domestic beer by microbreweries (enacted in 1990 S.B. 516). Would have authorized the sale of beer by microbreweries to licensed distributors, retailers, clubs, drinking establishments, and caterers (existing law only permits sales to distributors unless the microbrewery is also licensed as a drinking establishment and caterer).

1990 H.B. 2907 -- Died in House Federal and State Affairs Committee -- Would have prohibited any licensed drinking establishment from permitting a person under 21 years old to be on the premises unless that establishment derives not less than 50 percent of its gross receipts from sales on food and beverages in a 12-month period (no such provision in existing law).

1991 H.B. 2064 -- Not recommended by House Committee of the Whole -- Would have authorized a licensed retailer, microbrewery or farm winery to sell alcoholic liquor on credit (same provisions as 1988 S.B. 671).

1991 Sub. for H.B. 2295 -- House rejected Senate amendments -- Would have allowed retailers of nonalcoholic beverages to sell such beverages on Sunday. Would have allowed owners, officers, stockholders, or directors of liquor distributors to have an interest in the licensed premise of a club, drinking establishment, or retailer if those premises are located outside the distributor's franchise territory (enacted in 1991 H.B. 2552). Would have eliminated election days and certain holidays from the days a retailer was prohibited from selling liquor. Would have allowed liquor distributors and manufacturers to provide club and drinking establishment licensees with information regarding the availability of brands of liquor or things of value as authorized in rules and regulations (enacted in 1991 H.B. 2552).

1991 H.B. 2587 -- Died in House Federal and State Affairs Committee -- Would have required each CMB retailer, club, drinking establishment, farm winery, microbrewery, and retailer to display on the licensed premises a sign warning people that drinking during pregnancy can cause birth defects.

1992 S.B. 567 -- Killed on Senate Final Action -- Would have provided for farm winery outlets (same provisions enacted in 1992 H.B. 2719). Would have provided for spouses of deceased retail liquor licensees to receive and renew a license despite not meeting the 10-year citizenship requirement provided other requirements were met, and would have authorized liquor licenses to be issued to trusts (same provisions enacted in 1992 H.B. 2719). Would have required the placement of a keg identification number on all containers of beer or CMB having a liquid capacity of six gallons or more; records of such numbers would be made available to law enforcement officers conducting inspections.

1992 H.B. 2967 -- Died in House Federal and State Affairs Committee -- Would have required the placement of a keg identification number on all containers of beer or CMB having a liquid capacity of six gallons or more. Records of such numbers would be made available to law enforcement officers conducting inspections. (See 1992 S.B. 567 for same provisions.)

1993 S.B. 379 -- In Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would have been defined as a malt beverage containing more than 5.0 percent alcohol by weight. **Would have transferred authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993.** Would have exempted sales of CMB from state and local taxes and would have imposed an 8.0 percent enforcement tax. (See 1988 S.B. 560 and 1989 S.B. 93.)

1993 H.B. 2510 -- In House Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would have been defined as a malt beverage containing more than 5.0 percent alcohol by weight. **Would have transferred authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993.** Would have exempted sales of CMB from state and local taxes and would have imposed an 8.0 percent enforcement tax. (See 1993 S.B. 379.)

Certification

1987 S.B. 147 -- Died in Senate Public Health and Welfare Committee -- **Would have created a nine-member Board of Alcoholism and Drug Addiction Professionals to license alcoholism and drug addiction counselors.** Would have created an Alcoholism and Drug Addiction Counselors Fee Fund.

1989 S.B. 368 -- Died in Senate Public Health and Welfare Committee -- **Would have authorized the Secretary of SRS to adopt rules and regulations which provide for the certification of alcoholism and drug addiction counselors.** Would also have authorized the Secretary to establish an advisory committee to assist in that development. Would have authorized the Secretary to fix, charge, and collect fees for the certification and renewal of certification of alcoholism and drug abuse counselors.

1990 Sub. for S.B. 402 -- Died on House General Orders -- Would have required the Secretary of SRS to adopt rules and regulations to implement a system for certification of alcohol and other drug abuse counselors. Such rules and regulations would include qualifications for certification.

Driving Under Influence (DUI)

1987 S.B. 261 -- Killed on Senate Final Action -- Would have required an arresting officer to advise a person of his or her voluntary rights to a breath or blood test for alleged violations of the law pertaining to transportation of open containers. **Would have amended the law concerning municipal diversion agreements, tying such agreements to complaints alleging a violation of the law or an ordinance prohibiting DUI offenses.** Would also have required the submittal of abstracts instead of copies of diversion agreements to the Division of Vehicles.

1987 H.B. 2276 -- Died in House Federal and State Affairs Committee -- **Would have defined and classified the crime of causing injury for DUI and would have made such violation a Class E felony.**

1987 H.B. 2373 -- Died in House Federal and State Affairs Committee -- Would have allowed penalties to be imposed on passengers with valid driver's licenses who are riding in a motor vehicle operated by a person convicted of DUI (no such provision in existing law).

1988 S.B. 567 -- Died in Senate Judiciary Committee -- **Would have amended the law regarding penalties for DUI to require persons convicted for a second DUI offense to undergo treatment for alcoholism;** if the person undergoing treatment has insufficient funds, the differential would be paid by SRS with funds appropriated for that purpose. (Existing law makes no provision for SRS paying the differential for indigent persons undergoing alcoholism treatment.)

1988 S.B. 618 -- Died in House Federal and State Affairs Committee -- Would have authorized the court to restrict a defendant's driving privileges to driving vehicles equipped with ignition interlock devices (provisions very similar to 1988 H.B. 2760). Would have allowed the court to reduce any fine imposed for DUI violations in an amount equal to expenses occurred by the person whose driving privileges were conditioned upon the installation of an ignition interlock device. (Enacted 1993 H.B. 2355 requires the convicting court to restrict a person's driving privileges to driving a motor vehicle equipped with an ignition interlock device. The same provision as included in S.B. 618 pertains to the court's authority to reduce the fine to offset expenses associated with the device.)

1988 H.B. 2953 -- Died in Senate Transportation and Utilities Committee -- Would have provided for the suspension and restriction of driving privileges upon certain occurrences (very similar but not identical to provisions in enacted 1987 S.B. 111).

1988 H.B. 3036 -- Died in House Federal and State Affairs Committee -- Would have authorized law enforcement officers to conduct preliminary screening tests to determine the alcoholic concentration of a person's breath or other bodily substance under three specified conditions (existing law restricts the screening to a breath test).

1989 S.B. 171 -- Died in Senate Judiciary Committee -- Would have lowered the alcohol concentration from .10 to .05 in a person's blood or breath to make it a violation for a person to drive a vehicle (existing law is .08).

1989 S.B. 296 -- Died in House Judiciary Committee -- Would have provided that testimony from a law enforcement officer who administered a breath test could, under certain circumstances, be considered the evidentiary evidence to admit the breath test results.

1989 H.B. 2228 -- Not recommended by House Federal and State Affairs Committee -- Would have lowered the alcohol concentration from .10 to .05 in a person's blood or breath to make it a violation for a person to drive a vehicle (existing law is .08). (See 1989 S.B. 171.)

1989 H.B. 2230 -- Died in House Federal and State Affairs Committee -- Would have made it a violation punishable with penalties for a person with a driver's license to be a passenger in a car driven by a person with an alcoholic concentration in the blood or breath of .15 or more. (See 1987 H.B. 2373.)

1989 H.B. 2331 -- Died in House Federal and State Affairs Committee -- Would have required the Kansas Highway Patrol with assistance from the Kansas Department of Transportation to institute a statewide program against DUI to increase public awareness of the program.

1989 H.B. 2364 -- Died in House Federal and State Affairs Committee -- Would have placed the DUI legislation -- K.S.A. 8-1567 -- in the Kansas Criminal Code (currently not the case). Would have expanded "traffic offense" committed by juveniles to include DUI offenses. (See enacted 1993 S.B. 211, although provisions are not tied to the Kansas Criminal Code as was proposed in the bill.)

1989 H.B. 2460 -- Died in House Judiciary Committee -- Would have authorized tests requested by a law enforcement officer to establish the presence of alcohol in DUI offenses to be administered within or outside the state; such tests would be admissible as evidence. (Existing law does not expressly authorize tests to be administered outside the state.)

1990 S.B. 700 -- Died in House Judiciary Committee -- Would have required telephonic hearings on DUI alleged violations unless the facilities to conduct telephonic hearings were not available or special circumstances existed. (Under existing law, no such requirement pertains.)

1990 H.B. 2846 -- Died in House Federal and State Affairs Committee -- Would have allowed the court to reduce any fine imposed for second and subsequent DUI offenses in an amount equal to the expenses incurred by the person for payment for an inpatient alcohol treatment program (no such provision pertains in existing law; similar to 1988 S.B. 567, above).

1991 S.B. 76 -- Died in House Appropriations Committee -- Would have required a sentencing court or diversion agreement to stipulate the payment of an assessment of not less than \$125 nor more than \$200 (existing law is \$110), in addition to other penalties for DUI offenses. Would have allowed the assessment to be waived if the defendant had completed an alcohol and drug treatment program after being charged with DUI. (Existing law only permits a waiver if the defendant is found to be indigent.)

1991 S.B. 125 -- Not recommended by Senate Judiciary Committee -- Would have subjected a person driving a commercial vehicle or a taxi cab, or a person under 21 years old to a DUI conviction if any alcohol were found to be present in that person's blood, breath, or other bodily substance. (Under existing law, a driver of a commercial vehicle is subject to a DUI offense with an alcohol concentration of .04 and other drivers, .08.)

