

GOVERNOR'S MONTHLY REPORT  
FEBRUARY 2011



STATE OF ARIZONA  
DEPARTMENT OF LIQUOR LICENSES AND CONTROL  
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**GRANTS & FUNDING**  
**Liquor Enforcement & Education Outreach Grant**  
**CUB (Covert Underage Buyer) Program**

In an effort to curb the sale of liquor to underage persons, the Covert Underage Buyer (CUB) program was instituted in 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 DLLC has reasonable suspicion that a liquor-licensed establishment is selling liquor to underage customers, the agency will send in a covert underage buyer, or CUB, to attempt to purchase liquor. The CUBs are between the age fifteen (15) and nineteen (19), and are carefully trained by DLLC investigators to understand and follow state laws, including DLLC's CUB investigations guidelines. DLLC provides CUB program training to all Arizona law enforcement agencies, allowing the program to operate statewide.

In February 2011, using one (1) CUB and two (2) officers, DLLC conducted investigations of eight (8) liquor-licensed establishments. Five (5), or sixty-three (63%) percent, of these establishments sold alcohol to a (CUB) resulting in five (5) criminal and ten (10) administrative violations. Establishments were located in Litchfield Park, Phoenix, Tempe, and Tolleson. All eight (8) locations were investigated in response to complaints received by DLLC.

In February 2011, DLLC saw an increase of seventeen (17%) percent in liquor sales to the CUB compared to the previous month, February 2010. This represents a fifty (50%) percent increase in sales to the CUB compared to February 2010.

Since the inception of the program, two thousand seven hundred fifty-five (2,755) establishments have been investigated and eight hundred fifty (850) or thirty-one (30.8%) percent have sold to CUB buyers resulting in one thousand nine hundred sixty-two (1,962) administrative violations and one thousand seven hundred twenty-six (1,726) 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>	19	10	53%	21	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 February 2004 to develop a system of effective and rapid communication between local law enforcement and emergency medical services (EMS) personnel in high-profile cases which involve underage drinking. Each TRACE case is concluded only when the source of liquor is traced back to the supplier and the supplier is charged with a criminal and/or administrative violation.

TRACE is a statewide operation with one (1) full time investigator available for immediate response to alcohol-related emergencies which involve an underage person(s).

**TRACE Program Statistics**

<b>Calendar Year</b>	<b>Total # of Cases</b>	<b>Administrative Violations</b>	<b>Criminal Violations</b>
<b>2005</b>	11	5	3
<b>2006</b>	11	24	12
<b>2007</b>	4	9	6
<b>2008</b>	6	6	3
<b>2009</b>	8	20	4
<b>2010</b>	5	13	4
<b>2011</b>	0	0	0

Investigator Palubeskie is currently working on one (1) 2009 TRACE case and two (2) 2010 TRACE cases. To complete these cases, DLLC requires additional information which will be provided by local law enforcement agencies. Five (5) cases were completed in calendar year 2010 resulting in thirteen (13) administrative and four (4) criminal violations. No new TRACE cases have been opened in calendar year 2011 to date.

## 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 of February 2011:**

Address Sedona 30 – Director participated  
Interview KRVD Radio, Cottonwood – Director participated  
Arizona Food Marketing Alliance Legislative Reception – Director & Comm. Dir. participated  
Keep America Safe – Deputy Director participated  
Leadership Principals for Law Enforcement – Deputy Director participated  
Charitable Contributions Stakeholder Meeting – DLLC leadership participated  
Omnibus Bill (SB 1460) Stakeholder Meeting - Deputy Director participated

#### **February 2011 Law Enforcement Special Detail:**

Field Officer Training (FTO)– Palubeskie  
High Intensity Drug Trafficking Area (HIDTA) – Ribera  
Governor's Office of Highway Safety Title 4 & Fake ID Training – Miller  
Waste Management Open – all officers  
Out-of-Area Complaints – all officers

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**SUCCESS STATISTICS**  
**Investigations**

In February 2011, investigators completed one hundred thirty-seven (137) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred fourteen (114) criminal citations and nine (9) administrative violations. The following success statistics were completed by a staff of ten (10) fulltime, sworn officers (one in his last month of training) who uphold a statewide officer-to-liquor license ratio of 1:1,145.

