

GOVERNOR'S MONTHLY REPORT APRIL 2012



STATE OF ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL

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The information reported in this document is used to keep the Governor and staff apprised of accomplishments, key issues, and upcoming events as they relate to the Department of Liquor Licenses and Control, and its three divisions (Licensing, Administration, and Investigations) on a monthly basis.

GRANTS & FUNDING
LIQUOR ENFORCEMENT & EDUCATION OUTREACH GRANT
CUB (COVERT UNDERAGE BUYER) PROGRAM

In an effort to curb the sale of liquor to underage persons, the Covert Underage Buyer (CUB) program was instituted in June of 2003. This program provides the resources necessary for DLLC to investigate reported complaints of liquor licensed businesses suspected of one or more underage liquor law violations. When DLLC has reasonable suspicion that a liquor-licensed establishment is selling liquor to underage customers, the agency will send in a covert underage buyer, or CUB, to attempt to purchase liquor. The CUBs are between the age of fifteen (15) and nineteen (19), and are carefully trained by DLLC investigators to understand and follow state laws, including DLLC's CUB investigations guidelines. DLLC provides CUB program training to all Arizona law enforcement agencies, allowing the program to operate statewide.

DLLC conducted investigations of fifteen (15) liquor-licensed establishments using four (4) CUBs. Three (3), or twenty (20.0%) percent, of these establishments sold alcohol to a (CUB) resulting in six (6) criminal and six (6) administrative violations. All fifteen (15) locations were investigated in response to complaints received by DLLC.

DLLC saw a decrease of seventy (70.0%) percent in the number of establishments (3) that sold to CUBS compared to the previous month, March 2012 (10). There was a fifty-seven (57.1%) percent decrease in the number of establishments that sold to CUBs when compared to April 2011 (7).

Since the inception of the program, three thousand thirty-five (3,035) establishments have been investigated and nine hundred twenty-one (921) or thirty (30.3%) percent have sold to CUB buyers resulting in two thousand one hundred ninety-three (2,193) administrative violations and one thousand eight hundred thirty-four (1,834) criminal citations.

CUB Program Statistics

Calendar Year	Locations Investigated	# Sold to CUB	% of Locations that Sold to CUB	Administrative Violations	Criminal Violations
2003	122	33	29	70	71
2004	217	55	25	122	136
2005	337	108	32	342	283
2006	475	148	31	409	317
2007	450	108	24	200	201
2008	572	172	30	416	349
2009	392	115	29	234	229
2010	169	96	57	207	129
2011	234	62	26	143	69
2012	67	24	36	50	50

An Underage Drinking Hotline is in operation for concerned citizens to call when underage drinking, service, or sales are suspected. With each complaint DLLC launches an investigation. The Underage Drinking Hotline number is 1-877-NOT-LEGL or 1-877-668-5345.

GRANTS & FUNDING
LIQUOR ENFORCEMENT & EDUCATION OUTREACH GRANT
TRACE (TARGET RESPONSIBILITY FOR ALCOHOL CONNECTED EMERGENCY)

The TRACE (Target Responsibility for Alcohol Connected Emergency) program began in June 2004 to develop a system of effective and rapid communication between local law enforcement and emergency medical services (EMS) personnel in high-profile cases which involve underage drinking. Each TRACE case is concluded only when the source of liquor is traced back to the supplier and the supplier is charged with a criminal and/or administrative violation.

TRACE is a statewide operation with one (1) full time investigator available for immediate response to alcohol-related emergencies which involve an underage person(s).

TRACE Program Statistics

Calendar Year	Total # of New Cases	Administrative Violations	Criminal Violations
2005	11	5	3
2006	11	24	12
2007	4	9	6
2008	6	6	3
2009	8	20	4
2010	5	13	4
2011	5	0	0
2012	2	4	0

There were no new TRACE cases opened this month. One (1) TRACE case was closed this month in Tempe and resulted in two (2) administrative violations. Investigator Palubeskis is currently working on two (2) TRACE cases. To complete these cases, DLLC requires additional information which will be provided by Bisbee PD and Mohave County Sheriff's Office.

OUTREACH

Community & Agency Outreach

Community and agency outreach meetings and presentations create opportunities to increase DLLC's efficiency and relevancy, encourage agency collaborative efforts, and promote safe and legal alcohol distribution, sales, and consumption in Arizona.

