

GOVERNOR'S MONTHLY REPORT

July 2013

(Revised 6/23/14)



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 sixteen (16) 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 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 the cities of Gilbert, Avondale, and Tucson. Eight (8) CUBs were used. Nine (9), or thirty-nine (39.1%) percent, of these establishments sold alcohol to a (CUB) resulting in eighteen (18) criminal citations and twenty-three (23) administrative violations. All twenty-three (23) locations were investigated in response to complaints received by DLLC. DLLC saw an eighty (79.5%) percent increase in the percentage of establishments that sold to CUBS compared to the previous month, June 2013.

Since the inception of the program, three thousand four hundred thirty-five (3,435) establishments have been investigated and one thousand fifty-five (1,055) or thirty-one (30.7%) percent have sold to CUB buyers resulting in two thousand five hundred forty-eight (2,548) administrative violations and two thousand sixty-four (2,064) 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	190	56	29	137	69
2014	23	9	39	23	18

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 in Arizona.

Community and agency outreach during the month:

- Arizona Substance Abuse Partnership (ASAP) – assistant director of administration participated
- Arizona Licensed Beverage Association (ALBA) – communications director participated
- Title 4 Training Provider Workshop – communications director facilitated
- SALEM – deputy director attended
- Annual Law Enforcement Pow Wow – director and deputy director participated
- City of Prescott, Mayor – director participated
- City of Prescott Valley, Mayor – director participated
- City of Payson, Mayor – director participated
- Northern Arizona Wholesale Licensees Meet & Greet – director facilitated
- National Liquor Law Enforcement Association Annual Conference – Department of Liquor co-hosted

Law Enforcement Special Detail:

- CUB – Officers Gothelf and Webb assisted
- Field Training for Officers Training – Officers Gothelf and Zacarias attended
- Tempe Community Liquor Training – Officer Palubeskie facilitated
- Phoenix PD Title 4 Training – Officers Webb and Trevizo facilitated
- Mayhem Concert – Officer Carruthers
- Mesa Police Academy, Title 4 Training – Officer Parris facilitated
- Vehicle Assistance – Officer Trevizo completed
- National Liquor Law Enforcement Association National – entire division
- Rules rewrite – Officer Miller reviewed
- Industry Trade Practice Investigation – Officer Miller conducted (ongoing)
- Out-of-area complaints – entire division
- Hotshot Liquor Taskforce Meeting – entire division
- DUI Taskforce –entire division

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 ninety-four (294) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in eighty (80) criminal citations and one hundred sixteen (116) administrative violations. The following success statistics were completed by a staff of fifteen (15) full time sworn officers who uphold a statewide officer-to-liquor license ratio of 1:783.

Total investigative actions taken this month were one thousand one hundred seventy-three (1,173), which is an increase of five (4.7%) percent when compared to the one thousand one hundred twenty (1,120) investigative actions taken in July 2012.

Achievements:	Current Month	Total FY 2014	1 Year Ago This Month	Total FY 2013
Hidden Ownerships Completed	0	0	2	20
Site Inspections Completed	25	25	30	333
Actioned (administrative) Complaints	10	10	10	114
Non-Actioned (criminal) Complaints	55	55	43	551
Administrative Counts Charged	116	116	207	1,832
Criminal Citations Issued	80	80	65	1,295
Routine Liquor Inspections Completed	294	294	167	2,691
Compliance Case Reports Submitted	60	60	31	646
On-view Violation Case Reports	28	28	30	446
Law Enforcement Liaison Completed	72	72	60	875
Tax Deficiency Charges	20	20	no data available	no data available
MVD Affidavit/Suspension	11	11	7	198
Underage Investigations Statistics:				
Citations Issued to Underage	69	69	127	918
Total Violations	105	105	225	1,715
Total Achievements: (including police report reviews and completed protests not listed above)	1,173	1,173	1,120	12,503

The number of citations DLLC investigators issued to underage persons decreased forty-six (45.7%) percent and the total number of underage violations decreased fifty-three (53.3%) percent compared to July 2012.

SUCCESS STATISTICS
Investigations (continued)

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	0	5	6	11	14

Of the citations the DLLC investigators issued to underage persons, fourteen (14) were twenty years old, eleven (11) were nineteen years old, six (6) were eighteen years old, and five (5) were seventeen years old.

