



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

July 1, 2003

## POLICY MEMORANDUM 2003 - 4

### **Subject: Use of Automated Teller Machines (ATMs) by Retail Liquor Stores**

- 1. Purpose:** The purpose of this memorandum is to provide guidance to Retail Liquor Stores on the use of ATMs.
- 2. Applicability:** This policy memorandum is applicable to all Kansas retail liquor stores.
- 3. Background.**

a. The Liquor Control Act, specifically K.S.A. 41-308, strictly regulates the rights of licensees to sell only alcoholic liquor and lottery tickets on the licensed premises. K.S.A. 41-711 also prohibits alcoholic liquor from being sold upon premises which have inside entrances or openings to other businesses. With that foundation, several practices have been authorized by the Division over the years. For instance, licensees are permitted to have ice machines outside their licensed premises but may maintain the funds for ice sales inside the retail liquor stores provided the ice sales funds are not commingled with the funds from the sale of alcoholic liquor. Licensees have also been permitted to establish vestibules whereby they can have separate party shop businesses in close proximity to their retail liquor store. The Division has provided guidelines on vestibules through Policy Memo 2002-1 Guidelines for Vestibules.

b. A recent Attorney General's Opinion, AG Opinion 2002-35, addressed the legality of placing an ATM in a licensed retail liquor store. The AG opined "that K.S.A. 41-308(b) presently prohibits the placement of an operable ATM in a licensed retail store. A licensed retailer may neither directly offer the services an ATM provides, nor allow another to offer that service in or from the licensed premises."

### **4. Discussion**

a. Several retail liquor stores and companies selling or leasing ATM type machines have contacted ABC on the legality of using such devices in or around retail liquor stores. In light of the recent AG's Opinion and the previous lack of clear direction from this office, the following guidelines are provided on the use of these machines:

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(1) ATMs **may not** be placed inside the licensed premises of a retail liquor store.

(2) ATMs **may not** be placed inside an approved vestibule.

(3) ATMs **may not** be placed and anchored on the outside wall of a retail liquor store allowing customer access from the outside if access to the machine for maintenance or cash restocking is from inside the retail liquor store.

(4) ATMs **may** be placed completely outside of the retail liquor store with access to the system outside the store. If done in this manner, all cash and documentation from the system shall not be commingled with the cash and documentation from the retail liquor store. The following procedures must be adhered to by retail liquor stores choosing to install a device in this manner:

(a) The customer access to the ATM is strictly outside the retail liquor store and not on the licensed premise.

(b) Access to the system for maintenance and cash restocking occurs from outside the retail liquor store only.

(c) There will be no commingling of cash or documents from the ATM machine and cash and documents from the retail liquor store.

b. Any retail liquor store licensee that previously received written permission from this office to install an ATM, outside of the guidelines of this policy memorandum, will be allowed to retain the machine in its approved configuration.

c. Any retail liquor store licensee with an ATM installed without written permission from this office, will be required to remove the machine.

d. All contact with ABC on this matter shall be through licensees. Companies representing ATMs are to work through retail liquor store licensees and not directly with ABC.

**5. Additional Comments:**

a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in administrative action for a violation of the liquor laws.

b. ABC Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

**6. Clarification of Policy:** All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

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**7. Effective date of this Policy:** This policy is effective from the date of this policy memorandum until further notice.

R.G. Longino

cc: Assistant Attorney General  
Chief of Enforcement  
Licensing Supervisor  
Compliance Supervisor  
Administration Supervisor  
Enforcement Agents