

# GOVERNOR'S MONTHLY REPORT

## August 2013

(Revised 6/23/14)



### STATE OF ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL

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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 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 there is reasonable suspicion to believe that a liquor-licensed establishment is selling liquor to underage customers, the department will send in a covert underage buyer, or CUB, to attempt to purchase liquor. CUBs are between the ages of sixteen (16) and nineteen (19), and carefully trained by DLLC investigators to understand and follow state laws, including DLLC's CUB investigations guidelines and personal and public safety measures. Currently there are two (2) officers and a total of seven (7) 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 twenty-three (23) liquor-licensed establishments in Phoenix, Tempe, Laveen, Glendale, Avondale, Goodyear, and Cashion. Five (5) CUBs were used. Three (3), or thirteen (12.5%) percent, of these establishments sold alcohol to a (CUB) resulting in four (4) criminal citations and eight (8) administrative violations. All twenty-four (24) locations were investigated in response to complaints received by DLLC.

Since the inception of the program, three thousand three hundred ninety-seven (3,397) establishments have been investigated and one thousand thirty-eight (1,038) or thirty-one (30.6%) percent have sold to CUB buyers resulting in two thousand five hundred thirteen (2,513) administrative violations and two thousand fifty (2,050) 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
<b>2012</b>	215	82	38	225	193
<b>2013</b>	213	59	26	145	73

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.

## 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.

#### **Community and agency outreach during the month:**

- GOHS Statewide Impaired Driving Task Force – deputy director attended
- National Liquor Law Enforcement Association Annual Conference – Department of Liquor co-hosted

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

- CUB – Officer Palubeskie conducted two and Officer Gothelf conducted one
- White Supremacist Training – Officers Chesley, Turner, Carruthers and Sanchez attended
- Vehicle Assistance – Officer Trevizo completed
- National Liquor Law Enforcement Association National – entire division
- Industry Trade Practice Investigation – Officer Miller conducted (ongoing)
- Rules Writing & Review – Officer Miller conducted
- Title 4 Training Management – Officer Miller and Ms. Strickland completed
- Driver Training Simulator – entire division attended
- Tempe Safe and Sober Enforcement – Officers Palubeskie, Webb, Chesley, Miller, Turner, Trevizo, Parris, and Carruthers
- Out-of-area complaints – entire division
- Mesa Police Academy, Title 4 Training – Officer Parris facilitated
- Tempe PD Title 4 Training – Officer Palubeskie facilitated
- Phoenix PD Title 4 Training – Officers Webb and Trevizo facilitated

## 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 law) and all Arizona Administrative Code Rules established by the DLLC.

Investigators completed two hundred ninety-nine (299) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in ninety-four (94) criminal citations and one hundred fifteen (115) administrative violations. The following success statistics were completed by a staff of fourteen (14) full time sworn officers who uphold a statewide officer-to-liquor license ratio of 1:782.

Total investigative actions taken this month were one thousand three hundred fifteen (1,315), which is a decrease of six (6.3%) percent when compared to the one thousand four hundred three (1,403) investigative actions taken in August 2012.

<b>Achievements:</b>	<b>Current Month</b>	<b>Total FY 2014</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2013</b>
Hidden Ownerships Completed	0	0	4	20
Site Inspections Completed	20	45	25	333
Actioned (administrative) Complaints	12	22	5	114
Non-Actioned (criminal) Complaints	59	114	40	551
Administrative Counts Charged	115	231	91	1,832
Criminal Citations Issued	94	174	62	1,295
Routine Liquor Inspections Completed	299	593	213	2,691
Compliance Case Reports Submitted	64	124	32	646
On-view Violation Case Reports	15	43	17	446
Law Enforcement Liaison Completed	81	153	69	875
Tax Deficiency Charges	27	47	no data available	no data available
MVD Affidavit/Suspension	13	24	21	198
<b>Underage Investigations Statistics:</b>				
Citations Issued to Underage	77	146	47	918
Total Violations	110	215	112	1,715
<b>Total Achievements:</b> (including police report reviews and completed protests not listed above)	1,315	2,488	1,403	12,503

The number of citations DLLC investigators issued to underage persons increased sixty-four (63.8%) percent and the total number of underage violations decreased two (1.8%) percent compared to August 2012.

