

GOVERNOR'S MONTHLY REPORT

February 2017

(Revised 7/13/17)



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 May of 2003. This program provides the resources necessary for the department to investigate reported complaints of liquor licensed businesses suspected of one or more underage liquor law violations. When there is reasonable suspicion to believe that a liquor-licensed establishment is selling liquor to underage customers, the department will send in a CUB to attempt to purchase liquor. CUBs are between the ages of sixteen (16) and nineteen (19) who are carefully trained by DLLC Detectives to understand and follow state laws, including DLLC's CUB investigations guidelines and 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.

In February 2017, DLLC conducted investigations of thirteen (13) liquor-licensed establishments in Laveen, Maricopa, Scottsdale, Phoenix, Mesa, and Glendale. Four (4) CUBs were used. Four (4), or thirty-one (30.8%) percent, of these establishments sold alcohol to a CUB resulting in eight (8) administrative violations and four (4) criminal violations. All thirteen (13) locations were investigated in response to complaints received by DLLC.

Since the inception of the program, four thousand four (4,004) establishments have been investigated and one thousand two hundred seventy-five (1,275) or thirty-two (31.8%) percent have sold to CUB buyers resulting in three thousand seventy-two (3,072) administrative violations and two thousand four hundred twenty-nine (2,429) criminal violations.

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	310	98	32	220	143
2014	181	76	42	179	122
2015	186	68	37	168	107
2016	121	46	38	121	72
2017	23	8	35	16	8

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.

Community and agency outreach during the month:

- Meeting with Corporation Commissioner Andy Tobin – director
- Waste Management Phoenix Open – director
- Meeting with Sevilla Neighborhood Association – director
- Meeting with Arizona Restaurant Association – director
- Arizona Substance Abuse Partnership (ASAP) meeting – director
- Young's Market grand opening – director and deputy director
- Charles Johnston Select Artist – director
- Meeting with Arizona Licensed Beverage Association (ALBA) – director

Law Enforcement Special Detail:

- CUB – Detective Williams and Detective Swift conducted one
- CUB – Detective Turner and Detective Trevizo conducted one
- Strong Beerfest – Detective Williams and Detective Barchak
- Title 4 training at Northern Arizona Regional Training Academy (NARTA) for 36 Officers – Detective Webb
- Community Anti-Drug Coalitions of America (CADCA) National Leadership Forum, Washington, D.C. – Detective Webb
- MATForce, Yavapai County Substance Abuse Coalition meeting – Detective Webb
- C.O.P.E. Coalition (Community Outreach Prevention Education) meeting, Phoenix – Detective Webb
- Title 4 training at Yuma Proving Grounds for 19 Officers – Detective Sanchez
- Youth Alcohol training at Coolidge LaVilla – Detective Williams
- Waste Management Open – All Officers
- Presidents' Day holiday – All Officers

SUCCESS STATISTICS INVESTIGATIONS

It is the responsibility of the Investigations Division to ensure that all licensees adhere to Arizona Revised Statutes Title 4 (Arizona liquor law) and all Arizona Administrative Code Rules established by the DLLC.

Detectives completed fourteen (14) routine liquor inspections (RLIs) at licensed establishments and events throughout Arizona resulting in one hundred eighty (180) criminal charges and thirty-four (34) administrative violations. The following success statistics were completed by a nonsupervisory staff of eleven (11) full time sworn officers who uphold a statewide officer-to-liquor license ratio of 1:1,120.

Total investigative actions taken this month were one thousand two hundred eighty-six (1,286), which is a decrease of two (2.1%) percent when compared to the one thousand three hundred fourteen (1,314) investigative actions taken in February 2016.

Achievements:	Current Month	Total FY 2017	1 Year Ago This Month	Total FY 2016
Routine Liquor Inspections Completed	14	386	222	2,386
Criminal Citations Issued	96	315	93	435
Criminal Counts Charged	180	603	149	729
Administrative Counts Charged	34	425	45	852
Hidden Ownerships Completed	0	0	0	16
Site Inspections Completed	31	272	23	346
Non-Actioned (Criminal) Complaints	36	288	35	421
Actioned (Administrative) Complaints	0	56	6	87
Compliance On-View Case Reports Submitted	19	209	26	345
On-View Violation Case Reports	0	59	16	218
Law Enforcement Liaison Completed	0	245	70	747
Tax Deficiency Charges	17	113	3	213
MVD Affidavit/Suspension	0	35	5	53
Underage Investigations Statistics:				
Citations Issued to Underage Persons	82	244	86	350
Total Underage Violations	177	569	148	690
Total Achievements: (including police report reviews and completed protests not listed above)	1,286	7,418	1,314	13,759

Compared to February 2016, the number of citations DLLC Detectives issued to underage persons decreased five (4.7%) percent and the total number of underage violations increased twenty (19.6%) percent.

