

GOVERNOR'S MONTHLY REPORT
MARCH 2012



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Alan Everett, Director
800 W. Washington Street, 5th Floor
Phoenix, Arizona 85007
Office 602-542-9020 Fax 602-542-6799

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 twenty-four (24) liquor-licensed establishments using four (4) CUBs. Ten (10), or forty-two (41.6%) percent, of these establishments sold alcohol to a (CUB) resulting in twenty (20) criminal and twenty (20) administrative violations. All twenty-four (24) locations were investigated in response to complaints received by DLLC.

DLLC saw an increase of one hundred (100%) percent in the number of establishments (10) that sold to CUBS compared to the previous month, February 2012 (5). There was a forty-two (42.3%) percent increase in the number of establishments that sold to CUBs when compared to March 2011 (7).

Since the inception of the program, three thousand twenty (3,020) establishments have been investigated and nine hundred and eighteen (918) or thirty (30.4%) percent have sold to CUB buyers resulting in two thousand one hundred eighty-seven (2,187) administrative violations and one thousand eight hundred ninety-eight (1,828) 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	234	62	26	143	69
2012	52	21	40	44	44

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	5	0	0
2012	2	2	0

Two (2) TRACE cases were closed this month in Tucson and Bisbee and resulted in two (2) administrative violations. Investigator Palubeskie is currently working on two (2) new TRACE cases. To complete these cases, DLLC requires additional information which will be provided by the Mohave County Sheriff's Office.

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:

- 63rd Annual Man & Woman of the Year Luncheon honoring Jerry Lewkowitz and Sue Glawe- Director, Deputy Director, Asst. Director of Licensing, Sergeant Kuhl and Officer Dorn attended
- 6th Annual Border Security Expo 2012- Deputy Director attended
- Arizona Association of Chiefs of Police meeting- Deputy Director attended
- MATFORCE Lunch and Learn, Dangers of Alcohol and Youth- Deputy Director attended
- Southern Arizona Law Enforcement Agency Managers (SALEM) meeting- Deputy Director attended
- Open House in Honor of Glendale Police Chief Steve Conrad- Deputy Director attended
- Scottsdale planning meeting- Deputy Director attended
- The Challenges of New Technologies in Law Practice- Asst. Director of Administration attended
- Legislative Liaison Meetings- Asst. Director of Administration attended
- Nightclub & Bar Convention and Trade Show (new liquor products)- Communications Director and Officer Miller attended
- ALBA Fake ID Training Presentation- Communications Director attended
- Title 4 training Audit- Communications Director conducted
- Southern Arizona Attorney Liquor Law Conference Presentation- Communications Director attended
- Public Information Officer's Symposium- Communications Director attended

Law Enforcement Special Detail:

- St. Patrick's Day detail-Wilde
- Special detail in Payson-Zacarias
- 2 CUB details-Palubeskie and Wilde
- Phoenix and Tempe PD assignment-Ribera
- 170 backgrounds completed-Turner
- Motor home work and GPS update-Trevizo
- Training to Health Inspector Conference and Mesa PD-Parris and Palubeskie
- Title 4 and Fake ID class (GOHS in Pinal County)-Miller and Jaramillo
- 3-Day Fraud Documents Course- Chesley, Trevizo, Gothelf, Zacarias and Byrd
- Worked large House Party with Phoenix PD (Project X)-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 forty-six (246) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in two hundred thirteen (213) criminal citations and two hundred sixty-nine (269) administrative violations. The following success statistics were completed by a staff of fifteen (15) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:771.

Total investigative achievements were one thousand four hundred seventy-eight (1,478) compared to one eight hundred seventy-five (875) in March 2011. DLLC realized an increase in total investigative achievements of sixty-nine (68.9%) percent compared to March 2011.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	2	10	0	18
Site Inspections Completed	40	633	39	698
Actioned (administrative) Complaints	6	39	6	102
Non-Actioned (criminal) Complaints	48	303	55	459
Administrative Counts Charged	269	1,243	116	1,425
Criminal Citations Issued	213	1,143	121	1,602
Routine Liquor Inspections Completed	246	1,767	169	2,459
Compliance Case Reports Submitted	156	706	76	686
On-view Violation Case Reports	132	623	62	528
Law Enforcement Liaison Completed	98	764	61	632
Underage Investigations Statistics:				
Citations Issued to Underage	90	562	81	580
Total Violations	178	1,051	89	914
Total Achievements:	1,478	8,844	875	10,103

The number of citations DLLC investigators issued to underage persons increased from 81 to 90 or by eleven (11.1%) percent compared to March 2011. The total number of violations written by DLLC investigators increased from 89 to 178 or by one hundred (100%) percent compared to March 2011.