1991 S.B. 195 -- Died in House Judiciary Committee -- Would have lowered the alcoholic concentration in blood subject to DUI convictions to .04 for drivers of commercial vehicles and .08 for all other drivers and defined such level as the "legal limit." (Another version of those provisions was enacted in 1991 S.B. 345 for drivers of commercial vehicles and 1993 H.B. 2355 for all other drivers.)

1991 H.B. 2533 -- Died in House Judiciary Committee -- Would have established more severe penalties than are authorized under existing law for persons who were convicted for DUI offenses, if a child under 18 years of age was in the vehicle at the time of arrest.

1991 H.B. 2559 -- Died in House Judiciary Committee -- Would have required telephonic hearings on DUI alleged violations unless the facilities to conduct telephonic hearings were not available or special circumstances existed. (Under existing law, no such requirement pertains; same as 1990 S.B. 700, above).

1992 S.B. 705 -- Died in Senate Judiciary Committee -- Would have required the Division of Motor Vehicles to suspend a person's driving privileges if that person has failed to

complete an alcohol and drug safety action education or treatment program (same as enacted in 1993 H.B. 2355). Would have apparently applied the same conditions for suspension of a license to the driver of a commercial vehicle as to the driver of a motor vehicle (without repealing the law governing suspension of license for drivers of commercial vehicles).

1992 H.B. 2910 -- Died on House General Orders -- Would have required completion of a boater education course prior to resumed operation of a boat if the operator was convicted of operating a vessel under the influence or had refused to take a test (enacted in 1993 H.B. 2335). In addition, would have required that such resumption be conditioned upon a waiting period of up to three months after conviction (under existing law, this provision only applied to the violation of refusing to take a breath test when ordered to do so by a law enforcement officer).

1992 H.B. 2966 -- Died in House Judiciary Committee -- Would have made a DUI conviction of any driver under 21 years of age contingent upon the presence of any alcohol concentration in the blood or breath. (See 1991 S.B. 125 for the same provision.)

1992 H.B. 2975 -- Died in House Judiciary Committee -- Would have lowered the blood alcohol content for DUI to .02 for persons under 21 years old and to .08 (in effect in 1993) for all others. If a person refuses or fails a blood or breath test, a distinction is made between persons under 21 years old and 21 years of age and older with respect to suspension of driving privileges. (Under existing law, the same alcohol concentration of .08 applies to all persons, except commercial drivers, regardless of age.)

1993 S.B. 172 -- In Senate Judiciary Committee -- Would lower the blood alcohol content for DUI to .08 (incorporated in 1993 H.B. 2355). Would prohibit a city attorney or county or district attorney from entering into a diversion agreement if a defendant had an alcohol concentration of .20 or more in his blood or breath at the time of or within two hours after the alleged offense (not prohibited under existing law).

1993 S.B. 303 -- In Senate Transportation and Utilities Committee -- Would prohibit any person from operating an aircraft under the influence if the alcohol concentration in that person's blood or breath is .10 or more. The same conviction procedures would apply to violations concerning alcoholism while operating an aircraft as they do to driving or boating under the influence.

1993 S.B. 340 -- In Senate Judiciary Committee -- Would provide that testimony from a law enforcement officer who administered a breath test could, under certain circumstances, be considered the evidentiary evidence to admit the breath test results. (See 1989 S.B. 296 for the same provisions.)

1993 S.B. 360 -- In Senate Judiciary Committee -- Would change violations of DUI laws to reflect the classification of crimes under the Kansas Sentencing Guidelines Act (same as in 1993 H.B. 2355, except for third and subsequent violations; whereas in the bill this a severity level 9, person felony, in the recently enacted legislation, it is a severity level 9, nonperson felony. In addition, the bill does not reflect the reduction in blood alcohol content from .10 to .08 (see 1993 H.B. 2355).

1993 S.B. 428 -- In Senate Transportation and Utilities Committee -- Would require a person whose driver's license had been revoked on grounds of DUI to pay a fee of \$125 for reinstatement. Of that fee, 91 percent would be credited to the Highway Patrol DUI Fee Fund established in the bill; 5 percent to the Department of Health and Environment DUI Fee Fund

established in the bill; and 4 percent to the Kansas Bureau of Investigation DUI Fee Fund established in the bill. The bill specifies the use of expenditures from each fund, to include more law enforcement, education programs, and chemical analysis programs.

1993 H.B. 2133 -- In House Judiciary Committee -- Would provide that when the Division of Vehicles suspends, revokes, or disqualifies a person's driving privileges because of a court conviction, the person may request an administrative review to disprove the violation upon which the court order is based. Would give the Division authority to suspend a habitual violator's driving privileges for three years and for an additional year if the person is convicted of driving while on suspension as a habitual violator. Would reduce the legal alcohol blood content to .08 for any individual 21 years old or older and .02 for any individual under 21 (see 1992 H.B. 2975 above). Would strike the word "motor" as it relates to vehicles in conjunction with DUI violations (enacted in 1993 H.B. 2355); Would include a DUI conviction committed on a military reservation as part of the violator's record (enacted in 1993 H.B. 2355). Would require suspension of a person's driving privileges until the person completes an alcohol and drug safety action education or treatment program (enacted in 1993 H.B. 2355). Would change the disposition of open container violations (enacted in 1993 H.B. 2355).

1993 H.B. 2267 -- In House Judiciary Committee -- Would define the blood or breath alcohol content of .08 as the legal limit for DUI offenses (1993 H.B. 2355 does not provide for a definition of legal limit but the .08 alcohol concentration is the same).

1993 H.B. 2367 -- In House Judiciary Committee -- Would make the first and second violations for DUI Class C, non-person misdemeanors (in enacted 1993 H.B. 2355, the first violation is a Class B, nonperson misdemeanor and the second violation is a Class A, nonperson misdemeanor).

1993 H.B. 2518 -- In House Judiciary Committee -- Would change the punishment for violations of the restrictions on a driver's license to make suspension of a license by the court permissive and not mandatory, and to reduce the period during which a license would be suspended for a second or subsequent offense from a minimum of 90 days to a minimum of 30 days. Would allow the court, in determining whether a conviction is a first, second, or third conviction, to consider convictions subsequent to the offense under consideration. Would redefine "traffic offense" committed by children 14 or more years of age but less than 18 to apply to laws concerning the transportation, possession or consumption of alcoholic liquor and CMB in vehicles and all laws in Chapter 8 (automobiles and other vehicles). (Enacted 1993 S.B. 361 redefines "traffic offense" to expand the definition, but not to the same extent as is proposed in the bill.)

Licensure -- Fees

1987 S.B. 147 -- Died in Senate Public Health and Welfare Committee -- Would have created a nine-member Board of Alcoholism and Drug Addiction Professionals to license alcoholism and drug addiction counselors. Would have created an Alcoholism and Drug Addiction Counselors Fee Fund.

1987 S.B. 354 -- Not recommended by Senate Federal and State Affairs Committee -- Would have amended certain license fees for alcoholic beverages (to a large extent proposed changes were incorporated in enacted 1987 Sub. for S.B. 141).

1988 S.B. 560 -- Died in Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content. Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers and liquor retailers (not allowed under existing law). Would have permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). **Would have imposed an annual fee for a manufacturer's license to manufacture beer and CMB (permitted under existing law).** Would have allowed a beer distributor to sell beer (as defined in bill) to CMB retailer licensees (not permitted under existing law). **Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law).**

1989 S.B. 93 -- Died in Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content. Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers and liquor retailers (not allowed under existing law). Would have permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). Would have allowed a beer distributor to sell beer (as defined in bill) to CMB retailer licensees (not permitted under existing law). **Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law).** (See 1988 S.B. 560.)

1989 S.B. 368 -- Died in Senate Public Health and Welfare Committee -- Would have authorized the Secretary of SRS to adopt rules and regulations which provide for the certification of alcoholism and drug addiction counselors. Would also have authorized the Secretary to establish an advisory committee to assist in that development. **Would have authorized the Secretary to fix, charge, and collect fees for the certification and renewal of certification of alcoholism and drug abuse counselors.**

1992 S.B. 770 -- Recommended by Senate Ways and Means Committee -- **Would have reduced the percentage of moneys collected from licensees and credited to the Special Parks and Recreation Funds in the city and county and increased such percentage for the city and county Special Alcohol and Drug Programs Fund.** Would also have required that services of treatment programs receiving moneys from the Special Alcohol and Drug Programs Fund be licensed, certified, or funded by SRS (not required under existing law).

Open Container

1987 S.B. 261 -- Killed on Senate Final Action -- **Would have required an arresting officer to advise a person of his or her voluntary rights to a breath or blood test for alleged violations of the law pertaining to transportation of open containers.** Would have amended the law concerning municipal diversion agreements, tying such agreements to complaints alleging a violation of the law or an ordinance prohibiting DUI offenses. Would also have required the submittal of abstracts instead of copies of diversion agreements to the Division of Vehicles.

1989 S.B. 170 -- Died in Senate Judiciary Committee -- Would have subsumed alcoholic liquor and CMB open containers laws (now separate statutes) under one law and referred instead to "alcoholic beverages."

1990 H.B. 2893 -- Died in House Federal and State Affairs Committee -- Would have made the laws governing the transportation of CMB and alcoholic liquor part of and supplemental to the Uniform Act Regulating Traffic on Highways, instead of to the Intoxicating Liquors and Beverages Act under existing law.

1993 H.B. 2133 -- In House Judiciary Committee -- Would provide that when the Division of Vehicles suspends, revokes, or disqualifies a person's driving privileges because of a court conviction, the person may request an administrative review to disprove the violation upon which the court order is based. Would give the Division authority to suspend a habitual violator's driving privileges for three years and for an additional year if the person is convicted of driving while on suspension as a habitual violator. Would reduce the legal alcohol blood content to .08 for any individual 21 years old or older and .02 for any individual under 21 (see 1992 H.B. 2975 above). Would strike the word "motor" as it relates to vehicles in conjunction with DUI violations (enacted in 1993 H.B. 2355); Would include a DUI conviction committed on a military reservation as part of the violator's record (enacted in 1993 H.B. 2355). Would require suspension of a person's driving privileges until the person completes an alcohol and drug safety action education or treatment program (enacted in 1993 H.B. 2355). Would change the disposition of open container violations (enacted in 1993 H.B. 2355).

