

# Arizona Department of Liquor Licenses and Control



## February 2018 Governor's Monthly Report (REVISED 2/15/19)

STATE OF ARIZONA  
DEPARTMENT OF LIQUOR LICENSES AND CONTROL  
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## Mission Statement

*To protect public safety and support economic growth through the responsible sale and consumption of liquor, and to efficiently license qualified applicants.*

## Vision Statement

*We envision being a leader in state liquor licensing and enforcement, focused entirely on delivering exceptional services that meet customers needs and enrich the communities we serve.*

The Department is in its third year of lean transformation through the continuous improvement principles and strategies of the Arizona Management System (AMS). We endeavor to realize the Governor’s vision of “government at the speed of business,” applying effort in key areas tied to our mission. Our progress will be reported in monthly reports to the Governor.

## ARIZONA MANAGEMENT SYSTEM ROADMAP

### Department Goals and Objectives

Goals	Objectives
Enrich technology tools and opportunities	<ul style="list-style-type: none"> <li>➤ Successfully launch the agency’s new e-Licensing tool to realize opportunities to move agency processes on-line</li> <li>➤ Develop and operationalize a plan to incrementally grow the number of stakeholders using the e-Licensing system and its number of on-line services</li> <li>➤ Through daily use of the new e-Licensing system, organically identify, realize, and operationalize continuous improvement opportunities that enhance agency performance</li> </ul>
Accelerate agency performance	<ul style="list-style-type: none"> <li>➤ Grow agency AMS maturity to, at minimum, Level 3</li> <li>➤ Apply AMS tools to 2017 Statewide Employee Engagement Results to drive developing talent</li> <li>➤ Optimize agency website by simplifying site design and eliminating non-value added tools and information</li> <li>➤ Complete Intermediate PDCA training and apply lessons and tools to agency improvement projects</li> </ul>
Promote and act to create safe communities	<ul style="list-style-type: none"> <li>➤ Actively participate on the Governor’s initiative to reduce the incidence of wrong way drivers on Arizona’s freeways</li> <li>➤ Conduct a breakthrough project targeting reducing the sale of alcohol to persons under 21</li> <li>➤ Leverage partnerships to grow and enrich youth outreach and education programs targeting abstinence of alcohol</li> <li>➤ Grow the Audit Unit’s impact on reviewing Hotel-Motel and Restaurant series licensee compliance with applicable Arizona Revised Statutes Title 4 laws</li> </ul>

# LICENSING AND ADMINISTRATION DIVISION

## LICENSING SECTION

Licensing is responsible for issuing liquor licenses to qualified applicants and providing exceptional customer service to the public. Current staffing includes six Customer Service Representatives, three Records Custodians, and a Licensing Manager. Personal assistance was provided to more than 315 walk-in applicants and licensees in February 2018.

Transaction	February 2018	FY 2018 Year to Date	Total FY 2017
New liquor licenses issued	172	1,142	2,006
Liquor licenses renewed	507	8,056	12,319
Special event permits issued	N/A	2,139	3,576
Interim permits issued	23	351	485
Exempt locations issued	10	119	131
Number of exempt locations	167*	167*	138
Lottery licenses issued	3	15	18
Active liquor licenses	12,087**	12,087**	12,871

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

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

The Department is required to approve or disapprove a license application within 105 days from the day the application is filed (A.R.S. § 201(E)). The time to process an application indicates how well the Department is fulfilling its mission to “efficiently license qualified applicants.” The goal is to issue Series 6-Bar, Series 7-Beer and Wine Bar, Series 9-Liquor Store, Series 10-Beer and Wine Store, and Series 12-Restaurant licenses in no more than 75 days.

License Type	Average Number of Days to Issue License		
	February 2018	FY 2018 Running Average	FY 2017 Year End Average
Series 6-Bar	79	80	76
Series 7-Beer and Wine Bar	80	80	75
Series 9-Liquor Store	N/A	83	74
Series 10-Beer and Wine Store	93	82	77
Series 12-Restaurant	88	83	74

## ADMINISTRATION SECTION

Administration is responsible for Budget and Finance, Procurement, Information Technology, Communications, Special Projects, Human Resources, Liquor Board Administration, and Policy Research. The Budget and Finance Unit tracks incoming revenues which include funding allocated to the Department, grants awarded to the Investigation Division, license fees, and fines. This unit coordinates revenue disbursement to the state and Arizona's 15 counties.

