

GOVERNOR'S MONTHLY REPORT JANUARY 2013



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 ages 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, personal and public safety measures. Currently there is one (1) officer and a total of twelve (12) trained CUBs performing CUB operations for the Department. DLLC provides CUB program training to all Arizona law enforcement agencies, allowing the program to operate statewide.

DLLC conducted investigations of thirteen (13) liquor-licensed establishments using four (4) CUBs. Four (4), or thirty-one (30.8%) percent, of these establishments sold alcohol to a (CUB) resulting in ten (10) criminal and ten (10) administrative violations. All thirteen (13) locations were investigated in response to complaints received by DLLC.

DLLC saw a decrease of forty-two (42.3%) percent in the number of establishments that sold to CUBS compared to the previous month, December 2012.

Since the inception of the program, three thousand one hundred ninety-six (3,196) establishments have been investigated and nine hundred eighty-three (983) or thirty-one (30.8%) percent have sold to CUB buyers resulting in two thousand three hundred seventy-eight (2,378) administrative violations and one thousand nine hundred eighty-seven (1,987) 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	215	82	38	225	193
2013	13	4	31	10	10

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), a service providing out-of-hospital acute care and transport), 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 New 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	8	9	0
2013	0	0	0

There were no new TRACE cases opened this month. A prior pending case in Tempe was submitted in January for four (4) administrative 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:

- Follow up meetings with stakeholders to discuss the Notice of Proposed Rule (NPR) amendments- Director, Deputy Director, Asst. Director of Administration, Asst. Director of Licensing and Director of Communications attended
- Governor's full cabinet meeting- Director attended
- Arizona Food Marketing Alliance (AFMA) Legislative Reception- Director attended
- Sixth Annual William C. Canby Jr. Lecture "Whose Sovereignty? Tribal Citizenship, Federal Indian Law, & Globalization"- Deputy Director attended
- Arizona Association Chiefs of Police (AACOP) General Membership Meeting- Deputy Director attended
- Drug Free AZ Demand Reduction Subcommittee meeting- Deputy Director attended
- Arizona Legislative Native American Caucus (NAC) meeting- Deputy Director attended
- Legislative Liaison Meetings- Asst. Director of Administration attended
- Arizona Substance Abuse Partnership (ASAP)- Asst. Director of Administration attended
- Tempe Coalition to Reduce Underage Drinking- Director of Communications presented
- Lesbian Gay Bisexual Transgender Queer (LGBTQ) Consortium meeting- Director of Communications attended

Law Enforcement Special Detail:

- Scottsdale PD enforcement detail- Parris and Chesley assisted
- Wholesale case load- Miller
- Gambling case load and High Intensity Drug Trafficking Areas (HIDTA)- Ribera
- Fake ID and liquor law training to Casino Arizona- Ribera instructed
- Fake ID and Routine Liquor Inspection classes to Tucson PD- Parris and Palubeskie instructed
- Multi-Agency Task Force (MAT) meeting- Turner attended
- Youth alcohol details throughout the State- All officers
- Waste Management Phoenix Open detail- All officers

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to ensure that all licensees adhere to A.R.S. Title 4 (Arizona liquor laws) and all Rules established by the DLLC.

Investigators completed two hundred thirty-seven (237) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in sixty-three (63) criminal citations and two hundred seventy-four (274) administrative violations. The following success statistics were completed by a staff of fourteen (14) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:835.

Total investigative actions taken were nine hundred thirty-nine (939) this month which is an increase of nineteen (18.6%) percent when compared to the seven hundred ninety-two (792) investigative actions taken in January 2012.

Achievements:	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Hidden Ownerships Completed	1	16	0	25
Site Inspections Completed	16	196	84	760
Actioned (administrative) Complaints	13	82	5	72
Non-Actioned (criminal) Complaints	68	352	24	454
Administrative Counts Charged	274	1,331	138	1,666
Criminal Citations Issued	63	830	90	1,809
Routine Liquor Inspections Completed	237	1,656	172	2,503
Compliance Case Reports Submitted	84	397	66	889
On-view Violation Case Reports	66	271	60	758
Law Enforcement Liaison Completed	81	594	67	985
Underage Investigations Statistics:				
Citations Issued to Underage	6	256	24	918
Total Violations	30	639	62	1,715
Total Achievements:	939	6,620	792	12,554

The number of citations DLLC investigators issued to underage persons decreased from 24 to 6 and the total number of violations decreased from 62 to 30 compared to January 2012.

