

GOVERNOR'S MONTHLY REPORT
APRIL 2011



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL
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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 May 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 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.

In April 2011, using five (5) CUBs and six (6) officers, DLLC conducted investigations of twenty-one (21) liquor-licensed establishments. Seven (7), or thirty-three (33%) percent, of these establishments sold alcohol to a (CUB) resulting in eleven (11) criminal and nineteen (19) administrative violations. All twenty-one (21) locations were investigated in response to complaints received by DLLC.

In April 2011, DLLC saw an increase of sixteen (17%) percent in liquor sales to the CUB compared to the previous month, March 2011. This represents a forty-four (44%) percent decrease in sales to the CUB compared to April 2010.

Since the inception of the program, two thousand eight hundred seventeen (2,817) establishments have been investigated and eight hundred sixty-four (864) or thirty-one (30.6%) percent have sold to CUB buyers resulting in one thousand nine hundred ninety-three (1,993) administrative violations and one thousand seven hundred thirty-seven (1,737) 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	81	24	30	52	21

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 April 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	0	0	0

Investigator Palubeskie is currently working on one (1) 2009 TRACE case and two (2) 2010 TRACE cases. To complete these cases, DLLC requires additional information which will be provided by local law enforcement agencies. Five (5) cases were completed in calendar year 2010 resulting in thirteen (13) administrative and four (4) criminal violations. No new TRACE cases have been opened in calendar year 2011 to date.

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 of April 2011:

Rules Committee – Director participated
Alcohol Behavioral Research – Director attended
Underage Drinking Taskforce – Deputy Director participated
Arizona Information Officers Association Meeting – Communications Director participated
Northern Arizona Wine Directors Meeting – Deputy Director attended

April 2011 Law Enforcement Special Detail:

Tempe PD Unlicensed Enforcement Training
High Intensity Drug Trafficking Area (HIDTA)
Country Thunder Detail
Out of Phoenix Metro Area complaints

SUCCESS STATISTICS Investigations

In April 2011, investigators completed two hundred eleven (211) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred twenty-eight (128) criminal citations and forty-five (45) administrative violations. The following success statistics were completed by a staff of ten (10) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:1,144.

DLLC realized an increase in total investigative achievements during April 2011 of eighty-one (81.4%) percent compared to April 2010. Since January 2007, DLLC's Investigations Division had experienced a staff reduction of fifty-five (55%) percent from twenty (20) fulltime investigators down to ten (9). During the months of November and December 2010, three (3) grants awarded to DLLC by the Governor's Office of Highway Safety (GOHS), which collectively total eighty thousand (\$80,000) dollars. These grants are funding overtime for underage drinking enforcement, in addition to the materials, travel expense and overtime required for DLLC officers to facilitate Title 4 and fake ID training. In 2008, due to the onset of the budget crisis and the sweeping of DLLC funds, the Investigations Division had to eliminate overtime, travel, and hiring.

Achievements:	Current Month	Total FY 2011	1 Year Ago This Month	Total FY 2010
Hidden Ownerships Completed	4	13	1	17
Site Inspections Completed	52	582	64	653
Actioned (administrative) Complaints	6	82	8	128
Non-Actioned (criminal) Complaints	25	450	15	408
Administrative Counts Charged	137	1,214	74	1,615
Criminal Charges Issued	206	1,294	69	969
Routine Liquor Inspections	211	2,051	182	2954
Compliance Case Reports Submitted	85	569	28	469
On-view Violation Case Reports	66	427	31	312
Law Enforcement Liaison	54	512	45	764
Underage Investigations Statistics:				
Citations Issued to Underage	81	573	40	736
Total Underage Violations	171	856	48	721
Total Achievements:	1,098	--	605	--

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	0	0	9	13	18

SUCCESS STATISTICS
Investigations (continued)

The number of citations DLLC investigators issued to underage persons decreased by nine (8.9%) percent and total number of underage violations written by DLLC investigators decreased by seventeen (16.8%) percent compared to April 2010.