### Collected Revenue by Fee Type

Source of Revenue	February 2018	FY 2018 Year to Date	FY 2017 Year End
FMV (Liquor License Lottery)	16,875	2,078,900	3,526,825
Applications	7,400	98,400	165,425
Licenses Issuances Fees	78,460	934,635	1,269,105
Licenses Renewals Fees	90,300	1,344,882	2,860,895
Interim Permit Fees	2,300	35,600	46,900
Agent Change	2,400	28,351	53,410
Fines (Liquor Law Violations)	22,425	182,325	420,550
Special Event (DHS)	6,500	49,450	70,800
Club (DES)	3,750	34,300	48,675
Penalty Fees (Late Renewals)	15,750	126,600	169,350
Copy Fees	800	1,478	2,154
Non-Use Surcharge	6,200	105,800	201,200
Audit Surcharge (J Fund)	10,620	86,250	178,350
Enforcement K Surcharge	15,330	280,455	430,645
Enforcement L Surcharge	14,295	263,250	373,360
Miscellaneous	6,279	40,385	35,892
17W Direct Shipment License	3,825	29,925	118,800
17W Direct Shipment Renewal	28,875	36,925	22,200
Fingerprints Fees	2,838	33,352	60,522
<b>Total Revenue Collected</b>	<b>\$335,222</b>	<b>\$5,791,263</b>	<b>\$10,055,058</b>

**Miscellaneous =** Acquisition of Control  
 Site Inspection  
 Extension of Premises  
 Co-Op  
 Person Transfer  
 BYOB  
 Location Transfer  
 Sampling

## STATE LIQUOR BOARD

The State Liquor Board consists of seven members who are appointed by the Governor. Arizona Revised Statutes (A.R.S.) Title 4 requires five of the members shall not be financially interested directly or indirectly in a business licensed to deal with spirituous liquors. Two members shall be engaged in business in the spirituous liquor industry, at least one of whom shall currently be a retail licensee or employee of a retail licensee. One member shall be a member of neighborhood association recognized by a county, city, or town. No more than four members may be of the same political party. No more than three members may be appointed from the same county.

Action	February 2018	FY 2018 Year to Date	FY 2017 Year End
Hearings Scheduled*	0	19	31
Licenses Granted	0	6	15
Licenses Denied	0	0	3
Continuances Granted (Matters may be postponed to a subsequent hearing.)	0	2	9
Continuances Denied	0	0	0
Applications Withdrawn (Applicants may withdraw their applications.)	0	4	4
Appeals Heard (Applicants and licensees have the right to appeal a decision made by the Director or the Board.)	0	1	0
Rehearings Requested (A rehearing of a case may be requested by the Board, the applicant, or an interested party.)	0	3	0
Hearings Cancelled (If the reason for the protest is clearly removed or satisfied, the Director may request the Board to cancel the hearing.)	0	3	4

\*No hearings were scheduled for February 2018.

LIQUOR BOARD MEMBERS	
<b>Michael J. Troyan (I)</b> Chair Maricopa County Retailer Term Expires January 15, 2018	<b>Troy L. Campbell (R)</b> Vice Chair Maricopa County No Financial Interest Term Expires January 15, 2018
<b>Michael N. Widener (R)</b> Maricopa County No Financial Interest Term Expires January 15, 2018	<b>Jeffrey K. Oravits (R)</b> Coconino County Neighborhood Association No Financial Interest Term Expires January 21, 2019

# INVESTIGATION DIVISION

It is the responsibility of the Investigation Division to ensure licensees statewide comply with A.R.S. Title 4 (Arizona liquor law) and Arizona Administrative Code (A.A.C.) Title 19. The Division includes Investigations, Compliance, Audit, Trade Practice/Training, and Prevention.

