

GOVERNOR'S MONTHLY REPORT

November 2014

(Revised 9/17/15)



STATE OF ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL

John Cocca, 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 May of 2003. This program provides the resources necessary for the department 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 CUB to attempt to purchase liquor. CUBs are between the ages of sixteen (16) and nineteen (19) who are 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.

In November 2014, DLLC conducted investigations of thirteen (13) liquor-licensed establishments in Tucson, Phoenix, Surprise, Tempe, and Scottsdale. Four (4) CUBs were used. Six (6), or forty-six (46.2%) percent, of these establishments sold alcohol to a CUB resulting in thirteen (13) administrative violations and ten (10) criminal citations. All thirteen (13) locations were investigated in response to complaints received by DLLC.

Since the inception of the program, three thousand six hundred sixty-five (3,665) establishments have been investigated and one thousand one hundred forty-nine (1,149) or thirty-one (31.4%) percent have sold to CUB buyers resulting in two thousand seven hundred fifty-seven (2,757) administrative violations and two thousand two hundred thirty-four (2,234) 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	310	98	32	220	143
2014	172	72	42	169	114

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:

- Lawrence-Dunham Grand Opening, Arizona Wine Grower's Association – director and communications director participated
- Governor's Office of Highway Safety DUI Holiday Task Force Kick Off – director and communications director participated
- Parent & Teen Drinking, West Valley Rotary – communications director facilitated
- Elisa Cane, National Restaurant Association – communications director participated
- ASAP Program Inventory Workgroup – assistant director of administration participated
- Equal Opportunity Action Meeting – assistant director of administration participated
- Senate & House Commerce Committees – assistant director of administration attended

Law Enforcement Special Detail:

- CUB – Investigator Palubeskie conducted two and Investigator Gothelf conducted one
- U of A Homecoming Events – Investigator Carruthers, Investigator Sanchez and Investigator Gothelf
- Cardinal Game – Investigator Trevizo
- Completed 39 site inspections and Title 4 Training management – Ms. Strickland
- Trade Practice Investigations, Title 4 Training management, and Liquor Law update classes – Investigator Miller
- Vehicle and RV maintenance – Investigator Trevizo completed
- Title 4 Training – Investigator Webb taught 4 classes with 40 Attendees
- Fake ID Training – Investigator Webb taught 3 classes with 37 Attendees
- Title 4 Training – Investigator Sanchez taught 11 Officers
- Title 4 Training – Investigator Zacarias taught one class
- Youth Alcohol details – entire division
- Out-of-area complaints – 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 law) and all Arizona Administrative Code Rules established by the DLLC.

Investigators completed two hundred forty-three (243) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in seventy-eight (78) criminal citations and forty-seven (47) 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 1:860.

Total investigative actions taken this month were one thousand one hundred five (1,105), which is a decrease of seventeen (17.2%) percent when compared to the one thousand three hundred thirty-five (1,335) investigative actions taken in November 2013.

Achievements:	Current Month	Total FY 2015	1 Year Ago This Month	Total FY 2014
Routine Liquor Inspections Completed	243	1,325	305	3,434
Criminal Citations Issued	78	287	132	1,254
Criminal Counts Charged	137	520	NA	NA
Administrative Counts Charged	47	467	95	1,473
Hidden Ownerships Completed	0	8	3	24
Site Inspections Completed	19	113	26	297
Non-Actioned (criminal) Complaints	23	178	58	507
Actioned (administrative) Complaints	5	49	9	120
Compliance Case Reports Submitted	18	177	42	648
On-view Violation Case Reports	11	95	32	341
Law Enforcement Liaison Completed	56	337	77	836
Tax Deficiency Charges	31	130	16	277
MVD Affidavit/Suspension	18	71	18	132
Underage Investigations Statistics:				
Citations Issued to Underage	59	211	89	981
Total Violations	121	446	116	1,312
Total Achievements: (including police report reviews and completed protests not listed above)	1,105	5,852	1,335	15,794

The number of citations DLLC investigators issued to underage persons decreased twenty-one (33.7%) percent and the total number of violations increased four (4.3%) percent compared to November 2013.

SUCCESS STATISTICS
Investigations (continued)

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	2	1	11	22	24

Underage persons who are cited for consuming appear to be closer to the legal drinking age. Of the citations issued to underage persons, forty (40.0%) percent were within one year and thirty-seven (36.7%) percent were within two years of the legal drinking age.