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2011 YTD	1 Year Ago This Month	# of Citations Issued in FY 2010
A.R.S. § 4-241.A Failure to Check ID	17	87	2	99
A.R.S. § 4-241.L Sold to CUB	23	104	1	54
A.R.S. § 4-241.N Use of false ID to enter premises	0	7	0	65
A.R.S. § 4-244.1 Unlicensed Resale	0	4	0	29
A.R.S. § 4-244.9 Furnishing alcohol to an underage	114	508	43	467
A.R.S. § 4-244.22 Consuming w/o permission of premises owner	6	23	1	15
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.40 Alcohol in system of underage	0	0	0	73
A.R.S. § 4-244.41 Accept \$ to allow underage in bar	0	0	4	57
A.R.S. § 13-2907.01 Providing false information to state	0	0	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	6	40	0	1
A.R.S. § 28-3478.3 Using another person's driver's license	4	12	2	35

SUCCESS STATISTICS

Liquor License Audits

To regulate licensed liquor establishments holding a series 11 (hotel/motel with restaurant) or series 12 (restaurant) liquor licenses, DLLC conducts audits to determine the required 40:60 food-to-liquor sales ratio is being maintained.

Currently there are one hundred sixty-five (165) active series 11 licenses and three thousand ninety-three (3,093) active series 12 licenses statewide. Compared to April 2010, the number of hotel/motel with restaurant licenses has increased by two (2) licenses or one (1.3%) percent and the number of restaurant licenses has increased by seventy-eight (78) or three (2.53%) percent.

Prior to August 2009, DLLC employed three (3) fulltime auditors. Today DLLC employs two (2) fulltime auditors. With a total of three thousand two hundred fifty-eight (3,258) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,629.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits in progress	14	12
Audits closed	10	7
Audits initiated	8	3
Open cases w/projected ratio of >37%	3	10
Open cases w/projected ratio between 30 to 37%	7	2
Open cases w/projected ratio of < 30%	4	0
Locations granted 1 year to continue operation	1	3
Locations being monitored	88	96

In April 2011, ten (10) audits were closed and eight (8) audits were initiated (audit considered initiated after an appointment date is set to pick up accounting records). Of the ten (10) audits completed this month, ten (10) revealed actionable violations. During the month of April 2011, audits were completed in Maricopa and Pima Counties.

Audit Action	Current Month	Total YTD FY 2011	This Month Last Year	Total FY 2010	Total 2003 To Present
Audits completed	10	67	7	87	430
Audits passed	5	31	4	51	181
Audits failed	5	33	3	30	197
Inconclusive	0	3	0	6	47
Other charges only	0	0	0	0	5

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics beginning on April 1, 2003 to present are:

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 YTD	57 audits	\$65,650	\$1,152

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 nine (9) continuation licenses total two hundred seventy thousand (\$270,000) dollars. During FY 2011, DLLC has collected one hundred fifty thousand (\$150,000) dollars from the issuance of five (5) continuation licenses. One (1) continuation license application is in pending status at this time.

Revenue collected by the department for audit-related violation fines during the month of April 2011 is three thousand (\$3,000) dollars. Audit fines assessed during the month of April 2011 total seven thousand five hundred (\$7,500) dollars. Total fines collected to-date in FY 2011 total sixty-eight thousand six hundred fifty (\$68,650) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2011 YTD	1 Year Ago This Month	Total FY 2010
Fines Collected	\$3,000	\$68,650	\$8,652	\$81,750
Fines Assessed	\$7,500	\$84,400	\$3,625	\$88,200
Continuation License (Grill Bill) Revenue	--	\$150,000	--	\$30,000
Pending Continuation Licenses (Grill Bill)	1	--	1	--

SUCCESS STATISTICS
Compliance

Achievements	Current Month	Total YTD FY 2011	1 Year Ago This Month	Total FY 2010
Revocations	0	5	1	10
Suspensions	0	6	3	31
Surrenders	0	13	3	26
Divestitures	0	3	1	6
Administrative Complaints	0	8	3	67
Decisions & Orders	0	8	2	27

Newly Tracked Achievements	Current Month	Total YTD FY 2011
Cases Received	105	625
Cases Completed	29	258
Cases in Progress	76	373
Warning Letter Issued	5	43
Cases Sent to OAH	0	4

Economic Impact:

The Compliance Unit collected fines which total forty-one thousand six hundred fifty (\$41,650) dollars from forty-five (45) compliance actions processed and adjudicated between April 1 and April 31, 2011.

Compared to last month, March 2011, this is a twenty percent (19.6%) decrease in collected revenues and a thirteen (13.4%) increase in the number of compliance actions processed. Compared to April 2010, this is an eighteen (17.9%) percent increase in compliance collections and a twenty-seven (26.8%) percent increase in the number of compliance actions processed.