DLLC realized an increase in total investigative achievements during February 2011 of twenty-three (22.6%) percent compared to February 2010. Since January 2007, DLLC's Investigations Division has experienced a staff reduction of fifty (50%) percent. On January 3<sup>rd</sup>, 2011, DLLC hired a new investigator increasing the number of fulltime investigators to ten (10), down from twenty (20) at this time in 2007. During the months of November and December 2010, three (3) grants awarded to DLLC by the Governor's Office of Highway Safety (GOHS), which collectively total eighty thousand (\$80,000) dollars. These grants are funding overtime for underage drinking enforcement, in addition to the materials, travel expense and overtime required for DLLC officers to facilitate Title 4 and fake ID training. In 2008, due to the onset of the budget crisis and the sweeping of DLLC funds, the Investigations Division had to eliminate overtime, travel, and hiring.

<b>Achievements</b>	<b>Current Month</b>	<b>Total FY 2011</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Hidden Ownerships Completed	3	9	0	17
Site Inspections Completed	29	491	50	653
Actioned (administrative) Complaints	10	70	9	128
Non-Actioned (criminal) Complaints	70	370	40	408
Administrative Counts Charged	147	961	107	1,615
Criminal Charges Issued	75	697	75	969
Routine Liquor Inspections	297	1,671	269	2,954
Compliance Case Reports Submitted	120	408	40	469
On-view Violation Case Reports	113	299	29	312
Law Enforcement Liaison	39	397	58	764

**Underage Investigations Statistics:**

	<b>Current Month</b>	<b>Total FY 2011 YTD</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Citations Issued to Underage	63	411	66	736
Total Underage Violations Cited	69	596	101	721
<b>Total Achievements</b>	1,035	--	844	--

<b>Current Month</b>	<b>Younger than Age 15</b>	<b>-----Age-----</b>					
		<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
Age of minor cited	0	0	0	0	9	13	18

## SUCCESS STATISTICS

### Investigations (continued)

The number of citations DLLC investigators issued to underage persons decreased by five (4.54%) percent and total number of underage violations written by DLLC investigators decreased by seventeen (16.8%) percent compared to February 2010.

<b>Statute/ Definition</b>	<b># of Citations issued this month</b>	<b>Total FY 2011 YTD</b>	<b>1 Year Ago This Month</b>	<b># of Citations issued in FY '10</b>
<b>A.R.S. § 4-241.A</b> Failure to Check ID	5	69	8	99
<b>A.R.S. § 4-241.L</b> Sold to CUB	0	70	0	54
<b>A.R.S. § 4-241.N</b> Use of false ID to enter premises	7	7	9	65
<b>A.R.S. § 4-244.1</b> Unlicensed Resale	0	4	5	29
<b>A.R.S. § 4-244.9</b> Furnishing alcohol to an underage	37	330	36	467
<b>A.R.S. § 4-244.22</b> Consuming w/o permission of premises owner	0	16	1	15
<b>A.R.S. § 4-244.33</b> Underage DUI	0	0	0	0
<b>A.R.S. § 4-244.40</b> Alcohol in system of underage	0	0	5	73
<b>A.R.S. § 4-244.41</b> Accept \$ to allow underage in bar	17	0	n/a	57
<b>A.R.S. § 13-2907.01</b> Providing false information to state	0	0	0	0
<b>A.R.S. § 13-3478</b> Unlawful use of a license	0	0	0	0
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver's license	0	27	0	1
<b>A.R.S. § 28-3478.3</b> Using another person's driver's license	3	6	2	35

**SUCCESS STATISTICS**  
**Liquor License Audits**

To regulate licensed liquor establishments holding a series 11 (hotel/motel with restaurant) or series 12 (restaurant) liquor licenses, DLLC conducts audits to determine the required 40:60 food-to-liquor sales ratio is being maintained.

