

Arizona Department of Liquor Licenses and Control



January 2019 Governor's Monthly Report (REVISED 9/26/19)

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.

FY 2019 STRATEGIC PLAN

We endeavor to realize the Governor’s vision of “government at the speed of business,” applying effort in key areas tied to our mission. As developing practitioners of the Arizona Management System (AMS), staff potential to improve performance results is strong. A commitment to continuous improvement through AMS, plus leveraging and developing talent is needed to lean out processes plus optimize resources.

Goals	Goal Performance Indicator(s)	Objectives FY 2019
1: Enrich technology tools and opportunities	# of agency services offered on-line # of system tools improved # of license jobs done in public portal	A) Beginning November 2018, grow customer e-license system use to 15% for those who are existing customers with an email address on record
		B) Increase the number of licensing services offered on-line from 3% to 60%
		C) Identify five (5) licensing system enhancements and implement
		D) By October 1, 2018, create e-licensing webpage with tool link and FAQs to enrich customer use of new licensing system
2: Accelerate agency performance	AMS-driven continuous improvement wins Employee engagement scores	A) Identify five continuous improvement wins (from anywhere across the agency) and implement
		B) Seek outside professional development training for 30% of civilian staff
		C) Provide avenues to increase Licensing Section effectiveness by addressing workload and time impacts
		D) Create standard written work for resolving license renewals with outstanding compliance actions by March 31, 2019
3: Promote and act to create safe communities	Sales of alcohol to underage persons Over service Acts of violence	A) When notified by Arizona DPS of a collision, investigate 100% of licensees in wrong way driver cases on Arizona freeways wherein a Title 4 violation is a contributing factor, significant injury or death occurred, and a direct causal link exists between a licensed entity and the driver of the responsible vehicle
		B) Complete investigative breakthrough project efforts to reduce the sale of alcohol to persons under 21 by 50% by December 31, 2018
		C) Execute 235 youth outreach and education training deliveries targeting abstinence of alcohol

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 licensing staff includes five customer service representatives (CSRs), three records custodians, and a licensing manager. CSRs answer questions and assist licensees with completing required paperwork. Personal assistance was provided to 336 walk-in applicants and licensees in January 2019. On average, CSRs spent 16 minutes with each walk-in visitor. Records custodians ensure the state’s liquor records are safe, legible, and readily accessible for the Department’s archives, online services, and public records requests. Records custodians also process payments, transfer records between local governments and the state, and create electronic business forms and instructions.

Transaction	January 2019	FY 2019 Year to Date	FY 2018** Year End
New liquor licenses issued	514	3,675	4,270
Liquor licenses renewed	1,007	8,062	10,339
Special event permits issued	205	1,470	3,755
Interim permits issued	42	290	674
Exempt locations issued	18	129	159
Lottery licenses issued	2	14	26
Active liquor licenses*	15,359	15,359	14,482

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

** Data discrepancies due to new license system implemented in the year.

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 – January 2019			
	Number of Applications	Average Time to Process	FY 2019 Running Average	FY 2018 Year End Average
Series 6-Bar	5	65	62	83
Series 7-Beer and Wine Bar	4	68	64	83
Series 9-Liquor Store	2	57	63	76
Series 10-Beer and Wine Store	3	68	65	85
Series 12-Restaurant	23	69	65	84

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, accounts payable, and payroll processing. The Procurement Unit coordinates with ADOA in obtaining and evaluating resources and supplies with a goal of improving the cost efficiency of operations.

The Information Technology Unit provides desktop support and expertise in maximizing the utility of technology resources. The Communications and Special Projects Unit directs incoming and outgoing information, including media communications and requests, website design and content, and industry announcements and presentations. The Human Resources Unit manages a proper entrance and exit process for employees, participates in the creation, maintenance and distribution of departmental policies and procedures, and manages on-going employee training.