1993 H.B. 2518 -- In House Judiciary Committee -- Would change the punishment for violations of the restrictions on a driver's license to make suspension of a license by the court permissive and not mandatory, and to reduce the period during which a license would be suspended for a second or subsequent offense from a minimum of 90 days to a minimum of 30 days. Would allow the court, in determining whether a conviction is a first, second, or third conviction, to consider convictions subsequent to the offense under consideration. Would redefine "traffic offense" committed by children 14 or more years of age but less than 18 to apply to laws concerning the transportation, possession or consumption of alcoholic liquor and CMB in vehicles and all laws in Chapter 8 (automobiles and other vehicles). (Enacted 1993 S.B. 361 redefines "traffic offense" to expand the definition, but not to the same extent as is proposed in the bill.)

Redefinition -- Cereal Malt Beverage (CMB)

1987 S.B. 361 -- Not recommended by Senate Federal and State Affairs Committee -- Would have defined CMB as having 5 percent or less alcohol by weight (certain other provisions concerning distribution of alcoholic liquor and beer were incorporated into enacted 1987 Sub. for S.B. 141).

1988 S.B. 560 -- Died in Senate Federal and State Affairs Committee -- Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content. Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers and liquor retailers (not allowed under existing law). Would have permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). Would have imposed an annual fee for a manufacturer's license to manufacture beer and CMB (permitted under existing law). Would have allowed a beer distributor to sell beer (as defined in bill) to CMB retailer licensees (not permitted under existing law). Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law).

1989 S.B. 93 -- Died in Senate Federal and State Affairs Committee -- **Would have defined CMB as a malt beverage containing 5.0 percent or less alcoholic content (now 3.2 percent). Would have defined beer as having more than 5.0 percent alcoholic content.** Would have allowed a retail liquor store to sell CMB (not allowed under existing law). Would have permitted a beer distributor to sell CMB to caterers (not allowed and liquor retailers (not allowed under existing law). Would have permitted the state to regulate the manufacture of CMB (currently, state regulation is not exercised over CMB). Would have allowed a beer distributor to sell beer (as defined in bill) to CMB retailer licensees (not permitted under existing law). Would have permitted caterers to purchase a CMB retailer license for an annual \$100 fee (not provided under existing law). (See 1988 S.B. 560.)

1993 S.B. 379 -- In Senate Federal and State Affairs Committee -- **Would define CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would be defined as a malt beverage containing more than 5.0 percent alcohol by weight.** Would transfer authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993. Would exempt sales of CMB from state and local taxes and impose an 8.0 percent enforcement tax. (See 1988 S.B. 560 and 1989 S.B. 93.)

1993 H.B. 2510 -- In House Federal and State Affairs Committee -- **Would define CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would be defined as a malt beverage containing more than 5.0 percent alcohol by weight.** Would transfer authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993. Would exempt sales of CMB from state and local taxes and impose an 8.0 percent enforcement tax. (See 1993 S.B. 379.)

Advertising

1987 S.B. 398 -- Not recommended by Senate Federal and State Affairs Committee-- Would have allowed advertising of prices and brand names of any alcoholic liquor on or after July 1, 1988 (the prohibition against such advertising still exists).

1988 S.B. 671 -- Died in Senate Federal and State Affairs Committee -- **Would have required (existing law is permissive) rules and regulations to regulate and control the advertising of alcoholic liquor.** Would have included specific items to be addressed by rules and regulations. Would also have allowed credit cards to be used for the purchase of alcoholic liquor sold by a licensed retailer, microbrewery, or farm winery. (Existing law does not allow such purchases to be made on credit.)

1988 Sub. for H.B. 2707 -- Died in Conference Committee -- Would have amended various alcoholic beverage laws: (1) grounds for defense to a prosecution if alcoholic liquor or CMB is sold to a minor -- here under 16 years old (another version of this bill reflecting this intent was enacted in 1989 H.B. 2237); (2) authorization to issue a license under the Liquor Control Act to a person, or employ a person, convicted of a nonviolent felony if that person was sentenced to probation for that felony not less than 15 years preceding application for the license and if that person is determined to be habilitated (there is no such exception in existing law); (3) authorization for alcoholic liquor to be sold at retail in places of business where entrances and openings connect with lobbies, hallways, or other common areas of a hotel (this provision is not included in existing law); (4) **same provisions on advertising as S.B. 671 (above);** (5) **same provisions on credit card sales as S.B. 671 (above);** expansion of the exclusionary clause in the definition of "beneficial interest" in

the Club and Drinking Establishment Act (not in existing law); (6) same definition of "restaurant" as in S.B. 559 (above); authorization for Class B clubs on trains to establish rules and regulations for temporary club memberships (not in existing law); provisions for temporary permits (provisions concerning temporary permits were enacted in 1990 S.B. 516).

1989 H.B. 2373 -- Died in House Federal and State Affairs Committee -- Would have deleted the provision which authorizes advertising of alcoholic liquor by price or brand (permitted under existing law).

1991 H.B. 2224 -- Not recommended by House Federal and State Affairs Committee -
- Would have prohibited the advertisement of alcoholic liquor, CMB, cigarettes, or tobacco products on billboards in school zones.

1993 Sub. for S.B. 375 -- In House Governmental Organization and Elections -- Would establish a nine-member Grape and Wine Industry Advisory Council within the State Board of Agriculture. The Council would advise the Board and other state agencies about grape and wine industry problems and needs, determine and recommend specific priorities and a long-term plan for financing continued promotion and marketing of the state's industry.

Education/Public Awareness

1987 S.B. 360 -- Not recommended by Senate Federal and State Affairs Committee -- Would have required the licensing of certain servers of alcoholic beverages. **Would have required the Secretary of Revenue to establish standards for alcoholic liquor server education programs.**

1987 S.B. 399 -- Not recommended by Senate Federal and State Affairs Committee-- Would have permitted manufacturers and distributors of alcoholic beverages to hold seminars for licensees of such beverages.

1987 H.B. 2510 -- Died in Senate Local Government Committee -- Would have required a majority vote, instead of a unanimous vote, of all county commissioners concerning adoption of an alternative plan for expenditures from the Special Alcohol and Drug Programs Fund, as proposed by the county alcohol and drug advisory committee. **Expenditures from this fund may be used for among other purposes, alcoholism and drug abuse prevention, education, intervention, and detoxification.**

1989 H.B. 2331 -- Died in House Federal and State Affairs Committee -- Would have required the Kansas Highway Patrol with assistance from the Kansas Department of Transportation to institute a statewide program against DUI to increase public awareness of the program.

1991 H.B. 2218 -- Died in House Education Committee -- Would have required all school districts to provide alcohol and drug abuse programs and would have prescribed the information to be covered. (Existing law makes the delivery of such programs permissive and does not prescribe the contents thereof.)

1991 H.B. 2587 -- Died in House Federal and State Affairs Committee -- Would have required each CMB retailer, club, drinking establishment, farm winery, microbrewery, and retailer to display on the licensed premises a sign warning people that drinking during pregnancy can cause birth defects.

1992 S.B. 532 -- Died in House Public Health and Welfare Committee -- **Would have required the Secretary of Health and Environment to conduct an ongoing public awareness campaign concerning the perinatal effects of using tobacco, alcohol, and drugs.** Would have required the Secretary to develop a risk assessment profile to assist health care providers in screening pregnant women for prenatal substance abuse.

1993 S.B. 284 -- In House Labor and Industry Committee -- Would prohibit employers at educational institutions (USDs, community colleges, area vocational technical schools, and educational service centers or cooperatives) from discharging or requiring an employee to abstain from using lawful consumable products (including alcohol) but would not prohibit policies that forbid the use of such products at school events, on the job, or at school-related casual or social gatherings, or that offer health or life insurance policies that make distinctions in coverage based on such usage.

1993 S.B. 428 -- In Senate Transportation and Utilities Committee -- Would require a person whose driver's license had been revoked on grounds of DUI to pay a fee of \$125 for reinstatement. Of that fee, 91 percent would be credited to the Highway Patrol DUI Fee Fund established in the bill; 5 percent to the Department of Health and Environment DUI Fee Fund established in the bill; and 4 percent to the Kansas Bureau of Investigation DUI Fee Fund established in the bill. **The bill specifies the use of expenditures from each fund, to include more law enforcement, education programs, and chemical analysis programs.**

Citations/Fines/Punishment/Sentencing

1987 H.B. 2276 -- Died in House Federal and State Affairs Committee -- Would have defined and classified the crime of causing injury for DUI and would have made such violation a Class E felony.

1987 H.B. 2373 -- Died in House Federal and State Affairs Committee -- Would have allowed penalties to be imposed on passengers with valid driver's licenses who are riding in a motor vehicle operated by a person convicted of DUI (no such provision in existing law).

1988 S.B. 567 -- Died in Senate Judiciary Committee -- **Would have amended the law regarding penalties for DUI to require persons convicted for a second DUI offense to undergo treatment for alcoholism; if the person undergoing treatment has insufficient funds, the differential would be paid by SRS with funds appropriated for that purpose. (Existing law makes no provision for SRS paying the differential for indigent persons undergoing alcoholism treatment.)**

1988 S.B. 596 -- Died in Senate Judiciary Committee -- Would have conditioned the requirement for a municipal judge to order a person under 21 years old or a juvenile to undergo an alcohol and drug evaluation, if that person had experienced a second or subsequent conviction for violations of certain alcohol and drug laws. (Existing law requires completion of an alcohol or drug education or training program and not an evaluation for persons convicted over 21 years of age; for persons under 21 years old or juveniles, evaluation, if ordered, is not restricted to the second or subsequent conviction as it is in the bill and must be provided by a community-based program -- a provision deleted in the bill.)