Currently there are one hundred sixty-six (166) active series 11 licenses and three thousand two hundred seventeen (3,217) active series 12 licenses statewide. Compared to February 2010, the number of hotel/motel with restaurant licenses has decreased by one (1) license and the number of restaurant licenses has increased by fifty-five (55).

Prior to August 2009, DLLC employed three (3) fulltime auditors. Today DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred eighty-three (3,383) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,692.

<b>Number of Cases Now Open For Audit</b>	<b>Current Month</b>	<b>This Month Last Year</b>
Audits in progress	15	15
Audits closed	6	7
Audits initiated	5	8
Open cases w/projected ratio of >37%	6	4
Open cases w/projected ratio between 30 to 37%	7	8
Open cases w/projected ratio of < 30%	2	1
Locations granted 1 year to continue operation	0	0
Locations being monitored	99	88

In February 2011, six (6) audits were closed and five (5) audits were initiated (audit considered initiated after an appointment date is set to pick up accounting records). Of the six (6) audits completed this month, five (5) revealed actionable violations. During the month of February 2011, audits were completed in Maricopa and Mohave Counties.

	<b>Current Month</b>	<b>Total YTD FY 2011</b>	<b>This Month Last Year</b>	<b>Total FY 2010</b>	<b>Total 2003 - Present</b>
Audits completed	6	48	7	87	411
Audits passed	3	21	2	51	171
Audits failed	3	25	4	30	189
Inconclusive	0	2	1	6	46
Other charges only	0	0	0	0	5

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

**Audit statistics beginning on February 1, 2003 to present are:**

<b>Year</b>	<b>Audits Completed</b>	<b>Revenues Collected</b>	<b>Average Fine Per Audit</b>
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 YTD	48 audits	\$58,550	\$1,220

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 nine (9) continuation licenses total two hundred seventy thousand (\$270,000) dollars. During FY 2011, DLLC has collected one hundred twenty thousand (\$120,000) dollars from the issuance of four (4) continuation licenses. One (1) continuation license application is in pending status at this time.

Revenue collected by the department for audit-related violation fines during the month of February 2011 is fifteen thousand five hundred (\$15,500) dollars. Audit fines assessed during the month of February 2011 total thirteen thousand five hundred (\$13,500) dollars. Total fines collected to-date in FY 2011 total seventy-three thousand five hundred fifty (\$73,550) dollars.

**Audit Revenue 2-year Comparison**

	<b>Current Month</b>	<b>Total FY 2011 YTD</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Fines Collected	15,500	58,550	2,000	81,750
Fines Assessed	13,500	73,050	7,750	88,200
Continuation License (Grill Bill) Revenue	--	120,000	0	0
Pending Continuation Licenses (Grill Bill)	1	--	2	--

**SUCCESS STATISTICS**  
**Compliance**

<b>Achievements:</b>	<b>Current Month</b>	<b>Total YTD FY 2011</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Revocations	0	5	0	10
Suspensions	0	4	0	31
Surrenders	1	10	1	26
Divestitures	0	2	0	6
Administrative Complaints	1	8	1	67
Decisions & Orders	0	8	0	27

<b>Newly Tracked Achievements:</b>	<b>Current Month</b>	<b>Total YTD FY 2011</b>
Cases Received	74	394
Cases Completed	18	190
Cases in Progress	56	204
Warning Letter Issued	5	37
Cases Sent to OAH	1	4

**Economic Impact:**

The Compliance Unit collected fines which total fifty-three thousand two hundred seventy-five (\$53,275) dollars from thirty-six (36) compliance actions processed and adjudicated between February 1 and February 28, 2011. Compared to February 2010, this is a thirty-four (33.7%) percent increase in compliance collections and a thirty-six (36.3%) percent increase in the number of compliance actions processed.

A penalty fine payment plan, introduced in 2009, 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 compliance 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.