**SUCCESS STATISTICS**  
Investigations (continued)

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	2	3	14	12	16

Underage persons who are cited for consuming appear to be closer to the legal drinking age. Of the citations issued to underage persons, thirty-four (34.0%) percent were within one year and twenty-six (25.5%) percent were within two years of the legal drinking age.

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2014	1 Year Ago This Month	# of Citations Issued in FY 2013
<b>A.R.S. § 4-241.A</b> Failure to Check ID	0	8	9	62
<b>A.R.S. § 4-241.L</b> Use of false ID to buy alcohol	6	9	18	108
<b>A.R.S. § 4-241.M</b> Underage solicits third party buyer	3	4	3	17
<b>A.R.S. § 4-241.N</b> Use of false ID to enter premises	17	23	9	60
<b>A.R.S. § 4-244.9</b> Furnishing alcohol to an underage, underage in possession/consumption	11	26	27	367
<b>A.R.S. § 4-244.41</b> Alcohol in system of underage	17	46	15	254
<b>A.R.S. § 13-2907.01</b> Providing false information to state	5	9	0	12
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver's license	5	9	20	52
<b>A.R.S. § 28-3478.3</b> Using another person's driver's license	13	17	2	44

The number of citations issued due to Furnishing Alcohol to an Underage, Underage in Possession, and Consumption decreased fifty-nine (59.3%) percent from August 2012. The number of citations issued for Alcohol in System of Underage increased thirteen (13.3%) percent. The number of citations issued due to Use of False ID to Buy Alcohol decreased sixty-seven (66.7%) percent compared to August 2012. The number of citations issued due to Unlawful Use of a Driver's License decreased seventy-five (75%) percent.

**SUCCESS STATISTICS**  
**Investigations (continued)**  
**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, and 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 New 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
<b>2012</b>	8	9	0
<b>2013</b>	1	0	0

## 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-seven (167) active Series 11 (hotel/motel) licenses and three thousand three hundred nine (3,309) active Series 12 (restaurant) licenses statewide. Compared to August 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 seventy-three (73) or two (2.2%) percent.

DLLC employs two (2) full time auditors. With a total of three thousand four hundred seventy-six (3,476) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is: 1:1,738.

<b>Audit Status</b>	<b>Current Month</b>	<b>This Month Last Year</b>
<b>Audits closed</b>	6	5
<b>Audits initiated</b>	6	8
<b>Audits in progress</b>	16	15
<b>Open cases w/projected ratio of &gt;37%</b>	12	10
<b>Open cases w/projected ratio between 30 to 37%</b>	4	3
<b>Open cases w/projected ratio of &lt;30%</b>	0	2
<b>Locations granted 1 year to continue operation</b>	1	0
<b>Locations being monitored</b>	67	85

Six (6) audits were completed in Maricopa County, which resulted in actionable violations in all six (6) cases. On August 31, 2013, there were sixteen (16) audits in progress and sixty-seven (67) locations being monitored.

<b>Audit Action</b>	<b>Current Month</b>	<b>Total FY 2014</b>	<b>This Month Last Year</b>	<b>Total FY 2013</b>	<b>Total 2003 To Present</b>
<b>Audits completed</b>	6	25	5	84	632
<b>Audits passed</b>	5	20	4	64	320
<b>Audits failed</b>	1	4	1	17	246
<b>Inconclusive</b>	0	1	0	3	60
<b>Other charges only</b>	0	0	0	0	6

Of the six (6) audits completed this month, five (5) passed and one (1) failed.

Audit fines assessed from violations totaled three thousand (\$3,000) dollars. Compared to August 2012, total audit fines assessed from violations increased by two thousand eight hundred (\$2,800) dollars or one thousand four hundred (1400.0%) percent.