SUCCESS STATISTICS
Investigations (continued)

Current Month	Younger than Age 15	Age					
		15	16	17	18	19	20
Age of minor cited	0	1	0	2	17	24	38

Of the citations issued to underage persons, forty-six (46.3%) percent were within one year and twenty-nine (29.3%) percent were within two years of the legal drinking age.

Statute/ Definition	Number of Counts Charged This Month	Number of Counts Charged in FY 2017	1 Year Ago This Month	Number of Counts Charged in FY 2016
A.R.S. § 4-241(A) Failure to request ID from underage; accepting unauthorized forms of ID	4	32	3	54
A.R.S. § 4-241(K) Accepting unauthorized IDs	0	1	N/A	N/A
A.R.S. § 4-241(L) Underage who uses false ID to buy alcohol	12	61	7	28
A.R.S. § 4-241(M) Underage who solicits another person for alcohol	1	9	0	9
A.R.S. § 4-241(N) Underage who uses of false ID to gain entry to a liquor business	2	20	4	35
A.R.S. § 4-241(P) Person purchasing alcohol for underage	0	0	0	0
A.R.S. § 4-244(9) Furnishing alcohol to an underage; underage in possession/consumption	71	208	40	257
A.R.S. § 4-244(20) Consuming spirituous liquor in public place, thoroughfare or gathering	0	2	0	8
A.R.S. § 4-244(41) Underage with alcohol in system	60	147	74	228
A.R.S. § 13-2907.01 False reporting to law enforcement agencies	1	3	0	3
A.R.S. § 13-3613 Contributing to delinquency and dependency of a child	1	1	0	0
A.R.S. § 28-3478.1 Unlawful use of driver license	22	72	13	51
A.R.S. § 28-3478.3 Using another person's driver license	4	11	7	24

SUCCESS STATISTICS LIQUOR LICENSE AUDITS

Currently there are one hundred eighty-two (182) active Series 11 (hotel/motel) licenses and three thousand seven hundred forty-four (3,744) active Series 12 (restaurant) licenses statewide. Compared to February 2016, the number of hotel/motel with restaurant licenses increased by twelve (12) or seven (7.1%) percent, and the number of restaurant licenses increased by one hundred fifty-eight (158) or four (4.4%) percent.

DLLC employs two (2) full time auditors. With a total of three thousand nine hundred twenty-six (3,926) restaurant-type licenses combined, the statewide auditor-to-liquor license ratio is: 1:1,963.

Audit Status	Current Month	This Month Last Year
Audits closed	7	8
Audits initiated	6	8
Audits in progress	10	16
Open cases w/projected ratio of >37%	7	12
Open cases w/projected ratio between 30 to 37%	2	3
Open cases w/projected ratio of <30%	1	1
Locations granted 1 year to continue operation	1	0
Locations being monitored	78	92

During February 2017, seven (7) audits were completed in Apache, Maricopa, and Pima Counties, which resulted in no actionable violations. On February 28, 2017, there were ten (10) audits in progress and seventy-eight (78) locations being monitored.

Audit Action	Current Month	Total FY 2017	This Month Last Year	Total FY 2016	Total 2003 To Present
Audits completed	7	57	8	98	965
Audits passed	7	44	8	74	557
Audits failed	0	12	0	16	317
Inconclusive	0	1	0	7	84
Other charges only	0	0	0	1	7

In February 2017, audit fines assessed from violations totaled seven thousand seven hundred (\$7,700) dollars. Compared to February 2016, total audit fines assessed from violations increased by three thousand two hundred fifty (\$3,250) dollars.