	<b>Current Month</b>	<b>Total YTD FY 2011</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Fines collected	\$53,275	\$442,734	\$37,475	\$705,725
Cases adjudicated	36	267	28	415

<b>Fiscal Year</b>	<b>Compliance Actions</b>	<b>Revenues Collected</b>	<b>Average Fine Per Action</b>
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 YTD	267	\$442,734	\$1,658

**SUCCESS STATISTICS**  
**Compliance (continued)**

<b>Adjudicated Underage Violations Statute</b>	<b>Definition</b>	<b>Adjudicated This month</b>	<b>1 Year Ago This Month</b>	<b>FY2011 YTD</b>
A.R.S. § 4-241.A	Failure to Check ID	0	1	32
A.R.S. § 4-241.L	Sold to CUB	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	3
A.R.S. § 4-244.9	Furnish alcohol to an underage	0	1	33
A.R.S. § 4-244.16	knowingly allow furnishing liquor to underage	0	0	0
A.R.S. § 4-244.22	Consume w/o permission of premises owner	0	0	3
A.R.S. § 4-244.33	Underage DUI	0	0	0
A.R.S. § 4-244.40	Alcohol in system of underage	0	0	0
A.R.S. § 13-2907.01	Provide false information to state	0	0	0
A.R.S. § 28-3478.1	Unlawful use of driver's license	0	0	0
A.R.S. § 28-3478.3	Use another person's driver's license	0	0	0

In FY 2010, fines from adjudicated underage violation totaled three hundred sixty-five thousand eight hundred seventy-five (\$365,875) dollars. Of the forty-seven licenses which were suspended in FY 2010, four were suspended due to underage violations and one (1) was revoked.

**Compliance Statistics Resulting From Underage Violations**

<b>Fiscal Year</b>	<b>Fines Collected</b>	<b>Licenses Suspended</b>	<b>Licenses Revoked</b>
2010	\$365,875	4	1

**SUCCESS STATISTICS**  
**Arizona Liquor Board**

<b>Achievements:</b>	<b>Current Month</b>	<b>Total YTD FY 2011</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
Hearings Scheduled	5	65	4	107
Licenses Granted	3	19	1	40
Licenses Denied	0	10	1	19
Continuances Granted	2	27	2	29
License Withdrawn	0	7	0	15
Hearing Vacated, No Action Required	0	0	0	0
Hearing Removed From Agenda	0	0	0	0
Rehearing Requested	0	0	0	2
Exemption Received	0	0	0	0
Appeals Heard	0	2	0	2

During the month of February 2011, one hundred (100%) percent of license application in protest were granted and no protested applications were denied. To date in FY 2011, the Board has granted sixty (60%) percent of the licenses protested and denied forty (40%) percent.

**ARIZONA LIQUOR BOARD MEMBERS AND TERMS**

J.D. Ghelfi, Member (R)	Arizona Liquor Board Vice Chair Maricopa County No Financial Interest	Term Expires February 16, 2012
Bill DuPont (D)	Arizona Liquor Board Member Pima County Neighborhood	Term Expires January, 21, 2013
Jim Carruthers (R)	Arizona Liquor Board Member Yuma County No Financial Interest	Term Expires January 16, 2012
Tim Linden (R)	Arizona Liquor Board Member Graham County Wholesaler	Term Expires January 20, 2014
Robin Cantrell (I)	Arizona Liquor Board Member Graham County Retailer	Term Expires January 16, 2012
Michael Farley (R)	Arizona Liquor Board Member Pima County Business Consultant	Term Expires February 21, 2013
Vikki Scarafiotti (D)	Arizona Liquor Board Member Maricopa County No Financial Interest	Term Expires January 20, 2014

**SUCCESS STATISTICS**  
**Licensing**

Compared to February 2010, the number of new liquor license issued in Arizona has decreased by twelve (12.2%) percent, renewals have decreased by thirteen (12.9%) percent, and the number of active licenses has increased by two (2.2%) percent.

In comparison to February 2010, monthly licensing revenues (which include lottery collections) have decreased by twelve (12.3%) percent from four hundred twenty-eight thousand forty-two (\$428,042) dollars at this time last year to three hundred seventy-five thousand one hundred twenty-eight (\$375,128) dollars during the current month.

