

# GOVERNOR'S MONTHLY REPORT FEBRUARY 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. Five (5), or thirty-three (33.3%) percent, of these establishments sold alcohol to a (CUB) resulting in ten (10) criminal and ten (10) administrative violations. All fifteen (15) locations were investigated in response to complaints received by DLLC.

DLLC saw a decrease of seventeen (16.7%) percent in the number of establishments (5) that sold to CUBs compared to the previous month, January 2012 (6). There was no change in the number of establishments (5) that sold to CUBs when compared to February 2011.

Since the inception of the program, two thousand nine hundred ninety-six (2,996) establishments have been investigated and nine hundred and eight (908) or thirty (30.3%) percent have sold to CUB buyers resulting in two thousand one hundred sixty-seven (2,167) administrative violations and one thousand eight hundred eight (1,808) criminal citations.

**CUB Program Statistics**

<b>Calendar Year</b>	<b>Locations Investigated</b>	<b># Sold to CUB</b>	<b>% of Locations that Sold to CUB</b>	<b>Administrative Violations</b>	<b>Criminal Violations</b>
<b>2003</b>	122	33	29	70	71
<b>2004</b>	217	55	25	122	136
<b>2005</b>	337	108	32	342	283
<b>2006</b>	475	148	31	409	317
<b>2007</b>	450	108	24	200	201
<b>2008</b>	572	172	30	416	349
<b>2009</b>	392	115	29	234	229
<b>2010</b>	169	96	57	207	129
<b>2011</b>	234	62	26	143	69
<b>2012</b>	28	11	39	24	24

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**

<b>Calendar Year</b>	<b>Total # of Cases</b>	<b>Administrative Violations</b>	<b>Criminal Violations</b>
<b>2005</b>	11	5	3
<b>2006</b>	11	24	12
<b>2007</b>	4	9	6
<b>2008</b>	6	6	3
<b>2009</b>	8	20	4
<b>2010</b>	5	13	4
<b>2011</b>	5	0	0
<b>2012</b>	1	0	0

There was one (1) new TRACE cases opened this month in Bisbee. Investigator Palubeskie is currently working on four (4) 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:**

- Arizona Centennial celebration at the Capitol-Director attended
- Crescent Crown Distributing Warehouse Facility grand opening ceremony in Mesa-Director and Asst. Director of Administration attended
- Senate Confirmation of Liquor Board Members-Deputy Director attended
- Northern Arizona (NOAZ) Law Enforcement Director's meeting- Deputy Director attended
- Communities Preventing Substance Abuse Work Group-Asst. Director of Administration attended
- Title 4 training course audit- Communications Director administered

#### **Law Enforcement Special Detail:**

- Waste Management Open enforcement-All officers
- Dayglow Rave enforcement-Miller, Chesley and Wilde
- Mardi Grad Festival special event enforcement-Eaton
- Wickenburg Wild West Days enforcement-Trevizo and Turner
- High Intensity Drug Trafficking Area (HIDTA)/DEB assignment- Ribera
- Assisted Prescott with warrants for Bath Salts-Turner
- 88 backgrounds completed-Turner
- La Paz County-Parris and Eaton
- Youth Alcohol details-All officers
- Worked out of area complaints-All officers

## 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 two hundred and six (206) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred twenty-seven (127) criminal citations and ninety-nine (99) administrative violations. The following success statistics were completed by a staff of fourteen (14) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:822.

Total investigative achievements were one thousand twenty-nine (1,029) compared to one thousand thirty-five (1,035) in February 2011. DLLC realized a decrease in total investigative achievements of one (.6%) percent compared to February 2011.

<b>Achievements:</b>	<b>Current Month</b>	<b>Total FY 2012</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2011</b>
Hidden Ownerships Completed	2	8	3	18
Site Inspections Completed	34	593	29	698
Actioned (administrative) Complaints	2	33	10	102
Non-Actioned (criminal) Complaints	27	255	70	459
Administrative Counts Charged	99	974	147	1,425
Criminal Citations Issued	127	930	75	1,602
Routine Liquor Inspections Completed	206	1,521	297	2,459
Compliance Case Reports Submitted	74	550	120	686
On-view Violation Case Reports	70	491	113	528
Law Enforcement Liaison Completed	94	666	39	632
<b>Underage Investigations Statistics:</b>				
Citations Issued to Underage	95	472	63	580
Total Underage Violations	199	873	69	914
<b>Total Achievements:</b>	1,029	7,366	1,035	10,103

The number of citations DLLC investigators issued to underage persons increased from 63 to 95 or by fifty-one (50.8%) percent compared to February 2011. The total number of underage violations written by DLLC investigators increased from 69 to 199 or by one hundred eighty-eight (188.4%) percent compared to February 2011.