A penalty fine payment plan, introduced in 2009, 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 the compliance process. Although the payment plan may reduce DLLC's monthly collection of fine revenues in the short term, the long term outcome to keep establishments in business by easing the financial burden of fines during the current economic decline.

Action	Current Month	Total YTD FY 2011	1 Year Ago This Month	Total FY 2010
Fines collected	\$41,650	\$530,459	\$34,200	\$705,705
Cases adjudicated	45	348	30	415

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 YTD	348	\$530,459	\$1,524

Adjudicated Underage Violations

Statute	Definition	Adjudicated This Month	1 Year Ago This Month	FY 2011 YTD
A.R.S. § 4-241.A	Failure to Check ID	5	1	38
A.R.S. § 4-241.L	Sold to CUB	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	1	2	5
A.R.S. § 4-244.9	Furnish alcohol to an underage	5	3	39
A.R.S. § 4-244.16	Knowingly allow furnishing liquor to underage	0	0	0
A.R.S. § 4-244.22	Consume w/o permission of premises owner	0	3	3
A.R.S. § 4-244.33	Underage DUI	0	0	0
A.R.S. § 4-244.40	Alcohol in system of underage	0	0	0
A.R.S. § 13-2907.01	Provide false information to state	0	0	0
A.R.S. § 28-3478.1	Unlawful use of driver's license	0	0	0
A.R.S. § 28-3478.3	Use another person's driver's license	0	0	0

In FY 2010, fines from adjudicated underage violation totaled three hundred sixty-five thousand eight hundred seventy-five (\$365,875) dollars. Of the forty-seven licenses which were suspended in FY 2010, four were suspended due to underage violations and one (1) was revoked.

In FY 2011, fines from adjudicated underage violation total two hundred fourteen thousand five hundred (\$214,500) dollars. Of the four (4) licenses suspended in FY 2011, two (2) were suspended due to underage violations 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 YTD	\$214,500	2	0

SUCCESS STATISTICS
Arizona Liquor Board

Achievements:	Current Month	Total YTD FY 2011	1 Year Ago This Month	Total FY 2010
Hearings Scheduled	13	89	11	107
Licenses Granted	4	25	6	40
Licenses Denied	0	12	0	19
Continuances Granted	3	35	0	29
License Withdrawn	4	13	5	15
Hearing Vacated, No Action Required	0	0	0	0
Hearing Removed From Agenda	0	0	0	0
Rehearing Requested	1	1	0	2
Exemption Received	0	0	0	0
Appeals Heard	1	3	0	2

During the month of April 2011, all or (100%) percent of license application in protest were granted and no protested applications were denied. To date in FY 2011, the Board has granted sixty-eight (67.65%) percent of the licenses protested and denied thirty-eight (38.24%) percent.

ARIZONA LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi, Member (R)	Arizona Liquor Board Vice Chair Maricopa County No Financial Interest	Term Expires April 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 April 21, 2013
Vikki Scarafiotti (D)	Arizona Liquor Board Member Maricopa County No Financial Interest	Term Expires January 20, 2014

SUCCESS STATISTICS

Licensing

Compared to April 2010, the number of new liquor license issued in Arizona has decreased by twelve (12.2%) percent, renewals have decreased by thirteen (12.9%) percent, and the number of active licenses has increased by two (2.2%) percent.

In comparison to April 2010, monthly licensing revenues (which include lottery collections) have decreased by twelve (12.3%) percent from four hundred twenty-eight thousand forty-two (\$428,042) dollars at this time last year to three hundred seventy-five thousand one hundred twenty-eight (\$375,128) dollars during the current month.

Beginning this month DLLC will include the number of active "exempt locations" in Arizona. An exempt location is an establishment that meets the criterion in A.R.S. §4-244.05 and A.A.C. R19-1-315, has made application for the exemption, has been inspected by a DLLC investigator, and issued a 1-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total YTD FY 2011	1 Year Ago This Month	Total FY 2010
New licenses issued	160	1,597	143	2,114
Renewed licenses	598	10,690	751	11,162
Lottery licenses issued	1	25	0	35
Collected Lottery Revenues:	\$34,399	\$2,422,579	\$0	\$562,824
Number of Active Liquor License:	11,403	n/a	11,580	n/a
Number of Exempt Locations	63	n/a	n/a	n/a
Collected Licensing Revenues (including lottery revenues):	\$685,661	\$8,094,605	\$392,889	\$6,503,816

