

HB 400 & Teen Prevention Programs Alcoholic Beverage Control

Budget Subcommittee on Economic Development, Tourism,
and Environmental Protection

July 26, 2018

Public Protection Cabinet – Department of Alcoholic Beverage Control

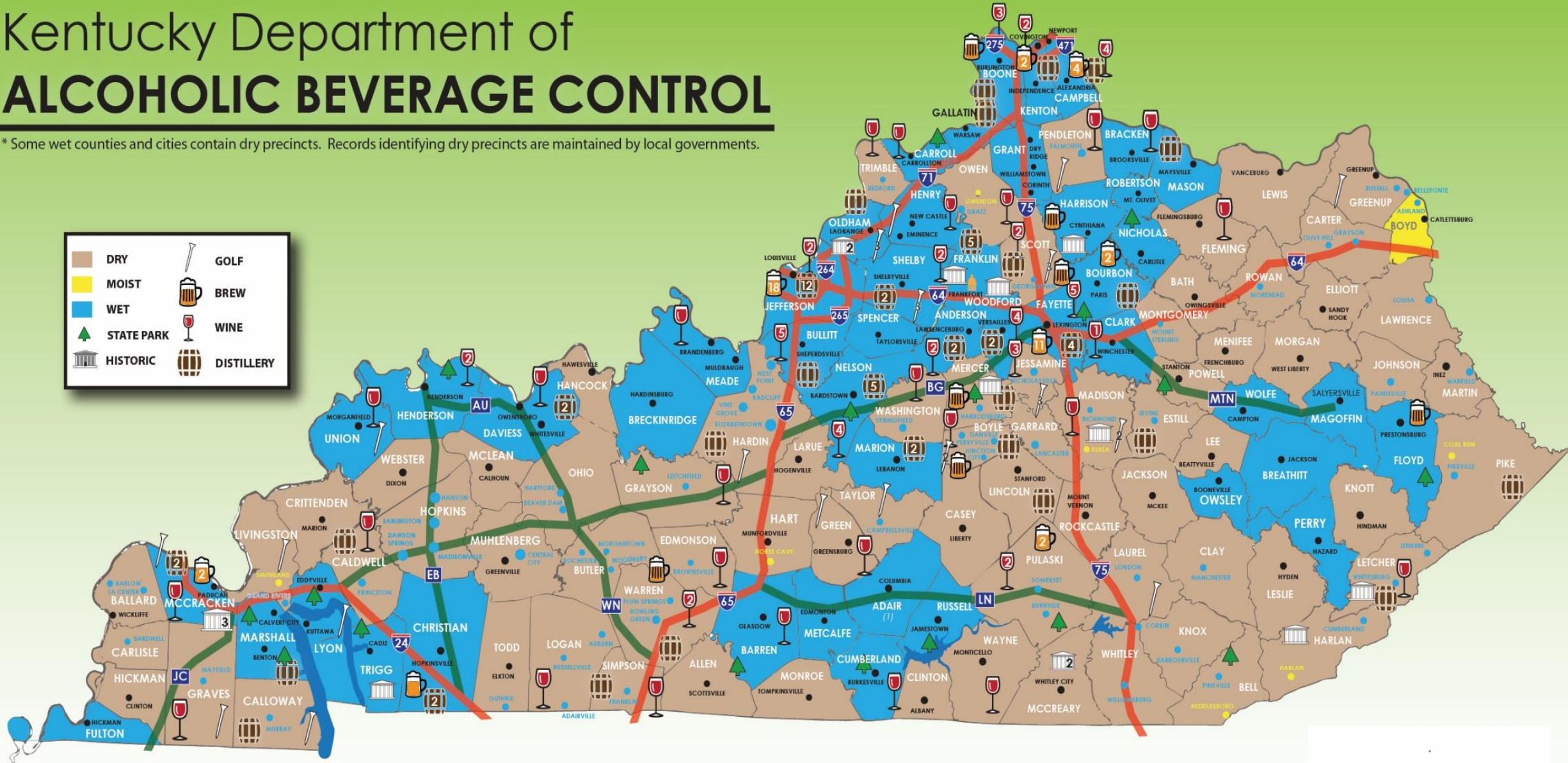
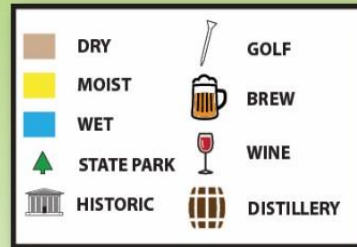
- K. Gail Russell, Acting Secretary
- Christine Trout Van Tatenhove, Commissioner
- Carol Beth Martin, Malt Beverage Administrator
- Trina N. Summers, Distilled Spirits Administrator
- Stephen B. Humphress, General Counsel
- Randy Harris, Director of Enforcement

