

The July 2022 Arizona Department of Liquor Licenses and Control performance audit and sunset review found that the Department did not handle cash receipts as required, comply with some State- and Department-specific conflict-of-interest requirements, and investigate all complaints within established time frames, and had not fully implemented the cocktails and alcohol to-go programs that became effective in September 2021. We made 26 recommendations to the Department, and its status in implementing the recommendations is as follows:

### Status of 26 recommendations

Implemented	2
In process	20
<b>Not implemented</b>	<b>4</b>

We will conduct a 24-month followup with the Department on the status of the recommendations that have not yet been implemented.

## Finding 1: Department did not protect public monies, increasing risk of loss or theft and delaying State’s use of monies

1. The Department should record cash on the day received and deposit as soon as practicable, as required by the SAAM.

**Implementation in process**—Our review of 6 separate deposits the Department made in December 2022 and February 2023 found that the Department did not fully comply with SAAM requirements for 5 of 6 deposits. Specifically, these 5 deposits included 28 of 297 checks that were recorded or deposited between 2 and 9 business days after receiving the check, in excess of the SAAM requirement.<sup>1</sup> Although not fully in compliance with SAAM requirements, depositing the majority of checks as soon as practicable represents an improvement from our audit finding.<sup>2</sup> Additionally, the 5 deposits included 2 checks where we could not determine the timeliness of deposits because they were not included in the documentation the Department provided or had no date stamp of receipt as required by Department policy. We will continue to assess the Department’s implementation of this recommendation during our 24-month followup.

2. The Department should continue its efforts to develop and implement an accurate mail log that includes:
  - a. Signatures from 2 employees not responsible for accounting records and who are present when the mail is opened.
  - b. Name of remitter; purpose of the remittance; amount of remittance; and form of remittance, such as cash, check, or money order.

**Implementation in process**—The Department has created a mail log that includes key information, such as the name of the remitter, purpose of the remittance, and the amount and form of remittance—either cash,

<sup>1</sup> SAAM 20.10.7 states that agencies must deposit cash as soon as practicable and, in most cases, on the day received, but that if making a deposit on the day of collection is impracticable, receipts must be deposited by the end of the day after monies total \$1,000 or more.

<sup>2</sup> During our September 2021 audit, we reviewed the Department’s safe twice. Our initial review of the Department’s safe identified 364 checks the Department had not deposited for up to 8 months, and our second review identified 305 checks it had not deposited for up to 5 months.

check, or money order. However, our review of the Department's mail log for 3 of 84 business days between August and November 2022 found that the mail log included a signature from only 1 employee who is not responsible for accounting records and was present when opening the mail. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

3. The Department should reconcile the mail log to amounts recorded and deposited and maintain documentation of the reconciliations, ensuring all cash received is recorded and deposited and discrepancies are investigated and resolved by employees who are not responsible for logging, recording, or depositing receipts, as required by the SAAM.

**Not implemented**—Although the Department reported it has performed reconciliations, it did not provide documentation, despite our requests, demonstrating that its staff completed a reconciliation between the mail log, amounts recorded in its cashing system, and amounts deposited to the State Treasurer. Additionally, it did not provide documentation demonstrating that the staff performing reconciliations are also not responsible for logging, recording, or depositing receipts. We will assess the Department's implementation of this recommendation during our 24-month followup.

4. The Department should develop and/or revise and implement written policies and procedures to help ensure staff comply with cash-handling requirements in the SAAM, including those outlined in recommendations 1 through 3.

**Implementation in process**—The Department has developed multiple written procedures related to cash-handling that include some of the requirements outlined in SAAM. For example, staff must restrictively endorse checks with the Department's stamp on the day received and store cash in a locked receptacle. However, these procedures do not include other cash-handling requirements outlined in SAAM, such as recording cash on the same day received, depositing cash as soon as practicable, or steps for performing reconciliations. The Department's lack of complete procedures that address all SAAM cash-handling requirements likely contributed to the issues we found that are discussed in the explanations for Recommendations 1 through 3. We will continue to assess the Department's further development and implementation of its policies and procedures during our 24-month followup.

## **Finding 2: Department did not comply with some State- and Department-specific conflict-of-interest requirements, increasing risk that employees and public officers had not disclosed substantial interests that might influence or could affect their official conduct**

5. The Department should update its conflict-of-interest disclosure form to include the additional requirements specified in A.R.S. §4-114 that are applicable to Department employees and Board members, and continue to ensure that its conflict-of-interest disclosure form addresses both financial and decision-making conflicts of interest for employees/Board members and their relatives, as required by statute.

**Implemented at 12 months**

6. The Department should develop and implement conflict-of-interest policies and procedures to help ensure compliance with all State conflict-of-interest requirements, including A.R.S. §4-114, that require:
  - a. All Department employees and Board members to complete a conflict-of-interest disclosure form upon hire or appointment, including attesting that no conflicts exist, if applicable, and reminding them at least annually to update their disclosure form when their circumstances change, consistent with State requirements and recommended practices.

