

GOVERNOR'S MONTHLY REPORT

MAY 2012



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 age of fifteen (15) and nineteen (19), and are carefully trained by DLLC investigators to understand and follow state laws, including DLLC's CUB investigations guidelines. DLLC provides CUB program training to all Arizona law enforcement agencies, allowing the program to operate statewide.

DLLC conducted investigations of twenty-seven (27) liquor-licensed establishments using four (4) CUBs. Seven (7), or twenty-six (25.9%) percent, of these establishments sold alcohol to a (CUB) resulting in sixteen (16) criminal and eighteen (18) administrative violations. All twenty-seven (27) locations were investigated in response to complaints received by DLLC.

DLLC saw an increase of one hundred thirty-three (133.3%) percent in the number of establishments (7) that sold to CUBS compared to the previous month, April 2012 (3). There was a seventy-five (75.0%) percent increase in the number of establishments that sold to CUBs when compared to May 2011 (4).

Since the inception of the program, three thousand sixty-two (3,062) establishments have been investigated and nine hundred twenty-eight (928) or thirty (30.3%) percent have sold to CUB buyers resulting in two thousand two hundred eleven (2,211) administrative violations and one thousand eight hundred fifty (1,850) 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	94	31	33	68	66

An Underage Drinking Hotline is in operation for concerned citizens to call when underage drinking, service, or sales are suspected. With each complaint DLLC launches an investigation. The Underage Drinking Hotline number is 1-877-NOT-LEGL or 1-877-668-5345.

GRANTS & FUNDING
LIQUOR ENFORCEMENT & EDUCATION OUTREACH GRANT
TRACE (TARGET RESPONSIBILITY FOR ALCOHOL CONNECTED EMERGENCY)

The TRACE (Target Responsibility for Alcohol Connected Emergency) program began in June 2004 to develop a system of effective and rapid communication between local law enforcement and emergency medical services (EMS) 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	2	8	0

Two (2) TRACE case were closed this month and resulted in four (4) administrative violations. There were no new TRACE cases opened.

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:

- Liquor Industry Forums in Tucson and Phoenix- Director, Asst. Director of Administration, Asst. Director of Licensing, and Communications Director attended and instructed
- Underage Drinking Prevention Statewide Planning Meeting – Investigations Sgt and Communications Director participated
- Law Enforcement Brand Marketing FBI Presentation - Communications Director participated
- 2012 Liquor License Lottery Random Selection Drawing – DLLC leadership conducted

Law Enforcement Special Detail:

- Phoenix PD HIDTA assignment-Ribera
- 2 CUB details-Palubeskie and Turner
- 40 backgrounds completed-Turner
- MVD Fraud Documents School-Ribera
- Lake detail and complete vehicle oversight-Trevizo
- Mohave County work-Eaton
- Safford PD and Greenlee County large case work-Miller and Ribera
- Title 4 training in Prescott Valley-Parris and Turner instructed
- Title 4 training in Buckeye-Jaramillo instructed
- Liquor Industry Forum in Tucson and Phoenix-Sgt Kuhl, Sgt Dorn and Miller instructed
- Special detail in Tempe and Phoenix metro area events including West Valley DUI, East Valley DUI, and Memorial Day enforcement
- Special detail in Tombstone

SUCCESS STATISTICS INVESTIGATIONS

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

Investigators completed two hundred fifty-eight (258) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in three and one (301) criminal citations and one hundred forty-nine (149) administrative violations. The following success statistics were completed by a staff of fourteen (14) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:825.

Total investigative achievements were one thousand three hundred seventy-four (1,374) compared to seven hundred seventy-nine (779) in May 2011. DLLC realized an increase in total investigative achievements of seventy-six (76.4%) percent compared to May 2011.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	4	17	0	18
Site Inspections Completed	54	729	55	698
Actioned (administrative) Complaints	13	61	10	102
Non-Actioned (criminal) Complaints	68	412	29	459
Administrative Counts Charged	149	1,505	99	1,425
Criminal Citations Issued	301	1,680	169	1,602
Routine Liquor Inspections Completed	258	2,241	199	2,459
Compliance Case Reports Submitted	64	824	57	686
On-view Violation Case Reports	49	716	53	528
Law Enforcement Liaison Completed	62	913	50	632
Underage Investigations Statistics:				
Citations Issued to Underage	127	872	0	580
Total Violations	225	1,613	58	914
Total Achievements:	1,374	11,583	779	10,103

The number of citations DLLC investigators issued to underage persons increased from 0 to 127 and the total number of violations written by DLLC investigators increased from 58 to 225 compared to May 2011.