Community and agency outreach during the month:

- Meeting with Senator Jackson regarding walk-up windows- Director attended
- MATFORCE Mixer- Deputy Director attended
- Victim's Rights Week Celebration at the State Capitol- Deputy Director attended
- Northern Arizona Agency Head Meeting- Deputy Director attended
- Legislative Liaison Meetings- Asst. Director of Administration attended
- Ethical Issues Confronting Public Lawyers webcast- Asst. Director of Administration attended
- CLE Course-Arizona Election Law- Asst. Director of Administration attended
- Communities Preventing Substance Abuse Work Group- Asst. Director of Administration attended
- New Liquor Products presentation to the State Liquor Board and DLLC staff- Communications Director administered
- Title 4 Training Audit- Communications Director conducted

Law Enforcement Special Detail:

- Special detail at Phoenix metro area events including U-Fest, Culinary Fest, West Valley DUI, BBQ Fest and Salsa Fest
- Special detail at County Thunder in Florence, AZ
- Special detail at Starr Pass Pool Party with Tucson PD
- 2 CUB details-Jaramillo and Byrd
- Phoenix PD HIDTA assignment-Ribera
- 120 backgrounds completed-Turner
- Decision shoot course-Gothelf
- Yuma County Fair Board meeting and Youth Alcohol Detail at the fair-Eaton
- Title 4 and Fake ID class (GOHS in Phoenix) & 4 Corners Investigators meeting-Miller and Parris
- Title 4 and Fake ID class (GOHS in Northern Arizona)-Palubeskie and Jaramillo
- Liquor Law training at Yavapai County Mat Force-Parris
- Graham County Substance Abuse Coalition instruction-Miller

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to ensure that all licensees statewide adhere to A.R.S. Title 4 (Arizona liquor laws) and all Rules established by the DLLC.

Investigators completed two hundred sixteen (216) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in two hundred thirty-six (236) criminal citations and one hundred thirteen (113) administrative violations. The following success statistics were completed by a staff of fifteen (15) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:765.

Total investigative achievements were one thousand three hundred sixty-five (1,365) compared to one thousand ninety-eight (1,098) in April 2011. DLLC realized an increase in total investigative achievements of twenty-four (24.3%) percent compared to April 2011.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	3	13	4	18
Site Inspections Completed	42	675	52	698
Actioned (administrative) Complaints	9	48	6	102
Non-Actioned (criminal) Complaints	41	344	25	459
Administrative Counts Charged	113	1,356	137	1,425
Criminal Citations Issued	236	1,379	206	1,602
Routine Liquor Inspections Completed	216	1,983	211	2,459
Compliance Case Reports Submitted	54	760	85	686
On-view Violation Case Reports	44	667	66	528
Law Enforcement Liaison Completed	87	851	54	632
Underage Investigations Statistics:				
Citations Issued to Underage	183	745	81	580
Total Violations	337	1,388	171	914
Total Achievements:	1,365	10,209	1,098	10,103

The number of citations DLLC investigators issued to underage persons increased from 81 to 183 or by one hundred twenty-six (125.9%) percent compared to April 2011. The total number of violations written by DLLC investigators increased from 171 to 337 or by ninety-seven (97.1%) percent compared to April 2011.

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	3	14	20	66	80

Of the one hundred eighty-three (183) citations the DLLC investigators issued to underage persons, eighty (80) were twenty years old, sixty-six (66) were nineteen years old, twenty (20) were eighteen years old, fourteen (14) were seventeen years old, and three (3) were sixteen years old.

SUCCESS STATISTICS
Investigations (continued)

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2012 YTD	1 Year Ago This Month	# of Citations Issued in FY 2011
A.R.S. § 4-241.A Failure to Check ID	3	41	17	113
A.R.S. § 4-241.L Use of false ID to buy alcohol	22	141	23	114
A.R.S. § 4-241.M Underage solicits third party buyer	0	33	n/a	n/a
A.R.S. § 4-241.N Use of false ID to enter premises	1	62	0	7
A.R.S. § 4-244.1 Selling without a license	0	6	0	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	135	485	114	599
A.R.S. § 4-244.20 Consume in a public place	4	30	n/a	n/a
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.41 Alcohol in system of underage	150	430	0	0
A.R.S. § 4-244.42 Accept \$ to allow underage in bar or sell alcohol to underage	0	0	0	0
A.R.S. § 13-2907.01 Providing false information to state	4	26	0	0
A.R.S. § 28-3478.1 Unlawful use of driver's license	12	45	6	47
A.R.S. § 28-3478.3 Using another person's driver's license	3	59	4	14

SUCCESS STATISTICS LIQUOR LICENSE AUDITS

The Audit Unit monitors and performs audits of two types of liquor-licensed establishments; hotel/motel with restaurant (series 11); and restaurant (series 12). Audits are conducted to ensure that restaurants are not operating as bars and are maintaining a 40:60 food-to-liquor sales ratio which is required by Title 4.

