

GOVERNOR'S MONTHLY REPORT  
NOVEMBER 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 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 six (6) liquor-licensed establishments using two (2) CUBs. One (1), or seventeen (16.7%) percent, of these establishments sold alcohol to a (CUB) resulting in two (2) criminal and two (2) administrative violations. All six (6) locations were investigated in response to complaints received by DLLC.

DLLC saw a decrease of sixty-seven (66.7%) percent in the number of establishments (1) that sold to CUBS compared to the previous month, October 2011 (3). This also represents an eighty (80.0%) percent decrease in the number of establishments (5) that sold to CUBs when compared to November 2010.

Since the inception of the program, two thousand nine hundred sixty-eight (2,968) establishments have been investigated and eight hundred ninety-seven (897) or thirty (30.2%) percent have sold to CUB buyers resulting in two thousand one hundred forty-three (2,143) administrative violations and one thousand seven hundred eighty-four (1,784) 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

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

There was one (1) new TRACE case opened this month. Investigator Palubeskie is currently working on five (5) TRACE cases. To complete these cases, DLLC requires additional information which will be provided by local law enforcement agencies.

## 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 Association of Chiefs of Police (AACOP) meeting- Deputy Director attended
- Arizona Substance Abuse Partnership (ASAP) meeting- Assistant Director of Administration attended
- National Conference of State Liquor Administrators, Central/Western Regional Conference- Assistant Director of Administration attended

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

- High Intensity Drug Trafficking Area (HIDTA)- Ribera
- 1 CUB detail completed- Jaramillo
- 75 backgrounds completed-Turner
- Search and Seizure training completed-Turner and Trevizo
- University of Arizona Homecoming events enforcement - All Officers
- Cardinal Game enforcement-Turner and Trevizo
- Title 4 and Fake ID Training administered- Prescott area Governor's Office of Highway Safety (GOHS)

## 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-nine (179) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred twenty-nine (129) criminal citations and one hundred seventy-five (175) 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 1:967.

Total investigative achievements were 1,056 compared to 744 in November 2010. DLLC realized an increase in total investigative achievements of forty-two (41.9%) percent compared to November 2010.

<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	2	6	0	18
Site Inspections Completed	54	333	32	698
Actioned (administrative) Complaints	4	24	10	102
Non-Actioned (criminal) Complaints	28	179	44	459
Administrative Counts Charged	175	635	68	1,425
Criminal Citations Issued	129	629	101	1,602
Routine Liquor Inspections Completed	179	1,021	232	2,459
Compliance Case Reports Submitted	118	352	33	686
On-view Violation Case Reports	116	311	15	528
Law Enforcement Liaison Completed	84	415	58	632
<b>Underage Investigations Statistics:</b>				
Citations Issued to Underage	56	325	58	580
Total Underage Violations	111	552	93	914
<b>Total Achievements:</b>	1,056	4,782	744	10,103

The number of citations DLLC investigators issued to underage persons decreased from 58 to 56 or by three (3.4%) percent compared to November 2010. The total number of underage violations written by DLLC investigators increased from 93 to 111 or by nineteen (19.4%) percent compared to November 2010.

**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	4	21	10	113
<b>A.R.S. § 4-241.L</b> Sold to CUB	15	77	22	114
<b>A.R.S. § 4-241.M</b> Underage solicits third party buyer	5	27	n/a	n/a
<b>A.R.S. § 4-241.N</b> Use of false ID to enter premises	11	35	0	7
<b>A.R.S. § 4-244.1</b> Unlicensed Resale	0	0	0	4
<b>A.R.S. § 4-244.9</b> Furnishing alcohol to an underage	41	197	55	599
<b>A.R.S. § 4-244.22</b> Consuming w/o permission of premises owner	0	0	2	27
<b>A.R.S. § 4-244.34</b> Underage DUI	0	0	0	0
<b>A.R.S. § 4-244.40</b> Alcohol in system of underage	0	0	0	0
<b>A.R.S. § 4-244.41</b> Accept \$ to allow underage in bar	22	127	0	0
<b>A.R.S. § 13-2907.01</b> Providing false information to state	1	5	0	0
<b>A.R.S. § 13-3478</b> Unlawful use of a license	0	0	0	0
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver's license	0	0	2	47
<b>A.R.S. § 28-3478.3</b> Using another person's driver's license	11	46	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 (160) active Series 11 (hotel/motel) licenses and three thousand two hundred eighteen (3,218) active Series 12 (restaurant) licenses statewide. Compared to November 2010, the number of hotel/motel with restaurant licenses has decreased by five (5) licenses or three (3.0%) percent and the number of restaurant licenses has increased by seventy-four (74) or two (2.4%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred seventy-eight (3,378) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,689.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
<b>Audits closed</b>	9	7
<b>Audits initiated</b>	9	1
<b>Audits in progress</b>	15	10
<b>Open cases w/projected ratio of &gt;37%</b>	9	2
<b>Open cases w/projected ratio between 30 to 37%</b>	6	6
<b>Open cases w/projected ratio of &lt; 30%</b>	0	2
<b>Locations granted 1 year to continue operation</b>	0	0
<b>Locations being monitored</b>	93	78

Nine (9) audits were completed which resulted in actionable violations in five (5) of those cases. 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
<b>Audits completed</b>	9	45	7	82	490
<b>Audits passed</b>	6	30	3	38	218
<b>Audits failed</b>	2	8	4	40	212
<b>Inconclusive</b>	1	7	0	3	54
<b>Other charges only</b>	0	0	0	1	6

**SUCCESS STATISTICS**  
**Liquor License Audits (continued)**

**Audit statistics since July 1, 2006 are noted below:**

<b>Year</b>	<b>Audits Completed</b>	<b>Revenues Collected</b>	<b>Average Fine per Audit</b> (does not include continuation license fees)
<b>FY 2007</b>	27 audits	\$13,000	\$481
<b>FY 2008</b>	61 audits	\$36,500	\$598
<b>FY 2009</b>	103 audits	\$81,275	\$789
<b>FY 2010</b>	87 audits	\$81,750	\$940
<b>FY 2011</b>	82 audits	\$84,400	\$1,029
<b>FY 2012 YTD</b>	45 audits	\$21,250	\$472

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.