1988 S.B. 618 -- Died in House Federal and State Affairs Committee -- Would have authorized the court to restrict a defendant's driving privileges to driving vehicles equipped with ignition interlock devices (provisions very similar to 1988 H.B. 2760). Would have allowed the court

to reduce any fine imposed for DUI violations in an amount equal to expenses occurred by the person whose driving privileges were conditioned upon the installation of an ignition interlock device. (Enacted 1993 H.B. 2355 requires the convicting court to restrict a person's driving privileges to driving a motor vehicle equipped with an ignition interlock device. The same provision as included in S.B. 618 pertains to the court's authority to reduce the fine to offset expenses associated with the device.)

1988 S.B. 703 -- Died in Senate Federal and State Affairs Committee -- Would have authorized a police officer to prepare and deliver to a person a written traffic citation if the police officer stops the person for violations of specified alcohol-related laws (including evasion of the liquor tax, for which such citations are not authorized under existing law; existing law allows citations for violations of other specified alcohol-related laws).

1988 H.B. 2709 -- Died in House Federal and State Affairs Committee -- Would have made the violation for possession or consumption of alcoholic liquor by a minor (age 18 up to 21 years) a Class C misdemeanor for the first offense and a Class B misdemeanor for subsequent offenses (under existing law it is a Class C misdemeanor for all offenses). Would have deleted the requirement that minors under 18 years old pay a fine for violations (under existing law a fine of not less than \$100 nor more than \$250 must be imposed).

1988 H.B. 2761 -- Died in House Federal and State Affairs Committee -- Would have not considered it a violation subject to penalty if a minor were to possess and consume CMB when such possession and consumption is permitted, supervised, and furnished by the minor's parent or legal guardian (this provision is in K.S.A. 41-727).

1988 H.B. 2819 -- Died in Senate Federal and State Affairs Committee -- Would have amended the conditions under which a driver's license could be restored to a juvenile offender (almost the same as existing law; however, the court is not mandated (only authorized) under existing law to require the surrender by the juvenile offender of his or her driver's license).

1988 H.B. 2952 -- Died in Senate Judiciary Committee -- Would have required the payment of restitution by a person convicted of an alcohol or drug-related crime to the victim or victim's family.

1988 H.B. 2953 -- Died in Senate Transportation and Utilities Committee -- Would have provided for the suspension and restriction of driving privileges upon certain occurrences (very similar but not identical to provisions in enacted 1987 S.B. 111).

1989 S.B. 152 -- Died in House Federal and State Affairs Committee -- Would have made a second or subsequent conviction for furnishing CMB to a minor a Class A misdemeanor (existing law makes all convictions Class B person misdemeanors).

1989 S.B. 153 -- Died in Senate Federal and State Affairs Committee -- Would have made the violation for possession or consumption of alcoholic liquor by a minor (age 18 up to 21 years) a Class C misdemeanor for the first offense and a Class B misdemeanor for subsequent offenses (under existing law it is a Class C misdemeanor for all offenses); (same provision in 1988 H.B. 2709). Also would have eliminated a minimum fine of \$100 (existing law) for persons under 18 who are convicted of such violation.

1989 Sub. for S.B. 219 -- Died in House Judiciary Committee-- Would have changed the disposition by the court of violations by children ages 14 to 18 for alcohol and drug-related offenses. Would have allowed a child to petition the court to have privileges restored if certain conditions were met (not authorized under existing law).

1989 H.B. 2118 -- Died in House Federal and State Affairs Committee -- Would have increased the fine from \$200 (existing law) to \$250 for furnishing alcoholic liquor and CMB to a minor.

1989 H.B. 2230 -- Died in House Federal and State Affairs Committee -- Would have made it a violation punishable with penalties for a person with a driver's license to be a passenger in a car driven by a person with an alcoholic concentration in the blood or breath of .15 or more. (See 1987 H.B. 2373.)

1989 H.B. 2356 -- Died in House Federal and State Affairs Committee -- Would have permitted the Division of Motor Vehicles to cancel, deny, or suspend a minor's driving privileges for one year or until the person turns 21, whichever is longer. Provisions are included for the disposition of driving privileges for a person 17 years old or younger who has committed a drug or alcohol-related offense. (Enacted 1993 S.B. 211 applies the definition of "traffic offense" committed by juveniles to alcohol-related offenses and authorizes courts to suspend licenses of juveniles convicted of such offenses.)

1989 H.B. 2364 -- Died in House Federal and State Affairs Committee -- Would have placed the DUI legislation -- K.S.A. 8-1567 --in the Kansas Criminal Code (currently not the case). Would have expanded "traffic offense" committed by juveniles to include DUI offenses. (See enacted 1993 S.B. 211, although those provisions are not tied to the Kansas Criminal Code as was proposed in the bill).

1990 S.B. 630 -- Died on Senate General Orders -- Would have prohibited a minor from being on a licensed premises (defined in bill) for the purpose of purchasing, consuming, or attempting to purchase or consume alcoholic liquor or CMB. Such person must have a valid ID establishing that the person is 21 years old and must display that ID, upon request of a law enforcement officer. The penalty for violation by a person 18 or more is a Class B violation; any person under 18 would be treated as a juvenile offender. (Under existing law, there is no definition of "licensed premises," as it pertains to the purchase by a minor of alcoholic liquor or CMB; the ID requirement is not included as a burden of proof for the purchaser; and the penalty for a violation by a minor 18 and older is a Class C misdemeanor; any person under 18 is treated as a juvenile offender.)

1990 H.B. 2665 -- Died in House Federal and State Affairs Committee -- Would have authorized a person who was arrested for an alcohol or drug-related traffic offense to petition the appropriate court (defined in bill) to destroy the records of the arrest and associated fingerprinting and tests. The court would be required to order such destruction provided that charges were dismissed and a diversion agreement was concluded. (No such provision applies under existing law.)

1990 H.B. 2781 -- Died in House Federal and State Affairs Committee -- Would have prohibited the city attorney or county or district attorney from entering into a diversion agreement on a complaint alleging an alcohol related offense if the defendant had refused a blood or breath test to establish the presence of alcohol (under existing law, this factor may not form the basis of refusal to enter into a diversion agreement).

1990 H.B. 2846 -- Died in House Federal and State Affairs Committee -- Would have allowed the court to reduce any fine imposed for second and subsequent DUI offenses in an amount equal to the expenses incurred by the person for payment for an inpatient alcohol treatment program (no such provision pertains in existing law; similar to 1988 S.B. 567, above).

1990 H.B. 2896 -- Died in House Federal and State Affairs Committee -- Would have defined "aggravated furnishing alcoholic liquor or CMB" to a minor and the penalties for such a violation (no such provision in existing law).

1991 S.B. 76 -- Died in House Appropriations Committee -- Would have required a sentencing court or diversion agreement to stipulate the payment of an assessment of not less than \$125 nor more than \$200 (existing law is \$110), in addition to other penalties for DUI offenses. Would have allowed the assessment to be waived if the defendant had completed an alcohol and drug treatment program after being charged with DUI. (Existing law only permits a waiver if the defendant is found to be indigent.)

1991 H.B. 2180 -- Not recommended by House Federal and State Affairs Committee -- Would have required a person who purchases or attempts to purchase alcoholic liquor or CMB to present an ID to a retailer. Would have made violations for persons 18 years old or older a Class B misdemeanor (now a Class C misdemeanor) and for persons under 18 a juvenile offender (same as in existing law).

1991 H.B. 2533 -- Died in House Judiciary Committee -- Would have established more severe penalties than are authorized under existing law for persons who were convicted for DUI offenses, if a child under 18 years of age was in the vehicle at the time of arrest.

1992 S.B. 705 -- Died in Senate Judiciary Committee -- Would have required the Division of Motor Vehicles to suspend a person's driving privileges if that person has failed to complete an alcohol and drug safety action education or treatment program (same as enacted in 1993 H.B. 2355). Would have apparently applied the same conditions for suspension of a license to the driver of a commercial vehicle as to the driver of a motor vehicle (without repealing the law governing suspension of license for drivers of commercial vehicles).

1992 H.B. 2910 -- Died on House General Orders -- Would have required completion of a boater education course prior to resumed operation of a boat if the operator was convicted of operating a vessel under the influence or had refused to take a test (enacted in 1993 H.B. 2335). In addition, would have required that such resumption be conditioned upon a waiting period of up to three months after conviction (under existing law, this provision only applied to the violation of refusing to take a breath test when ordered to do so by a law enforcement officer).

1992 H.B. 2966 -- Died in House Judiciary Committee -- Would have made a DUI conviction of any driver under 21 years of age contingent upon the presence of any alcohol concentration in the blood or breath. (See 1991 S.B. 125 for the same provision.)

1992 H.B. 2975 -- Died in House Judiciary Committee -- Would have lowered the blood alcohol content for DUI to .02 for persons under 21 years old and to .08 (in effect in 1993) for all others. **If a person refuses or fails a blood or breath test, a distinction is made between persons under 21 years old and 21 years of age and older with respect to suspension of driving privileges.** (Under existing law, the same alcohol concentration of .08 applies to all persons, except commercial drivers, regardless of age.)

1992 H.B. 3001 -- Died in House Judiciary Committee -- Would have required moneys collected from citations issued by a city for certain traffic violations which are prosecuted by the county or district attorney in district court to be credited to the county general fund.