Currently there are one hundred sixty-two (162) active Series 11 (hotel/motel) licenses and three thousand one hundred fifty-two (3,152) active Series 12 (restaurant) licenses statewide. Compared to April 2011, the number of hotel/motel with restaurant licenses has decreased by three (3) licenses or two (1.8%) percent and the number of restaurant licenses has increased by fifty-nine (59) or two (1.9%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred fourteen (3,314) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,657.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits closed	6	10
Audits initiated	6	8
Audits in progress	16	14
Open cases w/projected ratio of >37%	10	3
Open cases w/projected ratio between 30 to 37%	2	7
Open cases w/projected ratio of < 30%	4	4
Locations granted 1 year to continue operation	0	1
Locations being monitored	92	88

Six (6) audits were completed in Maricopa and Pima counties which resulted in actionable violations in two (2) of those cases. There are sixteen (16) audits in progress and ninety-two (92) locations being monitored. In April 2011 there were ten (10) audits completed, fourteen (14) audits in progress and eight-eight (88) locations being monitored.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	6	76	10	82	521
Audits passed	6	51	5	38	239
Audits failed	0	17	5	40	221
Inconclusive	0	8	0	3	55
Other charges only	0	0	0	1	6

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics since January 1, 2003 are noted below:

Year	Audits Completed	Revenues Collected	Average Fine per Audit (does not include continuation license fees)
1/1 - 6/30/03	6 audits	--	--
FY 2004	23 audits	--	--
FY 2005	24 audits	--	--
FY 2006	32 audits	--	--
FY 2007	27 audits	\$13,000	\$481
FY 2008	61 audits	\$36,500	\$598
FY 2009	103 audits	\$81,275	\$789
FY 2010	87 audits	\$81,750	\$940
FY 2011	82 audits	\$84,400	\$1,029
FY 2012 YTD	76 audits	\$54,275	\$714

In 2006, A.R.S. §4-213.C introduced the "continuation license" (commonly referred to as the "Grill Bill") into state liquor law. The continuation license, at a cost of \$30,000, allows restaurants that have not met the required 40:60 food-to-liquor sales ratio during the last 12-month period the option of continuing to operate with a food-to-liquor sales ratio below restaurant requirements. Since the 2006 introduction, fees collected from the issuance of fourteen (14) continuation licenses total four hundred twenty thousand (\$420,000) dollars. During FY 2012, thirty thousand (\$30,000) dollars have been collected from the issuance of continuation licenses. There is one (1) continuation license application in pending status at this time.

The department collected revenue for audit-related violation fines totaling thirteen thousand three hundred twenty-five (\$13,325) dollars. Audit fines assessed from violations totaled nine thousand four hundred fifty (\$9,450) dollars. Revenue collected from fines to-date in FY 2012 total fifty-four thousand two hundred seventy-five (\$54,275) dollars. Fines assessed from violations to-date in FY 2012 total fifty-five thousand six hundred fifty (\$55,650) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$13,325	\$54,275	\$3,000	\$84,400
Fines Assessed	\$9,450	\$55,650	\$7,500	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$30,000	\$0	\$180,000
Pending Continuation Licenses (Grill Bill)	1	1	1	--

SUCCESS STATISTICS COMPLIANCE

The Compliance Unit governs the dispute-resolution process and imposes disciplinary actions against licensees for violations of State liquor laws. The Compliance unit is responsible for determining an appropriate course of disciplinary action which may consist of verbal or written warnings, consent agreements, or referral for a full administrative hearing.

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Revocations	0	0	0	2
Suspensions	0	4	0	7
Surrenders	0	2	0	13
Divestitures	0	3	0	4
Administrative Complaints	2	4	0	9
Decisions & Orders	0	2	0	8

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	81	752	105	752
Cases Completed	17	184	29	280
Cases in Progress	64	567	76	478
Warning Letter Issued	1	12	5	45
Cases Sent to OAH	0	6	0	6

Economic Impact:

Fines collected totaled forty-eight thousand nine hundred fifty (\$48,950) dollars from fifty-five (55) adjudicated compliance actions. Compared to last month, March 2012, this represents a fifty-seven (56.9%) percent increase in collected revenues and a twenty-eight (27.9%) percent increase in the number of compliance actions processed. Compared to April 2011, this represents an eighteen (17.5%) percent increase in collected revenues and a twenty-two (22.2%) percent increase in the number of compliance actions processed.