ABC Responsibilities – What do we do?

- Statutory Mission – Prevention of underage access to alcohol
- Tobacco inspection programs
- Process license applications/renewals
- Education/Community Engagement
- Promulgate regulations
- Administrative Hearings – Alcoholic Beverage Control Board

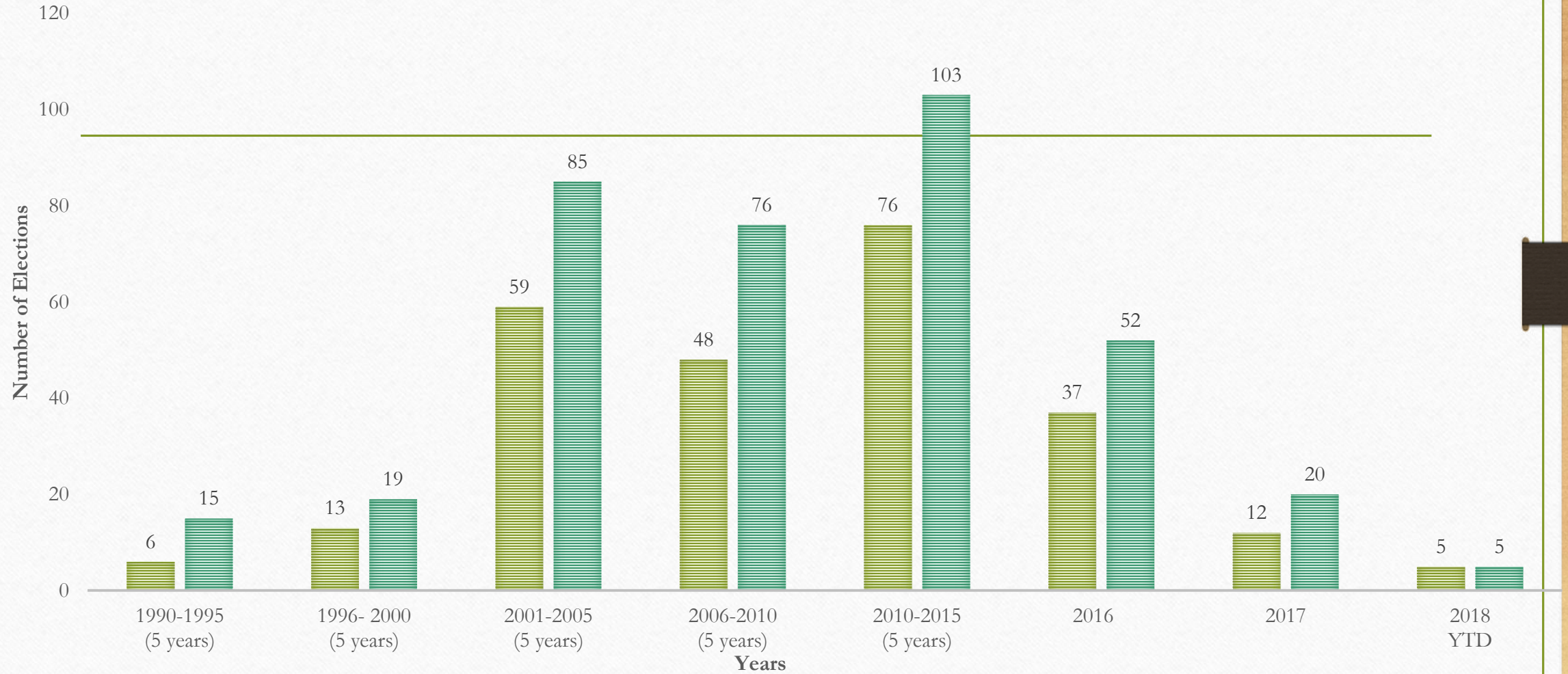
Kentucky Department of ALCOHOLIC BEVERAGE CONTROL