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2014	1 Year Ago This Month	# of Citations Issued in FY 2013
A.R.S. § 4-241.A Failure to Check ID	8	8	5	62
A.R.S. § 4-241.L Use of false ID to buy alcohol	3	3	2	108
A.R.S. § 4-241.M Underage solicits third party buyer	1	1	0	17
A.R.S. § 4-241.N Use of false ID to enter premises	6	6	6	60
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	15	15	14	367
A.R.S. § 4-244.41 Alcohol in system of underage	29	29	10	254
A.R.S. § 13-2907.01 Providing false information to state	4	4	1	12
A.R.S. § 28-3478.1 Unlawful use of driver's license	4	4	0	52
A.R.S. § 28-3478.3 Using another person's driver's license	4	4	6	44

The number of citations issued due to Furnishing Alcohol to an Underage, Underage in Possession, and Consumption increased seven (7.1%) percent compared to July 2012. The number of citations issued for Alcohol in System of Underage increased one hundred ninety (190%) percent. The number of citations issued due to Use of False ID to Buy Alcohol increased fifty (50%) from July 2012. The number of citations issued due to Unlawful Use of a Driver's License increased from zero (0) in July 2012 to four in July 2013 or by four hundred (400%) 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

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	1	0	0

There were no TRACE cases opened or closed this month.

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 thirteen (3,313) active Series 12 (restaurant) licenses statewide. Compared to July 2012, the number of hotel/motel with restaurant licenses remained the same, and the number of restaurant licenses increased by eighty-eight (88) or three (2.7%) percent.

DLLC employs two (2) full time auditors. With a total of three thousand four hundred seventy-seven (3,477) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,739.

Audit Status	Current Month	This Month Last Year
Audits closed	7	6
Audits initiated	7	5
Audits in progress	16	12
Open cases w/projected ratio of >37%	12	5
Open cases w/projected ratio between 30 to 37%	4	7
Open cases w/projected ratio of <30%	0	0
Locations granted 1 year to continue operation	1	1
Locations being monitored	66	89

During July 2013, seven (7) audits were completed in Cochise, Maricopa and Pima Counties which resulted in actionable violation in five (5) cases. On July 31, 2013, there were sixteen (16) audits in progress and sixty-six (66) locations being monitored.

Audit Action	Current Month	Total FY 2014	This Month Last Year	Total FY 2013	Total 2003 To Present
Audits completed	7	7	6	84	626
Audits passed	5	5	3	64	315
Audits failed	1	1	2	17	245
Inconclusive	1	1	1	3	60
Other charges only	0	0	0	0	6

Of the seven (7) audits completed this month, five (5) passed, one (1) failed, and one (1) was inconclusive.

In July 2013, the department collected revenue for audit-related violations totaling one thousand six hundred twenty-five (\$1,625) dollars. Audit fines assessed from violations totaled one thousand (\$1,000) dollars. Compared to July 2012, total fines collected increased by one thousand (\$1,000) dollars or one hundred sixty (160.0%) percent and total audit fines assessed from violations decreased by nine thousand nine hundred fifty (\$9,950) dollars or ninety-one (90.9%) percent.

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2014	1 Year Ago This Month	Total FY 2013
Fines Collected	\$1,625	\$1,625	\$625	\$47,625
Fines Assessed	\$1,000	\$1,000	\$10,950	\$55,425
Continuation License (Grill Bill) Revenue	\$60,000	\$60,000	\$0	\$60,000
Pending Continuation Licenses (Grill Bill)	2	2	n/a	n/a

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	84 audits	\$47,625	\$567
FY 2014	7 audits	\$1,625	\$232

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 eighteen (18) restaurant continuation licenses total five hundred forty thousand (\$540,000) dollars. In FY 2014, sixty thousand (\$60,000) dollars have been collected from the issuance of restaurant continuation licenses. As of July 31, 2013, there are two 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 2013	1 Year Ago This Month	Total FY 2013
Revocations	0	1	0	1
Suspensions	1	4	0	4
Surrenders	0	18	1	18
Divestitures	1	9	1	9
Administrative Complaints	0	7	0	7
Decisions & Orders	1	3	0	3
Cases Received	68	68	52	708
Cases Completed	10	10	14	151
Cases in Progress	58	58	38	557
Warning Letter Issued	4	4	4	25
Cases Sent to OAH	0	0	0	7

Economic Impact:

Fines collected in the month of July 2013 totaled thirty-nine thousand (\$39,000) dollars from thirty (30) adjudicated compliance actions. Compared to last month, June 2013, this represents a fifty-three (52.7%) percent decrease in collected revenues and a twelve (11.7%) percent decrease in the number of compliance actions processed. Compared to July 2012, this represents a four (4.4%) percent increase in collected revenues and a nineteen (18.9%) 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.

