

GOVERNOR'S MONTHLY REPORT
MAY 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 May 2011, using four (4) CUBs and four (4) officers, DLLC conducted investigations of seventeen (17) liquor-licensed establishments. Four (4), or twenty-three (23%) percent, of these establishments sold alcohol to a (CUB) resulting in two (2) criminal and twelve (12) administrative violations. All seventeen (17) locations were investigated in response to complaints received by DLLC.

In May 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 May 2010.

Since the inception of the program, two thousand eight hundred thirty-four (2,834) establishments have been investigated and eight hundred sixty-eight (868) or thirty-one (30.6%) percent have sold to CUB buyers resulting in two thousand five (2,005) administrative violations and one thousand seven hundred thirty-two (1,732) 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	98	28	29	64	23

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 May 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 two (2) 2010 TRACE case and two (2) 2011 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. Two (2) new TRACE cases have been opened to-date in calendar year 2011.

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 May 2011:

5-year Rules Review w/GRRC – Communications Director participated
Arizona Substance Abuse Partnership (ASAP) meeting – Director attended
The Wine Institute meeting – Director participated
Arizona Winegrowers Association meeting –Director participated

May 2011 Law Enforcement Special Detail:

Wickenburg PD Title 4 Training
High Intensity Drug Trafficking Area (HIDTA) - Ribera
Tucson PD GOHS, Title and Fade ID Training
Memorial Day Event Details Statewide – all officers
Out of Phoenix Metro Area complaints – all officers

SUCCESS STATISTICS Investigations

In May 2011, investigators completed one hundred seventy-two (199) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred sixty-nine (169) criminal citations and ninety-nine (99) 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 1:1,148.

DLLC realized an increase in total investigative achievements during May 2011 of thirty (30%) percent compared to May 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 (10). During the months of November and December 2010, three (3) grants awarded to DLLC by the Governor's Office of Highway Safety (GOHS) fund overtime for underage drinking enforcement, in addition to materials, travel expense and overtime required for DLLC officers to facilitate Title 4 and fake ID training classes for Arizona law enforcement agencies. Until receipt of these grant funds, the Investigations Division was forced to eliminate overtime, travel, and hiring due to the onset of the 2008 budget crisis and the sweeping of DLLC funds.

Achievements:	Current Month	Total FY 2011	1 Year Ago This Month	Total FY 2010
Hidden Ownerships Completed	0	13	0	17
Site Inspections Completed	55	637	43	653
Actioned (administrative) Complaints	10	92	14	128
Non-Actioned (criminal) Complaints	29	429	41	408
Administrative Counts Charged	99	1,313	67	1,615
Criminal Charges Issued	169	1,463	75	969
Routine Liquor Inspections	199	2,250	147	2954
Compliance Case Reports Submitted	57	626	28	469
On-view Violation Case Reports	53	480	12	312
Law Enforcement Liaison	50	562	44	764
Underage Investigations Statistics:				
Citations Issued to Underage	0	580	38	736
Total Underage Violations	58	914	50	721
Total Achievements:	779	--	599	--

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

**At the time this report was completed, "age of minor cited" statistics were not yet available **

SUCCESS STATISTICS
Investigations (continued)

The number of underage violations DLLC investigators issued increased by sixteen (16%) percent compared to May 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	8	95	8	99
A.R.S. § 4-241.L Sold to CUB	7	111	0	54
A.R.S. § 4-241.N Use of false ID to enter premises	0	7	5	65
A.R.S. § 4-244.1 Unlicensed Resale	0	4	0	29
A.R.S. § 4-244.9 Furnishing alcohol to an underage	34	542	22	467
A.R.S. § 4-244.22 Consuming w/o permission of premises owner	2	25	0	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	46	0	1
A.R.S. § 28-3478.3 Using another person's driver's license	1	13	1	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 (160) active series 11 licenses and three thousand eighty-four (3,084) active series 12 licenses statewide. Compared to May 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 twenty-eight (28) or one (.91%) 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 forty-four (3,244) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,622.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits in progress	15	16
Audits closed	8	7
Audits initiated	9	12
Open cases w/projected ratio of >37%	6	3
Open cases w/projected ratio between 30 to 37%	5	0
Open cases w/projected ratio of < 30%	4	0
Locations granted 1 year to continue operation	1	1
Locations being monitored	87	81

In May 2011, eight (8) audits were closed and nine (9) audits were initiated (audit considered initiated after an appointment date is set to pick up accounting records). Of the eight (8) audits completed this month, all eight (8) revealed actionable violations. During the month of May 2011, audits were completed in Coconino, Maricopa, Mojave, Yuma and Pima Counties.

Audit Action	Current Month	Total YTD FY 2011	This Month Last Year	Total FY 2010	Total 2003 To Present
Audits completed	8	75	7	87	438
Audits passed	2	33	0	51	183
Audits failed	5	38	1	30	202
Inconclusive	0	3	0	6	47
Other charges only	1	1	0	0	6

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics beginning on May 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	75 audits	\$76,525	\$1,020

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 ten (10) continuation licenses total three hundred thousand (\$300,000) dollars. During FY 2011, DLLC has collected one hundred fifty thousand (\$150,000) dollars from the issuance of five (5) continuation licenses. There is one continuation license application in pending status at this time.