The department collected revenue for audit-related violation fines totaling three thousand (\$3,000) dollars. Audit fines assessed from violations totaled five thousand (\$5,000) dollars. Revenue collected from fines to-date in FY 2012 total twenty-one thousand two hundred fifty (\$21,250) dollars. Fines assessed from violations to-date in FY 2012 total thirty-five thousand one hundred twenty-five (\$35,125) dollars.

**Audit Revenue 2-year Comparison**

<b>Audit Action</b>	<b>Current Month</b>	<b>Total FY 2012 YTD</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2011</b>
<b>Fines Collected</b>	\$3,000	\$21,250	\$6,250	\$84,400
<b>Fines Assessed</b>	\$5,000	\$35,125	\$13,000	\$99,900
<b>Continuation License (Grill Bill) Revenue</b>	\$0	\$0	\$0	\$180,000
<b>Pending Continuation Licenses (Grill Bill)</b>	0	0	2	--

## 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	1	3	0	7
Surrenders	0	0	1	13
Divestitures	1	2	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	96	324	45	752
Cases Completed	19	67	17	280
Cases in Progress	77	256	28	478
Warning Letter Issued	0	6	2	45
Cases Sent to OAH	0	5	1	6

### Economic Impact:

Fines collected totaled thirty thousand nine hundred (\$30,900) dollars from thirty-five (35) adjudicated compliance actions. Compared to last month, October 2011, this represents a twenty-six (25.7%) percent increase in collected revenues and a seventeen (16.7%) percent increase in the number of compliance actions processed. Compared to November 2010, this represents a fifty-three (53.0%) percent decrease in collected revenues and a seventeen (16.7%) 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	\$30,900	\$156,475	\$65,750	\$598,509
Cases adjudicated	35	164	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	164	\$156,475	\$954

**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	13	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	3	31	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	1	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 thirty-nine thousand two hundred fifty (\$39,250) 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	\$39,250	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>	13	31	8	89
<b>Applications Protested</b>	3	10	n/a	n/a
<b>Licenses Granted</b>	5	11	2	23
<b>Licenses Denied</b>	1	3	4	13
<b>Continuances Granted</b>	6	13	2	33
<b>Licenses Withdrawn</b>	1	3	0	16
<b>Appeals Heard</b>	0	0	0	3
<b>Rehearings Requested</b>	0	1	0	1
<b>Hearings Cancelled by Director</b>	1	3	n/a	n/a

There were thirteen (13) applications scheduled for hearing before the State Liquor Board. Three (3) of the applications were protested by the public. Of the thirteen (13) applications heard, five (5) were granted, one (1) was denied, one (1) was withdrawn, six (6) were continued and one (1) included a request by the Director to cancel the hearing due to the protest being withdrawn by the Department. To date in FY 2012, the State Liquor Board has granted thirty-five (35.5%) percent and denied ten (9.7%) percent of the license applications received.

### 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 November 2010, the number of new liquor license issued in Arizona has increased by twenty-four (23.6%) percent, renewals have increased by thirty-one (30.8%) percent, and the number of active licenses has increased by six (5.6%) percent. In comparison to November 2010, monthly licensing revenues (which include lottery collections) have decreased by five (5.3%) percent from three hundred sixty-eight thousand five hundred sixty-one (\$368,561) dollars during this time last year to three hundred forty-nine thousand one hundred eighty-two (\$349,182) dollars during the current month.

There was one (1) exempt location issued raising the number to a total of seventy-four (74) 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>	131	664	106	1,798
<b>Renewed licenses</b>	1,311	4,748	1,002	11,483
<b>Lottery licenses issued</b>	0	1	0	25
<b>Collected Lottery Revenues:</b>	\$0	\$99,166	\$0	\$2,422,579
<b>Number of Active Liquor License:</b>	11,602	n/a	10,984	n/a
<b>Exempt Locations Issued</b>	1	21	n/a	n/a
<b>Number of Exempt Locations</b>	74	n/a	n/a	63
<b>Collected Licensing Revenues</b> (including lottery revenues):	\$349,182	\$2,251,416	\$368,561	\$8,401,843

### Collected Revenue by Fee Type in November 2011

Fair Market Value	
Applications	10,200
License Fees	114,845
Out-of-State	82,050
Agent Change	2,500
Fines	29,050
Special Event	3,850
Club	1,050
Penalties	6,750
Copy Fees	753
Non-Use Surcharge	25,500
Audit Surcharge	600
Enforcement K Surcharge	33,670
Enforcement L Surcharge	33,535
Miscellaneous	5

<b>TOTAL REVENUES COLLECTED</b>	<b>\$ 344,358</b>
<b>(fingerprints)</b>	<b><u>4,824</u></b>
<b>TOTAL REPORT</b>	<b>\$ 349,182</b>

## 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 February 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 January 2012.

### Agency Staffing Improvements

The Investigation Division has hired 2 sworn officers with a proposed start date of mid January 2012 to increase investigative and enforcement in the Tucson area. This would bring the number of investigators to a total of fourteen (14). Due to the resignation of the Investigations Administrator, that position has also been posted for recruitment.

END OF DLLC NOVEMBER 2011 REPORT TO THE GOVERNOR