

# GOVERNOR'S MONTHLY REPORT JANUARY 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 thirteen (13) liquor-licensed establishments using four (4) CUBs. Six (6), or forty-seven (46.2%) percent, of these establishments sold alcohol to a (CUB) resulting in fourteen (14) criminal and fourteen (14) administrative violations. All thirteen (13) locations were investigated in response to complaints received by DLLC.

DLLC saw an increase of twenty (20.0%) percent in the number of establishments that sold to CUBS compared to January 2011.

Since the inception of the program, two thousand nine hundred eighty-one (2,981) establishments have been investigated and nine hundred and three (903) or thirty (30.3%) percent have sold to CUB buyers resulting in two thousand one hundred fifty-seven (2,157) administrative violations and one thousand seven hundred ninety-eight (1,798) 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>	13	6	46	14	14

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>	0	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. A case in Globe/Claypool was submitted to the Compliance Division for one (1) administrative charge.

## 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 Food Marketing Association (AFMA) open house-Director attended
- Meeting with Coconino Board of Supervisors- Director attended
- Meeting with Senator Allen and stakeholders regarding SB 1082 -Director attended
- Meeting with MillerCoors regarding taxi vouchers for Waste Management Phoenix Open-Director attended
- Centennial celebration security meeting- Deputy Director attended
- Northern Arizona (NOAZ) Law Enforcement Director's meeting- Deputy Director attended
- HCI Title 4 training course review- Communications Director attended
- Meeting with Scottsdale club owners and manager regarding bottle service- Communications Director attended
- Councilman Nowakowski, Phoenix chat on social hosting- Communications Director attended
- Substance Abuse Epidemiology Work Group- Communications Director attended

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

- Title 4 and Fake ID Training administered to new hires-Palubeskie
- 114 backgrounds completed-Turner
- Training course in Yuma-Turner, Palubeskie and Eaton
- Fake ID Civilian Course at Ak Chin Casino-Parris and Chesley
- Worked out of area complaints-All investigators
- 1 CUB detail completed

## 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 seventy-two (172) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in ninety (90) criminal citations and one hundred thirty-eight (138) administrative violations. The following success statistics were completed by a staff of thirteen (13) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:878.

Total investigative achievements were seven hundred ninety-two (792) compared to eight hundred twenty-five (825) in January 2011. DLLC realized a decrease in total investigative achievements of four (4.0%) percent compared to January 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	0	6	2	18
Site Inspections Completed	84	559	69	698
Actioned (administrative) Complaints	5	31	7	102
Non-Actioned (criminal) Complaints	24	228	61	459
Administrative Counts Charged	138	875	95	1,425
Criminal Citations Issued	90	803	103	1,602
Routine Liquor Inspections Completed	172	1,315	210	2,459
Compliance Case Reports Submitted	66	476	45	686
On-view Violation Case Reports	60	421	31	528
Law Enforcement Liaison Completed	67	572	35	632
<b>Underage Investigations Statistics:</b>				
Citations Issued to Underage	24	377	63	580
Total Underage Violations	62	674	84	914
<b>Total Achievements:</b>	<b>792</b>	<b>6,337</b>	<b>825</b>	<b>10,103</b>

The number of citations DLLC investigators issued to underage persons decreased from 63 to 24 or by sixty-two (61.9%) percent compared to January 2011. The total number of underage violations written by DLLC investigators decreased from 84 to 62 or by twenty-six (26.2%) percent compared to January 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	2	10	12

Of the twenty-four (24) citations the DLLC investigators issued to underage persons, twelve (12) were twenty years old, ten (10) were nineteen years old, and two (2) 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	5	26	7	113
<b>A.R.S. § 4-241.L</b> Use of false ID to buy alcohol	3	92	9	114
<b>A.R.S. § 4-241.M</b> Underage solicits third party buyer	1	29	n/a	n/a
<b>A.R.S. § 4-241.N</b> Use of false ID to enter premises	1	43	0	7
<b>A.R.S. § 4-244.1</b> Selling without a license	1	3	0	4
<b>A.R.S. § 4-244.9</b> Furnishing alcohol to an underage, underage in possession/consumption	23	244	65	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	14	150	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	2	7	0	0
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver's license	4	7	1	47
<b>A.R.S. § 28-3478.3</b> Using another person's driver's license	1	47	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-two (162) active Series 11 (hotel/motel) licenses and three thousand two hundred forty-nine (3,249) active Series 12 (restaurant) licenses statewide. Compared to January 2011, the number of hotel/motel with restaurant licenses has decreased by seven (7) licenses or four (4.1%) percent and the number of restaurant licenses has increased by forty-nine (49) or two (1.5%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand four hundred eleven (3,411) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,706.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
<b>Audits closed</b>	6	8
<b>Audits initiated</b>	5	11
<b>Audits in progress</b>	15	16
<b>Open cases w/projected ratio of &gt;37%</b>	9	6
<b>Open cases w/projected ratio between 30 to 37%</b>	6	7
<b>Open cases w/projected ratio of &lt; 30%</b>	0	3
<b>Locations granted 1 year to continue operation</b>	0	1
<b>Locations being monitored</b>	89	104

