

GOVERNOR'S MONTHLY REPORT
SEPTEMBER 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 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 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 September 2011, DLLC conducted investigations of twenty-seven (27) liquor-licensed establishments using four (4) CUBs. Eight (8), or thirty (29.6%) percent, of these establishments sold alcohol to a (CUB) resulting in ten (10) criminal and eighteen (18) administrative violations. All twenty-seven (27) locations were investigated in response to complaints received by DLLC.

In September 2011, DLLC saw an increase of sixty (60%) percent in the number of establishments (8) that sold to CUBS compared to the previous month, August 2011 (5). This also represents a three hundred (300%) percent increase in the number of establishments that sold to CUBs when compared to September 2010.

Since the inception of the program, two thousand nine hundred thirty-eight (2,938) establishments have been investigated and eight hundred ninety-three (893) or thirty (30.4%) percent have sold to CUB buyers resulting in two thousand one hundred thirty-five (2,135) administrative violations and one thousand seven hundred eighty (1,780) 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	204	58	28	135	65

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 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	4	0	0

In September 2011, there was one new TRACE case opened in Tucson. Investigator Palubeskie is currently working on four (4) 2011 TRACE cases. To complete these cases, DLLC requires additional information which will be provided by local law enforcement agencies.

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 September 2011:

- League of Cities and Towns Tucson Meeting-Director attended
- Arizona Association of Chiefs of Police (AASCOP) Training Conference- Deputy Director attended

September 2011 Law Enforcement Special Detail:

- Center for Alcohol Policy Conference-Investigations Division represented and instructed
- Fraudulent Documents Training in Northern & Southern Gila County administered
- Title 4 and Fake ID Training at SRP for Gaming, Compliance and Special Investigators
- New Product and Industry Trends Class taught at Phoenix DEA Office for statewide coalition organizations
- Labor Day Holiday Enforcement at Salt River
- High Intensity Drug Trafficking Area (HIDTA)-Officer Ribera
- Undercover Officer School-Officers Jaramillo, Palubeskie, Trevizo, Turner and Wilde attended
- 7 AOT Classes-Officer Jaramillo
- General Instructor School-Officers Wilde and Trevizo
- Routine Liquor Inspections Class to Officers-Sgt. Turner administered
- Performed detail in Tucson, Flagstaff, Page, Showlow, Prescott, Kingman and Mohave- All Officers

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to enforce Title 4 criminal laws and all Rules established by the Department to ensure statewide compliance.

In September 2011, investigators completed two hundred ten (210) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred ten (110) criminal citations and fifty-seven (57) administrative violations. The following success statistics were completed by a staff of twelve (12) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:963.

Total investigative achievements during September 2011 were 829 compared to 850 in September 2010. DLLC realized a decrease in total investigative achievements during September 2011 of three (2.5%) percent compared to September 2010.

Achievements:	Current Month	Total FY 2012	1 Year Ago This Month	Total FY 2011
Hidden Ownerships Completed	1	2	0	18
Site Inspections Completed	78	211	101	698
Actioned (administrative) Complaints	3	14	7	102
Non-Actioned (criminal) Complaints	35	95	43	459
Administrative Counts Charged	57	264	107	1,425
Criminal Citations Issued	110	340	91	1,602
Routine Liquor Inspections Completed	210	619	193	2,459
Compliance Case Reports Submitted	42	133	35	686
On-view Violation Case Reports	39	106	22	528
Law Enforcement Liaison Completed	79	238	43	632
Underage Investigations Statistics:				
Citations Issued to Underage	63	176	86	580
Total Underage Violations	112	301	122	914
Total Achievements:	829	2,499	850	10,103

The number of citations DLLC investigators issued to underage persons decreased from 86 to 63 or by twenty-seven (26.7%) percent compared to September 2010. The total number of underage violations written by DLLC investigators decreased from 122 to 112 or by eight (8.2%) percent compared to September 2010. This is due to DLLC focus on preventing the sale of alcohol to underage rather than the elimination of underage drinking.