## DIVISION STATISTICS

Achievements	February 2018	FY 2018 Year to Date	FY 2017 Year End
Officer-to-Liquor License Ratio (Nonsupervisory staff of ten full time sworn officers)	1:1,208	1:1,208	1:1,287
<b>Citations</b>			
Total Citations Issued (Number of citations issued by an investigator for administrative, criminal, and underage violations)	73	274	429
Citations Issued to Underage (Number of citations written to underage persons who were found in violation of Title 4)	54	208	324
<b>Violations</b>			
Criminal Counts Charged (Number of counts charged by an investigator when person is in violation of Title 4, Title 13 or Title 28)	134	509	804
Administrative Counts Charged (Number of administrative counts charged by an investigator when a liquor law violation was found at a liquor-licensed establishment)	19	289	700
Underage Violations (Number of counts charged by an investigator for a liquor law violation involving an underage person)	149	467	767
Tax Deficiency Charges (Number of tax delinquencies where a licensee is over 120-days late and owes more than \$250)	0	44	192
<b>Compliance</b>			
Routine Liquor Inspections (Number of establishments randomly inspected to ensure they are operating in compliance with Title 4)	5	176	526
Actioned (Administrative) Complaints (Number of administrative citations issued and scheduled for an administrative hearing)	3	42	124
Compliance Case Reports Submitted	3	159	285
Non-Actioned (Criminal) Complaints (Number of incoming complaints to the Investigation Division reporting a liquor law violation)	9	281	468
<b>Investigation</b>			
Site Inspections Completed	29	321	432
On-View Violation Case Reports (Level 1 high priority involving underage, over service, and/or act of violence)	7	94	59
<b>Total Achievements*</b>	<b>975</b>	<b>6,161</b>	<b>10,896</b>

\*Including police report reviews and completed protests not listed above

## **LAW ENFORCEMENT SPECIAL DETAIL**

- Covert Underage Buyer Program (CUB) – Detective Williams and Detective Schrimpf
- CUB – Detective Barchak and Detective Trevizo
- Tombstone overservice detail – Sergeant Palubeskie, Detective Zacarias, Detective Barchak and Detective Swift
- Waste Management Open/Birds Nest detail – Sergeant Kuhl, Sergeant Palubeskie, Detective Williams, Detective Swift, Detective Schrimpf, Detective Turner, Detective Trevizo, Detective Barchak, Detective Sanchez, Detective Zacarias and Detective Carruthers
- Community Anti-Drug Coalitions of America (CADCA) conference in Washington DC – Detective Sanchez and Detective Webb
- Title 4 and Fake ID training for Desert Diamond Casino (24 security attended) – Detective Zacarias
- Title 4 training for Northern Arizona Regional Training Academy (25 officers) – Detective Webb
- Governor’s Office of Youth, Faith and Family (GOYFF) retail training – Detective Sanchez
- Alcohol Awareness training at Imagine School of Avondale (junior high) (200 students) – Detective Webb
- Alcohol Awareness training for teens in Globe (15 students) – Detective Webb
- Health and safety fair at Sante Fe Elementary School in Peoria (100 students) – Detective Webb

## **COVERT UNDERAGE BUYER PROGRAM**

In an effort to curb the sale of liquor to underage persons, the Department utilizes the Covert Underage Buyer (CUB) program, which was instituted in May of 2003. This program provides the resources necessary for the Department to investigate reported complaints of licensed businesses suspected of underage liquor law violations. When the Department has reasonable suspicion a licensed establishment is selling liquor to underage customers, a CUB will be sent in to attempt to purchase liquor. CUB's are between the ages of 16 and 19 and are carefully trained by Department detectives. The Department provides CUB program training to all Arizona law enforcement agencies, allowing the program to operate statewide.

