

GOVERNOR'S MONTHLY REPORT
AUGUST 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 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 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 August 2011, DLLC conducted investigations of fourteen (14) liquor-licensed establishments using three (3) CUBs and four (4) officers. Five (5), or thirty-six (35.7%) percent, of these establishments sold alcohol to a (CUB) resulting in twelve (12) criminal and ten (10) administrative violations. All fourteen (14) locations were investigated in response to complaints received by DLLC.

In August 2011, DLLC saw an increase of eighteen (18%) percent in liquor sales to the CUB compared to the previous month, July 2011. This represents a twenty-seven (27%) percent decrease in sales to the CUB compared to August 2010.

Since the inception of the program, two thousand nine hundred eleven (2,911) establishments have been investigated and eight hundred eighty-five (885) or thirty (30.4%) percent have sold to CUB buyers resulting in two thousand one hundred seventeen (2,117) administrative violations and one thousand seven hundred seventy (1,770) 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	177	50	28	117	55

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	3	0	0

Investigator Palubeskie is currently working on three (3) 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.

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 August 2011:

Newly Proposed Rules Stakeholder Meeting-DLLC Leadership and Industry Leaders participated
Meeting with Tolleson PD Chief Larry Rodriguez
Department of Justice Training- Deputy Director, Sgt. Kuhl and Officers Trevizo and Turner attended
BACIC (Beverage Alcohol Control Industry Council) Meeting-Director attended
League of Cities and Towns Tucson Meeting-Director attended

August 2011 Law Enforcement Special Detail:

Fake ID Civilian Training-2 Tucson PD, 50 Walgreens employees, 30 civilian bar employees
Title 4 Training-85 Phoenix PD officers
Title 4 and Fake ID Training-Tohono O'odum PD/Gaming 55
EMS/Police Conference- Officers Jaramillo and Ribera attended
National Enforcing Underage Drinking Laws Leadership Conference- Chief, Sgt. Turner and Officer Trevizo attended
Special Enforcement Details in Tempe, Flagstaff and Tucson for student returning to College Life
First Aid, CPR Class- all officers attended

SUCCESS STATISTICS INVESTIGATIONS

In August 2011, investigators completed one hundred seventy-nine (179) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred fifty-seven (157) criminal citations and one hundred four (104) 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 1:957.

Total investigative achievements during August 2011 were 796 compared to 626 in August 2010. DLLC realized an increase in total investigative achievements during August 2011 of twenty-seven (27.2%) percent compared to August 2010.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	0	1	2	18
Site Inspections Completed	64	133	81	698
Actioned (administrative) Complaints	7	11	8	102
Non-Actioned (criminal) Complaints	31	60	45	459
Administrative Counts Charged	104	207	145	1,425
Criminal Citations Issued	157	230	75	1,602
Routine Liquor Inspections Completed	179	409	199	2,459
Compliance Case Reports Submitted	50	91	56	686
On-view Violation Case Reports	33	67	42	528
Law Enforcement Liaison Completed	82	159	57	632
Underage Investigations Statistics:				
Citations Issued to Underage	10	24	28	580
Total Underage Violations	79	130	38	914
Total Achievements:	796	1,522	626	10,103

SUCCESS STATISTICS
Investigations (continued)

The number of citations DLLC investigators issued to underage persons decreased by sixty-four (64.3%) percent and total number of underage violations written by DLLC investigators increased by one hundred eight (107.9%) percent compared to August 2010. This is due to DLLC focus on preventing the sale of alcohol to underage rather than the elimination of underage drinking.

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	5	5	10	113
A.R.S. § 4-241.L Sold to CUB	17	21	0	114
A.R.S. § 4-241.N Use of false ID to enter premises	0	0	7	7
A.R.S. § 4-244.1 Unlicensed Resale	0	0	4	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage	47	59	21	599
A.R.S. § 4-244.22 Consuming w/o permission of premises owner	0	4	2	27
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	0
A.R.S. § 4-244.41 Accept \$ to allow underage in bar	0	0	0	0
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	7	0	47
A.R.S. § 28-3478.3 Using another person's driver's license	4	5	1	14

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 fifty-seven (157) active Series 11 (hotel/motel) licenses and three thousand one hundred nineteen (3,119) active Series 12 (restaurant) licenses statewide. Compared to August 2010, the number of hotel/motel with restaurant licenses has decreased by five (5) licenses or three (3.1%) percent and the number of restaurant licenses has increased by ten (10) or less than one percent.

Today DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred thirty-two (3,276) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,638.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits in progress	16	16
Audits closed	8	7
Audits initiated	11	7
Open cases w/projected ratio of >37%	12	7
Open cases w/projected ratio between 30 to 37%	3	9
Open cases w/projected ratio of < 30%	1	0
Locations granted 1 year to continue operation	0	1
Locations being monitored	108	78

In August 2011, eight (8) audits were closed and eleven (11) 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, six (6) revealed actionable violations. During the month of August 2011, audits were completed in Maricopa, Mohave and Pima Counties.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	8	16	7	82	461
Audits passed	8	12	4	38	200
Audits failed	0	3	3	40	207
Inconclusive	0	1	0	3	48
Other charges only	0	0	0	1	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	82 audits	\$84,400	\$1,029
FY 2012 YTD	16 audits	\$8,125	\$508

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 are no continuation license applications in pending status at this time.

