



January 27, 2022

To: House Committee on Federal & State Affairs
From: R.E. "Tuck" Duncan
General Counsel
RE: HB 2502, authorizing retail liquor stores to sell and deliver alcoholic liquor and cereal malt beverages to a caterer, public venue, club or drinking establishment located in any county.

The Kansas Wine & Spirits Wholesalers Association opposes HB2502.

Kansas is one of the few 4-tier states for the sale of wine and spirits to on-premise licensees. It is the result of a historical accident when in 1979 private clubs were statutorily authorized to sell liquor-by-the-drink to members and guests and "liquor pools" were eliminated. Retailers had been selling to the "pools" (a Trust administered by the club for the benefit of the individual member) and retailers desired to maintain those sales. The Legislature agreed.

A retailer selling to an on-premise establishment is, in the view of the federal government, the Trade & Tax Bureau of the Department of Treasury, a wholesaler and they must secure a "wholesalers basic permit." Not all retailers have such a permit. Over the years TTB records show 710 wholesale permits have been issued in Kansas of which 285 are current retail licensees.

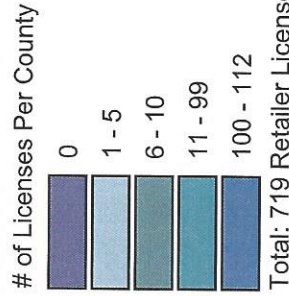
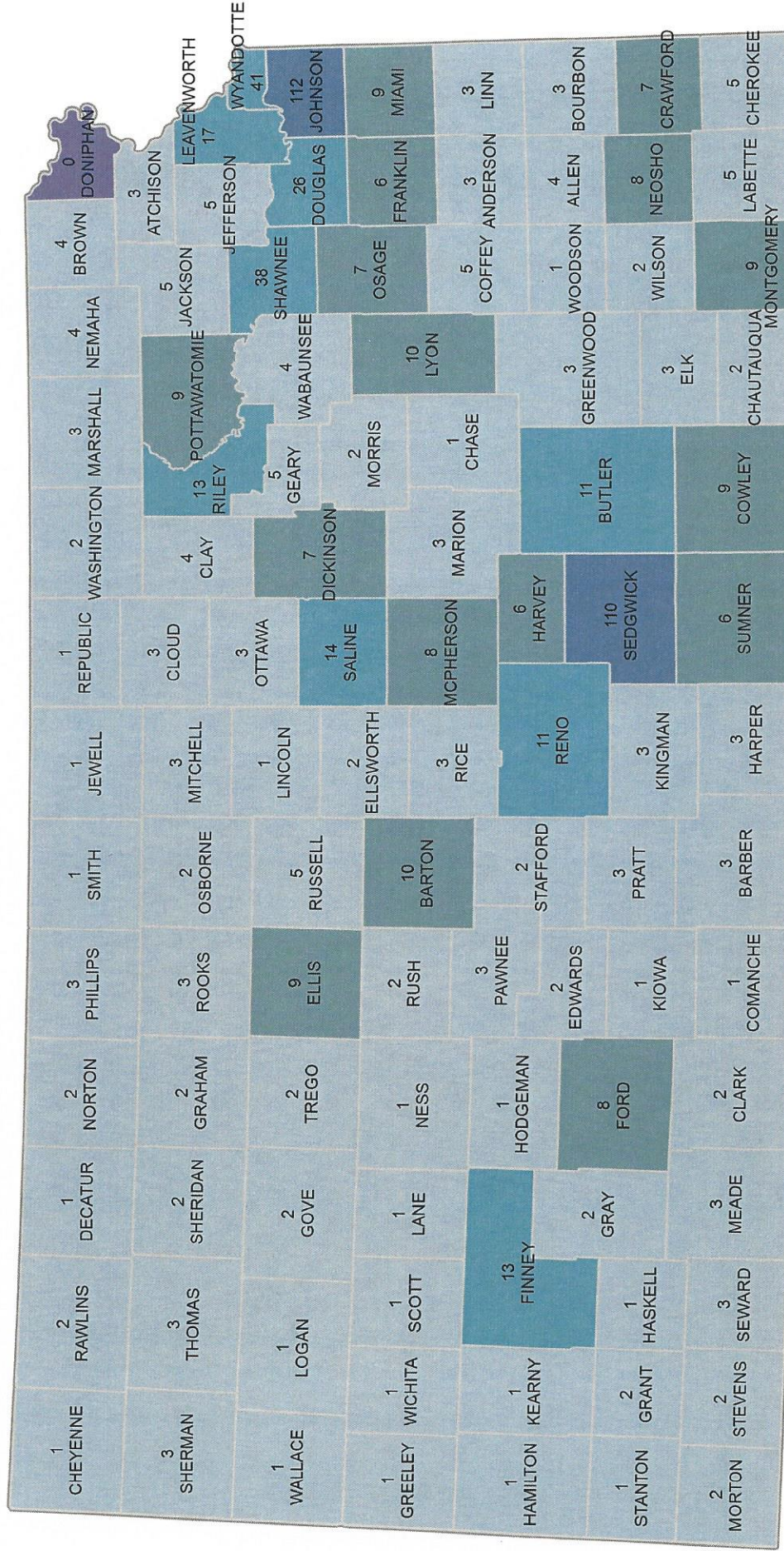
Current law K.S.A. 41-308 is clear, "...a licensed retailer may: ... sell and deliver alcoholic liquor and cereal malt beverage to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer; ...". Remembering that K.S.A. 41-104 provides that acts with regard to alcoholic liquor are prohibited unless allowed by statute, retailers are not permitted to sell to on-premise licensees other than as permitted above.

K.S.A. 41-2610 provides that an on-premise licensee can only purchase alcoholic liquor from any person [a retailer with a wholesalers basic permit] authorized by law to sell such alcoholic liquor to such licensee. That person is the retailer who can sell in its county or the adjacent county.

Currently there are 20 counties with only 1 retailer, 20 counties with 2 retailers and 22 counties with 3 retailers. See the attached map. Our opposition is rooted in a concern that as sales to on-premise licensees are concentrated in a few larger retailers with the wholesalers basic permit, then the revenue base for the primarily rural retail licensees will be eroded to such an extent that we end up with multiple counties with no retailers.

Further, this system has been in place for over 40 years working well as it provides close access to product. *For these reasons we respectfully request that the committee not pass HB2502. Thank you for your kind attention to and consideration of this matter.*

Kansas Off-Premise Retailer Licenses



Total: 719 Retailer Licenses

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



January 25, 2022