<b>Action</b>	<b>February 2018</b>	<b>FY 2018 Year to Date</b>	<b>FY 2017 Year End</b>	<b>May 2003 to February 2018</b>
Locations Investigated	6	87	131	4,128
Number That Sold to CUB	3	24	51	1,317
Percentage of Establishments That Sold to CUB	50%	27.6%	38.9%	31.9%
Administrative Citations Issued	6	59	128	3,176
Criminal Citations Issued	8	33	58	2,480

## UNDERAGE VIOLATIONS

Statute and Violation	Number of Counts Charged in February 2018	Number of Counts Charged in FY 2018	Number of Counts Charged in FY 2017
<b>A.R.S. § 4-241(A)</b> Failure to request ID from underage; accepting unauthorized forms of ID	8	35	51
<b>A.R.S. § 4-241(K)</b> Accepting unauthorized IDs	0	0	1
<b>A.R.S. § 4-241(L)</b> Underage who uses false ID to buy alcohol	10	65	81
<b>A.R.S. § 4-241(M)</b> Underage who solicits another person for alcohol	0	0	9
<b>A.R.S. § 4-241(N)</b> Underage who uses of false ID to gain entry to a liquor business	2	18	28
<b>A.R.S. § 4-241(P)</b> Person purchasing alcohol for underage	0	0	0
<b>A.R.S. § 4-244(9)</b> Furnishing alcohol to an underage; underage in possession/consumption	48	152	272
<b>A.R.S. § 4-244(20)</b> Consuming spirituous liquor in public place, thoroughfare or gathering	0	1	2
<b>A.R.S. § 4-244(41)</b> Underage with alcohol in system	59	127	205
<b>A.R.S. § 13-2907.01</b> False reporting to law enforcement agencies	0	1	5
<b>A.R.S. § 13-3613</b> Contributing to delinquency and dependency of a child	0	1	1
<b>A.R.S. § 28-3478.1</b> Unlawful use of driver license	11	48	95
<b>A.R.S. § 28-3478.2</b> Lend ID to another person	0	1	N/A
<b>A.R.S. § 28-3478.3</b> Using another person's driver license	4	8	12
<b>Total Violations</b>	<b>142</b>	<b>457</b>	<b>803</b>

Ages of Underaged Cited This Month	<15	15	16	17	18	19	20
	0	0	1	7	13	11	22



## AUDIT STATISTICS

The Audit Unit monitors and performs audits of Series 11-Hotel/Motel with Restaurant and Series 12-Restaurant, to determine whether licensees are complying with A.R.S. § 4-205.02 by deriving at least 40% of their gross revenue from the sale of food and 60% from the sale of liquor. The Audit Unit refers violations to the Compliance Unit.

Active Restaurant-Type Licenses	February 2018	FY 2018 Year to Date Average	FY 2017 Year End
Hotel/Motel w/Restaurant (Series 11)	187	182	179
Restaurant (Series 12)	3,940	3,853	3,745
<b>Total Restaurant-Type Licenses</b>	<b>4,127</b>	<b>4,035</b>	<b>3,924</b>
Auditor-to-Liquor License Ratio <small>(Two full time auditors)</small>	1:2,064	1:2,018	1:1,962
<b>Audit Action</b>			
Audits Completed	0	0	67
Audits Passed	0	0	51
Audits Failed	0	0	15
Audits Inconclusive/Audit Not Performed	0	0	1
Locations granted one year to continue operation	0	0	0
<b>Open Audit Cases</b>			
Audits in progress	2	2	2
Open cases w/projected ratio of >37%	0	0	0
Open cases w/projected ratio between 30 to 37%	2	2	2
Open cases w/projected ratio of <30%	0	0	0
Locations being monitored	95	94	91
<b>Source of Revenue</b>		<b>Year to Date Total</b>	<b>FY 2017 Year End</b>
Assessed fine revenue	\$0	\$1,500	\$56,650
Collected fine revenue	\$0	\$7,000	\$74,200

## ONLINE AUDIT SERVICES

Online audit services are improving process efficiency and adding value in time savings for licensees and the Department.

Sampling Requests	February 2018	FY 2018 Year to Date	FY 2017 Year End
Total sampling requests	801	7,093	13,733
Total sampling requests cancelled	84	370	674
Total time savings in hours <small>(Calculation: One sampling request takes three minutes to process.)</small>	40.1	354.9	687

## COMPLIANCE STATISTICS

The Compliance Unit 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.

