

GOVERNOR'S MONTHLY REPORT DECEMBER 2011



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 did not conduct investigations of liquor-licensed establishments this month.

Since the inception of the program, two thousand nine hundred sixty-eight (2,968) establishments have been investigated and eight hundred ninety-seven (897) or thirty (30.2%) percent have sold to CUB buyers resulting in two thousand one hundred forty-three (2,143) administrative violations and one thousand seven hundred eighty-four (1,784) 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

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 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

There were no new TRACE cases opened this month. Investigator Palubeskie is currently working on three (3) TRACE cases. To complete these cases, DLLC requires additional information which will be provided by local law enforcement agencies including Tucson, Tempe and Globe Police Departments.

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:

- ADOT Meeting with Yavapai County Elected Officials- Director attended
- Underage Alcohol Enforcement Course-Deputy Director attended

Law Enforcement Special Detail:

- Title 4 and Fake ID Training administered to Lake Havasu City PD-Miller and Parris
- Fake ID detail with Tucson DPS, TPD and U of A- Kuhl, Parris, Chesley and Miller
- 38 backgrounds completed-Turner
- Work with Phoenix PD- Ribera
- Mohave County-Eaton
- Yuma area-Eaton and Palubeskie

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to enforce Title 4 criminal laws and all Rules established by the Department to ensure statewide compliance.

Investigators completed one hundred twenty-two (122) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in eighty-four (84) criminal citations and one hundred two (102) administrative violations. The following success statistics were completed by a staff of twelve (12) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:947.

Total investigative achievements were 766 compared to 728 in December 2010. DLLC realized an increase in total investigative achievements of five (5.2%) percent compared to December 2010.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	0	6	0	18
Site Inspections Completed	145	475	35	698
Actioned (administrative) Complaints	2	26	11	102
Non-Actioned (criminal) Complaints	25	204	36	459
Administrative Counts Charged	102	737	147	1,425
Criminal Citations Issued	84	713	101	1,602
Routine Liquor Inspections Completed	122	1,143	128	2,459
Compliance Case Reports Submitted	58	410	40	686
On-view Violation Case Reports	50	361	21	528
Law Enforcement Liaison Completed	90	505	46	632
Underage Investigations Statistics:				
Citations Issued to Underage	28	353	68	580
Total Underage Violations	60	612	95	914
Total Achievements:	766	5,545	728	10,103

The number of citations DLLC investigators issued to underage persons decreased from 68 to 28 or by fifty-nine (58.8%) percent compared to December 2010. The total number of underage violations written by DLLC investigators decreased from 95 to 60 or by thirty-seven (36.8%) percent compared to December 2010.

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	0	21	24	113
A.R.S. § 4-241.L Sold to CUB	12	89	10	114
A.R.S. § 4-241.M Underage solicits third party buyer	1	28	n/a	n/a
A.R.S. § 4-241.N Use of false ID to enter premises	7	42	0	7
A.R.S. § 4-244.1 Unlicensed Resale	2	2	0	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage	24	221	78	599
A.R.S. § 4-244.22 Consuming w/o permission of premises owner	0	0	1	27
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.40 Alcohol in system of underage	1	1	0	0
A.R.S. § 4-244.41 Accept \$ to allow underage in bar	9	136	0	0
A.R.S. § 13-2907.01 Providing false information to state	0	5	0	0
A.R.S. § 13-3478 Unlawful use of a license	0	0	0	0
A.R.S. § 28-3478.1 Unlawful use of driver's license	3	3	5	47
A.R.S. § 28-3478.3 Using another person's driver's license	0	46	1	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-three (163) active Series 11 (hotel/motel) licenses and three thousand two hundred thirty-one (3,231) active Series 12 (restaurant) licenses statewide. Compared to December 2010, 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-five (55) or two (1.7%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred ninety-four (3,394) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,697.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits closed	3	5
Audits initiated	4	8
Audits in progress	16	13
Open cases w/projected ratio of >37%	8	4
Open cases w/projected ratio between 30 to 37%	8	7
Open cases w/projected ratio of < 30%	0	2
Locations granted 1 year to continue operation	1	4
Locations being monitored	91	104

Three (3) audits were completed in Maricopa County which resulted in actionable violations in five (5) of those cases.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	3	48	5	82	493
Audits passed	1	31	1	38	219
Audits failed	1	9	4	40	213
Inconclusive	1	8	0	3	55
Other charges only	0	0	0	1	6

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics since July 1, 2006 are noted below:

Year	Audits Completed	Revenues Collected	Average Fine per Audit (does not include continuation license fees)
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	48 audits	\$21,250	\$472