SUCCESS STATISTICS
Liquor License Audits (continued)

Audit Revenue 2-year Comparison

Audit Action	Current Month	Total FY 2017	1 Year Ago This Month	Total FY 2016
Fines Assessed	\$7,700	\$35,650	\$4,450	\$45,525

Audit statistics since FY 2007 are noted below:

Year	Audits Completed	Revenues Collected	Average Fine per Audit
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	84 audits	\$47,625	\$567
FY 2014	92 audits	\$49,625	\$539
FY 2015	91 audits	\$47,725	\$524
FY 2016	98 audits	\$73,700	\$752
FY 2017	57 audits	\$45,950	\$806

Online Sampling Requests:

DLLC developed and instituted online sampling requests. After the requesting licensee enters the date, time and location, the system then verifies whether: (1) there are other sampling events at the same location on the same date, (2) the requestor has not exceeded twelve (12) allowed sampling events per location per year, and (3) the location meets the requirements of a sampling location. If the system determines the sampling request meets all of the requirements, the sampling event is booked, an email along with a "Notice of Sampling" credential is instantly emailed to the distributor, and a notification email is sent to the retail location.

During the month of February 2017, there were one thousand two (1,002) sampling requests entered into and approved by the new on-line system. Of these sampling requests, twenty-five (25) were cancelled. In FY 2017, the online system has saved over one thousand eight hundred eighty-seven (1,887.45) staff hours.

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 2017	1 Year Ago This Month	Total FY 2016
Revocations	0	0	1	2
Suspensions	1	2	0	0
Surrenders	2	15	2	20
Divestitures	0	0	1	6
Administrative Complaints	0	1	1	8
Decisions & Orders	0	0	0	2
Cases Received	23	380	30	985
Cases Completed	2	80	3	281
Cases in Progress	21	270	27	704
Warning Letter Issued	1	10	1	28
Cases Sent to OAH	1	4	2	5

Economic Impact:

Fines collected during the month totaled nineteen thousand nine hundred (\$19,900) dollars from nineteen (19) adjudicated compliance actions. Compared to last month, January 2017, this represents a fifty-eight (58.3%) percent decrease in collected revenues and a sixty (60.4%) percent decrease in the number of compliance actions processed. Compared to February 2016, this represents a thirty-seven (37.3%) percent decrease in collected revenues and a forty-two (42.4%) 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 the 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.

Fiscal Year	Compliance Actions	Revenues Collected	Average Fine Per Action
2006	500	\$689,475	\$1,379
2007	429	\$627,975	\$1,464
2008	334	\$582,350	\$1,744
2009	584	\$886,440	\$1,518
2010	415	\$705,725	\$1,701
2011	425	\$598,509	\$1,408
2012	479	\$428,445	\$894
2013	440	\$673,710	\$1,531
2014	500	\$473,910	\$948
2015	561	\$516,365	\$920
2016	482	\$506,325	\$1,050
2017	231	\$250,725	\$1,085

SUCCESS STATISTICS
Compliance (continued)

Adjudicated Underage Violations:

Statute	Adjudicated This Month	TOTAL FY 2017	1 Year Ago This Month	TOTAL FY 2016
A.R.S. § 4-241(A) Failure to request ID from underage; accepting unauthorized forms of ID; failure to follow the identification procedure prescribed by statutes	4	40	3	65
A.R.S. § 4-241(L) Underage who uses false ID to buy alcohol	0	0	0	0
A.R.S. § 4-241(M) Underage who solicits another person for alcohol	0	0	0	0
A.R.S. § 4-241(N) Underage who uses of false ID to gain entry to a liquor business	0	0	0	0
A.R.S. § 4-241(P) Person purchasing alcohol for underage	0	0	0	0
A.R.S. § 4-244(1) Unlicensed Resale	2	15	0	9
A.R.S. § 4-244(9) Furnishing alcohol to an underage; underage in possession/consumption	4	41	3	64
A.R.S. § 4-244(16) Knowingly allow furnishing liquor to underage	0	0	0	0
A.R.S. § 4-244(22) Underage on premises without parent (on-sale); consume without permission of premises owner	0	5	0	8
A.R.S. § 4-244(41) Underage with alcohol in system	0	0	0	0
A.R.S. § 4-244(42) Employee of licensee to accept gratuity to allow underage inside of bar/sell alcohol	0	0	0	1
A.R.S. § 13-2907(01) False reporting to law enforcement agencies	0	0	0	0
A.R.S. § 28-3478(1) Unlawful use of driver license	0	0	0	0
A.R.S. § 28-3478(3) Using another person's driver license	0	0	0	0

During FY 2017, fines from adjudicated underage violations total forty-two thousand (\$42,000) dollars.