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	0	0	1	11	47	68

Of the one hundred twenty-seven (127) citations the DLLC investigators issued to underage persons, sixty-eight (68) were twenty years old, forty-seven (47) were nineteen years old, eleven (11) were eighteen years old, and one (1) was seventeen years old.

SUCCESS STATISTICS
Investigations (continued)

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2012 YTD	1 Year Ago This Month	# of Citations Issued in FY 2011
A.R.S. § 4-241.A Failure to Check ID	10	51	8	113
A.R.S. § 4-241.L Use of false ID to buy alcohol	12	153	7	114
A.R.S. § 4-241.M Underage solicits third party buyer	1	34	n/a	n/a
A.R.S. § 4-241.N Use of false ID to enter premises	13	75	0	7
A.R.S. § 4-244.1 Selling without a license	2	8	0	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	55	540	34	599
A.R.S. § 4-244.20 Consume in a public place	21	51	n/a	n/a
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.41 Alcohol in system of underage	89	519	n/a	n/a
A.R.S. § 4-244.42 Accept \$ to allow underage in bar or sell alcohol to underage	0	0	0	0
A.R.S. § 13-2907.01 Providing false information to state	1	27	n/a	n/a
A.R.S. § 28-3478.1 Unlawful use of driver's license	8	53	6	47
A.R.S. § 28-3478.3 Using another person's driver's license	11	70	1	14

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-two (162) active Series 11 (hotel/motel) licenses and three thousand one hundred eighty-five (3,185) active Series 12 (restaurant) licenses statewide. Compared to May 2011, the number of hotel/motel with restaurant licenses has decreased by two (2) licenses or one (1.3%) percent and the number of restaurant licenses has increased by one hundred and one (101) or three (3.3%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred forty-seven (3,347) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,674.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits closed	8	8
Audits initiated	6	9
Audits in progress	14	15
Open cases w/projected ratio of >37%	6	6
Open cases w/projected ratio between 30 to 37%	7	5
Open cases w/projected ratio of < 30%	1	4
Locations granted 1 year to continue operation	0	1
Locations being monitored	87	87

Eight (8) audits were completed in Maricopa, Mohave and Pima counties which resulted in actionable violations in seven (7) of those cases. There were fourteen (14) audits in progress and eighty-seven (87) locations being monitored. In May 2011 there were eight (8) audits completed, fifteen (15) audits in progress and eighty-seven (87) locations being monitored.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	8	84	8	82	529
Audits passed	5	56	2	38	244
Audits failed	2	19	5	40	223
Inconclusive	1	9	0	3	56
Other charges only	0	0	1	1	6

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics since January 1, 2003 are noted below:

Year	Audits Completed	Revenues Collected	Average Fine per Audit (does not include continuation license fees)
1/1 - 6/30/03	6 audits	--	--
FY 2004	23 audits	--	--
FY 2005	24 audits	--	--
FY 2006	32 audits	--	--
FY 2007	27 audits	\$13,000	\$481
FY 2008	61 audits	\$36,500	\$598
FY 2009	103 audits	\$81,275	\$789
FY 2010	87 audits	\$81,750	\$940
FY 2011	82 audits	\$84,400	\$1,029
FY 2012 YTD	84 audits	\$55,275	\$658

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 fourteen (14) continuation licenses total four hundred twenty thousand (\$420,000) dollars. During FY 2012, thirty thousand (\$30,000) dollars have been collected from the issuance of continuation licenses. There is one (1) continuation license application in pending status at this time.

The department collected revenue for audit-related violation fines totaling one thousand (\$1,000) dollars. Audit fines assessed from violations totaled ten thousand (\$10,000) dollars. Revenue collected from fines to-date in FY 2012 total fifty-five thousand two hundred seventy-five (\$55,275) dollars. Fines assessed from violations to-date in FY 2012 total sixty-five thousand six hundred fifty (\$65,650) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$1,000	\$55,275	\$7,875	\$84,400
Fines Assessed	\$10,000	\$65,650	\$6,125	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$30,000	\$0	\$180,000
Pending Continuation Licenses (Grill Bill)	1	1	1	--

SUCCESS STATISTICS COMPLIANCE

The Compliance Unit governs the dispute-resolution process and imposes disciplinary actions against licensees for violations of State liquor laws. The Compliance unit is responsible for determining an appropriate course of disciplinary action which may consist of verbal or written warnings, consent agreements, or referral for a full administrative hearing.

