

GOVERNOR'S MONTHLY REPORT

APRIL 2013



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 fourteen (14) liquor-licensed establishments using three (3) CUBs. Seven (7), or fifty (50.0%) percent, of these establishments sold alcohol to a (CUB) resulting in eight (8) criminal and sixteen (16) administrative violations. All fourteen (14) locations were investigated in response to complaints received by DLLC.

DLLC saw an increase of forty-two (42.9%) percent in the number of establishments that sold to CUBS compared to the previous month, March 2013.

Since the inception of the program, three thousand two hundred forty-seven (3,247) establishments have been investigated and nine hundred ninety-nine (999) or thirty (30.8%) percent have sold to CUB buyers resulting in two thousand four hundred five (2,405) administrative violations and two thousand twelve (2,012) 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	64	20	31	46	34

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:

- City of Mesa meeting w/mayor – director participated
- Arizona Public Information Officer's Symposium – comm. dir. participated
- Tempe All Stars Peer Leadership Teens & Parents Liquor Training – comm. dir. facilitated
- DPS BBQ – dir. and comm. dir. attended
- Arizona Food Marketing Alliance Capitol Picnic – dir., comm. dir., and sgt. of Investigations attended
- Frontline on Homefront – dep. dir. attended
- Special Olympics reception and opening ceremonies - dep. dir. attended

Law Enforcement Special Detail:

- Field Training for new Officer Gothelf – Officer Palubeskie
- Industry Trade Practice Review – Officer Miller
- Federal search warrants x 2 – Officer Parris
- City of Tempe rave detail – Officers Palubeskie, Webb, Trevizo, Turner Chesley and Miller
- Pima County Sheriff's Office Title 4 and Fake ID - Officer Palubeskie facilitated
- Tucson PD Title 4 training – Officer Zacarias facilitated
- Country Thunder detail – entire Investigation Division
- Out-of-area complaints - entire Investigation Division

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to ensure that all licensees adhere to A.R.S. Title IV (Arizona liquor laws) and all Rules established by the DLLC. Investigators completed two hundred thirty-six (236) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred sixty (160) criminal citations and one hundred ninety-nine (199) administrative violations. The following success statistics were completed by a staff of fourteen (15) fulltime, sworn officers who uphold a statewide officer-to-liquor license ratio of 1:773.

Total investigative actions taken were one thousand one hundred ten (1,110) this month which is a decrease of nineteen (18.6%) percent when compared to the one thousand three hundred sixty-five (1,365) investigative actions taken in April 2012.

Achievements:	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Hidden Ownerships Completed	1	19	3	25
Site Inspections Completed	34	295	42	760
Actioned (administrative) Complaints	5	99	9	72
Non-Actioned (criminal) Complaints	49	422	41	454
Administrative Counts Charged	199	1,780	113	1,666
Criminal Citations Issued	160	1,109	236	1,809
Routine Liquor Inspections Completed	236	2,360	216	2,503
Compliance Case Reports Submitted	82	611	54	889
On-view Violation Case Reports	61	437	44	758
Law Enforcement Liaison Completed	65	336	87	985
Underage Investigations Statistics:				
Citations Issued to Underage	105	381	183	918
Total Violations	113	807	337	1,715
Total Achievements:	1,110	9,106	1,365	12,554

The number of citations DLLC investigators issued to underage persons decreased from 183 to 105 or forty-three (42.6%) percent and the total number of violations decreased from 337 to 113 or sixty-seven (66.5%) percent compared to April 2012.

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	1	0	1	5	32	36	30

Of the citations the DLLC investigators issued to underage persons, thirty (30) were twenty years old, thirty-six (36) were nineteen years old, thirty-two (32) were eighteen years old, five (5) were seventeen years old, one (1) was sixteen, and one (1) was age thirteen.

SUCCESS STATISTICS
Investigations (continued)

Statute/ Definition	# of Citations Issued This Month	# of Citations Issued in FY 2013	1 Year Ago This Month	# of Citations Issued in FY 2012
A.R.S. § 4-241.A Failure to Check ID	3	57	3	59
A.R.S. § 4-241.L Use of false ID to buy alcohol	5	100	22	154
A.R.S. § 4-241.M Underage solicits third party buyer	0	17	0	34
A.R.S. § 4-241.N Use of false ID to enter premises	1	51	1	93
A.R.S. § 4-244.1 Selling without a license	0	1	0	9
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	63	346	135	554
A.R.S. § 4-244.13 Employee consuming on duty	0	4	4	n/a
A.R.S. § 4-244.20 Consume in a public place	0	17	0	59
A.R.S. § 4-244.41 Alcohol in system of underage	83	238	150	548
A.R.S. § 4-251 Consumption/open container in vehicle	0	8	0	n/a
A.R.S. § 13-2907.01 Providing false information to state	4	11	4	28
A.R.S. § 28-3478.1 Unlawful use of driver's license	4	50	12	60
A.R.S. § 28-3478.3 Using another person's driver's license	0	35	3	84