Action	February 2018	FY 2018 Year to Date	FY 2017 Year End
Revocations	0	0	1
Suspensions	0	1	5
Surrenders	1	6	18
Divestitures	0	0	0
Administrative Complaints	0	0	2
Decisions and Orders	0	1	0
Cases Received	27	188	709
Cases Completed	2	25	164
Cases in Progress	25	166	515
Warning Letter Issued	0	8	46
Cases Sent to the Office of Administrative Hearings	0	4	4
Fines Collected	\$22,425	\$191,700	\$426,700
Cases Adjudicated	22	166	389
<b>Action Resulting From Underage Violations</b>			
Licenses Suspended	0	0	1
Licenses Revoked	0	0	0
Fines Collected	\$750	\$24,750	\$86,250

# UPCOMING EVENTS AND MILESTONES

## Legislation\*

### **SB 1117 liquor establishments; peace officers; firearms**

#### **Purpose**

Permits an off-duty peace officer to carry a firearm on the premises of an on-sale liquor retailer.

#### **Background**

Statute prohibits possession of a firearm on the licensed premises of an on-sale retailer, except if the person is a peace officer or a member of a sheriff's volunteer posse while on duty, a retired peace officer, the licensee or an employee of the licensee. Current law also prohibits a licensee or employee of a licensee from serving, selling or furnishing spirituous liquor to a person who is in possession of a firearm while on the licensed premises of an on-sale retailer, with some exceptions (A.R.S. § 4-244). A violation of these provisions is a class 2 misdemeanor (A.R.S. § 4-246).

Peace officers or retired peace officers may be prohibited from carrying firearms when consuming alcohol at a license liquor establishment, except if a peace officer's employing agency authorizes the consumption of alcohol in the performance of the peace officer's duties (A.R.S. § 38-1113).

Statute defines *on-sale retailer* as any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises (A.R.S. § 4-101).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

#### **Provisions**

1. Permits an off-duty peace officer to possess a firearm while on the licensed premises of an on-sale retailer.
2. Permits a licensee or employee of an on-sale retailer to allow an armed, off-duty peace officer to remain on the licensed premises.
3. Makes technical corrections.
4. Becomes effective on the general effective date.

### **HB 2238 administrative decisions; review; scope**

#### **Provisions**

1. Directs the court to reverse, modify or vacate and remand an agency action on a determination that the action was contrary to law. (Sec. 1)
2. Requires the court, in review of a final administrative decision, to decide on all questions of law without regard to any previous determination on the administrative decision. (Sec. 1)

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

3. States that court procedures outlined following an evidentiary hearing apply to the judicial review of any agency action authorized by law. (Sec. 1)
4. Directs the court to affirm an agency action from a utilization review appeal (Title 20, Chapter 15, Article 2) unless it is:
  - a. Not supported by substantial evidence;
  - b. Contrary to law;
  - c. Arbitrary and capricious; or
  - d. An abuse of discretion. (Sec. 1)
5. Exempts the Corporation Commission from judicial review procedures for administrative decisions. (Sec. 1)

### **Current Law**

A.R.S. Title 41, Chapter 6, Article 10 outlines administrative hearing procedures. A person may file a notice of appeal or request a hearing with an agency on an appealable agency action or contested case. The agency submits a request for a hearing with OAH, which is then scheduled, assigned an ALJ and noticed with affected parties. OAH conducts a hearing and the ALJ issues a decision. The agency head may accept, reject or modify the decision. The agency head's decision is considered the final decision. A party may file for a rehearing or review of the final decision. A petition for review in superior court is also permitted.

A.R.S. Title 12, Chapter 7, Article 6 outlines the procedures for judicial review of final administrative decisions. An affected party files a notice of appeal which is served to all parties. The agency must then file a notice of appearance. A motion to hold an evidentiary hearing may be made by a party. A.R.S. § 12-910 allows the court to affirm, reverse, modify or vacate and remand an agency action, after review of the administrative record and supplementing evidence at an evidentiary hearing. The court must affirm an agency action unless it finds the action is contrary to law, not supported by substantial evidence, arbitrary and capricious or an abuse of discretion. The final decision of the superior court may be appealed to the Arizona Supreme Court.

END OF FEBRUARY 2018 REPORT TO THE GOVERNOR