**Implementation in process**—The Department has developed a policy that requires all employees and Board members to complete disclosure statements upon hire or appointment. The Department also revised its conflict-of-interest disclosure form to comply with applicable statutory requirements (see Recommendation 5). However, our review of the conflict-of-interest forms as of February 28, 2023, for all 44 Department employees and 5 appointed Board members found that only 3 of these employees and

no appointed Board members had completed this revised disclosure form, including fully disclosing any potential conflicts. Finally, although the Department revised its policy to require an annual conflict-of-interest training each January and for an employee or Board member to update their form, if circumstances change, this revised policy does not include a requirement to provide an annual reminder for employees or Board members to update their form when circumstances change. We will continue to assess the Department's further development of and compliance with its policies and procedures during our 24-month followup.

- b. Using the updated conflict-of-interest disclosure form as recommended in Recommendation 5.

**Not implemented**—See explanation for Recommendation 6a.

- c. Storing all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection, as required by statute.

**Not implemented**—Although the Department reported it has established a special file to store substantial interest disclosures, it has not developed policies and procedures for storing all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection, as required by statute. Additionally, the Department provided examples of meeting minutes stored within this special file; however, these minutes did not include a disclosed conflict by a Board member and, therefore, are not required to be stored in the special file. Additionally, as explained in Recommendation 6a, the Department has not obtained updated conflict-of-interest forms for all employees or Board members to ensure all substantial interest disclosures are included in the special file. We will assess the Department's implementation of this recommendation during our 24-month followup.

- d. Establishing a process to review and remediate disclosed conflicts, consistent with recommended practices.

**Implementation in process**—The Department has developed a policy and procedures for reviewing and remediating disclosed conflicts, including requiring supervisors to review disclosed conflicts prior to assigning tasks and allowing the Director to make final decisions on potential conflicts. Because the Department has not fully implemented Recommendations 6a through 6c, we will assess the Department's implementation of this recommendation during our 24-month followup.

- 7. The Department should develop and provide periodic training on its conflict-of-interest requirements, process, and disclosure form, including providing training to all employees and Board members on how the State's conflict-of-interest requirements and A.R.S. §4-114 relate to their unique programs, functions, or responsibilities.

**Implementation in process**—The Department has developed policies and an annual training on its conflict-of-interest requirements, process, and disclosure form in accordance with the State's and its specific statutory conflict-of-interest requirements. Although the Department reported that most of its staff had attended this training, the Department did not provide documentation showing that all employees and Board members had received the Department's conflict-of-interest training. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

## **Sunset Factor 2: The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.**

- 8. The Department should establish alcohol delivery contractor registration requirements and develop and implement rules and policies and procedures outlining these registration requirements and updating its registration application as needed. As part of the policies and procedures, the Department should include guidance for its staff on reviewing registration applications to help ensure applicants meet registration requirements.

**Implementation in process**—The Department has developed and implemented rules and policies and procedures that outline alcohol delivery contractor registration requirements and staff guidance for reviewing registration applications. However, the policy and procedures do not include requirements for maintaining and checking against a list of registered alcohol delivery contractors that are not otherwise in penalty status, as

required by statute. We will continue to assess the Department's further development of and compliance with its alcohol delivery contractor registration policies and procedures during our 24-month followup.

9. The Department should conduct a workload/cost analysis to evaluate whether its funding and staffing level is appropriate for administering the cocktails and alcohol to-go programs and work with the Legislature to revise the appropriations, as needed.

**Implementation in process**—The Department prepared a workload and cost analysis that showed 2 of 6 staff positions funded by the cocktails and alcohol to-go programs spend 100 percent of their time on the programs, while the other 4 staff positions spend between 3 and 33.5 percent of their time on the programs. According to the Department's analysis, these 4 staff positions spend their remaining time on other Department functions unrelated to the cocktails and alcohol to-go programs, including audits, reviewing and processing other types of liquor license applications, or assisting the director and deputy director. The Department's analysis further showed that the cocktails and alcohol to-go programs generated an estimated \$40,200 in annual fee revenue but cost approximately \$196,000 annually based on staff salaries to process applications and administer the program. In fiscal year 2022, the Department was appropriated \$1,025,000 and 6 FTE positions to administer the program. However, despite its analysis showing it does not need this level of funding and staffing to administer the cocktails and alcohol to-go programs, it has not provided evidence of working with the Legislature to revise its appropriation for administering the program. We will further assess the Department's implementation of this recommendation during our 24-month followup.

10. The Department should develop and implement policies and procedures for periodically reviewing the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, determining the appropriate licensing fees and surcharges, and then working with the Legislature to revise its fees as needed.