Compliance Statistics Resulting From Underage Violations:

Fiscal Year	Fines Collected	Licenses Suspended	Licenses Revoked
2011	\$214,500	2	0
2012	\$82,265	1	0
2013	\$125,500	4	1
2014	\$80,625	1	2
2015	\$82,375	0	0
2016	\$99,000	0	0
2017	\$42,000	0	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 FY 2017	1 Year Ago This Month	Total FY 2016
Hearings Scheduled	4	22	3	25
Licenses Granted	3	13	0	1
Licenses Denied	1	2	1	4
Continuances Granted	0	8	1	4
Continuances Denied	0	0	0	0
Licenses Withdrawn	0	2	1	8
Appeals Heard	0	0	0	3
Rehearings Requested	0	0	0	1
Hearings Cancelled by Director	0	3	0	3

There were four (4) hearings scheduled before the State Liquor Board in February. Three (3) liquor license applications were granted to two (2) Series 7 Beer and Wine Bar and one (1) Series 6 Bar. One (1) Series 12 Restaurant liquor license application was denied.

STATE LIQUOR BOARD MEMBERS AND TERMS

Cyndy A. Valdez (R)	Chair Pima County Wholesaler	Term Expired January 16, 2017
Michael J. Troyan (I)	Vice Chair Maricopa County Retailer	Term Expires January 15, 2018
Troy Campbell (R)	Coconino County No Financial Interest	Term Expires January 15, 2018
Sergio A. Arellano (R)	Pima County No Financial Interest	Term Expires January 21, 2019
Vacant	Neighborhood Association	Term Expired January 18, 2016
Vacant	No Financial Interest	Term Expired January 16, 2017
Vacant	No Financial Interest	Term Expires January 15, 2018

SUCCESS STATISTICS LICENSING DIVISION

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 this month last year, February 2016, the number of new liquor licenses issued in Arizona decreased sixteen (16.4%) percent and the number of active licenses increased two (1.8%) percent. Also, compared with February 2016, monthly licensing revenues have decreased thirty-eight (37.5%) percent from five hundred thirteen thousand six hundred nine (\$513,609) dollars during this time last year to three hundred twenty-one thousand two hundred sixty-two (\$321,262) dollars during the current month.

In February 2017, thirteen (13) exempt locations were approved which brings the total active exempt locations in Arizona to one hundred thirteen (113). An exempt location is an establishment that has: (1) met the criteria established in A.R.S. § 4-244.05 and A.A.C. R19-1-324; (2) made application for the exemption; (3) been inspected by a DLLC Detective; and (4) been issued a one-year exemption which allows patrons to bring and consume beer and wine on the premises.

Licensing	Current Month	Total FY 2017	1 Year Ago This Month	Total FY 2016
New Licenses Issued	97	957	116	1,473
Renewed Licenses	475	8,347	572	11,977
Lottery Licenses Issued	1	8	1	14
Collected Lottery Revenues	\$17,550	\$1,510,250	\$155,850	\$2,207,600
Number of Active Liquor Licenses	12,323*	12,323*	12,102*	12,203*
Exempt Locations Issued	13	83	12	57
Number of Exempt Locations	113**	113**	89**	98**
Collected Licensing Revenues (including lottery revenues)	\$321,262	\$5,095,038	\$513,609	\$12,347,940

*This number fluctuates daily depending on renewals, new applications, suspensions and revocations.