A penalty fine payment plan gives licensees the option to pay fines in installments rather than in one lump sum. DLLC and the licensee agree to the terms of the payment plan during a negotiation process. Although the payment plan may reduce DLLC's monthly collection of fine revenues in the short term, the long term outcome is intended to keep establishments in business by easing the financial burden of fines during the current economic decline.

Action	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Fines collected	\$48,950	\$348,340	\$41,650	\$598,509
Cases adjudicated	55	395	45	425

SUCCESS STATISTICS
Compliance (continued)

Fiscal Year	Compliance Actions	Revenues Collected	Average Fine Per Action
2002-2003	414	\$445,725	\$1,077
2003-2004	388	\$518,800	\$1,337
2004-2005	431	\$557,725	\$1,294
2005-2006	500	\$689,475	\$1,379
2006-2007	429	\$627,975	\$1,464
2007-2008	334	\$582,350	\$1,744
2008-2009	584	\$886,440	\$1,518
2009-2010	415	\$705,725	\$1,701
2010-2011	425	\$598,509	\$1,408
2011-2012 YTD	395	\$348,340	\$882

Adjudicated Underage Violations

Statute	Definition	Adjudicated This Month	FY 2012 YTD	1 Year Ago This Month	TOTAL FY 2011
A.R.S. § 4-241.A	Failure to Check ID	8	30	5	44
A.R.S. § 4-241.L	Sold to CUB	0	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	1	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	13	67	5	49
A.R.S. § 4-244.16	Knowingly allow furnishing liquor to underage	0	0	0	0
A.R.S. § 4-244.22	Consume w/o permission of premises owner	0	0	0	3
A.R.S. § 4-244.33	Underage DUI	0	0	0	0
A.R.S. § 4-244.40	Alcohol in system of underage	0	0	0	0
A.R.S. § 13-2907.01	Provide false information to state	0	0	0	0
A.R.S. § 28-3478.1	Unlawful use of driver's license	0	0	0	0
A.R.S. § 28-3478.3	Use another person's driver's license	0	0	0	0

In FY 2012, fines from adjudicated underage violations total sixty-seven thousand two hundred sixty-five (\$67,265) dollars. To date in FY 2012, one (1) license has been suspended and none (0) have been revoked.

Compliance Statistics Resulting From Underage Violations

Fiscal Year	Fines Collected	Licenses Suspended	Licenses Revoked
2010	\$365,875	4	1
2011	\$214,500	2	0
2012 YTD	\$67,265	1	0

SUCCESS STATISTICS STATE LIQUOR BOARD

The State Liquor Board operates independently from the Director of the Department of Liquor Licenses and Control and is responsible for hearing liquor license applications that have been protested by the public, the governing body of a city, town or county, or the Department Director. Additionally, the Board may hear appeals and overturn or amend decisions of the Director.

Achievements:	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	2	54	13	89
Applications Protested	2	19	n/a	n/a
Licenses Granted	1	18	4	23
Licenses Denied	0	6	0	13
Continuances Granted	0	17	3	33
Licenses Withdrawn	1	11	4	16
Appeals Heard	0	0	1	3
Rehearings Requested	0	2	1	1
Hearings Cancelled by Director	0	3	0	n/a

There were two (2) applications scheduled for hearing before the State Liquor Board and both applications were protested by the public. Of the two (2) applications heard, one (1) was granted and one (1) was withdrawn. To date in FY 2012, the State Liquor Board has granted thirty-three (33.3%) percent and denied twelve (11.1%) percent of the license applications received. In addition, thirty-two (31.5%) percent were continued and twenty (20.4%) percent were withdrawn by the applicant.

ARIZONA LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi, Member (R)	Arizona Liquor Board Vice Chair Maricopa County No Financial Interest	Term Expires January 19, 2015
Bill DuPont (D)	Arizona Liquor Board Member	Term Expires January, 21, 2013
Jim Carruthers (R)	Arizona Liquor Board Member Yuma County No Financial Interest	Term Expires January 19, 2015
Tim Linden (R)	Arizona Liquor Board Member Graham County Wholesaler	Term Expires January 20, 2014
Robin Cantrell (I)	Arizona Liquor Board Member Graham County Retailer	Term Expires January 19, 2015
Michael Farley (R)	Arizona Liquor Board Member Pima County Business Consultant	Term Expires January 21, 2013
Vikki Scarafiotti (D)	Arizona Liquor Board Member Maricopa County No Financial Interest	Term Expires January 20, 2014

SUCCESS STATISTICS LICENSING

The Licensing Division is responsible for processing new license applications, permits, renewals, and maintaining up-to-date and accurate information on active licenses.