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	2	1	2	24	33	28

Of the ninety (90) citations the DLLC investigators issued to underage persons, twenty-eight (28) were twenty years old, thirty-three (33) were nineteen years old, twenty-four (24) were eighteen years old, two (2) were seventeen years old, one (1) was sixteen years old and two (2) were fifteen years old.

SUCCESS STATISTICS
Investigations (continued)

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	11	38	4	113
A.R.S. § 4-241.L Use of false ID to buy alcohol	6	119	11	114
A.R.S. § 4-241.M Underage solicits third party buyer	2	33	n/a	n/a
A.R.S. § 4-241.N Use of false ID to enter premises	8	61	0	7
A.R.S. § 4-244.1 Selling without a license	2	6	0	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	46	350	64	599
A.R.S. § 4-244.20 Consume in a public place	6	26		
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.41 Alcohol in system of underage	65	280	0	0
A.R.S. § 4-244.42 Accept \$ to allow underage in bar or sell alcohol to underage	0	0	0	0
A.R.S. § 13-2907.01 Providing false information to state	11	22	0	0
A.R.S. § 28-3478.1 Unlawful use of driver's license	12	33	7	47
A.R.S. § 28-3478.3 Using another person's driver's license	1	56	2	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 forty-six (3,046) active Series 12 (restaurant) licenses statewide. Compared to March 2011, the number of hotel/motel with restaurant licenses has increased by nine (9) licenses or six (5.9%) percent and the number of restaurant licenses has increased by three hundred (300) or eleven (10.9%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand two hundred eight (3,208) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,604.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits closed	7	9
Audits initiated	7	10
Audits in progress	16	16
Open cases w/projected ratio of >37%	11	10
Open cases w/projected ratio between 30 to 37%	2	4
Open cases w/projected ratio of < 30%	3	2
Locations granted 1 year to continue operation	0	2
Locations being monitored	97	85

Seven (7) audits were completed in Maricopa and Pima counties which resulted in actionable violations in five (5) of those cases.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	7	70	9	82	515
Audits passed	6	45	5	38	233
Audits failed	1	17	3	40	221
Inconclusive	0	8	1	3	55
Other charges only	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	70 audits	\$40,950	\$585

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 fourteen (14) continuation licenses total four hundred twenty thousand (\$420,000) dollars. During FY 2012, thirty thousand (\$30,000) dollars have 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 five thousand six hundred twenty-five (\$5,625) dollars. Audit fines assessed from violations totaled three thousand two hundred fifty (\$3,250) dollars. Revenue collected from fines to-date in FY 2012 total forty thousand nine hundred fifty (\$40,950) dollars. Fines assessed from violations to-date in FY 2012 total forty-six thousand two hundred (\$46,200) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$5,625	\$40,950	\$7,600	\$84,400
Fines Assessed	\$3,250	\$46,200	\$3,350	\$99,900
Continuation License (Grill Bill) Revenue	\$30,000	\$30,000	\$30,000	\$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	2	7
Surrenders	0	2	3	13
Divestitures	0	3	1	4
Administrative Complaints	0	2	0	9
Decisions & Orders	0	2	0	8

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	132	671	126	752
Cases Completed	42	167	39	280
Cases in Progress	90	503	87	478
Warning Letter Issued	2	11	1	45
Cases Sent to OAH	1	6	0	6

Economic Impact:

Fines collected totaled thirty-one thousand two hundred (\$31,200) dollars from forty-three (43) adjudicated compliance actions. Compared to last month, February 2012, this represents a twelve (11.9%) percent decrease in collected revenues and an eighteen (4.9%) percent increase in the number of compliance actions processed. Compared to March 2011, this represents a thirty-three (32.3%) percent decrease in collected revenues and a fourteen (10.3%) 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	\$31,200	\$299,390	\$46,075	\$598,509
Cases adjudicated	43	340	39	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	340	\$299,390	\$881

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	2	22	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	1	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	5	54	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 sixty thousand two hundred sixty-five (\$60,265) 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	\$60,265	1	0

SUCCESS STATISTICS STATE LIQUOR BOARD

The State Liquor Board operates independently from the Director of the Department of Liquor Licenses and Control and 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, the Board may hear appeals and overturn or amend decisions of the Director.