**This number fluctuates daily depending on renewals and new applications.

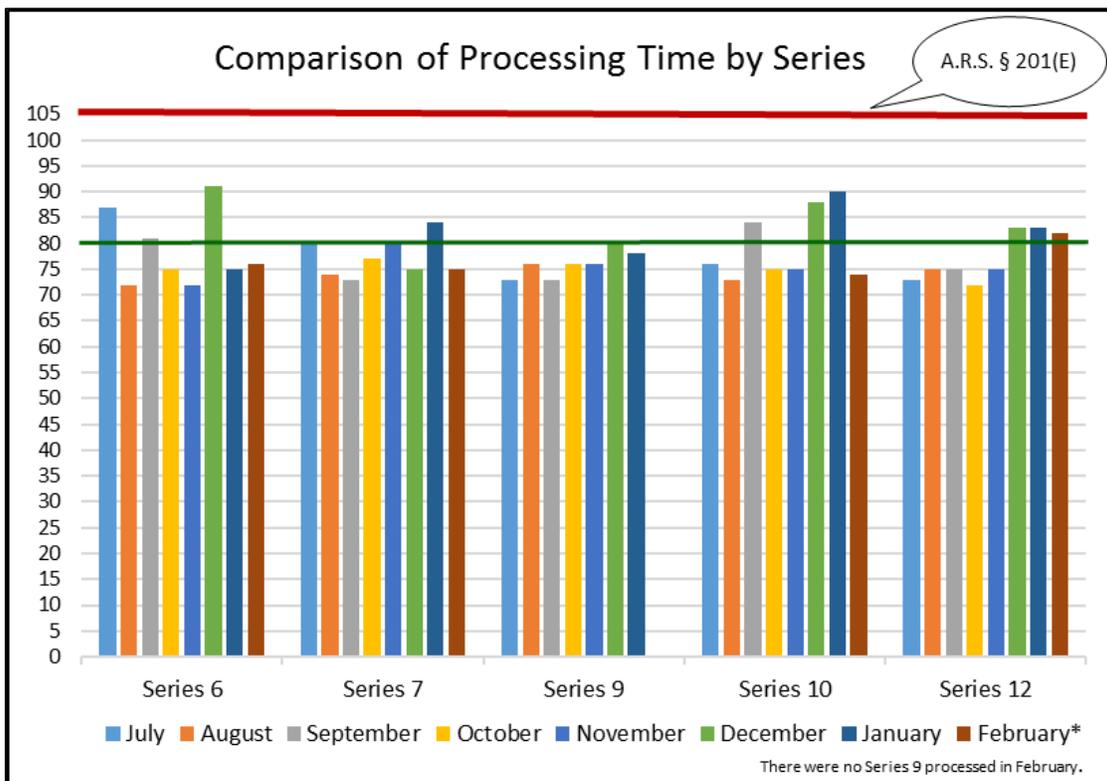
Collected Revenue by Fee Type in February 2017

Fair Market Value	17,550
Applications	12,000
License Fees	166,932
Out-of-State	0
Agent Change	4,100
Fines	19,900
Special Event	6,525
Club	7,900
Penalties	16,800
Copy Fees	4,065
Non-Use Surcharge	8,600
Audit Surcharge	13,860
Enforcement K Surcharge	19,250
Enforcement L Surcharge	18,830
Miscellaneous	0
TOTAL REVENUES COLLECTED	\$316,312
(fingerprints)	4,950
TOTAL REPORT	<u>\$321,262</u>

LEAN TRANSFORMATION STATEWIDE LICENSING INITIATIVE

In FY 2016, DLLC issued one thousand four hundred seventy-six (1,476) new licenses. Customer service representatives (CSRs) have received training and resource materials to ensure that consistent licensing policies and procedures are used when processing new applications. A standardized process will help reduce CSR errors, improve processing time, and improve customer satisfaction rates. DLLC reports its monthly "scorecard" to the Arizona Government Transformation Office (GTO).

In February 2017, fifty-seven (57) New and Transfer licenses were issued in Series 6 Bar, Series 7 Beer and Wine Bar, Series 9 Liquor Store, Series 10 Beer and Wine Store, and Series 12 Restaurant. The target time to process a license application from Date Accepted to Date Approved/Ready to Issue is eighty (80) days. "An application shall be approved or disapproved within one hundred five days after filing of the application" (A.R.S. § 4-201(E)).



WHAT'S NEXT AT DLLC?

Upcoming Events and Milestones

Legislation*

HB2047 LIQUOR; SERVING AGE; REDUCTION. HB2047 passed the House Third Reading calendar without amendment and was transmitted to the Senate. HB2047 received a Do Pass recommendation from the Senate Committee on Commerce and Public Safety.

HB2290 PROVISIONAL LICENSES; CRIMINAL CONVICTIONS. HB2290 relates to regular and provisional license eligibility for ex-criminal offenders. The House Committee on Military, Veterans and Regulatory Affairs gave the bill a Do Pass Amended recommendation. The House Committee of the Whole (COW) passed HB2290 with a floor amendment. HB2290 passed Third Reading in the House and was transmitted to the Senate.