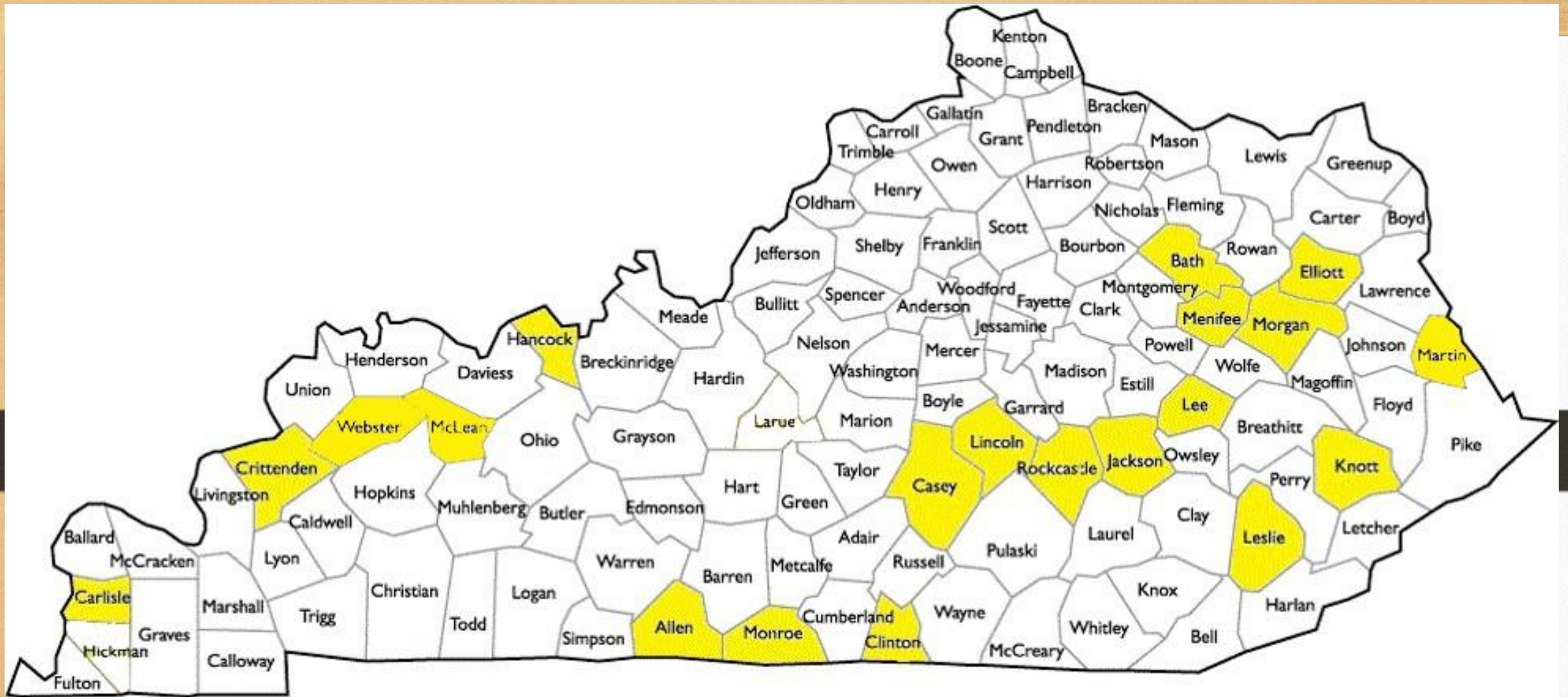
* Some wet counties and cities contain dry precincts. Records identifying dry precincts are maintained by local governments.



ELECTIONS

■ Elections Yielding Wet/Moist Territory ■ Total Elections





Highlighted counties are the only completely dry counties in the Commonwealth (6/30/2018). Every other county has at least some territory (county, city or precinct) where alcohol sales are permitted.