Collected Revenue By Fee Type in April 2010

Fair Market Value	34,399
Applications	14,425
License Fees	473,330
Out-of-State	0
Agent Change	3,550
Fines	41,675
Special Event	4,750
Club	1,750
Penalties	25,800
Copy Fees	172
Non-Use Surcharge	15,400
Audit Surcharge	19,440
Enforcement K Surcharge	27,090
Enforcement L Surcharge	17,505
Miscellaneous	15

TOTAL REVENUES COLLECTED	\$ 679,301
(fingerprints)	<u>6,360</u>
TOTAL REPORT	\$ 685,661

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

FY 2011 Liquor License Lottery

A final figure of two million three hundred eighty-eight thousand one hundred eighty (\$2,388,180) dollars in FY 2010 lottery revenue was collected by DLLC, all of which has been deposited into the state's General Fund. Compared to revenues collected from the FY 2009 lottery which totaled five hundred sixty-two thousand eight hundred twenty-four (\$562,824), FY 2010 lottery revenues increased by three hundred twenty-four (324.3%) percent.

Looking toward completing the FY 2011 lottery, statute provides that DLLC conduct an annual lottery based on FY 2010 population estimates generated by the Department of Commerce (DOC). With DOC dissolved, no population estimates have become available for FY 2010. A six-week preparation period is necessary to establish fair market value for licenses offered through a lottery. If no population estimates are available by the first week in May, DLLC will not conduct an FY 2011 lottery.

New legislation authorizes DLLC to base the number of liquor licenses offered in future lotteries on population statistic posted by the Arizona Department of Administration (ADOA). This legislation becomes law effective July 20, 2011.

eLicensing

DLLC's eLicensing Information System (ELIS) is being developed in collaboration with GITA and NIC/CAVU. As a result of staff and funding reductions experienced by all agencies involved in the project, in addition to incomplete business process functionality of the system, the "go live" date has been postponed and a new implementation date has not been determined. Since hiring a new IT Specialist, contracting a project consultant, and receiving expert advice from GITA and the Registrar of Contractors (ROC), an agency that recently implemented the same eLicensing system, the project is progressing toward a FY 2011 implementation date. ELIS will replace a twenty (20) year old licensing system currently used by DLLC and stakeholders to record and track liquor license activities and violations.

Legislation

Of the 386 bills passed during the 50th Legislature, two bills were signed by Governor Brewer that will impact Title 4 (Arizona liquor law) on Wednesday, July 20, 2011 when they become law. HB 2357, simplifies how military import personal collections of liquor after an overseas tour of duty, and was signed by the Governor on April 14, 2011. A liquor industry omnibus bill, SB 1460, was signed by the Governor on April 18, 2011. DLLC is now in the process of implementing agency procedures required by this new legislation.

Resume Newly 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 required evidence of industry collaboration and support, and DLLC's agreement that any rules proposed would not impose additional or undue burdens on businesses. DLLC's request remains in pending status at this time.

GRRC 5-year Rules Review

DLLC's 5-year Rules Review is scheduled for review before the GRRC on May 3, 2011.

WHAT'S NEXT AT DLLC? (continued) Upcoming Events and Milestones

Underage Drinking Prevention

To foster responsible liquor sales and service to persons of legal drinking age, DLLC will publish a report naming all licensed establishment identified as being cited for selling or serving liquor to an underage person. To gather the data for the report, DLLC has contacted all Arizona law enforcement agencies to request a monthly tally of citations for establishments/persons that sold or served persons under the age of 21. The final report will include the business name, address, type of citation issued, and a description of the licensee's or employee's actions that resulted in an underage person gaining access to liquor. Beginning in July 2012, the monthly report will be sent to the Governor, to media outlets statewide, and will be published on the Department's website.

Agency Staffing Improvements

After approval from ADOA to increase the customer service representative (CSR) staff by two (2) positions, DLLC completed the hiring for the Licensing Division in April 2011. The total number of CSRs now total nine (9) that serve eleven thousand four hundred three (11,403) licenses bringing the CSR-to-liquor license ratio to 1:1,267.

The Investigation Division is in the process of hiring a new investigator as soon as May 2011. This would bring the number of investigators to a total of eleven (11) and the investigator-to-liquor license ratio up to an estimated 11:1,036.

END OF DLLC APRIL 2011 REPORT TO THE GOVERNOR