Achievements:	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	5	52	11	89
Applications Protested	2	17	n/a	n/a
Licenses Granted	2	17	2	23
Licenses Denied	1	6	2	13
Continuances Granted	0	17	5	33
Licenses Withdrawn	2	10	2	16
Appeals Heard	0	0	0	3
Rehearings Requested	0	2	0	1
Hearings Cancelled by Director	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, and two (2) was withdrawn. To date in FY 2012, the State Liquor Board has granted thirty-three (32.7%) percent and denied twelve (11.5%) percent of the license applications received. In addition, thirty-three (32.7%) percent were continued and nineteen (19.2%) 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 March 2011, the number of new liquor licenses issued in Arizona has decreased by seventeen (16.7%) percent, renewals have decreased by seven (7.1%) percent, and the number of active licenses has increased by two (1.6%) percent. In comparison to March 2011, monthly licensing revenues (including lottery collections) have decreased by sixteen (15.8%) percent from one million two hundred sixteen thousand one hundred seventy-nine (\$1,216,179) dollars during this time last year to one million twenty-three thousand six hundred sixty-three (\$1,023,663) dollars during the current month.

There was one (1) exempt locations issued raising the number to a total of seventy-five (75) 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
New licenses issued	135	1,154	162	1,798
Renewed licenses	1,546	8,222	1,665	11,483
Lottery licenses issued	0	1	4	25
Collected Lottery Revenues:	\$0	\$99,166	\$0	\$2,422,579
Number of Active Liquor License:	11,567	n/a	11,386	n/a
Exempt Locations Issued	1	46	n/a	n/a
Number of Exempt Locations	75	n/a	60	63
Collected Licensing Revenues (including lottery revenues):	\$1,023,663	\$4,587,458	\$1,216,179	\$8,401,843

Collected Revenue by Fee Type in March 2012

Fair Market Value	0
Applications	16,150
License Fees	800,655
Out-of-State	0
Agent Change	3,150
Fines	26,250
Special Event	6,750
Club	1,150
Penalties	5,250
Copy Fees	454
Non-Use Surcharge	37,200
Audit Surcharge	39,270
Enforcement K Surcharge	49,980
Enforcement L Surcharge	30,870
Miscellaneous	0

TOTAL REVENUES COLLECTED	\$ 1,017,129
(fingerprints)	<u>6,534</u>
TOTAL REPORT	\$ 1,023,663

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 Summer 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.

Fingerprinting

To increase efficiency for the application process, in March 2012 DLLC implemented fee-based, on-site fingerprint services. All liquor license owners, agents, directors, officers, and persons with ownership of 10 percent or more and/or have a controlling interest on the application are required, every two years, to submit a fingerprint card and complete a background check. Fingerprint cards become part of the licensee's file at the department. Offering fingerprint services on-site can expedite the application process by a day or more. The department's fee for fingerprint services is \$13 which is charged in addition to the \$22 DPS background check fee.

Liquor License Lottery

DLLC will hold the 2012 Arizona Liquor License Lottery this spring marking the sixth year that a liquor license lottery will be offered in Arizona. Pursuant to A.R.S. § 4-206.01 and A.A.C. R19-1-109, DLLC conducts a liquor license lottery based on Arizona population projections. Of the 15 counties in Arizona, Maricopa County is the only county that experienced population growth of more than 10,000. With population growth of more than 20,000, Maricopa County will have two of each license type available in 2012; the bar license (series 6), the beer and wine bar license (series 7), and the liquor store license (series 9). Applications will be accepted beginning Thursday, April 5 through Thursday, May 3, 2012. The random selection lottery drawing will be held on May 14, 2012.

END OF DLLC MARCH 2012 REPORT TO THE GOVERNOR