<b>Current Month</b>	<b>Younger than Age 15</b>	<b>Age</b>					
		<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
<b>Age of minor cited</b>	0	0	0	0	18	41	36

Of the ninety-five (95) citations the DLLC investigators issued to underage persons, thirty-six (36) were twenty years old, forty-one (41) were nineteen years old, and eighteen (18) were eighteen years old.

**SUCCESS STATISTICS**  
Investigations (continued)

<b>Statute/ Definition</b>	<b># of Citations Issued This Month</b>	<b># of Citations Issued in FY 2012 YTD</b>	<b>1 Year Ago This Month</b>	<b># of Citations Issued in FY 2011</b>
<b>A.R.S. § 4-241.A</b> Failure to Check ID	1	27	5	113
<b>A.R.S. § 4-241.L</b> Use of false ID to buy alcohol	21	113	0	114
<b>A.R.S. § 4-241.M</b> Underage solicits third party buyer	2	31	n/a	n/a
<b>A.R.S. § 4-241.N</b> Use of false ID to enter premises	10	53	7	7
<b>A.R.S. § 4-244.1</b> Selling without a license	1	4	0	4
<b>A.R.S. § 4-244.9</b> Furnishing alcohol to an underage, underage in possession/consumption	60	304	37	599
<b>A.R.S. § 4-244.34</b> Underage DUI	0	0	0	0
<b>A.R.S. § 4-244.41</b> Alcohol in system of underage	65	215	0	0
<b>A.R.S. § 4-244.42</b> Accept \$ to allow underage in bar or sell alcohol to underage	0	0	0	0
<b>A.R.S. § 13-2907.01</b> Providing false information to state	4	11	0	0
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver's license	14	21	0	47
<b>A.R.S. § 28-3478.3</b> Using another person's driver's license	8	55	3	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 two hundred sixty-five (3,265) active Series 12 (restaurant) licenses statewide. Compared to February 2011, the number of hotel/motel with restaurant licenses has decreased by four (4) licenses or two (2.4%) percent and the number of restaurant licenses has increased by forty-eight (48) or two (1.5%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand four hundred eleven (3,427) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,714.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
<b>Audits closed</b>	9	6
<b>Audits initiated</b>	10	5
<b>Audits in progress</b>	16	15
<b>Open cases w/projected ratio of &gt;37%</b>	9	6
<b>Open cases w/projected ratio between 30 to 37%</b>	5	7
<b>Open cases w/projected ratio of &lt; 30%</b>	2	2
<b>Locations granted 1 year to continue operation</b>	2	0
<b>Locations being monitored</b>	89	99

Nine (9) audits were completed in Maricopa, Mohave, Pima and Yavapai counties which resulted in actionable violations in eight (8) of those cases.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
<b>Audits completed</b>	9	63	6	82	509
<b>Audits passed</b>	3	39	3	38	227
<b>Audits failed</b>	6	16	3	40	220
<b>Inconclusive</b>	0	8	0	3	55
<b>Other charges only</b>	0	0	0	1	6

**SUCCESS STATISTICS**  
**Liquor License Audits (continued)**

**Audit statistics since January 1, 2003 are noted below:**

<b>Year</b>	<b>Audits Completed</b>	<b>Revenues Collected</b>	<b>Average Fine per Audit</b> (does not include continuation license fees)
<b>1/1 - 6/30/03</b>	6 audits	--	--
<b>FY 2004</b>	23 audits	--	--
<b>FY 2005</b>	24 audits	--	--
<b>FY 2006</b>	32 audits	--	--
<b>FY 2007</b>	27 audits	\$13,000	\$481
<b>FY 2008</b>	61 audits	\$36,500	\$598
<b>FY 2009</b>	103 audits	\$81,275	\$789
<b>FY 2010</b>	87 audits	\$81,750	\$940
<b>FY 2011</b>	82 audits	\$84,400	\$1,029
<b>FY 2012 YTD</b>	63 audits	\$35,325	\$561

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 seven thousand (\$7,000) dollars. Audit fines assessed from violations totaled two thousand seven hundred fifty (\$2,750) dollars. Revenue collected from fines to-date in FY 2012 total thirty-five thousand three hundred twenty-five (\$35,325) dollars. Fines assessed from violations to-date in FY 2012 total forty-two thousand nine hundred fifty (\$42,950) dollars.

