

GOVERNOR'S MONTHLY REPORT
MARCH 2013



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL

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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 seventeen (17) liquor-licensed establishments using three (3) CUBs. Four (4), or twenty-four (24.0%) percent, of these establishments sold alcohol to a (CUB) resulting in six (6) criminal and ten (10) administrative violations. All seventeen (17) locations were investigated in response to complaints received by DLLC.

DLLC saw a decrease of twenty-five (25.0%) percent in the number of establishments that sold to CUBS compared to the previous month, February 2013.

Since the inception of the program, three thousand two hundred thirty-three (3,233) establishments have been investigated and nine hundred ninety-two (992) or thirty-one (30.7%) percent have sold to CUB buyers resulting in two thousand three hundred ninety-eight (2,398) administrative violations and two thousand three (2,003) 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	50	13	26	30	26

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:

- Law Enforcement Public Information Officer Association Meeting – Comm. Dir. attended
- Arizona Association of Chiefs of Police – Deputy Dir. attended
- Arizona Civil Rights Advisory Board - Deputy Dir. attended
- Alcohol Hazard Analysis and Critical Control Point Webinar - Comm. Dir. attended

Law Enforcement Special Detail:

- General Instructor School - Officer Zacarias attended
- Chandler PD with underage party detail – Officer Palubeskie assisted
- Out-of-area complaints – entire department

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 twenty-seven (227) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in sixty (60) criminal citations and one hundred thirty-four (134) 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 1:830.

Total investigative actions taken were seven hundred forty-eight (748) this month which is a decrease of forty-nine (49%) percent when compared to the one thousand four hundred seventy-eight (1,478) investigative actions taken in March 2012.

Achievements:	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Hidden Ownerships Completed	0	18	2	25
Site Inspections Completed	20	261	40	760
Actioned (administrative) Complaints	9	94	6	72
Non-Actioned (criminal) Complaints	35	373	48	454
Administrative Counts Charged	134	1,581	269	1,666
Criminal Citations Issued	60	949	213	1,809
Routine Liquor Inspections Completed	227	2,124	246	2,503
Compliance Case Reports Submitted	82	529	156	889
On-view Violation Case Reports	65	376	132	758
Law Enforcement Liaison Completed	61	721	98	985
Underage Investigations Statistics:				
Citations Issued to Underage	20	276	90	918
Total Violations	35	694	178	1,715
Total Achievements:	748	7,996	1,478	12,554

The number of citations DLLC investigators issued to underage persons decreased from 90 to 20 or seventy-eight (77.8%) percent and the total number of violations decreased from 178 to 35 or eighty (80.3%) percent compared to March 2012.

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

Of the citations the DLLC investigators issued to underage persons, twenty-two (22) were twenty years old, seventeen (17) were nineteen years old, sixteen (16) 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 2013	1 Year Ago This Month	# of Citations Issued in FY 2012
A.R.S. § 4-241.A Failure to Check ID	7	54	11	59
A.R.S. § 4-241.L Use of false ID to buy alcohol	6	95	6	154
A.R.S. § 4-241.M Underage solicits third party buyer	0	17	2	34
A.R.S. § 4-241.N Use of false ID to enter premises	1	50	8	93
A.R.S. § 4-244.1 Selling without a license	0	1	2	9
A.R.S. § 4-244.9 Furnishing alcohol to an underage, underage in possession/consumption	15	283	46	554
A.R.S. § 4-244.13 Employee consuming on duty	0	4	6	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	2	155	65	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	0	7	11	28
A.R.S. § 28-3478.1 Unlawful use of driver's license	2	46	12	60
A.R.S. § 28-3478.3 Using another person's driver's license	0	35	1	84

The number of citations issued due to Furnishing Alcohol to an Underage, Underage in Possession/Consumption decreased from forty-six (46) in March 2012 to fifteen (15) in March 2013 or by sixty-eight (68%) percent. The number of citations issued for Alcohol in System of Underage decreased from sixty-five (65) in March 2012 to two (2) in March 2013 or by ninety-seven (97%) percent. The number of citations issued due to Use of False ID to Buy Alcohol remained the same from six (21) in March 2012 to six (6) in March 2013. The number of citations issued due to Unlawful use of a Driver's License decreased from twelve (12) in March 2012 to two (2) in March 2013 or by sixty-seven (67%) 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 was one TRACE case opened 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-three (163) active Series 11 (hotel/motel) licenses and three thousand three hundred fifty-three (3,353) active Series 12 (restaurant) licenses statewide. Compared to March 2012, the number of hotel/motel with restaurant licenses increased by one (1) or one (1.0%) percent and the number of restaurant licenses increased by three hundred seven (307) or nine (9.2%) percent.