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	5	14	2	113
A.R.S. § 4-241.L Sold to CUB	15	43	19	114
A.R.S. § 4-241.M Underage solicits third party buyer	4	18	n/a	n/a
A.R.S. § 4-241.N Use of false ID to enter premises	6	16	0	7
A.R.S. § 4-244.1 Unlicensed Resale	0	0	0	4
A.R.S. § 4-244.9 Furnishing alcohol to an underage	42	112	45	599
A.R.S. § 4-244.22 Consuming w/o permission of premises owner	0	0	2	27
A.R.S. § 4-244.34 Underage DUI	0	0	0	0
A.R.S. § 4-244.40 Alcohol in system of underage	0	0	0	0
A.R.S. § 4-244.41 Accept \$ to allow underage in bar	29	62	0	0
A.R.S. § 13-2907.01 Providing false information to state	1	2	0	0
A.R.S. § 13-3478 Unlawful use of a license	0	0	0	0
A.R.S. § 28-3478.1 Unlawful use of driver's license	0	0	7	47
A.R.S. § 28-3478.3 Using another person's driver's license	6	24	0	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-one (161) active Series 11 (hotel/motel) licenses and three thousand one hundred eighty-two (3,182) active Series 12 (restaurant) licenses statewide. Compared to September 2010, the number of hotel/motel with restaurant licenses has decreased by one (1) licenses or less than one percent and the number of restaurant licenses has increased by fifty-two (52) or two (1.7%) percent.

Today DLLC employs two (2) fulltime auditors. With a total of three thousand three hundred forty-three (3,343) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,672.

Number of Cases Now Open For Audit	Current Month	This Month Last Year
Audits closed	11	7
Audits initiated	10	7
Audits in progress	15	16
Open cases w/projected ratio of >37%	5	5
Open cases w/projected ratio between 30 to 37%	10	7
Open cases w/projected ratio of < 30%	0	4
Locations granted 1 year to continue operation	0	2
Locations being monitored	100	77

In September 2011, eleven (11) audits were closed and ten (10) audits were initiated (audit considered initiated after an appointment date is set to pick up accounting records). All eleven (11) audits completed revealed actionable violations. During the month of September 2011, audits were completed in Maricopa, La Paz and Yuma Counties.

Audit Action	Current Month	Total YTD FY 2012	This Month Last Year	Total FY 2011	Total 2003 To Present
Audits completed	11	27	7	82	472
Audits passed	7	19	2	38	207
Audits failed	1	4	5	40	208
Inconclusive	3	4	0	3	51
Other charges only	0	0	0	1	6

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit statistics since July 1, 2006 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 YTD	27 audits	\$15,250	\$565

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 thirteen (13) continuation licenses total three hundred ninety thousand (\$390,000) dollars. During FY 2012, no revenue has been collected from the issuance of continuation licenses. There are no continuation license applications in pending status at this time.

Revenue collected by the department for audit-related violation fines during the month of September 2011 is seven thousand one hundred twenty-five (\$7,125) dollars. Audit fines assessed from violations during the month of September 2011 total one thousand three hundred seventy-five (\$1,375) dollars. Revenue collected from fines to-date in FY 2012 total fifteen thousand two hundred fifty (\$15,250) dollars. Fines assessed from violations to-date in FY 2012 total nineteen thousand seven hundred fifty (\$19,750) dollars.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2012 YTD	1 Year Ago This Month	Total FY 2011
Fines Collected	\$7,125	\$15,250	\$17,800	\$84,400
Fines Assessed	\$1,375	\$19,750	\$8,300	\$99,900
Continuation License (Grill Bill) Revenue	\$0	\$0	\$90,000	\$180,000
Pending Continuation Licenses (Grill Bill)	0	0	2	--

SUCCESS STATISTICS COMPLIANCE

The Department's 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	2	2
Suspensions	2	2	0	7
Surrenders	0	0	1	13
Divestitures	0	0	1	4
Administrative Complaints	2	2	2	9
Decisions & Orders	0	1	3	8

Achievements	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Cases Received	49	162	43	752
Cases Completed	9	33	24	280
Cases in Progress	40	128	19	478
Warning Letter Issued	1	5	1	45
Cases Sent to OAH	0	5	0	6

Economic Impact:

Fines collected by the Compliance Unit between September 1 and September 30, 2011 total twenty-eight thousand seven hundred fifty (\$28,750) dollars from thirty-three (33) adjudicated compliance actions. Compared to last month, August 2011, this is a forty-three (43.2%) percent decrease in collected revenues and an eleven (10.8%) percent decrease in the number of compliance actions processed. Compared to September 2010, this is a seventy-one (70.9%) percent decrease in collected revenues and an eleven (10.8%) percent decrease 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	\$28,750	\$101,000	\$98,925	\$598,509
Cases adjudicated	33	99	37	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	99	\$101,000	\$1,020

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	2	9	15	44
A.R.S. § 4-241.L	Sold to CUB	0	0	0	0
A.R.S. § 4-244.1	Unlicensed Resale	0	0	2	10
A.R.S. § 4-244.9	Furnish alcohol to an underage	9	21	15	49
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	0	2	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 twenty-five thousand five hundred (\$25,500) dollars. To date in FY 2012, no licenses have been revoked and one has been suspended.