<b>Achievements: Licensing</b>	<b>Current Month</b>	<b>Total YTD FY 2011</b>	<b>1 Year Ago This Month</b>	<b>Total FY 2010</b>
<b>New licenses issued</b>	150	1,340	171	2,114
<b>Renewed licenses</b>	470	8,880	540	11,162
<b>Lottery licenses issued</b>	0	20	2	35
<b>Collected Lottery Revenues:</b>	\$ 0	\$ 2,388,180	\$ 46,017	\$ 562,824
<b>Number of Active Liquor License:</b>	11,446	n/a	11,195	n/a
<b>Collected Licensing Revenues (including lottery revenues):</b>	\$ 375,128	\$ 6,192,765	\$ 428,042	\$6,503,816

**Collected Revenue By Fee Type in February 2010**

Fair Market Value	47,817
Applications	11,300
License Fees	159,200
Out-of-State	0
Agent Change	4,350
Fines	49,950
Special Event	6,125
Club	4,200
Penalties	12,900
Copy Fees	131
Non-Use Surcharge	21,900
Audit Surcharge	14,460
Enforcement K Surcharge	19,005
Enforcement L Surcharge	18,780
Miscellaneous	10
<b>TOTAL REVENUES COLLECTED</b>	<b>\$ 370,128</b>
<b>(fingerprints)</b>	<b>5,448</b>
<b>TOTAL REPORT</b>	<b>\$ 375,576</b>

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

### FY 2011 Liquor License Lottery

February 25, 2011 marked the deadline for DLLC to collect the remaining balances due for license application received in the FY 2010 lottery. A final figure of two million three hundred eighty-eight thousand one hundred eighty (\$2,388,180) dollars in FY 2010 lottery revenue was collected by DLLC, all of which has been deposited into the state's General Fund.

Looking toward an FY 2011 lottery, law provides that DLLC conduct an annual lottery based on population estimates generated by the Department of Commerce (DOC). The estimate determine the number of new licensees to be offered in a lottery. Because DOC has been dissolved, no population estimates are available for FY 2010. An FY 2011 lottery is not expected to be held.

### eLicensing

DLLC's eLicensing Information System (ELIS) is being developed in collaboration with GITA and NIC/CAVU. As a result of staff and funding reductions experienced by all agencies involved in the project, in addition to incomplete business process functionality of the system, the "go live" date has been postponed and a new implementation date has not been determined. Since hiring a new IT Specialist, contracting a project consultant, and receiving expert advice from GITA and the Registrar of Contractors (ROC), an agency that recently implemented the same eLicensing system, the project is progressing toward a FY 2011 implementation date. ELIS will replace a twenty (20) year old licensing system currently used by DLLC and stakeholders to record and track liquor license activities and violations.

### Legislation

Liquor industry association leaders and DLLC leadership continue to meet to discuss improvements to SB 1460 (an omnibus bill) introduced by the industry to the Fiftieth Legislature - First Regular Session. SB 1460 has passed in the Senate and has been voted out of the House Commerce Committee with a "do pass" recommendation. The liquor industry and DLLC agree that the bill requires additional amendments.

### Resume Newly Proposed Rulemaking

Weeks prior to the January 2008 Regulatory Review Plan Moratorium, DLLC submitted a complete rules rewrite to the Governor's Regulatory Review Counsel. In August 2010, DLLC requested an exemption to the moratorium. In response to that request, the Governor's Office required evidence of industry collaboration and support, and DLLC's agreement that any rules proposed would not impose additional or undue burdens on businesses. After DLLC's response to these requirements, the Governor's Office granted DLLC a limited "go ahead" to proceed with a rewrite with the possibility of the Governor's Office reversing the "go ahead" at any time.

### Staffing

Due to resignation, the Licensing Division lost a customer service representative (CSR) which decreased the total number of CSRs to five (5) who serve the 11,500 active liquor licenses in Arizona. From ADOA, DLLC has recommended that solicitation for a replacement begin immediately. A response is expected shortly.