Alcoholic Beverage Licenses: Types/Fees

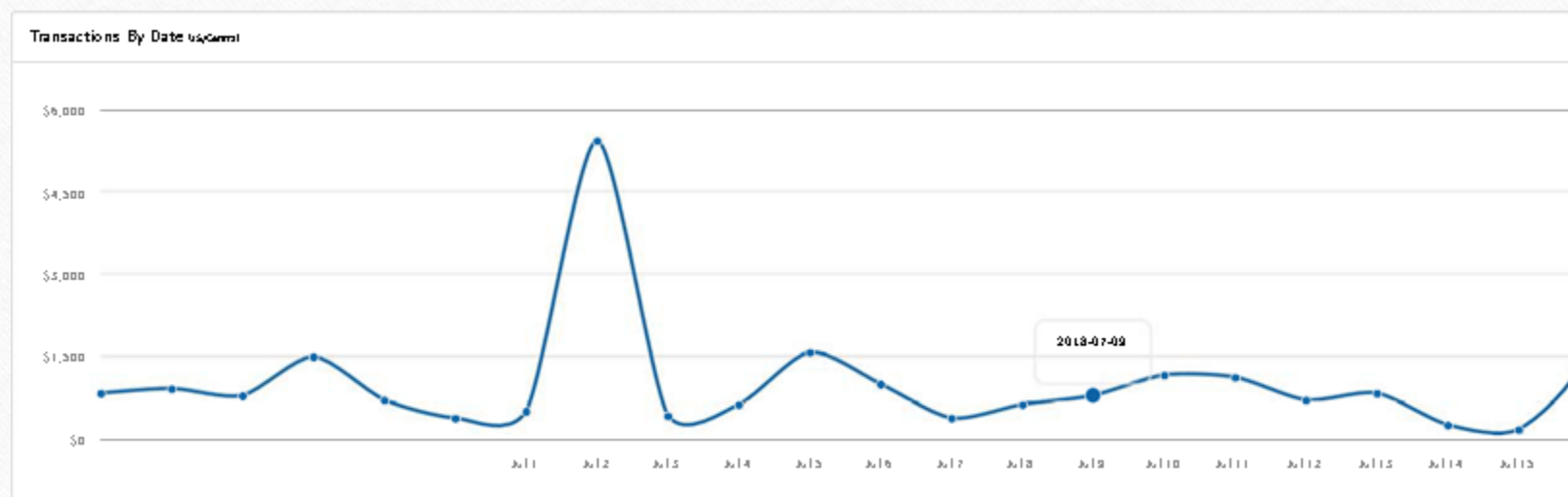
- State Distilled Spirits, Wine licenses and Combo licenses. KRS 243.030.
- State Malt Beverage licenses. KRS 243.040.
- County licenses. KRS 243.060.
- City licenses. KRS 243.070.



Quick Stats

- Licensing
 - Total Active: 16,735; Total sites: 10,450
 - Issued: 664 new licenses
 - Renewed: 636 licensees
 - 34 day turnaround time
- Education
 - 100% online participation
 - 361 applicants with 94% passage rate
 - \$29,022.00 revenue for June 1-30

STAR - Education



CURRENT	30 DAYS AGO	60 DAYS AGO	3 MONTHS AGO	6 MONTHS AGO	1 YEAR AGO
\$33,956	\$28,732	\$36,526	\$45,026	\$26,327	\$28,068
	30 DAY GROWTH	60 DAY GROWTH	3 MONTH GROWTH	6 MONTH GROWTH	YEARLY GROWTH
	18%	-7%	-25%	29%	21%

Quick Stats

- Enforcement
 - 86 field reports
 - 38 complaints closed
 - 18 citations issued; 21 warnings issued
 - 22 case reports
 - 94% compliance rate
- Legal/Regulatory
 - 38% reduction in regulations – 1st Red Tape Reduction Award
 - 50% reduction in administrative cases = increased compliance
 - 180 Final Orders YTD

Quick Stats

- Penalties Imposed – General Fund Revenue
 - 2016 - \$686,400 fines – 29 licenses revoked/surrendered
 - 2017 - \$494,400 fines – 10 revoked/suspended
 - 2018 - \$396,300 fines – 11 revoked/suspended