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	\$25,500	1	0

SUCCESS STATISTICS STATE LIQUOR BOARD

The State Liquor Board 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, an aggrieved party may appeal certain decisions of the director to the Board for review.

Achievements:	Current Month	Total YTD FY 2012	1 Year Ago This Month	Total FY 2011
Hearings Scheduled	5	12	0	89
Applications Protested	1	5	n/a	n/a
Licenses Granted	3	5	0	23
Licenses Denied	0	2	0	13
Continuances Granted	1	3	0	33
Licenses Withdrawn	1	2	0	16
Appeals Heard	0	0	0	3
Rehearings Requested	0	0	0	1
Hearings Cancelled by Director	2	2	n/a	n/a

In September 2011, there were five applications scheduled for hearing before the State Liquor Board. One of the applications was protested by the public. Of the five applications heard, three were granted, one was withdrawn and one was continued. To date in FY 2012, the State Liquor Board has granted forty-two (41.7%) percent and denied seventeen (16.7%) percent of the licenses heard.

ARIZONA LIQUOR BOARD MEMBERS AND TERMS

J.D. Ghelfi, Member (R)	Arizona Liquor Board Vice Chair Maricopa County No Financial Interest	Term Expires January 16, 2012
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 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 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 September 2010, the number of new liquor license issued in Arizona has decreased by two (1.5%) percent, renewals have increased by five (5.2%) percent, and the number of active licenses has increased by one (1.4%) percent.

In comparison to September 2010, monthly licensing revenues (which include lottery collections) have decreased by seven (6.5%) percent from six hundred sixty-two thousand three hundred (\$662,300) dollars at this time last year to six hundred nineteen thousand three hundred seventy-eight (\$619,378) dollars during the current month.

There were 4 exempt locations issued in the month of September 2011 and there are currently 70 total 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	130	397	132	1,798
Renewed licenses	898	2,546	854	11,483
Lottery licenses issued	1	1	0	25
Collected Lottery Revenues:	\$99,166	\$99,166	\$9,150	\$2,422,579
Number of Active Liquor License:	11,557	n/a	11,398	n/a
Exempt Locations Issued	4	18	n/a	n/a
Number of Exempt Locations	70	n/a	n/a	63
Collected Licensing Revenues (including lottery revenues):	\$619,378	\$1,475,404	\$662,300	\$8,401,843

Collected Revenue by Fee Type in September 2011

Fair Market Value	99,166
Applications	14,800
License Fees	357,453
Out-of-State	0
Agent Change	5,000
Fines	28,850
Special Event	8,475
Club	1,650
Penalties	8,250
Copy Fees	281
Non-Use Surcharge	10,300
Audit Surcharge	20,340
Enforcement K Surcharge	31,990
Enforcement L Surcharge	26,410
Miscellaneous	5

TOTAL REVENUES COLLECTED	\$ 612,970
(fingerprints)	<u>6,408</u>
TOTAL REPORT	\$ 619,378

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. The IT Specialist, project consultant and ASET compiled a formal Project Plan resulting in the expected implementation of early 2012. 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.

Resume Newly 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 required evidence of industry collaboration and support, and DLLC's agreement that any rules proposed would not impose additional or undue burdens on businesses. DLLC's request remains in pending status at this time. DLLC held a rules review with industry leaders this month in order to respond to any industry concerns before resubmitting an exemption to the moratorium. As a result, additional revisions will be made and a final review completed by year end.

Agency Staffing Improvements

The Investigation Division is currently recruiting two sworn officers to increase focus in the Tucson area. Once hired, this would bring the number of investigators to a total of fourteen (14). Due to the resignation of the Investigations Administrator the position has been posted for recruitment.

END OF DLLC SEPTEMBER 2011 REPORT TO THE GOVERNOR