Six (6) audits were completed in Maricopa County which resulted in actionable violations in four (4) 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>	6	54	8	82	499
<b>Audits passed</b>	5	36	4	38	224
<b>Audits failed</b>	1	10	2	40	214
<b>Inconclusive</b>	0	8	2	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:

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	54 audits	\$28,325	\$525

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 six thousand (\$6,000) dollars. Audit fines assessed from violations totaled four thousand (\$4,000) dollars. Revenue collected from fines to-date in FY 2012 total twenty-eight thousand three hundred twenty-five (\$28,325) dollars. Fines assessed from violations to-date in FY 2012 total forty thousand two hundred (\$40,200) dollars.

**Audit Revenue 2-year Comparison**

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$6,000	\$28,325	\$625	\$84,400
Fines Assessed	\$4,000	\$40,200	\$2,625	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$0	\$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	1	1	0	13
Divestitures	1	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	51	490	58	752
Cases Completed	7	116	10	280
Cases in Progress	44	373	48	478
Warning Letter Issued	0	9	3	45
Cases Sent to OAH	0	5	1	6

### Economic Impact:

Fines collected totaled forty-six thousand one hundred sixty-five (\$46,165) dollars from fifty (50) adjudicated compliance actions. Compared to last month, December 2011, this represents a fifty-three (53.1%) percent increase in collected revenues and a nineteen (19.0%) percent increase in the number of compliance actions processed. Compared to January 2011, this represents a two (2.2%) percent increase in collected revenues and a sixty-seven (66.7%) 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	\$46,165	\$232,790	\$45,150	\$598,509
Cases adjudicated	50	256	30	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	256	\$232,790	\$909

**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	0	15	1	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	9	43	1	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-seven thousand five hundred ninety (\$57,590) 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	\$57,590	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	42	9	89
<b>Applications Protested</b>	2	13	n/a	n/a
<b>Licenses Granted</b>	0	13	5	23
<b>Licenses Denied</b>	0	4	2	13
<b>Continuances Granted</b>	1	16	1	33
<b>Licenses Withdrawn</b>	3	7	1	16
<b>Appeals Heard</b>	0	0	0	3
<b>Rehearings Requested</b>	1	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, one (1) was continued, three (3) were withdrawn, and one (1) was a request for rehearing. To date in FY 2012, the State Liquor Board has granted thirty-one (30.9%) percent and denied ten (9.5%) percent of the license applications received. In addition, thirty-eight (38.1%) percent were continued and seventeen (16.7%) 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 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 January 2011, the number of new liquor licenses issued in Arizona has decreased by five (4.9%) percent, renewals have decreased by ten (10.2%) percent, and the number of active licenses has decreased by less than one (0.03%) percent. In comparison to January 2011, monthly licensing revenues (not including lottery collections) have decreased by seventeen (16.9%) percent from five hundred seventeen thousand seven hundred and six (\$517,706) dollars during this time last year to four hundred thirty thousand four hundred seventy-four (\$430,474) dollars during the current month.

There were ten (10) exempt locations issued raising the number to a total of seventy-seven (77) 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>	154	1,008	162	1,798
<b>Renewed licenses</b>	825	7,619	919	11,483
<b>Lottery licenses issued</b>	0	1	3	25
<b>Collected Lottery Revenues:</b>	\$0	\$99,166	\$308,948	\$2,422,579
<b>Number of Active Liquor License:</b>	11,415	n/a	11,418	n/a
<b>Exempt Locations Issued</b>	10	39	n/a	n/a
<b>Number of Exempt Locations</b>	77	n/a	n/a	63
<b>Collected Licensing Revenues</b> (including lottery revenues):	\$430,474	\$3,175,202	\$826,654	\$8,401,843

### Collected Revenue by Fee Type in January 2012

Fair Market Value	0
Applications	15,075
License Fees	239,923
Out-of-State	0
Agent Change	3,700
Fines	43,640
Special Event	5,075
Club	10,800
Penalties	15,600
Copy Fees	56
Non-Use Surcharge	14,300
Audit Surcharge	15,330
Enforcement K Surcharge	30,940
Enforcement L Surcharge	30,895
Miscellaneous	5

**TOTAL REVENUES COLLECTED      \$ 425,338**

**(fingerprints)                      5,136**

**TOTAL REPORT                      \$ 430,474**

## 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 February 2012.

### Agency Staffing Improvements

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

END OF DLLC JANUARY 2012 REPORT TO THE GOVERNOR