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2015	1 Year Ago This Month	# of Citations Issued in FY 2014
A.R.S. § 4-241.A Failure to Check ID	7	33	5	53
A.R.S. § 4-241.L Use of false ID to buy alcohol	18	71	12	62
A.R.S. § 4-241.M Underage solicits third party buyer	8	18	3	24
A.R.S. § 4-241.N Use of false ID to enter premises	0	5	1	54
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	63	188	45	127
A.R.S. § 4-244.41 Alcohol in system of underage	22	85	30	375
A.R.S. § 13-2907.01 Providing false information to state	0	45	0	15
A.R.S. § 28-3478.1 Unlawful use of driver's license	10	34	6	44
A.R.S. § 28-3478.3 Using another person's driver's license	0	12	4	46

The number of citations issued due to furnishing alcohol to an underage, underage in possession, and consumption increased forty (40.0%) percent in November 2014 from November 2013. The number of citations issued for alcohol in the system of underage persons decreased twenty-seven (26.7%) percent in November 2014 compared with November 2013. The number of citations issued due to use of false ID to buy alcohol increased fifty (50.0%) percent. The number of citations issued due to unlawful use of a driver's license increased sixty-seven (66.7%) percent in November 2014 from November 2013.

SUCCESS STATISTICS LIQUOR LICENSE AUDITS

Currently there are one hundred sixty-five (165) active Series 11 (hotel/motel) licenses and three thousand four hundred eleven (3,411) active Series 12 (restaurant) licenses statewide. Compared to November 2013, the number of hotel/motel with restaurant licenses decreased by three (3) or two (1.8%) percent, and the number of restaurant licenses increased by thirty-six (36) or one (1.1%) percent.

DLLC employs two (2) full time auditors. With a total of three thousand five hundred fifty-six (3,556) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,778.

Audit Status	Current Month	This Month Last Year
Audits closed	7	7
Audits initiated	5	7
Audits in progress	14	16
Open cases w/projected ratio of >37%	7	12
Open cases w/projected ratio between 30 to 37%	7	3
Open cases w/projected ratio of <30%	0	1
Locations granted 1 year to continue operation	0	1
Locations being monitored	60	82

During November 2014, seven (7) audits were completed in Maricopa and Pima Counties, which resulted in actionable violations in five (5) cases. On November 30, 2014, there were fourteen (14) audits in progress and sixty (60) locations being monitored.

Audit Action	Current Month	Total FY 2015	This Month Last Year	Total FY 2014	Total 2003 To Present
Audits completed	7	35	7	92	754
Audits passed	5	19	6	69	402
Audits failed	1	10	1	17	274
Inconclusive	1	6	0	6	72
Other charges only	0	0	0	0	6

In November 2014, audit fines assessed from violations totaled four thousand three hundred seventy-five (\$4,375) dollars. Compared to November 2013, total audit fines assessed from violations decreased by two thousand one hundred twenty-five (\$2,125) dollars.

The Audit Unit is now conducting audit training/workshops. Licensees may gain information on how to prepare for an audit by using this link to the DLLC website http://www.azliquor.gov/contact_audit.cfm.

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2015	1 Year Ago This Month	Total FY 2014
Fines Assessed	\$4,375	\$17,825	\$6,500	\$50,300
Continuation License (Grill Bill) Revenue	\$0	\$0	\$0	\$120,000

Audit statistics since FY 2007 are noted below:

Year	Audits Completed	Revenues Collected	Average Fine per Audit (does not include continuation license fees)
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	92 audits	\$49,625	\$539
FY 2015	35 audits	\$22,200	\$634

Online Sampling Requests:

Prior to June 1, 2014, the Audit Unit reviewed, processed, and tracked all requests by hand for distributors seeking to hold a sampling at Series 9 (Liquor Store) and Series 10 (Beer and Wine Store) establishments. In recent years, the amount of sampling requests received had been increasing substantially.

DLLC instituted online sampling requests effective June 1, 2014. The online process allows distributors to enter their own sampling data. The system then verifies whether (1) there are other sampling events at the same location on the same date, (2) the distributor has not exceeded its twelve (12) sampling events per establishment per year, and (3) the establishment is an approved sampling location. If the system determines the sampling request meets all of the requirements, the sampling event is booked, an email along with a "Notice of Sampling" credential is sent to the distributor, and a notification email is sent to the retail location.