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	0	0	0	2	4

Of the six (6) citations the DLLC investigators issued to underage persons, four (4) were twenty years old and two (2) were nineteen years old.

SUCCESS STATISTICS
Investigations (continued)

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2013	1 Year Ago This Month	# of Citations Issued in FY 2012
A.R.S. § 4-241.A Failure to Check ID	0	47	5	59
A.R.S. § 4-241.L Use of false ID to buy alcohol	2	77	3	154
A.R.S. § 4-241.M Underage solicits third party buyer	0	16	1	34
A.R.S. § 4-241.N Use of false ID to enter premises	0	43	1	93
A.R.S. § 4-244.1 Selling without a license	0	1	1	9
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	4	220	23	554
A.R.S. § 4-244.13 Employee consuming on duty	0	4	n/a	n/a
A.R.S. § 4-244.20 Consume in a public place	0	17	0	59
A.R.S. § 4-244.41 Alcohol in system of underage	1	99	14	548
A.R.S. § 4-251 Consumption/open container in vehicle	0	8	n/a	n/a
A.R.S. § 13-2907.01 Providing false information to state	0	3	2	28
A.R.S. § 28-3478.1 Unlawful use of driver's license	2	40	4	60
A.R.S. § 28-3478.3 Using another person's driver's license	0	29	1	84

The total number of citations issued due to Failure to Check ID decreased from five (5) in January 2012 to zero (0) in January 2013. The number of citations issued due to Furnishing Alcohol to an Underage, Underage in Possession/Consumption decreased from twenty-three (23) in January 2012 to four (4) in January 2013 or by eighty-three (82.6%) percent. The number of citations issued due to Use of False ID to Buy Alcohol decreased from three (3) in January 2012 to two (2) in January 2013 or by thirty-three (33.3%) percent. The number of citations issued due to Unlawful use of a Driver's License decreased from four (4) in January 2012 to two (2) in January 2013 or by fifty (50.0%) percent.

The citations numbers are lower this month due to fewer investigators in the field. At this time there are two officers on light duty, one officer conducting trade practice investigations, and one vacant position. This trend will continue as one officer retires in February 2013. The Investigations Unit plans to hire 3 new officers in the next few months.

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-four (164) active Series 11 (hotel/motel) licenses and three thousand three hundred fifty-five (3,355) active Series 12 (restaurant) licenses statewide. Compared to January 2012, the number of hotel/motel with restaurant licenses increased by two (2) or one (1.2%) percent and the number of restaurant licenses increased by one hundred and six (106) or three (3.3%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand five hundred nineteen (3,519) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,760.

Audit Status	Current Month	This Month Last Year
Audits closed	8	6
Audits initiated	7	5
Audits in progress	15	15
Open cases w/projected ratio of >37%	9	9
Open cases w/projected ratio between 30 to 37%	4	6
Open cases w/projected ratio of < 30%	2	0
Locations granted 1 year to continue operation	0	0
Locations being monitored	73	89

Eight (8) audits were completed in Maricopa, Pima, Pinal and Yavapai Counties which resulted in actionable violations in five (5) cases. There were fifteen (15) audits in progress and seventy-three (73) locations being monitored. In January 2012, there were six (6) audits completed, fifteen (15) audits in progress and eighty-nine (89) locations being monitored.

Audit Action	Current Month	Total FY 2013	This Month Last Year	Total FY 2012	Total 2003 To Present
Audits completed	8	42	6	90	577
Audits passed	6	28	5	58	274
Audits failed	1	11	1	23	238
Inconclusive	1	3	0	9	59
Other charges only	0	0	0	0	6

Of the eight (8) audits completed this month, six (6) passed, one (1) failed and one (1) was inconclusive.