1993 S.B. 172 -- In Senate Judiciary Committee -- Would lower the blood alcohol content for DUI to .08 (incorporated in 1993 H.B. 2355). **Would prohibit a city attorney or county or district attorney from entering into a diversion agreement if a defendant had an alcohol concentration of .20 or more in his blood or breath at the time of or within two hours after the alleged offense (not prohibited under existing law).**

1993 S.B. 303 -- In Senate Transportation and Utilities Committee -- Would prohibit any person from operating an aircraft under the influence if the alcohol concentration in that person's blood or breath is .10 or more. **The same conviction procedures would apply to violations concerning alcoholism while operating an aircraft as they do to driving or boating under the influence.**

1993 S.B. 360 -- In Senate Judiciary Committee -- **Would change violations of DUI laws to reflect the classification of crimes under the Kansas Sentencing Guidelines Act (same as in 1993 H.B. 2355, except for third and subsequent violations; whereas in the bill this a severity level 9, person felony, in the recently enacted legislation, it is a severity level 9, nonperson felony. In addition, the bill does not reflect the reduction in blood alcohol content from .10 to .08 (see 1993 H.B. 2355).**

1993 S.B. 428 -- In Senate Transportation and Utilities Committee -- **Would require a person whose driver's license had been revoked on grounds of DUI to pay a fee of \$125 for reinstatement. Of that fee, 91 percent would be credited to the Highway Patrol DUI Fee Fund established in the bill; 5 percent to the Department of Health and Environment DUI Fee Fund established in the bill; and 4 percent to the Kansas Bureau of Investigation DUI Fee Fund established in the bill. The bill specifies the use of expenditures from each fund, to include more law enforcement, education programs, and chemical analysis programs.**

1993 H.B. 2133 -- In House Judiciary Committee -- **Would provide that when the Division of Vehicles suspends, revokes, or disqualifies a person's driving privileges because of a court conviction, the person may request an administrative review to disprove the violation upon which the court order is based. Would give the Division authority to suspend a habitual violator's driving privileges for three years and for an additional year if the person is convicted of driving while on suspension as a habitual violator. Would reduce the legal alcohol blood content to .08 for any individual 21 years old or older and .02 for any individual under 21 (see 1992 H.B. 2975 above). Would strike the word "motor" as it relates to vehicles in conjunction with DUI violations (enacted in 1993 H.B. 2355). Would include a DUI conviction committed on a military reservation as part of the violator's record (enacted in 1993 H.B. 2355). Would require suspension of a person's driving privileges until the person completes an alcohol and drug safety action education or treatment program (enacted in 1993 H.B. 2355). Would change treatment of open container violations (enacted in 1993 H.B. 2355).**

1993 H.B. 2234 -- In House Judiciary Committee -- **Would not extend the privilege of a patient at a treatment facility to prevent treatment personnel or ancillary personnel from disclosing confidential communications made for the purposes of diagnosis or treatment of the patient's condition, including alcoholic dependency, to situations in which personnel are being charged with a felony and the judge would require disclosure about patient information for the purpose of prosecuting the personnel on those charges.**

1993 H.B. 2367 -- In House Judiciary Committee -- Would make the first and second violations for DUI Class C, non-person misdemeanors (in enacted 1993 H.B. 2355, the first violation is a Class B, nonperson misdemeanor and the second violation is a Class A, nonperson misdemeanor).

1993 H.B. 2518 -- In House Judiciary Committee -- Would change the punishment for violations of the restrictions on a driver's license to make suspension of a license by the court permissive and not mandatory, and to reduce the period during which a license would be suspended for a second or subsequent offense from a minimum of 90 days to a minimum of 30 days. Would allow the court, in determining whether a conviction is a first, second, or third conviction, to consider convictions subsequent to the offense under consideration. Would redefine "traffic offense" committed by children 14 or more years of age but less than 18 to apply to laws concerning the transportation, possession or consumption of alcoholic liquor and CMB in vehicles and all laws in Chapter 8 (automobiles and other vehicles). (Enacted 1993 S.B. 361 redefines "traffic offense" to expand the definition, but not to the same extent as is proposed in the bill.)

Taxes

1988 S.B. 559 -- Died in Senate Federal and State Affairs Committee -- **Would have authorized distributors to claim and receive a refund for taxes imposed on alcoholic liquor sold to a federal military installation (similar provision enacted in 1989 H.B. 2237.)** Would have defined a drinking establishment as a "restaurant," which would derive 30 percent of all its gross receipts from sales of food and beverages on such premises based on a 90-day period (or longer upon determination by the Secretary of Revenue). (Same percentage applies to definition of "restaurant" in existing law; however, receipts are based on a 12-month period.) Would have included provisions for a temporary permit. (Provisions concerning temporary permits were enacted in 1990 S.B. 516).

1988 S.B. 703 -- Died in Senate Federal and State Affairs Committee -- Would have authorized a police officer to prepare and deliver to a person a written traffic citation if the police officer stops the person for violations of specified alcohol-related laws (**including evasion of the liquor tax**, for which such citations are not authorized under existing law; existing law allows citations for violations of other specified alcohol-related laws).

1993 S.B. 379 -- In Senate Federal and State Affairs Committee -- Would define CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would be defined as a malt beverage containing more than 5.0 percent alcohol by weight. Would transfer authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993. **Would exempt sales of CMB from state and local taxes and impose an 8.0 percent enforcement tax.** (See 1988 S.B. 560 and 1989 S.B. 93.)

1993 H.B. 2510 -- In House Federal and State Affairs Committee -- Would define CMB as a malt beverage containing 5.0 percent or less alcohol by weight (now 3.2 percent). Beer would be defined as a malt beverage containing more than 5.0 percent alcohol by weight. Would transfer authority over CMB retailers from local governing bodies to the Director of ABC effective July 1, 1993. **Would exempt sales of CMB from state and local taxes and impose an 8.0 percent enforcement tax.** (See 1993 S.B. 379.)

Treatment/Evaluation

1987 S.B. 147 -- Died in Senate Public Health and Welfare Committee -- **Would have created a nine-member Board of Alcoholism and Drug Addiction Professionals to license alcoholism and drug addiction counselors. Would have created an Alcoholism and Drug Addiction Counselors Fee Fund.**

1987 H.B. 2510 -- Died in Senate Local Government Committee -- Would have required a majority vote, instead of a unanimous vote, of all county commissioners concerning adoption of an alternative plan for expenditures from the Special Alcohol and Drug Programs Fund, as proposed by the county alcohol and drug advisory committee. **Expenditures from this fund may be used for, among other purposes, alcoholism and drug abuse prevention, education, intervention, and detoxification.**

1988 S.B. 596 -- Died in Senate Judiciary Committee -- Would have conditioned the requirement for a municipal judge to order a person under 21 years old or a juvenile to undergo an alcohol and drug evaluation, if that person had experienced a second or subsequent conviction for violations of certain alcohol and drug laws. (Existing law requires completion of an alcohol or drug education or training program and not an evaluation for persons convicted over 21 years of age; for persons under 21 years old or juveniles, evaluation, if ordered, is not restricted to the second or subsequent conviction as it is in the bill and must be provided by a community-based program -- a provision deleted in the bill.)

1989 S.B. 154 -- Died in Senate Judiciary Committee-- Would have authorized a trial judge to order a defendant after conviction and prior to sentence to submit to a drug and alcohol examination and investigation. Care and treatment for drug or alcohol abuse may be ordered instead of confinement or imprisonment if the examination and evaluation indicates the need for that course of action.

1989 S.B. 234 -- Died in Senate Judiciary Committee -- Would have required a person who was ordered to complete an alcohol and drug safety action program to be monitored or supervised by a program pursuant to sentencing that is different than the one which conducted the presentence alcohol and drug evaluation (existing law contains no such provision).

1989 S.B. 368 -- Died in Senate Public Health and Welfare Committee -- Would have authorized the Secretary of SRS to adopt rules and regulations which provide for the certification of alcoholism and drug addiction counselors. Would also have authorized the Secretary to establish an advisory committee to assist in that development. **Would have authorized the Secretary to fix, charge, and collect fees for the certification and renewal of certification of alcoholism and drug abuse counselors.**

1991 S.B. 76 -- Died in House Appropriations Committee -- Would have required a sentencing court or diversion agreement to stipulate the payment of an assessment of not less than \$125 nor more than \$200 (existing law is \$110), in addition to other penalties to DUI offenses. **Would have allowed the assessment to be waived if the defendant had completed an alcohol and drug treatment program after being charged with DUI.** (Existing law only permits a waiver if the defendant is found to be indigent.)

1991 H.B. 2002 -- Died in House Insurance Committee -- Would have authorized insurance companies not to provide reimbursement or indemnity for a confinement to treat alcohol

or drug abuse or nervous or mental conditions exceeding an initial three-day period upon a determination that such confinement is medically unnecessary (no such exclusion in existing law).

1992 S.B. 770 -- Recommended by Senate Ways and Means Committee-- Would have reduced the percentage of moneys collected from licensees credited to the Special Parks and Recreation Funds in the city and county and increased such percentage for the city and county Special Alcohol and Drug Programs Fund. Would also have required that services of treatment programs receiving moneys from the Special Alcohol and Drug Programs Fund be licensed, certified, or funded by SRS (not required under existing law).

1992 H.B. 3090 -- Died in House Computers, Communications, and Technology Committee -- Would have allowed alcohol and drug testing programs for employees of mental health institutions to include remote testing methods using speech analysis information technology. Drug screening programs of persons with certain positions in government could also employ such technology.