DLLC employs two (2) fulltime auditors. With a total of three thousand five hundred sixteen (3,516) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is 1:1,758.

Audit Status	Current Month	This Month Last Year
Audits closed	8	7
Audits initiated	8	7
Audits in progress	16	16
Open cases w/projected ratio of >37%	8	11
Open cases w/projected ratio between 30 to 37%	7	2
Open cases w/projected ratio of <30%	1	3
Locations granted 1 year to continue operation	0	0
Locations being monitored	68	97

Eight (8) audits were completed in Maricopa and Mohave Counties which resulted in actionable violations in five (5) cases. There were sixteen (16) audits in progress and sixty-eight (68) locations being monitored. In March 2012, there were seven (7) audits completed, sixteen (16) audits in progress and ninety-seven (97) locations being monitored.

Audit Action	Current Month	Total FY 2013	This Month Last Year	Total FY 2012	Total 2003 To Present
Audits completed	8	57	7	90	592
Audits passed	5	39	6	58	285
Audits failed	3	15	1	23	242
Inconclusive	0	3	0	9	59
Other charges only	0	0	0	0	6

Of the eight (8) audits completed this month, five (5) passed and three (3) 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	57 audits	\$32,750	\$575

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 March 2013, the department collected revenue for audit-related violations totaling one thousand three hundred twenty-five (\$1,325) dollars. Audit fines assessed from violations totaled four thousand three hundred twenty-five (\$4,325) dollars. Compared to March 2012, total fines collected decreased by four thousand three hundred (\$4,300) dollars or seventy-six (76.4%) percent and total audit fines assessed from violations increased by one thousand seventy-five (\$1,075) dollars or thirty-three (33.1%) percent.

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Fines Collected	\$1,325	\$32,750	\$5,625	\$64,355
Fines Assessed	\$4,325	\$40,600	\$2,750	\$72,730
Continuation License (Grill Bill) Revenue	\$0	\$30,000	\$30,000	\$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	0	8	0	2
Divestitures	0	5	0	3
Administrative Complaints	0	6	0	5
Decisions & Orders	0	2	0	3

Achievements	Current Month	Total FY 2013	1 Year Ago This Month	Total FY 2012
Cases Received	79	544	132	888
Cases Completed	23	101	42	199
Cases in Progress	56	443	90	688
Warning Letter Issued	3	21	2	17
Cases Sent to OAH	0	4	1	7

Economic Impact:

Fines collected totaled twenty-six thousand four hundred seventy-five (\$26,475) dollars from thirty-six (36) adjudicated compliance actions. Compared to last month, February 2013, this represents a fifty-one (51.5%) percent decrease in collected revenues and an eighteen (18.2%) percent decrease in the number of compliance actions processed. Compared to March 2012, this represents a sixteen (16.3%) percent decrease in collected revenues and a fifteen (15.1%) 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	\$26,475	\$525,610	\$31,200	\$428,445
Cases adjudicated	36	323	43	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	323	\$525,610	\$1,627

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	7	28	2	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	7	43	5	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-one thousand one hundred twenty-five (\$51,125) 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	\$54,250	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	1	43	5	60
Applications Protested	1	17	2	21
Licenses Granted	0	18	2	18
Licenses Denied	0	6	1	8
Continuances Granted	1	10	0	20
Continuances Denied	0	1	2	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	5	4

There was one (1) application scheduled before the State Liquor Board for a request to continue which was granted. To date in FY 2013, the State Liquor Board has granted forty-two (41.9%) percent and denied fourteen (14.0%) percent of the license applications heard and fourteen (14.0%) percent of applications set for hearing withdrew. The remaining thirty (30.2%) 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 March 2012, the number of new liquor licenses issued in Arizona have decreased by ten (9.6%), the number of renewals have decreased by four (4%), and the number of active licenses increased by ½ of a (.05%) percent. In comparison to March 2012, monthly licensing revenues (including lottery collections) have decreased by three (3.1%) percent from one million twenty-three thousand six hundred sixty-three (\$1,023,663) dollars during this time last year to nine hundred ninety-one thousand six hundred ninety-eight (\$991,698) dollars during the current month.