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Revocations	0	0	0	2
Suspensions	0	4	1	7
Surrenders	0	2	0	13
Divestitures	0	3	1	4
Administrative Complaints	1	5	1	9
Decisions & Orders	1	3	0	8

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	66	818	73	752
Cases Completed	9	193	17	280
Cases in Progress	57	624	56	478
Warning Letter Issued	4	16	2	45
Cases Sent to OAH	1	7	2	6

Economic Impact:

Fines collected totaled twenty-five thousand seven hundred twenty-five (\$25,725) dollars from forty (40) adjudicated compliance actions. Compared to last month, April 2012, this represents a forty-seven (47.4%) percent decrease in collected revenues and a twenty-seven (27.3%) percent decrease in the number of compliance actions processed. Compared to May 2011, this represents a twelve (11.7%) percent decrease in collected revenues and an eighteen (17.6%) percent increase in the number of compliance actions processed.

A penalty fine payment plan gives licensees the option to pay fines in installments rather than in one lump sum. DLLC and the licensee agree to the terms of the payment plan during a negotiation process. Although the payment plan may reduce DLLC's monthly collection of fine revenues in the short term, the long term outcome is intended to keep establishments in business by easing the financial burden of fines during the current economic decline.

Action	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Fines collected	\$25,725	\$374,065	\$29,125	\$598,509
Cases adjudicated	40	435	34	425

SUCCESS STATISTICS
Compliance (continued)

Fiscal Year	Compliance Actions	Revenues Collected	Average Fine Per Action
2002-2003	414	\$445,725	\$1,077
2003-2004	388	\$518,800	\$1,337
2004-2005	431	\$557,725	\$1,294
2005-2006	500	\$689,475	\$1,379
2006-2007	429	\$627,975	\$1,464
2007-2008	334	\$582,350	\$1,744
2008-2009	584	\$886,440	\$1,518
2009-2010	415	\$705,725	\$1,701
2010-2011	425	\$598,509	\$1,408
2011-2012 YTD	435	\$374,065	\$860

Adjudicated Underage Violations

Statute	Definition	Adjudicated This Month	FY 2012 YTD	1 Year Ago This Month	TOTAL FY 2011
A.R.S. § 4-241.A	Failure to Check ID	3	33	6	44
A.R.S. § 4-241.L	Sold to CUB	0	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	5	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	7	74	10	49
A.R.S. § 4-244.16	Knowingly allow furnishing liquor to underage	1	1	0	0
A.R.S. § 4-244.22	Consume w/o permission of premises owner	0	0	0	3
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

In FY 2012, fines from adjudicated underage violations total seventy-two thousand fifteen (\$72,015) dollars. To date in FY 2012, one (1) license has been suspended and none (0) have been 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 YTD	\$72,015	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 YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	4	58	5	89
Applications Protested	2	21	n/a	n/a
Licenses Granted	0	18	1	23
Licenses Denied	2	8	1	13
Continuances Granted	1	18	0	33
Licenses Withdrawn	0	11	3	16
Appeals Heard	0	0	0	3
Rehearings Requested	0	2	0	1
Hearings Cancelled by Director	1	4	0	n/a

There were four (4) applications scheduled for hearing before the State Liquor Board and two (2) of the applications were protested by the public. Of the four (4) applications heard, two (2) were denied, one (1) was continued, and one (1) application hearing was cancelled by the Director due to the protest being withdrawn by the Department. To date in FY 2012, the State Liquor Board has granted thirty-one (31.0%) percent and denied fourteen (13.8%) percent of the license applications received. In addition, thirty-one (31.0%) percent were continued and nineteen (18.9%) percent were withdrawn by the applicant.

ARIZONA LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi, Member (R)	Arizona Liquor Board Vice Chair Maricopa County No Financial Interest	Term Expires January 19, 2015
Bill DuPont (D)	Arizona Liquor Board Member	Term Expires January, 21, 2013
Jim Carruthers (R)	Arizona Liquor Board Member Yuma County No Financial Interest	Term Expires January 19, 2015
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 19, 2015
Michael Farley (R)	Arizona Liquor Board Member Pima County Business Consultant	Term Expires January 21, 2013
Vikki Scarafiotti (D)	Arizona Liquor Board Member Maricopa County No Financial Interest	Term Expires January 20, 2014

SUCCESS STATISTICS LICENSING

The Licensing Division is responsible for processing new license applications, permits, renewals, and maintaining up-to-date and accurate information on active licenses.

Compared to May 2011, the number of new liquor licenses issued in Arizona has increased by twenty-nine (29.1%) percent, renewals have increased by twenty-six (25.6%) percent, and the number of active licenses has increased by one (0.6%) percent. In comparison to May 2011, monthly licensing revenues (including lottery collections) have increased by four (25.9%) percent from three hundred seven thousand two hundred thirty-eight (\$307,238) dollars during this time last year to three hundred eighty-seven thousand one hundred fifteen (\$387,115) dollars during the current month.