ABC – General Fiscal Information

	Appropriation				
	FY16	FY17	FY18	FY19	FY20
General Funds	618,100	587,100 ¹	591,700 ²	-	-
Restricted Funds	5,770,400	7,146,300	7,154,700	8,198,500	8,257,500

¹ \$297,000 transferred to KY Claims Commission
\$5,800 Budget Reduction Order 17-02

² \$278,300 transferred to KY Claims Commission
\$67,900 Budget Reduction Order 18-01

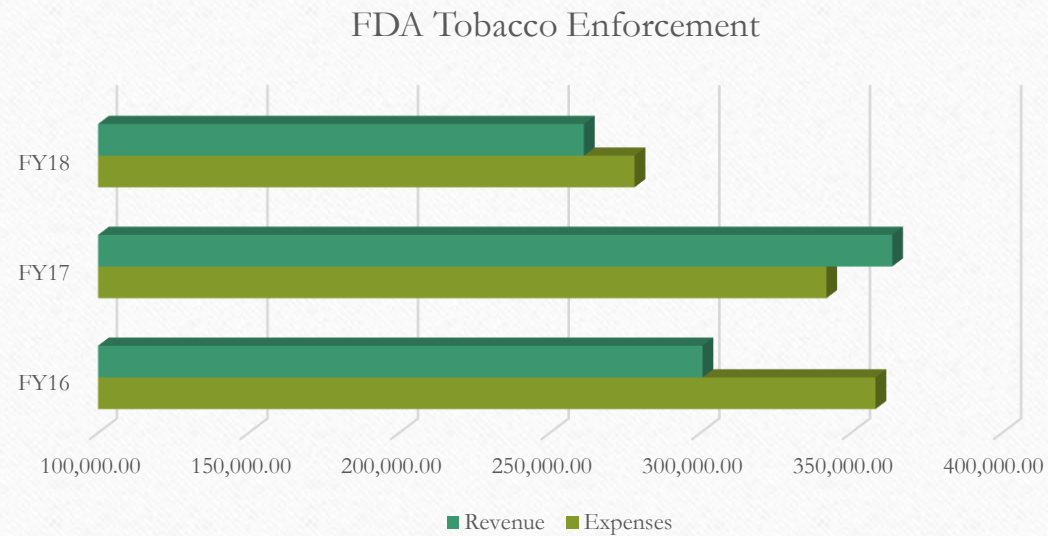
Alcohol & Tobacco Programs

- Food & Drug Administration
- SYNAR
- State Retail Program
 - Competitive grant program
 - Fully reimbursed
 - All Investigators and Supervisors are commissioned through FDA
 - FDA checks are completed throughout the year
 - FDA requires 10 inspections a month – Department averages 15

Tobacco Programs – FDA

- Food & Drug Administration
 - Competitive grant program – Kentucky joined in 2011
 - Fully reimbursed (including benefits)
 - All Investigators and Supervisors are commissioned through FDA
 - FDA checks are completed throughout the year
 - FDA requires 10 inspections a month – Department averages 15

FDA – Budget Info



	FY16	FY17	FY18
Personnel	347,011	336,517	265,965
Investigative Aides	11,084	5,282	12,149
Totals:	358,095	341,799	278,114
Revenue	300,676	363,615	261,307