Collected Revenue by Fee Type

Source of Revenue	January 2019	FY 2019 Year to Date	FY 2018 Year End
FMV (Liquor License Lottery)	76,925	374,850	3,170,925
Applications	18,195	127,748	425,241
Licenses Issuances Fees	123,275	853,612	1,141,560
Licenses Renewals Fees	114,925	1,225,023	2,845,779
Interim Permit Fees	3,700	26,100	59,700
Agent Change	2,150	13,550	35,551
Fines (Liquor Law Violations)	21,781	233,839	328,475
Special Event (DHS)	6,195	44,220	72,500
Club (DES)	8,700	32,925	41,700
Penalty Fees (Late Renewals)	15,000	85,800	200,400
Copy Fees	12	1,588	1,623
Non-Use Surcharge	13,600	90,600	177,300
Audit Surcharge (J Fund)	14,910	72,900	182,550
Enforcement K Surcharge	27,755	267,785	422,415
Enforcement L Surcharge	27,665	245,150	363,210
Miscellaneous	8,881	56,470	90,022
17W Direct Shipment License	4,950	21,600	54,675
17W Direct Shipment Renewal	21,525	21,525	74,025
Growlers	225	9,175	N/A
Samplings	3,440	24,880	N/A
Fingerprints Fees	3,762	30,694	53,522
Total Revenue Collected	\$517,571	\$3,860,034	\$9,741,172

* 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	January 2019	FY 2019 Year to Date	FY 2018 Year End
Hearings Scheduled	4	26	33
Licenses Granted	1	2	14
Licenses Denied	2	6	2
Continuances Granted (Matters may be postponed to a subsequent hearing.)	0	5	4
Continuances Denied	0	0	0
Applications Withdrawn (Applicants may withdraw their applications.)	1	10	5
Appeals Heard (Applicants and licensees have the right to appeal a decision made by the Director or the Board.)	0	2	1
Rehearings Requested (A rehearing of a case may be requested by the Board, the applicant, or an interested party.)	0	2	3
Hearings Cancelled (If the reason for the protest is clearly removed or satisfied, the Director may request the Board to cancel the hearing.)	0	0	4

LIQUOR BOARD MEMBERS	
Michael J. Troyan (I) Chair Maricopa County Retailer Term Expires January 18, 2021	Troy L. Campbell (R) Vice Chair Maricopa County No Financial Interest Term Expires January 18, 2021
Michael N. Widener (R) Maricopa County No Financial Interest Term Expires January 18, 2021	Jeffrey K. Oravits (R) Coconino County Neighborhood Association No Financial Interest Term Expires January 21, 2019
Walter W. Jahn (R) Pima County Wholesaler Term Expires January 20, 2020	

INVESTIGATION DIVISION

It is the responsibility of the Investigation Division to ensure licensees comply with Arizona Revised Statutes (A.R.S.) Title 4 (Alcoholic Beverages) and Arizona Administrative Code (A.A.C.) Title 19 (Rule 19-1-101 through Rule 19-1-705). The division includes Investigations, Compliance, Audit, Industry Trade Practice, and Prevention. The primary functions of the Investigation Division are to:

Enforce Title 4 and Title 13 criminal laws to ensure compliance with statutes.
Investigate complaints regarding licensed establishments received from community members and local law enforcement personnel.
Conduct background investigations of liquor license applicants to determine if they have met Title 4 qualifications to possess a liquor license.
Conduct routine licensed business inspections to educate and prevent future violations.
Conduct Covert Underage Buyer (CUB) details to determine if a licensed establishment is in compliance with Title 4 regarding the sale and service of liquor only to persons age 21 and older.
Review police reports submitted by local law enforcement agencies to assess compliance and when one or more violations are found, submit reports to the Compliance Unit for accountability.
Work with licensees and their staff regarding Fake IDs and changes to Title 4 and A.A.C. Title 19 to ensure compliance.
Track industry trade practices to ensure compliance with Title 4 and A.A.C. Title 19.
Monitor and perform audits of two types of licensed establishments: hotel/motel with restaurant (Series 11) and restaurants (Series 12).
Collaborate with law enforcement agencies statewide on the application of Title 4, with emphasis on the Administrative Law process.
Develop and implement enforcement plans for the sale and service of liquor at large scale, public "special events" where attendance of more than 1,000 people is expected.
Educate students about legal, physical, and emotional outcomes that can occur when alcohol is consumed by persons under the age of 21.
Work with community members to ensure that licensed establishments positively impact neighborhoods.