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

**Audit Revenue 2-year Comparison**

<b>Audit Action</b>	<b>Current Month</b>	<b>Total FY 2014</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2013</b>
<b>Fines Assessed</b>	\$3,000	\$11,025	\$200	\$55,425
<b>Continuation License (Grill Bill) Revenue</b>	\$0	\$120,000	\$0	\$60,000
<b>Pending Continuation Licenses (Grill Bill)</b>	2	4	0	n/a

**Audit statistics since January 1, 2003 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>1/1 - 6/30/03</b>	6 audits	--	--
<b>FY 2004</b>	23 audits	--	--
<b>FY 2005</b>	24 audits	--	--
<b>FY 2006</b>	32 audits	--	--
<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</b>	90 audits	\$64,355	\$715
<b>FY 2013</b>	84 audits	\$47,625	\$567
<b>FY 2014</b>	25 audits	\$10,625	\$425

In 2006, A.R.S. §4-213(E) introduced the restaurant 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 twenty (20) restaurant continuation licenses total six hundred thousand (\$600,000) dollars. In FY 2014, one hundred twenty thousand (\$120,000) dollars have been collected from the issuance of restaurant continuation licenses. As of August 31, 2013, there are four pending restaurant continuation license applications.

The sunset of A.R.S. §4-213(E), the option to operate under the provisions of a restaurant continuation license, occurred on June 30, 2013. Restaurant continuation license applications will no longer be accepted by the Department unless a Compliance Consent Agreement signed prior to June 30, 2013, offers the licensee the restaurant continuation license option. To inform licensees of the restaurant continuation license, the Department posted notification on the website, sent emails to all series 11 and 12 operators who provided the Department with their email address, and included notice in renewals to both license series. Notification was completed by April 2013.

## 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 2014	1 Year Ago This Month	Total FY 2013
Revocations	0	0	0	1
Suspensions	0	1	0	4
Surrenders	0	0	2	18
Divestitures	0	1	1	9
Administrative Complaints	1	1	0	7
Decisions & Orders	0	1	1	3
Cases Received	62	130	46	708
Cases Completed	8	18	13	151
Cases in Progress	54	112	33	557
Warning Letter Issued	0	4	1	25
Cases Sent to OAH	2	2	0	7

### Economic Impact:

Fines collected in the month totaled sixty thousand two hundred (\$60,200) dollars from forty-four (44) adjudicated compliance actions. Compared to last month, July 2013, this represents a fifty-four (54.4%) percent increase in collected revenues and a forty-seven (46.7%) percent increase in the number of compliance actions processed. Compared to August 2012, this represents a twenty-four (23.7%) percent increase in collected revenues and a sixteen (15.8%) percent increase 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.

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	440	\$673,710	\$1,531
2013-2014	74	\$99,200	\$1,368

**SUCCESS STATISTICS**  
Compliance (continued)

**Adjudicated Underage Violations:**

Statute	Definition	Adjudicated This Month	TOTAL FY 2014	1 Year Ago This Month	TOTAL FY 2013
A.R.S. § 4-241.A	Failure to Check ID	1	6	0	36
A.R.S. § 4-241.L	Sold to CUB	0	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	0	0
A.R.S. § 4-244.9	Furnish alcohol to an underage	5	10	0	59
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	0	0	1
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 six thousand seven hundred fifty (\$6,750) dollars. To date in FY 2014, 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	\$125,500	4	1
2014	\$6,750	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.

<b>Achievements:</b>	<b>Current Month</b>	<b>Total FY 2014</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2013</b>
<b>Hearings Scheduled</b>	3	9	7	51
<b>Licenses Granted</b>	1	2	2	21
<b>Licenses Denied</b>	0	2	2	9
<b>Continuances Granted</b>	1	1	3	10
<b>Continuances Denied</b>	0	0	0	1
<b>Licenses Withdrawn</b>	0	3	0	7
<b>Appeals Heard</b>	1	1	0	0
<b>Rehearings Requested</b>	0	0	0	2
<b>Hearings Cancelled by Director</b>	0	0	0	1

There were two (2) applications scheduled before the State Liquor Board for one (1) original Restaurant (series 12) license and one (1) original Beer and Wine Store (series 10) license. The Restaurant application was continued. The Beer and Wine Store application was heard and the license was granted. The Board also hears appeals of the Director's Decisions and Orders. The Board affirmed the Director's decision and modified the penalty. During the month, the State Liquor Board has granted fifty (50.0%) percent and denied fifty (50.0%) percent of the license applications heard. Thirty-three (33.3%) percent of the applications set for hearing withdrew.