The number of citations issued due to Furnishing Alcohol to an Underage, Underage in Possession/Consumption decreased from one hundred thirty-five (135) in April 2012 to sixty-three (63) in April 2013 or by fifty-three (53.3%) percent. The number of citations issued for Alcohol in System of Underage decreased from one hundred fifty (150) in April 2012 to eighty-three (83) in April 2013 or by forty-five (44.6%) percent. The number of citations issued due to Use of False ID to Buy Alcohol decreased from twenty-two (22) in April 2012 to five (5) in April 2013 or by seventy-seven (77.2%) percent. The number of citations issued due to Unlawful use of a Driver's License decreased from twelve (12) in April 2012 to four (4) in April 2013 or by sixty-seven (66.6%) 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), 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 IV.

Currently there are one hundred sixty-four (164) active Series 11 (hotel/motel) licenses and three thousand three hundred seventy-three (3,256) active Series 12 (restaurant) licenses statewide. Compared to April 2012, the number of hotel/motel with restaurant licenses increased by two (2) or two (1.2%) percent and the number of restaurant licenses increased by one hundred and four (104) or three (3.3%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand five hundred nineteen (3,420) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,710.

Audit Status	Current Month	This Month Last Year
Audits closed	8	6
Audits initiated	6	6
Audits in progress	14	16
Open cases w/projected ratio of >37%	12	10
Open cases w/projected ratio between 30 to 37%	92	2
Open cases w/projected ratio of <30%	20	4
Locations granted 1 year to continue operation	0	0
Locations being monitored	86	92

Eight (8) audits were completed in Maricopa County which resulted in actionable violations in four (4) cases. There were fourteen (14) audits in progress and eighty-six (86) locations being monitored. In April 2012, there were six (6) audits completed, sixteen (16) audits in progress and ninety-two (92) locations being monitored.

Audit Action	Current Month	Total FY 2013	This Month Last Year	Total FY 2012	Total 2003 To Present
Audits completed	8	65	6	90	600
Audits passed	7	46	6	58	292
Audits failed	1	16	0	23	243
Inconclusive	0	3	0	9	59
Other charges only	0	0	0	0	6

Of the eight (8) audits completed this month, seven (7) passed and one (1) failed.

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	90 audits	\$64,355	\$715
FY 2013	65 audits	\$39,250	\$604

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 fifteen (15) continuation licenses total four hundred fifty thousand (\$450,000) dollars. In FY 2013, thirty thousand (\$30,000) dollars have been collected from the issuance of continuation licenses.

Pursuant to A.R.S. §4-213(E), the option for a series 12 liquor license to operate under the provisions of a restaurant continuation license will sunset on June 30, 2013. The Department will post notification on the website no later than March 29, 2013.

In April 2013, the department collected revenue for audit-related violations totaling six thousand five hundred (\$6,500) dollars. Audit fines assessed from violations totaled one thousand five hundred (\$1,500) dollars. Compared to April 2012, total fines collected decreased by three thousand seven hundred fifty (\$6,825) dollars or fifty-one (51.2%) percent and total audit fines assessed from violations decreased by seven thousand nine hundred fifty (\$7,950) dollars or eighty-four (84.1%) percent.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Fines Collected	\$6,500	\$39,854	\$13,325	\$64,355
Fines Assessed	\$1,500	\$46,425	\$9,450	\$72,730
Continuation License (Grill Bill) Revenue	\$0	\$30,000	\$0	\$30,000
Pending Continuation Licenses (Grill Bill)	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 FY 2013	1 Year Ago This Month	Total FY 2012
Revocations	0	1	0	0
Suspensions	0	3	0	4
Surrenders	3	11	0	2
Divestitures	1	6	0	3
Administrative Complaints	0	6	2	5
Decisions & Orders	1	3	0	3

Achievements	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Cases Received	78	622	81	888
Cases Completed	27	128	17	199
Cases in Progress	51	494	64	688
Warning Letter Issued	1	22	1	17
Cases Sent to OAH	1	5	0	7

Economic Impact:

Fines collected totaled thirty-six thousand two hundred seventy-five (\$36,275) dollars from forty-five (45) adjudicated compliance actions. Compared to last month, March 2013, this represents a twenty-seven (27.0%) percent increase in collected revenues and a twenty (20.0%) percent increase in the number of compliance actions processed. Compared to April 2012, this represents a twenty-six (25.9%) percent decrease in collected revenues and a eighteen (18.2%) 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.