1993 S.B. 428 -- In Senate Transportation and Utilities Committee -- Would require a person whose driver's license had been revoked on grounds of DUI to pay a fee of \$125 for reinstatement. Of that fee, 91 percent would be credited to the Highway Patrol DUI Fee Fund established in the bill; 5 percent to the Department of Health and Environment DUI Fee Fund established in the bill; and 4 percent to the Kansas Bureau of Investigation DUI Fee Fund established in the bill. **The bill specifies the use of expenditures from each fund, to include more law enforcement, education programs, and chemical analysis programs.**

1993 H.B. 2133 -- In House Judiciary Committee -- Would provide that when the Division of Vehicles suspends, revokes, or disqualifies a person's driving privileges because of a court conviction, the person may request an administrative review to disprove the violation upon which the court order is based. Would give the Division authority to suspend a habitual violator's driving privileges for three years and for an additional year if the person is convicted of driving while on suspension as a habitual violator. Would reduce the legal alcohol blood content to .08 for any individual 21 years old or older and .02 for any individual under 21 (see 1992 H.B. 2975 above). Would strike the word "motor" as it relates to vehicles in conjunction with DUI violations (enacted in 1993 H.B. 2355); Would include a DUI conviction committed on a military reservation as part of the violator's record (enacted in 1993 H.B. 2355). **Would require suspension of a person's driving privileges until the person completes an alcohol and drug safety action education or treatment program (enacted in 1993 H.B. 2355).** Would change the disposition of open container violations (enacted in 1993 H.B. 2355).

1993 H.B. 2234 -- In House Judiciary Committee -- Would not extend the privilege of a patient at a treatment facility to prevent treatment personnel or ancillary personnel from disclosing confidential communications made for the purposes of diagnosis or treatment of the patient's condition, including alcoholic dependency, to situations in which personnel are being charged with a felony and the judge would require disclosure about patient information for the purpose of prosecuting the personnel on those charges.

Minors

1988 S.B. 596 -- Died in Senate Judiciary Committee -- Would have conditioned the requirement for a municipal judge to order a person under 21 years old or a juvenile to undergo an

alcohol and drug evaluation, if that person had experienced a second or subsequent conviction for violations of certain alcohol and drug laws. (Existing law requires completion of an alcohol or drug education or training program and not an evaluation for persons convicted over 21 years of age; for persons under 21 years old or juveniles, evaluation, if ordered, is not restricted to the second or subsequent conviction as it is in the bill and must be provided by a community-based program -- a provision deleted in the bill.)

1988 Sub. for H.B. 2707 -- Died in Conference Committee -- Would have amended various alcoholic beverage laws: (1) grounds for defense to a prosecution if alcoholic liquor or CMB is sold to a minor -- here under 16 years old (another version of this bill reflecting this intent was enacted in 1989 H.B. 2237); (2) authorization to issue a license under the Liquor Control Act to a person, or employ a person, convicted of a nonviolent felony if that person was sentenced to probation for that felony not less than 15 years preceding application for the license and if that person is determined to be habilitated (there is no such exception in existing law); (3) authorization for alcoholic liquor to be sold at retail in places of business where entrances and openings connect with lobbies, hallways, or other common areas of a hotel (this provision is not included in existing law); (4) same provisions on advertising as S.B. 671 (above); (5) same provisions on credit card sales as S.B. 671 (above); expansion of the exclusionary clause in the definition of "beneficial interest" in the Club and Drinking Establishment Act (not in existing law); (6) same definition of "restaurant" as in S.B. 559 (above); authorization for Class B clubs on trains to establish rules and regulations for temporary club memberships (not in existing law); provisions for temporary permits (provisions concerning temporary permits were enacted in 1990 S.B. 516).

1988 H.B. 2709 -- Died in House Federal and State Affairs Committee -- Would have made the violation for possession or consumption of alcoholic liquor by a minor (age 18 up to 21 years) a Class C misdemeanor for the first offense and a Class B misdemeanor for subsequent offenses (under existing law it is a Class C misdemeanor for all offenses). Would have deleted the requirement that minors under 18 years old pay a fine for violations (under existing law a fine of not less than \$100 nor more than \$250 must be imposed).

1988 H.B. 2753 -- Died in House Federal and State Affairs Committee-- Would have provided grounds for a defense of a prosecution if alcoholic liquor or CMB were sold to a minor who provided false identification. (Another version of this bill, reflecting this general intent, was enacted in 1989 H.B. 2237.)

1988 H.B. 2761 -- Died in House Federal and State Affairs Committee -- Would have not considered it a violation subject to penalty if a minor were to possess and consume CMB when such possession and consumption is permitted, supervised, and furnished by the minor's parent or legal guardian (this provision is in K.S.A. 41-727).

1988 H.B. 2819 -- Died in Senate Federal and State Affairs Committee -- Would have amended the conditions under which a driver's license could be restored to a juvenile offender (almost the same as existing law; however, the court is not mandated (only authorized) under existing law to require the surrender by the juvenile offender of his or her driver's license).

1989 S.B. 152 -- Died in House Federal and State Affairs Committee -- Would have made a second or subsequent conviction for furnishing CMB to a minor a Class A misdemeanor (existing law makes all convictions Class B person misdemeanors).

1989 S.B. 153 -- Died in Senate Federal and State Affairs Committee -- Would have made the violation for possession or consumption of alcoholic liquor by a minor (age 18 up to 21 years) a Class C misdemeanor for the first offense and a Class B misdemeanor for subsequent offenses (under existing law it is a Class C misdemeanor for all offenses) (same provision in 1988 H.B. 2709). Also would have eliminated a minimum fine of \$100 (existing law) for persons under 18 who are convicted of such violation.

1989 Sub. for S.B. 219 -- Died in House Judiciary Committee-- Would have changed the disposition by the court of violations by children ages 14 to 18 for alcohol and drug-related offenses. Would have allowed a child to petition the court to have privileges restored if certain conditions were met (not authorized under existing law).

1989 H.B. 2118 -- Died in House Federal and State Affairs Committee -- Would have increased the fine from \$200 (existing law) to \$250 for furnishing alcohol liquor and CMB to a minor.

1989 H.B. 2356 -- Died in House Federal and State Affairs Committee -- Would have permitted the Division of Motor Vehicles to cancel, deny, or suspend a minor's driving privileges for one year or until the person turns 21, whichever is longer. Provisions are included for the disposition of driving privileges for a person 17 years old or younger who has committed a drug or alcohol-related offense. (Enacted 1993 S.B. 211 applies the definition of "traffic offense" committed by juveniles to alcohol-related offenses and authorizes courts to suspend licenses of juveniles convicted of such offenses.)

1990 S.B. 630 -- Died on Senate General Orders -- Would have prohibited a minor from being on a licensed premises (defined in bill) for the purpose of purchasing, consuming, or attempting to purchase or consume alcoholic liquor or CMB. Such person must have a valid ID establishing that the person is 21 years old and must display that ID, upon request of a law enforcement officer. The penalty for violation by a person 18 or more is a Class B violation; any person under 18 would be treated as a juvenile offender. (Under existing law, there is no definition of "licensed premises," as it pertains to the purchase by a minor of alcoholic liquor or CMB; the ID requirement is not included as a burden of proof for the purchaser; and the penalty for a violation by a minor 18 and older is a Class C misdemeanor; any person under 18 is treated as a juvenile offender.)

1990 H.B. 2896 -- Died in House Federal and State Affairs Committee -- Would have defined "aggravated furnishing alcoholic liquor or CMB" to a minor and the penalties for such a violation (no such provision in existing law).

1990 H.B. 2907 -- Died in House Federal and State Affairs Committee -- Would have prohibited any licensed drinking establishment from permitting a person under 21 years old to be on the premises unless that establishment derives not less than 50 percent of its gross receipts from sales on food and beverages in a 12-month period (no such provision in existing law).

1991 S.B. 125 -- Not recommended by Senate Judiciary Committee -- Would have subjected a person driving a commercial vehicle or a taxi cab, or a person under 21 years old to a DUI conviction if any alcohol were found to be present in that person's blood, breath, or other bodily substance. (Under existing law, a driver of a commercial vehicle is subject to a DUI offense with an alcohol concentration of .04 and other drivers, .08.)

1991 S.B. 408 -- Died in Senate Federal and State Affairs Committee -- Would have prohibited any licensed drinking establishment from permitting a person under 21 years old to be on

the premises unless that establishment derives not less than 50 percent of its gross receipts from sales on food and beverages in a 12-month period (no such provision in existing law). (Same provision as 1990 H.B. 2907.)

1991 H.B. 2180 -- Not recommended by House Federal and State Affairs Committee -- Would have required a person who purchases or attempts to purchase alcoholic liquor or CMB to present an ID to a retailer. Would have made violations for persons 18 years old or older a Class B misdemeanor (now a Class C misdemeanor) and for persons under 18 a juvenile offender (same as in existing law).

1991 H.B. 2218 -- Died in House Education Committee -- Would have required all school districts to provide alcohol and drug abuse programs and would have prescribed the information to be covered. (Existing law makes the delivery of such programs permissive and does not prescribe the contents thereof.)

1991 H.B. 2224 -- Not recommended by House Federal and State Affairs Committee -- Would have prohibited the advertisement of alcoholic liquor, CMB, cigarettes, or tobacco products on billboards in school zones.

1991 H.B. 2367 -- Died in House Federal and State Affairs Committee -- Would have removed, as an exemption to the prohibition against furnishing CMB to minors, parents and legal guardians who furnish CMB to their children or wards. (Authorization for parents and wards to furnish such beverages is also found in a statute other than the one this bill proposed to amend.)

1991 H.B. 2533 -- Died in House Judiciary Committee -- Would have established more severe penalties than are authorized under existing law for persons who were convicted for DUI offenses, if a child under 18 years of age was in the vehicle at the time of arrest.