### 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 18, 2016
Tim Linden (R)	Graham County Wholesaler	Term Expires January 20, 2014
Vikki Scarafiotti (D)	Maricopa County No Financial Interest	Term Expires January 20, 2014
Robin Cantrell (I)	Graham County Retailer	Term Expires January 19, 2015
Jim Carruthers (R)	Yuma County No Financial Interest	Term Expires January 19, 2015
Vacant	Vacant	Term Expired January 21, 2013

## SUCCESS STATISTICS LICENSE DIVISION

The License Division is responsible for processing new license applications, permits, renewals, and maintaining up-to-date and accurate information on active licenses. Compared to the previous year, August 2012, the number of new liquor licenses issued in Arizona have decreased by thirty-one (31.0%) percent, the number of renewals have decreased by five (4.8%) percent, and the number of active licenses increased by one (.9%) percent. Also in comparison with August 2012, monthly licensing revenues have decreased by twenty-two (21.9%) percent from six hundred nine thousand four hundred four (\$609,404) dollars during this time last year to four hundred seventy-five thousand nine hundred seventy-eight (\$475,978) dollars during the current month.

In August 2013, six (6) exempt locations were approved which brings the total active exempt locations in Arizona to seventy-six (76). An exempt location is an establishment that (1) meets the criteria established in A.R.S. §4-244.05 and A.A.C. R19-1-113, (2) has made application for the exemption, (3) has been inspected by a DLLC investigator, and (4) has been issued a one-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total FY 2014	1 Year Ago This Month	Total FY 2013
<b>New licenses issued</b>	107	393	155	1,560
<b>Renewed licenses</b>	812	1,673	853	11,104
<b>Lottery licenses issued</b>	0	0	0	1
<b>Collected Lottery Revenues</b>	\$0	\$0	\$0	\$349,950
<b>Number of Active Liquor License</b>	11,801	11,801*	11,692	n/a
<b>Exempt Locations Issued</b>	6	12	10	62
<b>Number of Exempt Locations</b>	76	76	70	n/a
<b>Collected Licensing Revenues</b> (including lottery revenues)	\$475,978	\$1,004,175	\$609,404	\$6,536,517

\*This number fluctuates daily depending on renewals, new applications, suspensions and revocations.

### Collected Revenue by Fee Type in August 2013

Fair Market Value	0
Applications	14,900
License Fees	289,485
Out-of-State	0
Agent Change	5,900
Fines	58,600
Special Event	5,325
Club	5,550
Penalties	5,400
Copy Fees	4,055
Non-Use Surcharge	12,300
Audit Surcharge	13,800
Enforcement K Surcharge	29,365
Enforcement L Surcharge	25,600
Miscellaneous	0

<b>TOTAL REVENUES COLLECTED</b>	<b>\$470,280</b>
<b>(fingerprints)</b>	<b><u>5,698</u></b>
<b>TOTAL REPORT</b>	<b>\$475,978</b>

## WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

### Awards

The National Liquor Law Enforcement Association (NLLEA) recognized the Arizona Department of Liquor Licenses and Control as the Liquor Law Enforcement Agency of the Year. This award recognizes outstanding achievements in the following areas:

1. Demonstrating agency effectiveness
2. Implementation of innovative programs
3. Community or Media Recognition
4. Model training programs
5. Other model programs or practices (e.g., Grants for Special Programs, Task Forces, etc.)

The award was presented during the 2013 Annual Conference in Phoenix on Thursday, August 1, 2013. Deputy Director, Joe Vernier and Sgt. Wes Kuhl accepted the award for the Department. In his acceptance speech, Deputy Director Vernier explained that the award was accepted on behalf of the entire staff of Department and how the Licensing, Investigation, and Administrative staff depend on one another to uphold the "Education | Prevention | Enforcement" model of liquor regulation - the basis of DLLC's nomination for the award.

As a National Liquor Law Enforcement Association (NLLEA) 2013 Liquor Law Enforcement Agent of the Year nominee, Craig Miller's hard work and dedication were recognized at the annual conference.

END OF DLLC AUGUST 2013 REPORT TO THE GOVERNOR