**Audit Revenue 2-year Comparison**

<b>Audit Action</b>	<b>Current Month</b>	<b>Total FY 2012 YTD</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2011</b>
<b>Fines Collected</b>	\$7,000	\$35,325	\$15,500	\$84,400
<b>Fines Assessed</b>	\$2,750	\$42,950	\$13,500	\$99,900
<b>Continuation License (Grill Bill) Revenue</b>	\$0	\$0	\$0	\$180,000
<b>Pending Continuation Licenses (Grill Bill)</b>	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	1	2	1	13
Divestitures	0	3	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	49	539	74	752
Cases Completed	9	125	18	280
Cases in Progress	40	413	56	478
Warning Letter Issued	0	9	5	45
Cases Sent to OAH	0	5	1	6

### Economic Impact:

Fines collected totaled thirty-five thousand four hundred (\$35,400) dollars from forty-one (41) adjudicated compliance actions. Compared to last month, January 2012, this represents a twenty-three (23.3%) percent decrease in collected revenues and an eighteen (18.0%) percent decrease in the number of compliance actions processed. Compared to February 2011, this represents a thirty-four (33.6%) percent decrease in collected revenues and a fourteen (13.9%) 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	\$35,400	\$268,190	\$53,275	\$598,509
Cases adjudicated	41	297	36	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	297	\$268,190	\$903

**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	5	20	0	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	6	49	0	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 fifty-three thousand two hundred fifteen (\$53,215) 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	\$53,215	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.

<b>Achievements:</b>	<b>Current Month</b>	<b>Total YTD FY 2012</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2011</b>
<b>Hearings Scheduled</b>	5	47	5	89
<b>Applications Protested</b>	2	15	n/a	n/a
<b>Licenses Granted</b>	2	15	3	23
<b>Licenses Denied</b>	1	5	0	13
<b>Continuances Granted</b>	1	17	2	33
<b>Licenses Withdrawn</b>	1	8	0	16
<b>Appeals Heard</b>	0	0	0	3
<b>Rehearings Requested</b>	0	2	0	1
<b>Hearings Cancelled by Director</b>	0	3	n/a	n/a

There were five (5) applications scheduled for hearing before the State Liquor Board. Two (2) of the applications were protested by the public. Of the five (5) applications heard, two (2) were granted, one (1) was denied, one (1) was continued, and one (1) was withdrawn. To date in FY 2012, the State Liquor Board has granted thirty-two (31.9%) percent and denied eleven (10.6%) percent of the license applications received. In addition, thirty-six (36.2%) percent were continued and seventeen (17.0%) 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 February 2011, the number of new liquor licenses issued in Arizona has decreased by three (2.7%) percent, renewals have increased by twenty-eight (28.3%) percent, and the number of active licenses has increased by one (0.5%) percent. In comparison to February 2011, monthly licensing revenues (including lottery collections) have increased by four (3.6%) percent from three hundred seventy-five thousand one hundred twenty-eight (\$375,128) dollars during this time last year to three hundred eighty-eight thousand five hundred ninety-three (\$388,593) dollars during the current month.

There were seven (7) exempt locations 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
<b>New licenses issued</b>	146	1,154	150	1,798
<b>Renewed licenses</b>	603	8,222	470	11,483
<b>Lottery licenses issued</b>	0	1	0	25
<b>Collected Lottery Revenues:</b>	\$0	\$99,166	\$0	\$2,422,579
<b>Number of Active Liquor License:</b>	11,508	n/a	11,446	n/a
<b>Exempt Locations Issued</b>	7	46	n/a	n/a
<b>Number of Exempt Locations</b>	74	n/a	n/a	63
<b>Collected Licensing Revenues</b> (including lottery revenues):	\$388,593	\$3,563,795	\$375,128	\$8,401,843

### Collected Revenue by Fee Type in February 2012

Fair Market Value	0
Applications	17,675
License Fees	221,855
Out-of-State	0
Agent Change	4,500
Fines	35,400
Special Event	5,675
Club	4,200
Penalties	12,450
Copy Fees	378
Non-Use Surcharge	21,200
Audit Surcharge	16,440
Enforcement K Surcharge	21,910
Enforcement L Surcharge	19,945
Miscellaneous	5

**TOTAL REVENUES COLLECTED      \$ 381,633**

**(fingerprints)                      6,960**

**TOTAL REPORT                      \$ 388,593**

## 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. 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.

### Agency Staffing Improvements

The Investigation Division hired one (1) sworn officer with a start date of February 2012 to increase investigative and enforcement in the Tucson area. This brings the number of investigators to a total of fifteen (15). The Licensing Division also hired one (1) customer service representative to fill a vacancy and one (1) customer service representative to a new position. This brings the number of customer service representatives to a total of seven (7).

END OF DLLC FEBRUARY 2012 REPORT TO THE GOVERNOR