During the month of November 2014, there were forty-three (43) sampling requests entered into and approved by the new online system. Of these sampling requests two (2) were cancelled.

Since the beginning of FY 2015, two thousand nine hundred eighty-six (2,986) sampling requests were entered into and approved by the online system. Of these sampling requests, ninety-four (94) were cancelled, saving the Audit Unit and the Department over one hundred forty-nine (149) hours.

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 2015	1 Year Ago This Month	Total FY 2014
Revocations	0	0	0	1
Suspensions	0	0	0	1
Surrenders	2	5	1	6
Divestitures	0	2	0	2
Administrative Complaints	0	1	1	5
Decisions & Orders	0	0	0	6
Cases Received	74	330	61	856
Cases Completed	19	76	22	183
Cases in Progress	55	254	39	672
Warning Letter Issued	1	8	6	41
Cases Sent to OAH	1	2	0	7

Economic Impact:

Fines collected during the month totaled twenty-one thousand seven hundred (\$21,700) dollars from thirty-five (35) adjudicated compliance actions. Compared to last month, October 2014, this represents a fifty-six (55.9%) percent decrease in collected revenues and a twenty-one (20.5%) percent decrease in the number of compliance actions processed. Compared to November 2013, this represents a eighteen (18.4%) percent decrease in collected revenues and a ten (10.3%) 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 the 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.

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	500	\$473,910	\$948
2014-2015	211	\$184,665	\$875

SUCCESS STATISTICS
Compliance (continued)

Adjudicated Underage Violations:

Statute	Definition	Adjudicated This Month	TOTAL FY 2015	1 Year Ago This Month	TOTAL FY 2014
A.R.S. § 4-241.A	Failure to Check ID	6	41	4	58
A.R.S. § 4-244.1	Unlicensed Resale	1	7	2	5
A.R.S. § 4-244.9	Furnish alcohol to an underage	6	40	4	65
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	1	1	5

To date during FY 2015, fines from adjudicated underage violations total forty-one thousand one hundred twenty-five (\$41,125) dollars.

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	\$80,625	1	2
2015	\$41,125	0	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 2015	1 Year Ago This Month	Total FY 2014
Hearings Scheduled	9	21	2	42
Licenses Granted	1	5	2	13
Licenses Denied	1	4	0	9
Continuances Granted	2	5	0	11
Continuances Denied	0	1	0	1
Licenses Withdrawn	3	5	0	5
Appeals Heard	0	0	0	2
Rehearings Requested	1	1	0	1
Hearings Cancelled by Director	1	2	0	1

There were nine (9) hearings scheduled before the State Liquor Board in November. Prior to the November meeting, one (1) hearing was cancelled by the Director and two (2) hearings were continued to the January meeting. Three (3) license applications were withdrawn at the hearing. One (1) original application for beer and wine store liquor license (series 10) was granted. One (1) original application for restaurant liquor license (series 12) was denied. One (1) request for rehearing was denied.

STATE LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi (R)	Chairman Maricopa County No Financial Interest	Term Expires January 19, 2015
Cyndy Valdez (R)	Vice Chairman Pima County Wholesaler	Term Expires January 16, 2017
Bill Du Pont (D)	Pima County Neighborhood Association	Term Expires January 18, 2016
Vikki Scarafiotti (D)	Maricopa County No Financial Interest	Term Expires January 16, 2017
Robin Cantrell (I)	Graham County Retailer	Term Expires January 19, 2015
Jim Carruthers (R)	Yuma County No Financial Interest	Term Expires January 19, 2015
Pud Colquitt (R)	Coconino County No Financial Interest	Term Expires January 18, 2016

SUCCESS STATISTICS LICENSING DIVISION

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 this month last year, November 2013, the number of new liquor licenses issued in Arizona increased twenty-one (21.3%) percent and the number of active licenses increased one (1.3%) percent. Also, compared with November 2013, monthly licensing revenues have increased sixty-eight (68.0%) percent from three hundred twelve thousand three hundred forty-nine (\$312,349) dollars during this time last year to five hundred twenty-four thousand six hundred ninety-one (\$524,691) dollars during the current month.