There were five (5) exempt locations issued raising the number to a total of sixty-three (63) 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	122	1,312	135	1,640
Renewed licenses	1,483	9,733	1,546	10,022
Lottery licenses issued	0	1	0	1
Collected Lottery Revenues:	\$0	\$264,950	\$0	\$99,166
Number of Active Liquor License:	11,618	n/a	11,567	n/a
Exempt Locations Issued	5	51	1	61
Number of Exempt Locations	63	n/a	75	n/a
Collected Licensing Revenues (including lottery revenues):	\$991,698	\$4,963,627	\$1,023,663	\$6,097,046

Collected Revenue by Fee Type in March 2013

Fair Market Value	0
Applications	12,250
License Fees	770,930
Out-of-State	0
Agent Change	5,050
Fines	25,550
Special Event	6,050
Club	0
Penalties	5,250
Copy Fees	6,233
Non-Use Surcharge	34,100
Audit Surcharge	39,990
Enforcement K Surcharge	50,190
Enforcement L Surcharge	31,140
Miscellaneous	15

TOTAL REVENUES COLLECTED \$986,748

(fingerprints) 4,950

TOTAL REPORT \$991,698

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Proposed Rulemaking

The Department filed a Notice of Final Rulemaking (NFR) with the Governor's Regulatory Review Council (GRRC). With input from Arizona's liquor stakeholders, the Department finalized two rulemaking packages which, combined, constitute the first complete rewrite of Arizona Administrative Code in more than twenty years. The NFR will likely be placed on GRRC's May 7, 2013 agenda.

Auditing Unit

Pursuant to A.R.S. §4-213(E), the department's authority to approve restaurant continuation licenses will expire on Sunday, June 30, 2013. Series 11 (hotel/motel w/restaurant) and series 12 (restaurant) licensees who have provided the department with email addresses on their renewal application will be notified via email that this option will no longer be available in addition other helpful information will be provided. Notice will also be posted on the Department of Liquor homepage no later than March 29, 2013.

Pursuant to A.R.S. §4-205.08 (Domestic Microbrewery, series 3 and Limited Out-of-state Domestic Microbrewery, series 2L) and A.R.S. §4-205.04 (Domestic Farm Winery, series 13 and Limited Out-of-state Domestic Farm Winery, series 2L), the department has the authority to require annual production reporting. Effective July 31, 2013, Domestic Farm Wineries and Domestic Microbreweries will be required to report their production amounts on newly adopted reporting forms.

Staffing

Sergeant Wes Kuhl, a member of the Arizona Department of Liquor since 2000, has been elected to serve on the National Liquor Law Enforcement Association's Board of Directors as their Sergeant at Arms. Wes is scheduled to transition from Board Member to Board President in five years.

2013 Liquor License Lottery

Pursuant to A.R.S. §4-206.01 and A.A.C. R19-1-109, the Department may hold a 7th Arizona liquor license lottery and offer two of each "quota" license series: the bar license (series 6); the beer and wine bar license (series 7); and the liquor store license (series 9). Of the 15 counties in Arizona, Maricopa County is the only county that realized population growth of more than 10,000, the prerequisite for offering one new license for each series. With population growth of more than 20,000, two of each license type may be made available in 2013.

Additionally, A.R.S. §4-206.01 authorizes the director to waive the issuance of new licenses should no request be made for a new license series in that county. To date, no requests for these licenses have been made; therefore a 2013 lottery will not be held.

END OF DLLC MARCH 2013 REPORT TO THE GOVERNOR