Action	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Fines collected	\$36,275	\$561,885	\$48,950	\$428,445
Cases adjudicated	45	368	55	479

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	479	\$428,445	\$894
2012-2013	368	\$561,885	\$1,527

Adjudicated Underage Violations

Statute	Definition	Adjudicated This Month	TOTAL FY 2013	1 Year Ago This Month	TOTAL FY 2012
A.R.S. § 4-241.A	Failure to Check ID	3	24	8	36
A.R.S. § 4-241.L	Sold to CUB	0	0	0	11
A.R.S. § 4-244.1	Unlicensed Resale	0	0	0	0
A.R.S. § 4-244.9	Furnish alcohol to an underage	5	41	13	74
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	1	0	0
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 fifty-nine thousand (\$59,000) dollars. To date in FY 2013, there have been three (3) licenses suspended and one (1) license 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	\$59,000	3	1

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 2013	1 Year Ago This Month	Total FY 2012
Hearings Scheduled	2	44	2	60
Applications Protested	1	17	2	21
Licenses Granted	0	18	1	18
Licenses Denied	2	8	0	8
Continuances Granted	0	9	0	20
Continuances Denied	0	1	1	n/a
Licenses Withdrawn	0	6	0	11
Appeals Heard	0	0	0	0
Rehearings Requested	0	2	0	2
Hearings Cancelled by Director	0	0	2	4

There were two (2) applications scheduled before the State Liquor Board for requests for licenses which were denied. To date in FY 2013, the State Liquor Board has granted forty-one (40.9%) percent and denied eighteen (18.2%) percent of the license applications heard and fourteen (13.6%) percent of applications set for hearing withdrew. The remaining twenty-seven (27.3%) percent of hearings were continued, cancelled or reheard.

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 Expired January 21, 2013
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 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 April 2012, the number of new liquor licenses issued in Arizona have decreased by thirteen (12.8%) percent, the number of renewals have increased by thirty-four (33.9%) percent, and the number of active licenses increased by one (1%) percent. In comparison to April 2012, monthly licensing revenues (including lottery collections) have increased by nineteen (18.7%) percent from six hundred fifty-nine thousand nine hundred thirty-two (\$659,932) dollars during this time last year to seven hundred eighty-three thousand six hundred ninety-two (\$783,692) dollars during the current month.

There were eight (8) exempt locations issued raising the number to a total of seventy-five (75) 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 FY 2013	1 Year Ago This Month	Total FY 2012
New licenses issued	129	1,441	148	1,640
Renewed licenses	730	10,463	545	10,022
Lottery licenses issued	0	1	0	1
Collected Lottery Revenues:	\$85,000	\$349,950	0	\$99,166
Number of Active Liquor License:	11,601	n/a	11,478	n/a
Exempt Locations Issued	8	59	3	61
Number of Exempt Locations	75	n/a	65	n/a
Collected Licensing Revenues (including lottery revenues):	\$783,692	\$5,747,016	\$659,932	\$6,097,046

Collected Revenue by Fee Type in April 2013

Fair Market Value	85,000
Applications	13,325
License Fees	509,725
Out-of-State	0
Agent Change	5,400
Fines	36,025
Special Event	7,750
Club	150
Penalties	27,300
Copy Fees	4,862
Non-Use Surcharge	18,300
Audit Surcharge	22,800
Enforcement K Surcharge	29,435
Enforcement L Surcharge	18,110
Miscellaneous	10

TOTAL REVENUES COLLECTED **\$778,192**

(fingerprints) 5,500

TOTAL REPORT **\$783,692**

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Proposed Rulemaking

The Notice of Final Rulemaking (NFR) is scheduled to be heard by the Governor's Regulatory Review Council (GRRC), Tuesday, May 7, 2013. In preparation for the May 7th GRRC meeting, DLLC staff has been busy responding to questions posed by GRRC concerning statutory interpretation, financial implications, and general questions regarding various NFR sections.

The department is putting the final touches on the Notice of Supplemental Proposed Rulemaking (NSPR), which will be sent to industry stakeholders for review prior to the final draft being filed with the Secretary of State's Office. Industry stakeholders will be given an opportunity to provide additional feedback concerning the most recent updates to the NSPR.

Legislation

The Governor signed SB 1301 into law on April 4, 2013. This bill permits the director of DLLC to issue a domestic farm winery (series 13) license on the same parcel of land as a domestic microbrewery (series 3) although the licenses must be held by different persons. SB1301 will take effect 90 days after the Legislature adjourns.

Staffing

Denise Bale joins the Arizona State Liquor Board as the Board Administrator and the Arizona Department of Liquor as a Policy Analyst.

Events

The National Liquor Law Enforcement Association (NLLEA) will hold its 2013 Annual Conference in Phoenix. Co-hosted by Arizona Department of Liquor Licenses and Control, an international panel of presenters will focus on Advancing Liquor Law Enforcement to Meet the Challenges of Today's Society. The conference will be attended by law enforcement personnel from across the U.S beginning Wednesday, July 31 through Friday, August 2, 2013.

Agency Reporting

The Department of Liquor is currently providing information to the State Agency Fee Commission to assist in creating a comprehensive analysis of fees charged by the agency. The final analysis will be submitted by State Agency Fee Commission to the Governor.

END OF DLLC APRIL 2013 REPORT TO THE GOVERNOR