Compared to April 2011, the number of new liquor licenses issued in Arizona has decreased by eight (7.5%) percent, renewals have decreased by nine (8.9%) percent, and the number of active licenses has increased by one (0.7%) percent. In comparison to April 2011, monthly licensing revenues (including lottery collections) have decreased by four (3.8%) percent from six hundred eighty-five thousand six hundred sixty-one (\$685,661) dollars during this time last year to six hundred fifty-nine thousand nine hundred thirty-two (\$659,932) dollars during the current month.

There were three (3) exempt locations issued raising the number to a total of sixty-five (65) active exempt locations in Arizona. An exempt location is an establishment that (1) meets the criterion established in A.R.S. §4-244.05 and A.A.C. R19-1-315, (2) has made application for the exemption, (3) has been inspected by a DLLC investigator, and (4) has been issued a 1-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
New licenses issued	148	1,302	160	1,798
Renewed licenses	545	8,767	598	11,483
Lottery licenses issued	0	1	1	25
Collected Lottery Revenues:	0	\$99,166	\$34,399	\$2,422,579
Number of Active Liquor License:	11,478	n/a	11,403	n/a
Exempt Locations Issued	3	49	n/a	n/a
Number of Exempt Locations	65	n/a	63	63
Collected Licensing Revenues (including lottery revenues):	\$659,932	\$5,247,390	\$685,661	\$8,401,843

Collected Revenue by Fee Type in April 2012

Fair Market Value	0
Applications	12,075
License Fees	441,800
Out-of-State	0
Agent Change	5,000
Fines	75,275
Special Event	5,375
Club	0
Penalties	23,100
Copy Fees	537
Non-Use Surcharge	27,400
Audit Surcharge	18,330
Enforcement K Surcharge	24,080
Enforcement L Surcharge	14,960
Miscellaneous	10

TOTAL REVENUES COLLECTED	\$ 647,942
(fingerprints)	<u>11,990</u>
TOTAL REPORT	\$ 659,932

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

eLicensing

DLLC's eLicensing Information System (ELIS) is being developed in collaboration with ASET and NIC/CAVU-IDS. A Project Plan has been revised which anticipates a go-live date for the implementation of the department's e-licensing system in Summer 2012. ELIS, a web-based application, will replace DLLC's sixteen (16) year old licensing system which has served the agency's staff and stakeholders.

Proposed Rulemaking

Immediately prior to the January 2008 Regulatory Review Plan Moratorium, DLLC submitted a complete rules rewrite to the Governor's Regulatory Review Counsel. In August 2010, DLLC requested an exemption to the moratorium. In response to that request, the Governor's Office requested that DLLC ensure that no financial burden was imposed on the alcohol beverage industry and there was industry collaboration and support. The department has held several meetings with industry leaders in an effort to solicit comments and input regarding the proposed rules. Since that time, a final version of the proposed rules has been in-process. The department submitted a Notice of Proposed Rulemaking package, including an exemption to the moratorium and industry-members letters of support, to the Governor in February 2012.

Liquor License Lottery

DLLC will hold the 2012 Arizona Liquor License Lottery this spring marking the sixth year that a liquor license lottery will be offered in Arizona. Pursuant to A.R.S. § 4-206.01 and A.A.C. R19-1-109, DLLC conducts a liquor license lottery based on Arizona population projections. Of the 15 counties in Arizona, Maricopa County is the only county that experienced population growth of more than 10,000. With population growth of more than 20,000, Maricopa County will have two of each license type available in 2012; the bar license (series 6), the beer and wine bar license (series 7), and the liquor store license (series 9). Applications will be accepted from Thursday, April 5 through Thursday, May 3, 2012. The random selection lottery drawing will be held on May 14, 2012.

Legislation

Liquor Omnibus Bill HB2606 continues to move through the bill process. It was transmitted to the House on April 30th for final read.

Staffing

Due to resignation, the Investigations Division lost a sworn officer which decreased the total number of investigators to fourteen (14) who enforce the Title 4 liquor laws and ensure compliance across the entire state. The Records Supervisor in the Licensing Division retired this month after serving nearly 5 years with DLLC and 21 years with the State of Arizona. The Licensing Division also hired an Optical Disc Input Technician in the Information Services Unit.

END OF DLLC APRIL 2012 REPORT TO THE GOVERNOR