1992 H.B. 2966 -- Died in House Judiciary Committee -- Would have made a DUI conviction of any driver under 21 years of age contingent upon the presence of any alcohol concentration in the blood or breath. (See 1991 S.B. 125 for the same provision.)

1992 H.B. 2975 -- Died in House Judiciary Committee -- Would have lowered the blood alcohol content for DUI to .02 for persons under 21 years old and to .08 (in effect in 1993) for all others. If a person refuses or fails a blood or breath test, a distinction is made between persons under 21 years old and 21 years of age and older with respect to suspension of driving privileges. (Under existing law, the same alcohol concentration of .08 applies to all persons, except commercial drivers, regardless of age.)

1993 H.B. 2133 -- In House Judiciary Committee -- Would provide that when the Division of Vehicles suspends, revokes, or disqualifies a person's driving privileges because of a court conviction, the person may request an administrative review to disprove the violation upon which the court order is based. Would give the Division authority to suspend a habitual violator's driving privileges for three years and for an additional year if the person is convicted of driving while on suspension as a habitual violator. **Would reduce the legal alcohol blood content to .08 for any individual 21 years old or older and .02 for any individual under 21** (see 1992 H.B. 2975 above). Would strike the word "motor" as it relates to vehicles in conjunction with DUI violations (enacted in 1993 H.B. 2355); Would include a DUI conviction committed on a military reservation as part of the violator's record (enacted in 1993 H.B. 2355). Would require suspension of a person's driving privileges until the person completes an alcohol and drug safety action education or treatment

program (enacted in 1993 H.B. 2355). Would change the disposition of open container violations (enacted in 1993 H.B. 2355).

1993 H.B. 2518 -- In House Judiciary Committee -- Would change the punishment for violations of the restrictions on a driver's license to make suspension of a license by the court permissive and not mandatory, and to reduce the period during which a license would be suspended for a second or subsequent offense from a minimum of 90 days to a minimum of 30 days. Would allow the court, in determining whether a conviction is a first, second, or third conviction, to consider convictions subsequent to the offense under consideration. Would redefine "traffic offense" committed by children 14 or more years of age but less than 18 to apply to laws concerning the transportation, possession or consumption of alcoholic liquor and CMB in vehicles and all laws in Chapter 8 (automobiles and other vehicles). (Enacted 1993 S.B. 361 redefines "traffic offense" to expand the definition, but not to the same extent as is proposed in the bill.)

Miscellaneous

1987 S.B. 353 -- Not recommended by House Federal and State Affairs Committee -- Would have increased the number of members serving on the State Alcoholic Beverage Control Board of Review (abolished in 1987; see enacted 1987 Sub. for S.B. 141, which also incorporated other provisions included in this bill).

1990 S.B. 643 -- Died in Senate Federal and State Affairs Committee -- Would have exempted the Culture Education Center at Johnson County Community College from the prohibition against alcoholic liquor consumption on public property (such exemption is not permitted under existing law).

1991 S.B. 444 -- Died in Senate Ways and Means Committee -- Would have transferred law enforcement personnel from the Division of Alcohol Beverage Control to the Kansas Bureau of Investigation.

I N F O R M A T I O N A L E R T

July 1992

ional
Conference
of State
Legislatures

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GATT DECISION ON BEER/WINE THREATENS STATE SOVEREIGNTY

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An international trade panel upheld a Canadian complaint against beer and wine tax and distribution practices in the United States. The Canadians successfully argued that state tax and distribution laws make it difficult for top Canadian brewers such as Labatt and Molson to compete against the premium beer produced by America's smaller, tax-protected breweries. The panel was convened by the international body (the General Agreement on Tariffs and Trade). The U.S. is a member of the GATT, which was formed to mediate trade disputes and foster free trade.

RULING

The GATT panel ruled that the U.S. discriminates against Canadian beer and wine imports through: 1) federal excise tax breaks for domestic beer and wine, 2) state tax preferences for beer and wine, 3) the distribution system in states (producer-wholesaler-retailer), 4) requirements that foreign producers use common carriers and 5) differences in licensing fees at state levels.

The initial Canadian complaint covered a range of 200 state regulations. Canada prevailed in more than 60 of these complaints and the ruling will affect 40 states. The panel stated that the preferential federal excise plan for small U.S. brewers and numerous tax rules and distribution practices in 40 states and Puerto Rico are inconsistent with international trade rules. In issuing its ruling, the panel criticizes states for offering excise-tax breaks to local beer producers. It also criticizes states for exempting local producers from a requirement that brewers market their products through wholesalers. Currently, states insist on a distribution role for wholesalers because it makes tax accounting easier.

The 21st Amendment of the Constitution gives states the power to regulate beer and wine sales within its borders. Even so, the GATT panel cited a 1964 Supreme Court decision (*Hostetter v. Idlewild*), ruling that state laws can be overridden by other laws requiring the United States to abide by international obligations.

Tax Changes. When the U.S. signed the panel report in June, it obligated several states to change existing laws. Where states give preferential tax treatment to their in-state beer and wine producers, either through exemptions or lower rates, they will either have to grant the same treatment to all brewers, foreign and domestic, or remove the preferences. The federal government will also have to change a provision in the Omnibus Reconciliation Act of 1990 that grants tax breaks to brewers and vintners that produce no more than two million barrels per year. Australia, New Zealand and the European Community took the floor on Canada's behalf regarding this U.S. law. Since the complaint was brought by the Canadians, the U.S. and the states would only have to grant equal treatment to Canadian beer and wine. However, if the three above countries decide to bring a case against the U.S., this GATT decision will hold as precedent, therefore giving the U.S. little standing.

Three-Tier System (Producer-Wholesaler-Retailer). The decision requires that states

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that give in-state brewers and wineries the right to deliver directly to retailers and licensees, must grant the same right to foreign brewers and wineries. This would eliminate the three tier distribution system which has been a fixture of beer and wine marketing in the U.S. for decades. Under the three-tier distribution system, beer and wine marketing is broken into three distinct pieces: producers sell to wholesalers who sell to retailers. GATT's rationale for the ruling is that some states allow in-state brewers and wineries to sell directly to retailers while importers can only sell their products through wholesalers. Beer wholesalers are expressing concern about the ability to stay in operation if Canadian importers are able to bypass them. They express concern that only a fraction of the wholesalers in states may be able to remain in business.

Common Carriers/Licensing Fees. Under the GATT ruling, states will no longer be able to require that alcoholic beverages imported into the state be transported by common carriers authorized to operate within the state. States also will no longer be able to differentiate between licensing fees for the sale of beer and wine for Canadian products and for items produced in the states.

IMPLICATIONS FOR STATES

This is a precedent setting case because it is the first time that states have been named in an international dispute. State sovereignty has never been challenged before by an international tribunal. Further, the GATT panel decisions are signed by the Executive Branch of the U.S. therefore, no Congressional action is needed. Consequently, all avenues for objection are blocked to states.

States are already questioning the need to comply. If states ignore the GATT panel's decision, Canada will have legal authority to retaliate against products of states that are not in compliance. They may retaliate in an amount comparable to the dollar figure that they are harmed. In addition, the U.S. government could sue the states to force them to obey the decision.

States also fear the action could set a precedent by allowing foreign countries to challenge states' laws as violations of international trade rules. Although this is the first time GATT has imposed its rule on U.S. states, countries could use the case as a basis for challenging other types of state laws they have questioned in the past, including those involving the environment and product safety. To stem actions that undermine state laws and threaten sovereignty, state representatives are calling for reforms in the GATT dispute settlement process. They believe state issues and federal principles need to be argued independently of normal trade cases before the international body.

U.S.-CANADA BEER DISPUTES (BACKGROUND)

Canadian provinces, not their federal authorities, regulate the production and sale of alcoholic beverage. These provincial trade boards indulge in practices that are considered discriminatory. For example, the boards limit the number and type of retail outlets that are permitted to sell imported beer. In Ontario for example, only beer brewed in the province can be sold in provincial beer stores. Since 95 percent of all beer is sold through these stores, American brands like Stroh's and Heileman have virtually no chance. For that matter, neither does Moosehead beer, a Canadian brand that is brewed in the Maritime provinces but shut out of Ontario. In Quebec, 11,000 retail stores sell beer and wine made in the province, but only 3,000 are permitted to sell non-Quebec products.

There have been investigations of Canadian beer in recent years aimed at these

discriminatory practices. For example, in 1988, in response to a complaint filed by the European Community, a GATT panel found that Canada's actions violated the GATT.

U.S. Complaint Against Canada. In 1990, G. Heileman Brewing and Stroh's alleged that certain practices of Canada's provincial liquor control boards discriminate against U.S. beer ("Beer 1"). The U.S. argued that minimum price requirements in British Columbia and Ontario, limits on delivery of imported beer to retail outlets and other restrictions effectively discriminate against U.S. products. The U.S. won the decision. The panel ruled in September 1991 that Canada had failed to take serious, persistent and convincing efforts to ensure observance of GATT standards by provinces. The Canadian government filed its complaint ("Beer 2") against U.S. beer and wine practices following this decision.

To encourage the Canadian government to eliminate discriminatory laws, the Office of the United States Trade Representative issued a notice in the Federal Register. The notice stated that the Administration intended to impose punitive damages on Canadian beer by April 10. In order to avert such action, on March 31, 1992, Canada announced that it would make an effort to comply with the ruling by making changes in their laws regulating beer sales and distribution. One of the reforms includes eliminating prohibitions on imported beer being sold in larger packaged sizes in Ontario. British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland will ensure that differential mark-ups will contain only those differential costs which are necessarily associated with marketing of the imported products. British Columbia, Alberta, Manitoba, Ontario, Quebec and Nova Scotia will provide equal opportunities for both imported and provincially produced beer with respect to access to retail sales points. However, these changes will take three years to implement.