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 thirteen (13) continuation licenses total three hundred ninety thousand (\$390,000) dollars. During FY 2012, no revenue has 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 one thousand seventy-five (\$1,075) dollars. Audit fines assessed from violations also totaled one thousand seventy-five (\$1,075) dollars. Revenue collected from fines to-date in FY 2012 total twenty-two thousand three hundred twenty-five (\$22,325) dollars. Fines assessed from violations to-date in FY 2012 total thirty-six thousand two hundred (\$36,200) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$1,075	\$22,325	\$2,500	\$84,400
Fines Assessed	\$1,075	\$36,200	\$9,250	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$0	\$0	\$180,000
Pending Continuation Licenses (Grill Bill)	1	1	2	--

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	1	4	0	7
Surrenders	0	0	0	13
Divestitures	0	2	0	4
Administrative Complaints	0	2	1	9
Decisions & Orders	0	2	0	8

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	115	439	33	752
Cases Completed	42	109	16	280
Cases in Progress	73	329	17	478
Warning Letter Issued	3	9	2	45
Cases Sent to OAH	0	5	0	6

Economic Impact:

Fines collected totaled thirty thousand one hundred fifty (\$30,150) dollars from forty-two (42) adjudicated compliance actions. Compared to last month, November 2011, this represents a two (2.4%) percent decrease in collected revenues and a twenty (20.0%) percent increase in the number of compliance actions processed. Compared to December 2010, this represents a twenty (19.5%) percent decrease in collected revenues and a twenty (20.0%) 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	\$30,150	\$186,625	\$37,475	\$598,509
Cases adjudicated	42	206	35	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	206	\$186,625	\$906

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	2	15	2	44
A.R.S. § 4-241.L	Sold to CUB	0	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	0	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	3	34	2	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 forty-three thousand (\$43,000) 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	\$43,000	1	0

SUCCESS STATISTICS STATE LIQUOR BOARD

The State Liquor Board 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, an aggrieved party may appeal certain decisions of the director to the Board for review.

Achievements:	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	6	37	9	89
Applications Protested	1	11	n/a	n/a
Licenses Granted	2	13	0	23
Licenses Denied	1	4	2	13
Continuances Granted	2	15	5	33
Licenses Withdrawn	1	4	1	16
Appeals Heard	0	0	1	3
Rehearings Requested	0	1	0	1
Hearings Cancelled by Director	0	3	n/a	n/a

There were six (6) applications scheduled for hearing before the State Liquor Board. One (1) of the applications was protested by the public. Of the six (6) applications heard, two (2) were granted, one (1) was denied, one (1) was withdrawn, and two (2) were continued. To date in FY 2012, the State Liquor Board has granted thirty-five (35.1%) percent and denied eleven (10.8%) percent of the license applications received. In addition, forty-one (40.5%) percent were continued and eleven (10.8%) 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 16, 2012
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 16, 2012
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 16, 2012
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	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 December 2010, the number of new liquor licenses issued in Arizona has decreased by nineteen (18.8%) percent, renewals have decreased by fifteen (15.2%) percent, and the number of active licenses has decreased by three (2.6%) percent. In comparison to December 2010, monthly licensing revenues (not including lottery collections) have decreased by eight (8.0%) percent from five hundred thirty-six thousand four hundred twenty-nine (\$536,429) dollars during this time last year to four hundred ninety-three thousand three hundred twelve (\$493,312) dollars during the current month.

There was one (1) exempt location issued raising the number to a total of seventy-four (74) 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	190	854	234	1,798
Renewed licenses	2,046	6,794	2,412	11,483
Lottery licenses issued	0	1	11	25
Collected Lottery Revenues:	\$0	\$99,166	\$702,760	\$2,422,579
Number of Active Liquor License:	11,364	n/a	11,670	n/a
Exempt Locations Issued	8	29	n/a	n/a
Number of Exempt Locations	67	n/a	n/a	63
Collected Licensing Revenues (including lottery revenues):	\$493,312	\$2,744,728	\$1,239,189	\$8,401,843

Collected Revenue by Fee Type in December 2011

Fair Market Value	0
Applications	17,650
License Fees	228,015
Out-of-State	0
Agent Change	5,800
Fines	30,200
Special Event	3,025
Club	900
Penalties	12,600
Copy Fees	542
Non-Use Surcharge	22,300
Audit Surcharge	1,620
Enforcement K Surcharge	82,285
Enforcement L Surcharge	82,255
Miscellaneous	0

TOTAL REVENUES COLLECTED \$ 487,192
(fingerprints) 6,120

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 Spring 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. It is anticipated that the department will submit a Notice of Proposed Rulemaking package, including an exemption to the moratorium and industry-members letters of support, to the Governor in January 2012.

Agency Staffing Improvements

The Investigation Division hired 2 sworn officers with a start date in January 2012 to increase investigative and enforcement in the Tucson area. This would bring the number of investigators to a total of fourteen (14). The Department also intends to fill the Investigations Administrator position, with an anticipated start date of January 2012.

END OF DLLC DECEMBER 2011 REPORT TO THE GOVERNOR