DIVISION STATISTICS

Achievements	January 2019	FY 2019 Year to Date	FY 2018 Year End
Officer-to-Liquor License Ratio (Nonsupervisory staff of ten full time sworn officers)	1:1,535	1:1,535	1:1,456
Citations			
Total Citations Issued (Number of citations issued by an investigator for administrative, criminal, and underage violations)	31	317	428
Citations Issued to Underage (Number of citations written to underage persons who were found in violation of Title 4)	22	267	421
Violations			
Criminal Counts Charged (Number of counts charged by an investigator when person is in violation of Title 4, Title 13 or Title 28)	56	600	758
Administrative Counts Charged (Number of administrative counts charged by an investigator when a liquor law violation was found at a liquor-licensed establishment)	62	301	531
Underage Violations (Number of counts charged by an investigator for a liquor law violation involving an underage person)	52	625	732
Compliance			
Routine Liquor Inspections (Number of establishments randomly inspected to ensure they are operating in compliance with Title 4)	8	109	260
Actioned (Administrative) Complaints (Number of administrative citations issued and scheduled for an administrative hearing)	15	72	165
Compliance Case Reports Submitted	7	55	225
Non-Actioned (Criminal) Complaints (Number of incoming complaints to the Investigation Division reporting a liquor law violation)	54	290	399
Investigation			
Site Inspections Completed	38	293	481
On-View Violation Case Reports (Level 1 high priority involving underage, over service, and/or act of violence)	2	26	143
Total Achievements*	923	6,254	9,918

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

LAW ENFORCEMENT SPECIAL DETAIL

- Covert Underage Buyer (CUB) detail in Pima County – Sergeant Palubeskie and Detective Zacarias
- CUB detail in Maricopa County – Detective Williams and Detective Barchak
- Barrett-Jackson Scottsdale detail – Detective Swift
- Waste Management Open detail – Detective Swift, Detective Williams, and Detective Barchak
- Tobacco details with Attorney General’s Office – Detective Webb
- Search warrant with Department of Gaming – Sergeant Palubeskie and Detective Barchak
- Detective Carruthers attended Firearms familiarization at Winslow Police Department.
- Detective Schrimpf attended Glock Armorer school at Tempe Police Department.
- Alcohol awareness classes (6 sessions) at Sonoran Wells school (270 students) – Detective Webb
- Alcohol awareness classes (2 sessions) at Sunrise school (58 students) – Detective Webb
- Alcohol awareness classes (3 sessions) at Blue Ridge school (75 students) – Detective Webb
- Fake I.D. training at Maricopa County Sheriff’s Office Academy (12 officers) – Detective Webb
- Title 4 training at Mesa Police Department – Detective Webb
- Detective Webb attended Tribal Legislative Day at the Capitol Mall.

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 2003. This program provides the resources necessary for investigating 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. CUBs are between the ages of 16 and 19 and are carefully trained by Detectives. The Department also provides CUB program training to all Arizona law enforcement agencies.

Action	January 2019	FY 2019 Year to Date	FY 2018 Year End	May 2003 to January 2019
Locations Investigated	5	108	118	4,245
Number That Sold to CUB	2	26	32	1,347
Percentage of Establishments That Sold to CUB	40%	24.1%	27.1%	31.7%
Administrative Citations Issued	6	77	77	3,241
Criminal Citations Issued	4	62	47	2,537

UNDERAGE VIOLATIONS

Statute and Violation	Number of Counts Charged in January 2019	Number of Counts Charged in FY 2019	Number of Counts Charged in FY 2018
A.R.S. § 4-241(A) Failure to request ID from underage; accepting unauthorized forms of ID	2	38	49
A.R.S. § 4-241(K) Accepting unauthorized IDs	0	0	2
A.R.S. § 4-241(L) Underage who uses false ID to buy alcohol	12	114	75
A.R.S. § 4-241(M) Underage who solicits another person for alcohol	0	7	0
A.R.S. § 4-241(N) Underage who uses of false ID to gain entry to a liquor business	3	30	23
A.R.S. § 4-241(P) Person purchasing alcohol for underage	0	0	0
A.R.S. § 4-244(9) Furnishing alcohol to an underage; underage in possession/consumption	23	225	274
A.R.S. § 4-244(20) Consuming spirituous liquor in public place, thoroughfare or gathering	0	4	1
A.R.S. § 4-244(41) Underage with alcohol in system	8	101	218
A.R.S. § 13-2907.01 False reporting to law enforcement agencies	1	2	1
A.R.S. § 13-3613 Contributing to delinquency and dependency of a child	0	2	2
A.R.S. § 28-3478.1 Unlawful use of driver license	3	93	59
A.R.S. § 28-3478.2 Lend ID to another person	0	0	2
A.R.S. § 28-3478.3 Using another person's driver license	0	9	9
Total Violations	52	625	715