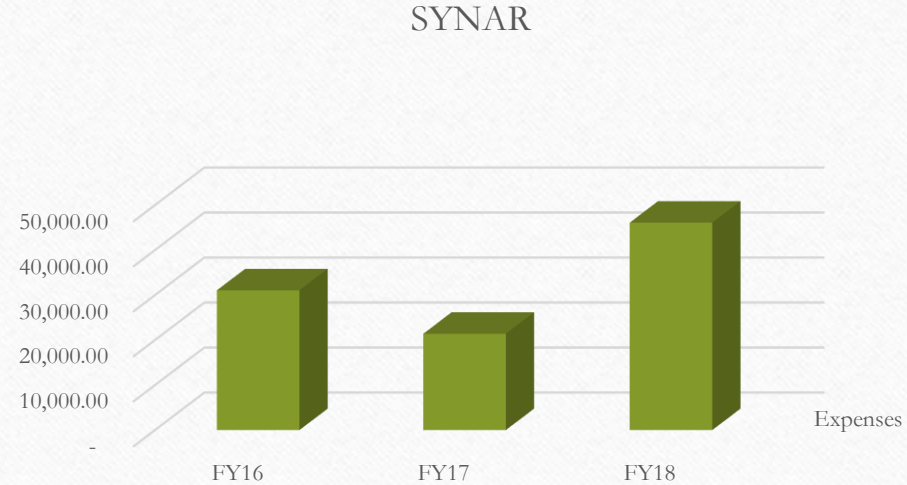
Tobacco Programs – SYNAR

- SYNAR
 - Public Law 102-321, called the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act, was passed in July 1992. The late Representative Mike Synar was responsible for an amendment to this law, which required that tobacco be made unavailable to minors.
 - SYNAR is a requirement for receiving Federal Funds for The Substance Abuse, Mental Health Services and Alcohol (SAMHSA) Block Grant and funds must be used for those services
 - In addition to setting targets for the states, the Synar Amendment established penalties for noncompliance. The penalty for a state is loss of up to 40% of its Substance Abuse Prevention and Treatment Block Grant (SABG) funds.
 - Conducted during July – September (summer months)

Tobacco Programs – SYNAR

- SYNAR
 - Number of checks (determined by research organization)
 - 2018 – 310 (scheduled) checks
 - 2017 – 640 checks
 - 2016 – 242 checks
 - Hours worked, citations issued
 - 2017 – 860, citations issued – 42
 - 2016 – 520, citations issued – 21
 - 2015 – 581, citations issued – 19

SYNAR – Budget Info

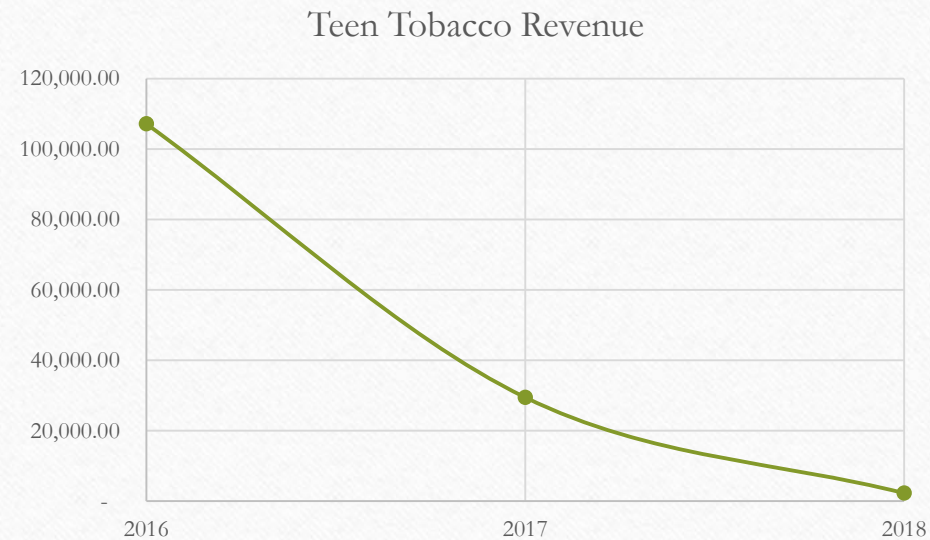


	FY16	FY17	FY18
Personnel	19,290	18,198	28,422
Investigative Aides	3,434	3,206	3,822
Advertising	8,340	-	13,848
Total:	31,064	21,404	46,092

Tobacco Programs – State Retail

- State Retail Inspection
 - KRS Chapter 438
 - Split obligations with the Department of Agriculture
 - Limited scope given SYNAR and FDA

State Retail Tobacco – Budget Info



	2016	2017	2018	Change (\$)	Change (%)
Teen Tobacco	107,150	29,464	2,250	(104,900)	-97.9%