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	30	\$39,000	\$1,300

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	5	5	7	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	5	6	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	1	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 three thousand seven hundred fifty (\$3,750) dollars. To date in FY 2014, there has been one (1) license suspended and no (0) licenses 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	\$3,750	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.

Achievements:	Current Month	Total FY 2014	1 Year Ago This Month	Total FY 2013
Hearings Scheduled	6	6	6	51
Applications Protested	5	5	4	22
Licenses Granted	1	1	4	21
Licenses Denied	2	2	0	9
Continuances Granted	0	0	1	10
Continuances Denied	0	0	1	1
Licenses Withdrawn	3	3	0	7
Appeals Heard	0	0	0	0
Rehearings Requested	0	2	0	2
Hearings Cancelled by Director	0	0	0	1

There were six (6) applications scheduled before the State Liquor Board for three licenses. Two (2) original Restaurant (series 12) license applications were heard; one (1) was granted and one (1) was denied. Four (4) original Beer and Wine Store (series 10) license applications were scheduled with one (1) denied, and three (3) withdrawn. To date in FY 2014, the State Liquor Board has granted seventeen (16.6%) percent and denied thirty-three (33.3%) percent of the license applications heard. Fifty (50.0%) 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
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
Vacant	Vacant	Term Expired January 21, 2013
Vikki Scarafiotti (D)	Maricopa County No Financial Interest	Term Expires January 20, 2014

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, July 2012, the number of new liquor licenses issued in Arizona have increased by one hundred forty-seven (146.5%) percent, the number of renewals have increased by nine (8.98%) percent, and the number of active licenses increased by one (.99%) percent. Also in comparison with July 2012, monthly licensing revenues (including lottery collections) have increased by twelve (11.7%) percent from four hundred seventy-two thousand seven hundred five (\$472,705) dollars during this time last year to five hundred twenty-eight thousand one hundred ninety-seven (\$528,197) dollars during the current month.

In July 2013, six (6) exempt locations were approved which raised the total to seventy-eight (78) active exempt locations in Arizona. 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
New licenses issued	286	286	116	1,560
Renewed licenses	861	861	790	11,104
Lottery licenses issued	0	0	1	1
Collected Lottery Revenues:	\$0	\$0	\$85,000	\$349,950
Number of Active Liquor License:	11,750	11,750	11,634	n/a
Exempt Locations Issued	6	6	1	62
Number of Exempt Locations	78	78	74	n/a
Collected Licensing Revenues (including lottery revenues):	\$528,197	\$528,197	\$472,705	\$6,536,517

Collected Revenue by Fee Type in July 2013

Fair Market Value	0
Applications	14,225
License Fees	356,525
Out-of-State	0
Agent Change	34,850
Fines	31,850
Special Event	2,850
Club	8,000
Penalties	5,850
Copy Fees	3,805
Non-Use Surcharge	25,600
Audit Surcharge	12,330
Enforcement K Surcharge	29,540
Enforcement L Surcharge	26,585
Miscellaneous	5

TOTAL REVENUES COLLECTED	\$522,015
(fingerprints)	<u>6,182</u>
TOTAL REPORT	\$528,197

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. The award will be presented during the 2013 Annual Conference in Phoenix on Thursday, August 1, 2013.

Proposed Rulemaking

The Department is currently working with the liquor industry to finalize a supplemental rules package (entitled, "notice of supplemental proposed rules;" "NSPR") that contains five (5) rules. These rules (i.e., Knowledge of Liquor Law; Sign Limitations; Practices Permitted by a Producer or Wholesaler, Practices Permitted by a Wholesaler, and Standards for Exemption of an Unlicensed Business) require further revisions based on divergent perspectives in the industry. The director has facilitated several meetings. It is expected that the NSPR will be finalized and ready to file with the secretary of state's office and the governor's regulator review council by September 15, 2013.

Events

The National Liquor Law Enforcement Association (NLLEA) held the 2013 Annual Conference in Phoenix beginning Wednesday, July 31 and ending on August 2, 2013. Co-hosted by Arizona Department of Liquor Licenses and Control, the conference was attended by law enforcement personnel from across the U.S., Canada, and Sweden. The conference is expected to bring at least 100 participants to Arizona, which should generate revenue for businesses within the state.

END OF DLLC JULY 2013 REPORT TO THE GOVERNOR