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	90 audits	\$64,355	\$715
FY 2013	42 audits	\$28,175	\$671

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 fifteen (15) continuation licenses total four hundred fifty thousand (\$450,000) dollars. In FY 2013, thirty thousand (\$30,000) dollars have been collected from the issuance of continuation licenses.

In January 2013, the department collected revenue for audit-related violations totaling five thousand three hundred twenty-five (\$5,325) dollars. Audit fines assessed from violations totaled two thousand seven hundred (\$2,700) dollars. Compared to January 2012, total fines collected decreased by six hundred seventy-five (\$675) dollars or eleven (11.3%) percent and total audit fines assessed from violations decreased by one thousand three hundred (\$1,300) dollars or thirty-three (32.5%) percent.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Fines Collected	\$5,325	\$28,175	\$6,000	\$64,355
Fines Assessed	\$2,700	\$35,850	\$4,000	\$72,730
Continuation License (Grill Bill) Revenue	\$0	\$30,000	\$0	\$30,000
Pending Continuation Licenses (Grill Bill)	0	0	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 FY 2013	1 Year Ago This Month	Total FY 2012
Revocations	0	1	0	0
Suspensions	1	3	0	4
Surrenders	1	7	1	2
Divestitures	1	4	1	3
Administrative Complaints	0	2	0	5
Decisions & Orders	0	2	0	3

Achievements	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Cases Received	85	411	51	888
Cases Completed	16	73	7	199
Cases in Progress	69	338	44	688
Warning Letter Issued	0	18	0	17
Cases Sent to OAH	2	3	0	7

Economic Impact:

Fines collected totaled two hundred thirteen thousand nine hundred seventy-five (\$213,975) dollars from forty-one (41) adjudicated compliance actions. Compared to last month, December 2012, this represents a two hundred fifty-three (252.7%) percent increase in collected revenues and a three (2.5%) percent increase in the number of compliance actions processed. Compared to January 2012, this represents a three hundred sixty-four (363.5%) percent increase in collected revenues and an eighteen (18.0%) percent decrease in the number of compliance actions processed.

A penalty 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 FY 2013	1 Year Ago This Month	Total FY 2012
Fines collected	\$213,975	\$444,585	\$46,165	\$428,445
Cases adjudicated	41	243	50	479

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	479	\$428,445	\$894
2012-2013	243	\$444,585	\$1,830

Adjudicated Underage Violations

Statute	Definition	Adjudicated This Month	TOTAL FY 2013	1 Year Ago This Month	TOTAL FY 2012
A.R.S. § 4-241.A	Failure to Check ID	4	17	0	36
A.R.S. § 4-241.L	Sold to CUB	0	0	0	11
A.R.S. § 4-244.1	Unlicensed Resale	0	0	0	0
A.R.S. § 4-244.9	Furnish alcohol to an underage	7	28	9	74
A.R.S. § 4-244.16	Knowingly allow furnishing liquor to underage	0	0	0	1
A.R.S. § 4-244.22	Consume w/o permission of premises owner	0	1	0	0
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

Fines from adjudicated underage violations total thirty-six thousand eight hundred seventy-five (\$36,875) dollars. To date in FY 2013, there have been three (3) licenses suspended and one (1) license 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	\$82,265	1	0
2013	\$36,875	3	1

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 FY 2013	1 Year Ago This Month	Total FY 2012
Hearings Scheduled	5	41	5	60
Applications Protested	3	16	2	21
Licenses Granted	3	18	0	18
Licenses Denied	1	6	0	8
Continuances Granted	0	9	1	20
Continuances Denied	0	1	n/a	n/a
Licenses Withdrawn	1	6	3	11
Appeals Heard	0	0	0	0
Rehearings Requested	0	1	1	2
Hearings Cancelled by Director	0	0	0	4

There were five (5) applications scheduled for hearing before the State Liquor Board and three (3) of the applications were protested by the public. Of the five (5) applications heard, one (1) license was granted, three (3) licenses were denied and one (1) application was withdrawn. To date in FY 2013, the State Liquor Board has granted forty-four (43.9%) percent and denied fifteen (14.6%) percent of the license applications heard and fifteen (14.6%) percent of applications set for hearing withdrew. The remaining twenty-seven (26.9%) percent of hearings were continued, cancelled or reheard.