Ages of Underaged Cited This Month	<15	15	16	17	18	19	20
					5	8	9

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	January 2019	FY 2019 Year to Date Average	FY 2018 Year End
Hotel/Motel w/Restaurant (Series 11)	197	191	184
Restaurant (Series 12)	4,023	3,963	3,856
Total Restaurant-Type Licenses	4,220	4,154	4,040
Auditor-to-Liquor License Ratio <small>(Two full time auditors)</small>	1:2,110	1:2,373	2,020
Audit Action		Year to Date Total	FY 2018 Year End
Audits Completed	3	14	2
Audits Passed	1	6	0
Audits Failed	2	5	0
Audits Inconclusive/Audit Not Performed	0	3	0
Locations granted one year to continue operation	1	2	0
Open Audit Cases		Year to Date Average	FY 2018 Year End
Audits in progress	9	5	2
Open cases w/projected ratio of >37%	8	5	0
Open cases w/projected ratio between 30 to 37%	1	1	2
Open cases w/projected ratio of <30%	0	0	0
Locations being monitored	97	101	95
Source of Revenue		Year to Date Total	FY 2018 Year End
Assessed fine revenue	\$3,000	\$11,000	\$59,500
Collected fine revenue	\$0	\$12,000	\$34,875

During January 2019 the audit unit completed 145 audits of the 548 submitted Direct Shipment Reports, finding violations in 4 of those audits.

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	January 2019	FY 2019 Year to Date	FY 2018 Year End
Revocations	0	0	0
Suspensions	0	3	2
Surrenders	1	6	7
Divestitures	0	2	0
Administrative Complaints	0	0	0
Decisions and Orders	0	0	2
Cases Received	20	122	632
Cases Completed	1	12	119
Cases in Progress	19	110	516
Warning Letter Issued	0	2	72
Cases Sent to the Office of Administrative Hearings	0	1	6
Fines Collected	\$23,875	\$227,400	\$290,000
Cases Adjudicated	17	153	303
Action Resulting From Underage Violations			
Licenses Suspended	0	1	0
Licenses Revoked	0	0	0
Fines Collected	\$25,000	\$41,280	\$43,875

UPCOMING EVENTS AND MILESTONES

Legislation*

The Fifty-fourth Legislature convened its First Regular Session on January 14, 2019. Each year, stakeholders of the liquor industry participate in crafting legislation for a liquor omnibus bill. Representatives of 14 organizations representing the liquor and hospitality industries provided input for House Bill 2281.

Provisions

Joint Premises Permit (Sec. 11)

1. Permits one or more on-sale spiritous liquor licensees with the same type of bar, beer and wine bar, restaurant or farm winery license to apply to the Department of Liquor Licenses and Control for a joint premises permit.
2. Specifies the following regarding a permit:
 - a. Application requirements;
 - b. Designated area of the joint premises;
 - c. Liabilities, restrictions, and prohibitions;
 - d. Nontransferable; and
 - e. Term of issuance and renewability.
3. Allows the Director to charge an application fee.
4. Permits the Director to suspend or revoke the permit.

Special Event License (Sec. 5)

5. Specifies failure for a local government to forward a denial of a special event to the Director within 60 days of the submission of the application for the event by a licensee is deemed an approval.
6. Permits a licensed producer or wholesaler to make a monetary donation to a licensed special event nonprofit entity to help sponsor the special event.
 - a. Allows the donation to be payable by check to either the special event licensee or approved event contractor.

Club License (Sec. 6)

7. Outlines who the licensee is authorized to sell and serve alcoholic beverages to, rather than who may attend a club that sells and serves alcoholic beverages operated by a club licensee.
8. Prohibits a hosted event from charging attendees' admission, food, or nonalcoholic beverages with respect to member recruitment events.