PROVISIONS

1. Mandates a licensing authority to issue a qualified applicant who has been convicted of an offense either a regular or provisional license. (Sec. 1)
2. Requires a provisional license to be valid for a term of 90 days or more, but no more than 365 days as specified by the licensing authority. (Sec. 1)
3. Allows a licensing authority to revoke a provisional license if the licensee:
 - a. Is charged with a felony;
 - b. Commits an act or omission that causes the licensee's community supervision, probation or parole to be revoked; or
 - c. Violates the law governing the practice of the occupation for which the license is issued. (Sec. 1)
4. Requires the licensing authority to issue a regular license to a licensee upon the expiration of the provisional license term. (Sec. 1)
5. Specifies that if a licensing authority revokes a regular license, the licensee is not allowed to receive another provisional or regular license, however, the ability of a licensee to obtain another license in the future is within the discretion of the licensing authority. (Sec. 1)
6. Requires an applicant who has a provisional license and who is on community supervision, probation or parole, to provide name and contact information of the reporting officer to the licensing authority. (Sec. 1)
7. Mandates the licensing authority to notify the reporting officer that a provisional license has been issued to the licensee. (Sec. 1)
8. Instructs the reporting officer to notify the licensing authority if the licensee's community supervision, probation or parole has been revoked and the court must notify the licensing authority if the provisional licensee is charged with a new offense. (Sec. 1)
9. Requires a licensing authority to notify the court that a regular or provisional license has been issued to an applicant for the purposes of recovering restitution. (Sec. 1)
10. Specifies that if a licensee was convicted of criminal trespass, burglary or robbery within the last 10 years, the provisional license must include a condition that the licensee only work under the direction of a supervisor who has no criminal record during all home visits and affidavit must be signed by the supervisor. However, if the offense occurred more than 10 years ago, a licensing authority has discretion to determine if the condition is warranted. (Sec. 1)
11. Allows for a licensing authority to conduct reasonable enforcement activities to ensure the supervision is complied with over the course of the license term. (Sec. 1)
12. Clarifies that a licensing authority may exercise discretion to issue a license to individuals who are not covered under this law. (Sec. 1)
13. Exempts a person who is incarcerated to apply for a provisional license until after their release. (Sec. 1)

* Source: Arizona State Legislature Web Applications (<https://apps.azleg.gov>).

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Legislation (HB2290 continued)

14. Clarifies that this law does not apply to:
 - a. A person who is convicted of a violent crime, a sexual offense, kidnapping and an offense involving fraud if the licensed occupation is one in which the licensee owes a fiduciary duty to a client;
 - b. Any occupation where the licensee would be supervising individuals who lack the mental capacity or children without another licensee in the same room at all times; and
 - c. Any initial or renewal license application where the applicant was convicted of committing an offense in the course of performing the duties of the occupation or a substantially similar occupation. (Sec. 1)
15. Allows the licensing authority to seek declaratory relief in Superior Court to restrict an applicant from being issued a regular or provisional license if it is believed that another exemption would be necessary to protect the public from clear and imminent danger. (Sec. 1)
16. Defines licensing authority as an agency, department, board or commission of this state that issues a license pursuant to Title 32 or the purposes of operating a business in this state to an individual who provides a service to any person. (Sec. 1)

HB2337 LIQUOR OMNIBUS. The House Committee on Commerce gave HB2337 a Do Pass Amended recommendation. HB2337 passed Committee of the Whole (COW) and Third Reading in the House and was transmitted to the Senate.

SB1071 SETTING ASIDE CONVICTION; EMPLOYMENT; BENEFITS. SB1071 authorizes a professional or occupational licensing authority to issue either a regular license or a provisional license to an otherwise qualified applicant who was convicted of an offense. SB1071 specifies offenses that make the person ineligible or that require supervision of the licensee under certain circumstances.

PROVISIONS

Provisional Licenses

1. Authorizes a licensing authority to issue to an otherwise qualified applicant who has been convicted of an offense either of the following:
 - a. A regular license for which the applicant applied; or
 - b. A provisional license.
2. Requires provisional licenses to be valid for a term of up to one year, as specified by the licensing authority by rule.