After a heated confrontation between the two countries, on April 25, the governments reached an "agreement in principle" to grant U.S. brewers unrestricted access to retail outlets in Canada by October 1, 1993. The 18-month transition period is about half the time Canada had originally planned for the change. The provinces would have to end pricing restrictions on beer imports by July 1 and distribution limits by September 30, 1993.

FINDINGS OF THE CANADIAN COMPLAINT AGAINST THE U.S.

Federal Excise Tax. Although the U.S. argued that the total number of barrels subject to the lower federal excise tax rate represents less than one percent of total domestic beer production, the panel found that the federal tax credit approved in the Budget Reconciliation Act of 1990 discriminates against foreign beer producers. The panel also ruled that credits given to wineries are also discriminatory. Consequently, the provision must change.

1. State Tax Rates Based on Annual Production

States offering tax exemptions and reductions to producers of beer and wine based on annual production by breweries and vintners are unfair to importers.

States Affected:

New York, Oregon, Rhode Island and the Commonwealth of Puerto Rico.

2. State Tax Credit Based on Annual Production

States offering excise tax credits to small domestic breweries based on annual beer production are unfair to importers.

States Affected: Kentucky, Minnesota, Ohio and Wisconsin.

3. State Tax Rates on Wine Based on Origin of Product

States that offer lower excise tax rates on wine based upon its in-state or domestic origin are unfair to importers.

States Affected: Alabama, Georgia, Nebraska and New Mexico.

4. State Excise Tax at Wholesale Level

States that apply an excise tax at the wholesale level for all imported wine are unfair to importers.

State Affected: Iowa.

5. State Tax Treatment Based on Local Ingredients

States that offer preferential excise tax treatment to wine produced from local ingredients are unfair to importers.

States Affected: Michigan, Ohio, Rhode Island.

6. State Tax on Wine Made from a Specified Variety of Grape

States that offer a lower excise tax rate for wine produced from a special variety of grape are unfair to importers.

State Affected: Mississippi

7. Excise Tax Credit for Equipment Purchases

States that offer an excise tax credit on beer for the purchase of manufacturing equipment unfairly subsidize domestic breweries.

State Affected: Pennsylvania

8. Three-Tier System (producer-wholesaler-retailer)

States that exempt local producers from the state requirement to use wholesalers deny competitive opportunities to importers.

States Affected:

Alaska, California, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia and Wisconsin.

9. State Requirements to Use Common Carriers

The panel ruled that states are not justified in requiring imported beer and wine to be transported through the states by common carriers authorized to operate within the state.

States Affected:

Arizona, California, Maine, Mississippi and South Carolina.

10. State Licensing Fees

States that apply higher licensing fees for imported beer or wine are unfair to importers.

States Affected:

Alaska (beer and wine), Vermont (beer only)

11. Local Option Laws

States that exempt in-state wine from being sold in areas of the state that prohibit the sales of alcoholic beverages are unfair to importers.

State Affected:

Mississippi.

12. Price Affirmation

States that require price affirmation (imported products may not be offered below the price of these products in neighboring states) for imported beer and wine are unfair to importers.

States Affected:

Massachusetts and Rhode Island.

13. State Listing and Delisting Policies

States that allow liquor control boards to require listing (posting the notice of state sale of state products) and delisting (removing other products from the list) practices for imported wine are unfair to importers.

States Affected:

Idaho, Mississippi, New Hampshire, Pennsylvania, Vermont and Virginia.

14. Wholesaler Distribution Requirements

States that have wholesaler distribution requirements are unfair to importers.

States Affected:

Connecticut, Florida, Maryland, Massachusetts, Missouri, Oregon, Texas and Utah.

ALCOHOLIC BEVERAGE CONTROL DIVISION OVERVIEW

PREPARED FOR JOINT HEARING OF HOUSE & SENATE
FEDERAL AND STATE AFFAIRS COMMITTEES

SEPTEMBER 16, 1993

The Alcoholic Beverage Control Division administers and enforces the Liquor Control Act and related tax statutes and statutes governing the licensing and taxation of bingo games in Kansas. The Division issues liquor licenses; conducts field enforcement activities, including auditing and inspection of bingo licensees; collects gallonage taxes; and conducts administrative hearings on violations. The Division also houses the Department of Revenue's Criminal Tax Fraud Unit (CFU). This unit is responsible for investigating suspected illegal activity relating to the reporting and payment of drug, liquor, sales and other taxes collected by the Department. There are two subprograms: Division Administration and the Enforcement Bureau.

Division Administration performs general staff-support for the Director of Alcoholic Beverage Control and related work such as budget preparation, personnel record-keeping, office automation assistance and the coordination of the Division's activities. This subprogram also contains the Division's Licensing and Records Sections, Legal Section, the Criminal Fraud Unit (CFU) and support staff for the Division's Bingo Enforcement activities.

- The Licensing Section processes license applications (3500+ annually) for retail liquor stores, distributors, farm wineries, microbreweries, on-premise establishments, temporary permits and nonbeverage user permits. The Section issues all salespersons and carrier permits, manages the cereal malt beverage stamp program, maintains all file information pertaining to businesses licensed to deal in alcoholic beverages and issues monthly and annual statistical reports. The Section functions as the first point of contact for businesses desiring to sell alcoholic beverages. Applications are received and, with the assistance of the Enforcement Bureau and other KDOR Divisions, verified against tax records, criminal history record information and various other records maintained by agencies such as the Secretary of State. Licenses are issued and renewed on an annual basis.

- The Records Section reviews and approves all suppliers desiring to do business in Kansas and products offered for sale. Brand registration is monitored at the supplier level, along with collection of necessary fees. The Section reviews and maintains records on all franchise agreements between suppliers and distributors. Records pertaining to the shipment of alcoholic beverages into and within the state are examined to ensure accurate collection of applicable taxes. The movement of all alcoholic beverages is tracked from the distributor's initial order from a supplier through shipment to retail liquor stores and on-premise establishments. These records are vital to the accurate collection of gallonage, enforcement and

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liquor excise taxes. They are also used for audit purposes to determine on-premise establishment compliance with the minimum food requirements. The Section also compiles statistical data on the types and brands of alcoholic beverages shipped into Kansas.

- The Legal Section is staffed by an Assistant Attorney General who serves as a prosecutor during hearings before the Director. The Attorney represents the Division at all appellant levels, assists in drafting administrative regulations, reviews agreements and responds to requests for legal interpretations. The Director, as hearing officer, and the Assistant Attorney General are responsible for disposition of all administrative citations brought forth by the investigative activities of the Enforcement Bureau and other law enforcement agencies. Citations are issued for violations such as sale to a minor or allowing consumption by a minor, delinquent in payment of taxes and numerous other violations of state and federal law and rules and regulations.
- The Criminal Fraud Unit has two major purposes: (1) the collection of the tax on illegal drugs; and (2) the investigation of criminal tax fraud for all taxes administered by the Department, including income and excise taxes. The unit has developed expertise in the areas of financial asset identification, net worth analysis and legal procedures to facilitate the seizure of drug dealers' assets and to identify instances of tax fraud. The unit works closely with local, state and federal law enforcement agencies as well as the Division of Taxation and other operating divisions of the Department of Revenue in carrying out these activities. The unit also provides internal investigative services for the Department of Revenue.

The Enforcement Bureau provides field compliance and investigative support services for the Division of Alcoholic Beverage Control and the Department of Revenue. The Bureau is the only dedicated program for statewide enforcement of the Liquor Control Act. During FY 93, field associates of the Enforcement Bureau initiated 2,301 investigative cases in 88 counties in Kansas. Field associates work with local law enforcement and elected officials, businesses licensed by the Alcoholic Beverage Control and the general public. Major functions of the Enforcement Bureau may be classified as follows:

- Compliance inspections of bingo licensees and liquor licensees, including on-premises establishments, retail liquor stores and distributors. Compliance inspections are performed annually with additional follow-up inspections when violations are found. These inspections provide a dual purpose in providing licensees assistance in operating in a legal manner and encouraging voluntary compliance to the statutes, rules and regulations of the business and taxation requirements.

- Criminal and civil investigations of illegal activities involving liquor violations and tax violations. These investigations provide the Department with the ability to enforce statutes, rules and regulations by actively pursuing civil or criminal sanctions against violators or tax evaders.
- The field arm of the Criminal Fraud Unit concentrates on investigations of the Kansas Drug Tax Act and other major tax fraud activities in order to identify assets and recover or obtain tax revenues which would otherwise be lost due to the hidden nature of such illegal enterprises.
- Management of office support for the activities of the field associates assigned to the Enforcement Bureau. Computerized data is used in this management program to monitor operational efficiency and responsiveness to the priorities assigned to the Bureau. Tracking data includes a case management system, a master name index of criminal history record checks and detailed associate activity information.

ABC DIVISION CUSTOMERS

External

All Kansas liquor licensees
Domestic & international brewers,
distillers and other liquor suppliers
All Kansas bingo licensees
Local law enforcement agencies
Liquor and bingo trade associations
Kansas Dept. of Human Resources
Internal Revenue Service
Kansas Bureau of Investigation
Federal Bureau of Investigation
Bureau of Alcohol, Tobacco & Firearms

Internal (KDOR)

Business Tax Bureau
Dealer Licensing Bureau
Driver Control Bureau
Motor Fuel Tax Section
Division of Collections
Internal Audit
Audit Services
Income & Inheritance Tax
Bureau

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**ORGANIZATION CHART
KANSAS DEPARTMENT OF REVENUE**
Alcoholic Beverage Control Division
Division Administration (6401) - 26 Positions
Enforcement (6463) - 33 Positions
Fiscal Year 1994 Authorized

59 TOTAL POSITIONS