Alcohol

State Retail Inspection Program

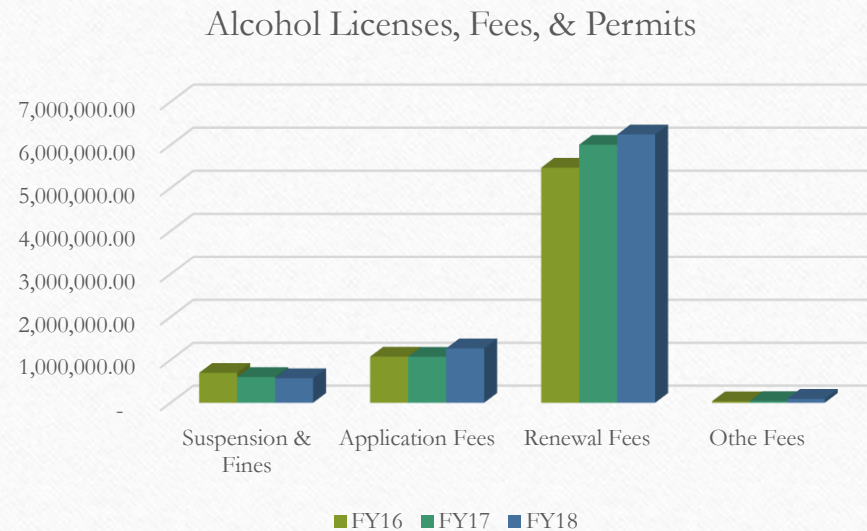
- Operation Zero Tolerance (OZTs)
- Total number of retailers
 - 2018 YTD– 651
 - 2017 – 1293
 - 2016 – 1709
- Compliance rate
 - 2018 YTD – 94%
 - 2017 – 90%
 - 2016 – 88%

Alcohol

State Retail Inspection Program

- Total Licensed Premises – 10K
- Licensed Inspections
 - 2018 YTD – 3193
 - 2017 – 4948
 - 2016 – 4667

State Retail Alcohol – Budget Info



	FY16	FY17	FY18	Change (\$)	Change (%)
Education	200,563	290,765	252,627	52,064	26.0%
Licenses, Fees, & Permits	7,277,755	7,715,841	8,176,023	898,269	12.3%

Licenses, Fees, & Permits					
	FY16	FY17	FY18	Change (\$)	Change (%)
Suspension & Fines	696,337	600,027	573,773	(122,564)	-17.6%
Application Fees	1,075,402	1,073,227	1,267,022	191,620	17.8%
Renewal Fees	5,471,109	6,002,570	6,242,322	771,212	14.1%
Other Fees	34,907	38,667	92,907	58,000	166.2%
Totals:	7,277,755	7,714,491	8,176,023	898,269	12.3%

Investigative Aids - Tobacco

- A Tobacco Investigative Aide (IA) is a person age 16 or 17 years-old who enters a tobacco retailer, such as a convenience store or grocery store, and attempts to purchase a tobacco product. This is called a “controlled buy.”
- ABC Investigators accompany the IA and observe the “controlled buy”
- Tobacco IA – Female 41 total, Male 38 total
 - Ages 16-17 years and 11 months
- Must not appear older than their age

Investigative Aids - Alcohol

- An Alcohol Investigative Aide is a person between the ages 18 and 20 years-old who enters an alcoholic beverage retailer, such as a convenience store, grocery store, liquor package store, or restaurant, and attempts to purchase an alcoholic beverage.
- Alcohol IA – Female 23 total, Males 26 total
 - Ages 18-20 yoa
 - Must not appear older than their age (e.g., no facial hair)

HB 400

- Direct-to-Consumer (DTC) shipping of alcohol
- Protects the 3-Tier System
- Online v. In-Person
- Codification of an existing ABC Advisory Opinion
- Applies to distilleries, wineries, and retailers
- Creates safe harbor for shippers

HB 400

- Implementation by ABC
 - DOR – tax implications & joint guidance
 - *South Dakota v. Wayfair, Inc.*, 585 U.S. --- , 217 WL 4051554 (June 21, 2018)
 - Online v. In-person Sales
 - Amend the basic license application
 - Amend the transporters license
 - Amend application for Veteran Preference
 - Amend vehicle signage requirements
 - Amend 804 KAR 4:400 (incorporates the forms)

HB 400 – Budget Info

- No budgetary impact

Questions?

Contact Us

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Public Protection Cabinet – Division of Fiscal Responsibility

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