Revocation of a Provisional License

3. Allows the licensing authority to revoke a provisional license if the provisional licensee:
 - a. Is charged with a new felony;
 - b. Commits an act or omission that causes the provisional licensee's community supervision, probation or parole to be revoked, if applicable; or
 - c. Violates law or rules governing the practice of the occupation for which the provisional license is issued.
4. Specifies that a provisional licensee is not entitled to receive another provisional license or the regular license for which the applicant originally applied, even if otherwise qualified, if the licensing authority revokes a provisional license as specified above.
5. Grants discretion to the licensing authority as to whether such a person may subsequently obtain another such license in the future.

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Legislation (SB1071 continued)

Notification

6. Requires an applicant on community supervision, probation or parole who is issued a provisional license to provide to the licensing authority the name and contact information of the community supervision, probation or parole officer (officer) to whom the applicant reports.
7. Requires the licensing authority to notify the officer that a provisional license has been issued.

Supervision

8. Requires the provisional license to include a condition that the provisional licensee only work under the direct supervision of another licensee who has no criminal record during all home visits under the following circumstances:
 - a. The provisional licensee was convicted of an offense involving criminal trespass, burglary or robbery within the last 10 years; and
 - b. The occupation is one in which a licensee regularly enters private residences.
9. Requires the supervising licensee to sign a verifying affidavit.
10. Grants the licensing authority discretion to order supervision if the offense occurred more than 10 years ago.
11. Permits the regular license to include the condition of supervision if the licensing authority determines the condition is warranted.
12. Allows the licensing authority to conduct reasonable enforcement activities to ensure this supervision condition is complied with over the course of the license term.

Ineligibility

13. Specifies that the authority outlined above to issue a provisional or regular license does not apply to a person convicted of the following:
 - a. A violent crime;
 - b. The offense of public sexual indecency to a minor;
 - c. A sexual offense;
 - d. Kidnapping; or
 - e. An offense in violation of forgery and related offenses, credit card fraud, business and commercial fraud, fraudulent schemes and artifices or fraudulent schemes and practices if the licensed occupation is one in which the licensee owes a fiduciary duty to a client.
14. Stipulates that this authority does not apply to:
 - a. Any occupation where the licensee would be supervising vulnerable adults or children;
 - b. Any initial or renewal license application where the applicant was convicted of committing an offense in the course of performing the duties of the occupation or a substantially similar occupation; or
 - c. Repetitive offenders.

Miscellaneous

15. Stipulates that these requirements do not preclude a licensing authority from exercising existing discretion to:
 - a. Issue a license to individuals not covered under these requirements; or
 - b. Deny or restrict a license for any other reason permitted by law.
16. Prohibits a person who is incarcerated from applying for a provisional license until after the person's release.

WHAT'S NEXT AT DLLC? Upcoming Events and Milestones

Legislation (SB1071 continued)

17. Defines *licensing authority* as any agency, department, board or commission of this state that issues a license pursuant to Title 32 (Professions and Occupations) for the purposes of operating a business in this state to an individual who provides a service to any person.
18. Becomes effective on the general effective date.

SB1072 ADMINISTRATIVE DECISIONS; SCOPE OF REVIEW. SB1072 requires the court, in an action to review a final administrative decision of an agency, to decide all questions of law without regard to previous determinations made in administrative hearings. Requires the court to reverse, modify or vacate and remand the agency action under certain circumstances. The Senate Committee on Judiciary gave the bill a Do Pass Amended recommendation. The Senate Committee of the Whole (COW) passed SB1072 with a floor amendment. SB1072 passed Third Reading in the Senate and was transmitted to the House.

PROVISIONS

1. Requires the court to reverse, modify or vacate and remand the agency action if the court determines the action was contrary to law.
2. Requires the court to decide all questions of law, including the interpretation of a constitutional or statutory provision or rule adopted by an agency, without regard to any previous determination that may have been made on the question in an administrative action.
3. Applies the above requirements, as well as current law, to any action for judicial review of an agency action.
4. Requires the court, if the action arises out of denial of a covered service or claim for service regarding health care appeals, to affirm the agency action unless after reviewing the administrative record and supplementing evidence the court concludes the action is:
 - a. Not supported by substantial evidence;
 - b. Contrary to law;
 - c. Arbitrary and capricious; or
 - d. An abuse of discretion.
5. Excludes Arizona Corporation Commission (ACC) agency actions from the above process.
6. Makes conforming changes.
7. Becomes effective on the general effective date.

END OF DLLC FEBRUARY 2017 REPORT TO THE GOVERNOR