Restaurant License (Sec. 7)

9. Asserts businesses that were awarded a small restaurant exemption prior to January 31, 2019 may continue to maintain the capacity of 50 or fewer seats for the duration of the business.

Farm Winery License (Sec. 8)

10. Removes the restriction on the number of gallons of distilled spirits that a farm winery and craft distiller licensee may produce per year.

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

11. Excludes production and storage space of the farm winery from the licensed farm winery premises and public areas, with exception.
 - a. Allows for the inspection of production and storage space.
 - b. Defines *public area*.

Craft Distiller License (Sec. 9)

12. Allows a licensee to hold a farm winery license.
13. Allows a licensee to provide sampling and retail sales of distilled spirits on the same premises as the wine sampling and retail sales.
14. Excludes production and storage space of the craft distiller from the public area of the licensed craft distiller premises.
 - a. Allows for the inspection of production and storage space.
 - b. Defines *production and storage spaces* and *public area*.

Bar, Beer, & Wine Bar License (Sec. 10)

15. Clarifies the number of new licenses that the Director may issue in each county.
16. Allows a licensee to charge a fee for educational classes where the sampling of any spiritous liquor product is incidental to the course.

Miscellaneous

17. Allows the Director to suspend or revoke the previous approval of trainers.
 - a. Allows a trainer to appeal to the State Liquor Board. (Sec. 2)
18. Specifies an applicant for a liquor license must file one copy, rather than three, to the Director. (Sec. 3)
19. Allows a retail licensee to take orders by telephone, mail, fax, catalog, through the internet or by other means for the delivery of liquor off the premises. (Sec. 4)
20. Authorizes a retail licensee to contract with one or more independent contractors, or use a common carrier, for delivery of spiritous liquor.
 - a. Allows an independent contractor to contract with other independent contractors. (Sec. 4)
21. Asserts the delivery of liquor must be made by an employee who is at least 21 years old to a customer who is at least 21 years old and who shows identification at the time of delivery. (Sec. 4)
22. Specifies any violation that is based on the act or omission of a licensee's employee with respect to the delivery of liquor, the Director must consider evidence of mitigation that the employee acted intentionally. (Sec. 4)
23. Preempts law from prohibiting a peace officer who possesses a firearm from entering and remaining on the licensed premises of an on-sale retailer. (Sec. 12)
24. Assesses a Class 1 misdemeanor when a person *knowingly hosts* a gathering of two or more persons who are under the legal drinking age, rather than the current standard of a person *knowingly allows* such a gathering.

- a. Defines *hosts* as allowing or promoting a party, gathering or event at a person's place of residence or other premises under the person's ownership or control where spirituous liquor is served to, in the possession of or consumed by an underage person. (Sec. 13)
25. Permits an off-sale retailer to receive and process orders, accept payment or package, load or prepare liquor for delivery between 6 a.m. and 2 a.m. (Sec. 14)
26. Adds it is unlawful for a direct shipment licensee, a farm winery licensee, or such employee to sell, dispose of, deliver or give liquor to a consumer between 2 a.m. and 6 a.m., with exception. (Sec. 14)
27. Modifies the definition of *act of violence*. (Sec. 1)
28. Makes technical changes. (Sec. 1, 3, 4, 5, 6, 8, 10, 14)

Amendments

Committee on Commerce

1. Authorizes a licensee to use a biometric identity verification device to determine a person's age.
 - a. Defines *biometric identity verification device*.
2. Adds the requirement for a licensee to inform the purchaser of liquor of state law age limits and that the person accepting the delivery verify their age.
3. Requires certain liquor deliveries to be conspicuously labeled that a signature of a 21 or older person is required for delivery.
4. Subjects the statutory provisions relating to sampling privileges to off-sale retail licensees who provide wine tasting off the licensed premises.
5. Removes language that amends statute relating to club licenses.
6. Removes language relating to underage persons within a designated area of a joint premises.
7. Removes language regarding an officer entering the premises of an on-sale retailer.
8. Adds the revoking suspending or refusing to renew a license for unpaid taxes or penalties is a contested case with the Department of Revenue and outlines an appeals process.

END OF JANUARY 2019 REPORT TO THE GOVERNOR