There were five (5) exempt locations issued raising the number to a total of seventy (70) active exempt locations in Arizona. An exempt location is an establishment that (1) meets the criterion established in A.R.S. §4-244.05 and A.A.C. R19-1-315, (2) has made application for the exemption, (3) has been inspected by a DLLC investigator, and (4) has been issued a 1-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
New licenses issued	164	1,466	127	1,798
Renewed licenses	648	9,415	516	11,483
Lottery licenses issued	0	1	0	25
Collected Lottery Revenues:	\$0	\$99,166	\$0	\$2,422,579
Number of Active Liquor License:	11,549	n/a	11,476	n/a
Exempt Locations Issued	5	54	n/a	n/a
Number of Exempt Locations	70	n/a	63	63
Collected Licensing Revenues (including lottery revenues):	\$387,115	\$5,634,505	\$307,238	\$8,401,843

Collected Revenue by Fee Type in May 2012

Fair Market Value	0
Applications	16,350
License Fees	260,979
Out-of-State	0
Agent Change	1,900
Fines	25,775
Special Event	4,025
Club	3,750
Penalties	4,350
Copy Fees	297
Non-Use Surcharge	13,600
Audit Surcharge	9,420
Enforcement K Surcharge	22,050
Enforcement L Surcharge	19,950
Miscellaneous	5

TOTAL REVENUES COLLECTED	\$ 382,451
(fingerprints)	<u>4,664</u>
TOTAL REPORT	\$ 387,115

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

eLicensing

DLLC's eLicensing Information System (ELIS) is being developed in collaboration with ASET and NIC/CAVU-IDS. The revised Project Plan anticipates department training for the implementation of the department's e-licensing system in July 2012 and a go-live date in August 2012. ELIS, a web-based application, will replace DLLC's sixteen (16) year old licensing system which has served the agency's staff and stakeholders.

Proposed Rulemaking

Immediately 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 requested that DLLC ensure that no financial burden was imposed on the alcohol beverage industry and there was industry collaboration and support. The department has held several meetings with industry leaders in an effort to solicit comments and input regarding the proposed rules. Since that time, a final version of the proposed rules has been in-process. The department submitted a Notice of Proposed Rulemaking package, including an exemption to the moratorium and industry-members letters of support, to the Governor in February 2012.

Legislation

Liquor Omnibus Bill HB2606 was signed by the Governor on May 11, 2012 and is effective on August 2, 2012. DLLC is revising policies, procedures, and public information to accurately reflect newly introduced and revised liquor statutes.

Liquor License Lottery

DLLC held the FY 2012 Arizona Liquor License Lottery during the months of April and May. This marks the 6th lottery conducted since inception in FY 2006. Pursuant to A.R.S. § 4-206.01 and A.A.C. R19-1-109, DLLC conducts a liquor license lottery based on Arizona population projections. Of the 15 counties in Arizona, Maricopa County is the only county that experienced population growth of more than 10,000. With population growth of more than 20,000, Maricopa County will have two of each license type available in 2012; the bar license (series 6), the beer and wine bar license (series 7), and the liquor store license (series 9). Applications were accepted from Thursday, April 5 through Thursday, May 3, 2012 and the random selection lottery drawing was held on May 14, 2012. DLLC received six (6) applications for the bar license (series 6), three (3) applications for the beer and wine bar license (series 7), and seventeen (17) applications for the liquor store license (series 9). The lottery is expected to generate \$502,900 in General Fund revenue.

Liquor Industry Forums

DLLC has begun conducting Liquor Industry Forums which were held in Tucson on May 22, 2012 and in Phoenix on May 29, 2012. These forums are open to the public and provide information regarding the department, enforcement, changes to Title 4 liquor laws, rule making, new liquor products in the industry and provide an opportunity for open discussion. Additional forums are schedule to be held in Prescott, Tempe, Scottsdale, Cochise County, Lake Havasu City, Sierra Vista and Show Low.

Title 4 Training Workshops

Private sector businesses provide mandatory and elective Title 4 training to licensees and their staff pursuant to A.R.S. 4-112(G)(2), R19-1-304 and R19-1-105. This training industry is regulated by DLLC. To assist training providers with accurate information on new legislation is incorporated into training materials

and to reiterate the importance of meeting the required standards for training course content, DLLC will hold two Title 4 Training Provider Workshops during the month of July.

END OF DLLC MAY 2012 REPORT TO THE GOVERNOR