Revenue collected by the department for audit-related violation fines during the month of August 2011 is four thousand seven hundred fifty (\$4,750) dollars. Audit fines assessed from violations during the month of August 2011 total fourteen thousand (\$14,000) dollars. Revenue collected from fines to-date in FY 2012 total eight thousand one hundred twenty-five (\$8,125) dollars. Fines assessed from violations to-date in FY 2012 total eighteen thousand three hundred seventy-five (\$18,375) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$4,750	\$8,125	\$7,375	\$84,400
Fines Assessed	\$14,000	\$18,375	\$16,625	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$0	\$0	\$180,000
Pending Continuation Licenses (Grill Bill)	0	0	5	--

**SUCCESS STATISTICS
COMPLIANCE**

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Revocations	0	0	1	2
Suspensions	0	0	2	7
Surrenders	0	0	4	13
Divestitures	0	0	1	4
Administrative Complaints	0	0	2	9
Decisions & Orders	1	1	5	8

Newly Tracked Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	68	112	n/a	752
Cases Completed	13	24	n/a	280
Cases in Progress	55	88	n/a	478
Warning Letter Issued	4	4	n/a	45
Cases Sent to OAH	0	5	n/a	6

Economic Impact:

Fines collected by the Compliance Unit between August 1 and August 31, 2011 total fifty thousand six hundred twenty-five (\$50,625) dollars from thirty-seven (37) adjudicated compliance actions. Compared to last month, July 2011, this is a one hundred thirty-four (134.1%) percent increase in collected revenues and a twenty-eight (27.6%) percent increase in the number of compliance actions processed. Compared to August 2010, this is a fourteen (13.6%) percent decrease in collected revenues and a twelve (12.1%) 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 the compliance 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	\$50,625	\$72,250	\$58,600	\$598,509
Cases adjudicated	37	66	33	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	66	\$72,250	\$1,095

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	3	7	4	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	7	12	4	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 seventy-two thousand two hundred fifty (\$72,250) dollars. To date in FY 2012, no licenses have been suspended or 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	\$72,250	0	0

**SUCCESS STATISTICS
STATE LIQUOR BOARD**

Achievements:	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	4	7	11	89
Applications Protested	3	5	n/a	n/a
Licenses Granted	1	2	3	23
Licenses Denied	2	2	1	13
Continuances Granted	0	2	5	33
Licenses Withdrawn	1	1	2	16
Appeals Heard	0	0	0	3
Rehearings Requested	0	0	0	1
Hearings Cancelled by Director	0	0	n/a	n/a

In August 2011, there were four applications scheduled for hearing before the State Liquor Board. Three of the applications received protest. Of the four applications heard, one was granted, two were denied and one was withdrawn. To date in FY 2012, the State Liquor Board has granted twenty-nine (28.6%) percent and denied twenty-nine (28.6%) percent of the licenses heard.

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

Compared to August 2010, the number of new liquor license issued in Arizona has increased by sixteen (16.1%) percent, renewals have increased by one (1.2%) percent, and the number of active licenses has increased by one (0.7%) percent.

In comparison to August 2010, monthly licensing revenues (which include lottery collections) have decreased by forty (39.9%) percent from seven hundred fifty-five thousand six hundred fifty-seven (\$755,657) dollars at this time last year to four hundred fifty-three thousand four hundred fifty-three (\$453,453) dollars during the current month. The decrease is attributed to there being no liquor license lottery held in FY 2011.

There were 6 exempt locations issued in the month of August and there are currently 70 total 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 2012	1 Year Ago This Month	Total FY 2011
New licenses issued	130	267	112	1,798
Renewed licenses	798	1,648	786	11,483
Lottery licenses issued	0	0	0	25
Collected Lottery Revenues:	\$0	\$0	\$293,952	\$2,422,579
Number of Active Liquor License:	11,483	n/a	11,400	n/a
Exempt Locations Issued	6	14	n/a	n/a
Number of Exempt Locations	70	n/a	n/a	63
Collected Licensing Revenues (including lottery revenues):	\$453,453	\$856,026	\$755,657	\$8,401,843

Collected Revenue By Fee Type in August 2011

Fair Market Value	0
Applications	12,525
License Fees	287,902
Out-of-State	0
Agent Change	4,650
Fines	50,700
Special Event	3,925
Club	6,600
Penalties	6,900
Copy Fees	215
Non-Use Surcharge	8,500
Audit Surcharge	14,010
Enforcement K Surcharge	27,755
Enforcement L Surcharge	24,020
Miscellaneous	15

TOTAL REVENUES COLLECTED	\$ 447,717
(fingerprints)	<u>5,736</u>
TOTAL REPORT	\$ 453,453

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

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. 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 implementation in Winter 2011. 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

In anticipation of the January 2012 legislative session DLLC met with industry leaders in July to identify items for introduction. The industry agreed to draft proposed legislation. A follow up review date has not been established.

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. DLLC held a rules review with industry leaders this month in order to respond to any industry concerns before resubmitting an exemption to the moratorium. As a result, additional revisions will be made and a final review completed by year end.

Agency Staffing Improvements

The Investigation Division is currently recruiting two sworn officers to increase focus in the Tucson area. Once hired, this would bring the number of investigators to a total of fourteen (14). Due to the resignation of the Investigations Administrator the position has been posted for recruitment.

END OF DLLC AUGUST 2011 REPORT TO THE GOVERNOR