Revenue collected by the department for audit-related violation fines during the month of May 2011 is seven thousand eight hundred seventy-five (\$7,875) dollars. Audit fines assessed during the month of May 2011 total six thousand one hundred twenty-five (\$6,125) dollars. Total fines collected to-date in FY 2011 total seventy-five thousand five hundred twenty-five (\$76,525) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2011 YTD	1 Year Ago This Month	Total FY 2010
Fines Collected	\$7,875	\$76,525	\$6,500	\$81,750
Fines Assessed	\$6,125	\$90,525	\$6,500	\$88,200
Continuation License (Grill Bill) Revenue	\$0	\$150,000	--	\$30,000
Pending Continuation Licenses (Grill Bill)	1	--	4	--

SUCCESS STATISTICS
Compliance

Achievements	Current Month	Total YTD FY 2011	1 Year Ago This Month	Total FY 2010
Revocations	0	2	10	10
Suspensions	1	7	2	31
Surrenders	0	13	3	26
Divestitures	1	4	0	6
Administrative Complaints	1	9	1	67
Decisions & Orders	0	8	0	27

Newly Tracked Achievements	Current Month	Total YTD FY 2011
Cases Received	73	698
Cases Completed	17	275
Cases in Progress	56	429
Warning Letter Issued	2	45
Cases Sent to OAH	2	6

Economic Impact:

Fines collected by the Compliance Unit between May 1 and May 31, 2011 total twenty-nine thousand one hundred twenty-five (\$29,125) dollars from thirty-four (34) adjudicated compliance actions. Compared to last month, April 2011, this is a thirty percent (30%) decrease in collected revenues and a twenty-four (24.4%) decrease in the number of compliance actions processed. Compared to May 2010, this is an eleven percent (11.2%) decrease in collected revenues and a forty-eight (47.8%) 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	\$29,125	\$559,584	\$332,800	\$705,705
Cases adjudicated	34	382	23	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	382	\$559,584	\$1,465

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	6	0	44
A.R.S. § 4-241.L	Sold to CUB	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	5	0	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	10	0	49
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	1	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

Last year (FY 2010) fines from adjudicated underage violation totaled three hundred sixty-five thousand eight hundred seventy-five (\$365,875) dollars. Of the thirty-one (31) licenses suspended and the ten (10) revoked in FY 2010, four (4) suspensions and one (1) revocation resulted from underage violations.

In FY 2011, fines from adjudicated underage violations total two hundred fourteen thousand five hundred (\$214,500) dollars. Of the seven (7) licenses suspended and the two(2) revoked in FY 2011, two (2) suspensions and no (0) revocations resulted from underage violations.

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	5	89	15	107
Licenses Granted	1	23	9	40
Licenses Denied	1	13	2	19
Continuances Granted	0	33	3	29
License Withdrawn	3	16	1	15
Hearing Vacated, No Action Required	0	0	0	0
Hearing Removed From Agenda	0	0	0	0
Rehearing Requested	0	0	0	2
Exemption Received	0	0	0	0
Appeals Heard	0	3	0	2

The May 2011 hearing concluded with fifty (50%) percent of license application in protest granted and fifty (50%) percent of the protested applications being denied. To date in FY 2011, the Board has granted sixty-eight (67.6%) percent of the licenses protested and denied thirty-eight (38.2%) percent.

ARIZONA LIQUOR BOARD MEMBERS AND TERMS

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

SUCCESS STATISTICS

Licensing

Compared to May 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 May 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	127	1,774	184	2,114
Renewed licenses	516	11,229	441	11,162
Lottery licenses issued	0	25	0	35
Collected Lottery Revenues:	\$0	\$2,422,579	\$0	\$562,824
Number of Active Liquor License:	11,476	n/a	11,252	n/a
Number of Exempt Locations	63	n/a	n/a	n/a
Collected Licensing Revenues (including lottery revenues):	\$307,238	\$8,401,843	\$406,777	\$6,503,816

Collected Revenue By Fee Type in May 2010

Fair Market Value	0
Applications	11,225
License Fees	198,320
Out-of-State	0
Agent Change	4,250
Fines	29,225
Special Event	4,050
Club	2,850
Penalties	4,650
Copy Fees	602
Non-Use Surcharge	9,000
Audit Surcharge	7,440
Enforcement K Surcharge	15,890
Enforcement L Surcharge	14,240
Miscellaneous	0

TOTAL REVENUES COLLECTED	\$ 301,742
(fingerprints)	<u>5,496</u>
TOTAL REPORT	\$ 307,238

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 May 14, 2011. A liquor industry omnibus bill, SB 1460, was signed by the Governor on May 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 was approved by the Governor's Regulatory Review Council (GRRC) on May 3, 2011.

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

Agency Staffing Improvements

The Investigation Division is in the process of hiring two investigators. This would bring the number of investigators to a total of eleven (13) and the investigator-to-liquor license ratio up to an estimated 1:883.

END OF DLLC MAY 2011 REPORT TO THE GOVERNOR