STATE LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi (R)	Chairman Maricopa County No Financial Interest	Term Expires January 19, 2015
Bill DuPont (D)	Vice Chairman Pima County Neighborhood Association	Term Expires January 21, 2013
Jim Carruthers (R)	Yuma County No Financial Interest	Term Expires January 19, 2015
Tim Linden (R)	Graham County Wholesaler	Term Expires January 20, 2014
Robin Cantrell (I)	Graham County Retailer	Term Expires January 19, 2015
Michael Farley (R)	Pima County No Financial Interest	Term Expires January 21, 2013
Vikki Scarafiotti (D)	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 January 2012, the number of new liquor licenses issued in Arizona have increased by nine (9.1%), renewals remained the same, and the number of active licenses increased by two (2.4%) percent. In comparison to January 2012, monthly licensing revenues (including lottery collections) have increased by fifty (49.6%) percent from four hundred thirty thousand four hundred seventy-four (\$430,474) dollars during this time last year to six hundred forty-four thousand seventy-nine (\$644,079) dollars during the current month.

There were seven (7) exempt locations 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 FY 2013	1 Year Ago This Month	Total FY 2012
New licenses issued	168	1,060	154	1,640
Renewed licenses	825	7,716	825	10,022
Lottery licenses issued	0	1	0	1
Collected Lottery Revenues:	\$85,000	\$170,000	\$0	\$99,166
Number of Active Liquor License:	11,684	n/a	11,415	n/a
Exempt Locations Issued	7	40	10	61
Number of Exempt Locations	74	n/a	77	n/a
Collected Licensing Revenues (including lottery revenues):	\$644,079	\$3,621,776	\$430,474	\$6,097,046

Collected Revenue by Fee Type in January 2013

Fair Market Value	85,000
Applications	11,050
License Fees	213,060
Out-of-State	0
Agent Change	3,100
Fines	204,250
Special Event	5,375
Club	14,150
Penalties	13,500
Copy Fees	1,678
Non-Use Surcharge	17,100
Audit Surcharge	14,940
Enforcement K Surcharge	28,490
Enforcement L Surcharge	28,460
Miscellaneous	10

TOTAL REVENUES COLLECTED **\$640,163**

(fingerprints) **\$3,916**

TOTAL REPORT **\$644,079**

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Proposed Rulemaking

In response to a five-year-review report approved by the Governor's Regulatory Review Council on May 3, 2011, the Department is repealing existing rules in a related rulemaking and making new rules that are consistent with statute and agency practice. They are also making the rules clear, concise, and understandable and consistent with current rule writing standards.

In furtherance of getting new rules adopted, an exemption from the rulemaking moratorium contained in Executive Order 2012-03 was granted to the Department in an e-mail from Steven Killian, policy advisor to Governor Brewer, dated September 25, 2012.

The department has held several stakeholder meetings to solicit comments from the public on the proposed rules. The last public meeting was held January 8, 2013. As a result, a Notice of Final Rulemaking (and Repeal; "NFR") was filed with the Governor's Regulatory Review Council (GRRC) on February 15, 2013. It is anticipated that the NFR will be placed on GRRC's April 2, 2013 agenda. In addition, the Department is in the midst of preparing a Notice of Supplemental Proposed Rulemaking (NSPR) that includes 5 rules that were not included in the NFR. Meetings are on-going with industry stakeholders in order to solicit their comments.

State Liquor Board Membership

There are two terms on the State Liquor Board that expired on January 21, 2013. The Board consists of seven members who are appointed by the Governor and confirmed by the Arizona State Senate pursuant to A.R.S. Sections § 38-211 and § 4-111. The term of members is three years, expiring on the third Monday in January of the appropriate year.

END OF DLLC JANUARY 2013 REPORT TO THE GOVERNOR