In November 2014, seven (7) exempt locations were approved which brings the total active exempt locations in Arizona to ninety-four (94). An exempt location is an establishment that has: (1) met the criteria established in A.R.S. §4-244.05 and A.A.C. R19-1-113; (2) made application for the exemption; (3) been inspected by a DLLC investigator; and (4) been issued a one-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total FY 2015	1 Year Ago This Month	Total FY 2014
New licenses issued	108	591	89	1,629
Renewed licenses	1,520	4,968	1,097	11,645
Lottery licenses issued	1	8	0	1
Collected Lottery Revenues	\$35,375	\$654,375	\$0	\$3,300
Number of Active Liquor Licenses	12,039	12,039*	11,879	11,919*
Exempt Locations Issued	7	35	11	91
Number of Exempt Locations	94	94**	89	92**
Collected Licensing Revenues (including lottery revenues)	\$524,691	\$3,455,506	\$312,349	\$6,448,750

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

**This number fluctuates daily depending on renewals and new applications.

Collected Revenue by Fee Type in November 2014

Fair Market Value	35,375
Applications	9,050
License Fees	120,705
Out-of-State	110,638
Agent Change	6,350
Fines	20,450
Special Event	3,775
Club	1,050
Penalties	4,650
Copy Fees	3,232
Non-Use Surcharge	107,100
Audit Surcharge	420
Enforcement K Surcharge	48,825
Enforcement L Surcharge	48,750
Miscellaneous	10

TOTAL REVENUES COLLECTED **\$ 520,379**
(fingerprints) **4,312**

TOTAL REPORT **\$ 524,691**

WHAT'S NEXT AT DLLC?

Upcoming Events and Milestones

Direct-to-Consumer Sales

The Department of Liquor has received numerous inquiries regarding what constitutes lawful direct-to-consumer liquor sales and shipments. The purpose of this Industry Notice is to clarify when direct-to-consumer liquor sales and shipments are lawful.

For your convenience, statutory references are included and can be reviewed using this link: <http://www.azliquor.gov/LiquorLaws/Title4.cfm>.

Only under the following, specific, circumstances may consumers lawfully receive liquor shipped to a private residence or business located within Arizona:

Persons age 21 or older may receive liquor in the original, sealed container when it is shipped to either a

1. private Arizona residence or
2. non-liquor licensed Arizona business location

when the liquor is shipped by one of two (2) Arizona-liquor licensed business (operating within or out of Arizona)

- a. farm winery that produce less than 20,000 gallons per calendar year (A.R.S. §4-205.04(C)(9)) or
- b. craft distiller that produce less than 1,189 gallons per calendar year (A.R.S. §4-205.10(C)(7)).

NOTE FOR HOLDERS OF AN ARIZONA DIRECT SHIPMENT LICENSE (SERIES 17): A producer that holds an Arizona direct shipment license may accept orders from consumers and deliver the order to an Arizona- licensed wholesaler and then on to an Arizona-licensed retailer with off-sale privileges where the consumer may pick up the order or have it delivered (A.R.S. §4-203.04(G)).

Direct shipment of wine (*not* beer or spirits) to consumers is allowed without an Arizona liquor license in limited situations, including when:

- a. the person was physically present at the winery when placing the order AND
- b. the shipment is no more than two (2) cases per customer per calendar year (A.R.S. §4-203.04(J)).

If you have questions, please contact the Department of Liquor at 602-542-5141, or visit this link on the website: http://www.azliquor.gov/faq/internet_sales.cfm.

Private Parties

Private parties (held on residential or business properties) are required to comply with Arizona liquor laws and the local social host ordinance. One of the most common violations is the collection of, or request for, a donation or cover charge. When guests are charged to attend a party that provides alcohol the host is dealing in liquor, which is against the law without a liquor license. Officers from the Department of Liquor and local law enforcement liquor liaisons conduct compliance checks at private parties.

Another common violation that occurs at parties held at a private residence is the service of alcohol to persons under the age of 21. It is illegal to provide liquor to someone under age 21. If a person is under age 21, it is illegal for them to have liquor in their possession or in their system. The person providing the liquor or the underage consuming the liquor can be arrested and face Class 1 or Class 2 misdemeanor charges. Depending on the age and the number of previous arrests, misdemeanors can carry fines of up to \$2,500, a maximum of 12 months in jail, and driver license suspension of up to 12 months.

END OF DLLC NOVEMBER 2014 REPORT TO THE GOVERNOR