**Implementation in process**—The Department has developed and implemented policies and procedures for periodically reviewing the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, and determining the appropriate licensing fees and surcharges. Based on its fee analysis, the Department has identified the need to revise some of its fees and has developed proposed draft statutory changes to reflect these revisions. The Department also reported it has met with some industry stakeholders to discuss fee changes, which it characterized as an initial step in working with the Legislature to revise its fees. We will continue to assess the Department's efforts to work with the Legislature to revise its fees as needed during our 24-month followup.

11. The Department should develop a written action plan for developing and implementing ASET-required IT and data security procedures. The Department should then use this action plan to guide its efforts in developing and implementing written IT and data security procedures in line with ASET requirements and credible industry standards, focusing on the IT security areas with the highest security risks first. The action plan should include specific tasks, the status of those tasks, and their estimated completion dates, as well as a process for regularly reviewing and updating the plan based on its progress.

**Implementation in process**—The Department has developed a written action plan for developing and implementing Arizona Department of Homeland Security (AZDOHS)-required IT and data security procedures.<sup>3</sup> The action plan includes specific tasks, the current status of each task, and a process for regularly reviewing and updating the plan. The Department has used its action plan to guide its efforts in developing and implementing written IT and data security procedures in line with AZDOHS requirements. However, the Department continues to complete additional tasks, including updating its website development process and performing ongoing reviews of all tasks for any necessary changes. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

12. The Department should develop and implement procedures for identifying records eligible for destruction and deleting original paper and electronic documents that contain sensitive information, as required by recommended practices.

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<sup>3</sup> Effective September 24, 2022, Laws 2022, Ch. 50, transferred the responsibility for State agency IT and data security oversight from ASET to AZDOHS.

**Implementation in process**—The Department has developed procedures and a retention schedule for identifying records eligible for destruction and deleting any paper and electronic documents that contain sensitive information (see explanation for Recommendation 13). The Department is implementing these procedures for all applicable records and estimates it will complete this process by July 2024. However, our review of 6 Certificates of Records Destruction prepared by the Department between August 2022 and October 2022 found that 3 of these certificates were incomplete and did not provide Arizona State Library, Archives and Public Records with all the information for managing Department records, including 1 certificate that did not specify dates for destroying the records. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

13. The Department should follow Arizona State Library, Archives and Public Records document retention schedules.

**Implementation in process**—In coordination with Arizona State Library, Archives and Public Records, the Department has developed a retention schedule for identifying records eligible for destruction and destroying these records and, as explained in Recommendation 12, has begun the process of identifying and destroying records in line with this retention schedule. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

14. The Department should develop and implement policies and procedures for offering quota licenses to the public, including procedures for:

- Documenting public interest for quota licenses.
- Determining the number of quota licenses that will be offered, including factors considered when making this determination.
- Conducting a supervisory review of the process for determining the number of quota licenses that will be offered through the lottery.

**Implementation in process**—The Department has developed policies and procedures for offering quota licenses to the public and began implementing them for its August 2023 lottery. Our review found that the Department followed its policies and procedures for some key steps, including determining the number of quota licenses that will be offered by using factors such as population counts and the number of licenses revoked or reverted in the last year. However, it did not provide evidence of documenting public interest for quota licenses or conducting a supervisory review of the process for determining the number of quota licenses to offer through the lottery. We will further assess the Department's compliance with its policies and procedures during our 24-month followup.

15. The Department should evaluate and revise its practices for ensuring that out-of-State license applicants meet all license requirements by verifying that these applicants have undergone a fingerprint-based criminal history records check.

**Implementation in process**—The Department has developed a draft policy and updated its application forms to reflect the requirement that out-of-State applicants complete a fingerprint-based criminal history records check. Additionally, the Department has developed draft procedures to guide its staff on verifying that applicants complete a fingerprint-based criminal history records check. We will further assess the Department's implementation of this recommendation during our 24-month followup.

## **Sunset Factor 4: The extent to which rules adopted by the Department are consistent with the legislative mandate.**

16. The Department should work with its Assistant Attorney General to seek an exemption from the rulemaking moratorium and adopt rules in accordance with A.R.S. §4-112(G).

**Not implemented**—After our audit report was issued, the rulemaking moratorium expired in September 2022. Consequently, the Department no longer needs to seek an exemption from the rulemaking moratorium. However, the Legislature enacted A.R.S. §41-1039, which requires State agencies to obtain prior written approval from the

Governor to conduct any rulemaking.<sup>4</sup> Although the Department obtained written approval from the Governor's Office in November 2023 to conduct an expedited rulemaking, this rulemaking does not include rules related to A.R.S. §4-112(G). However, the Department reported that it requested approval from the Governor's Office in June 2023 to adopt rules in accordance with A.R.S. §4-112(G) but has yet to receive approval. We will assess the Department's efforts to adopt the required rules during our 24-month followup.

17. The Department should continue its rulemaking process to develop rules related to the cocktails and alcohol to-go programs.

**Implemented at 12 months**—The Department completed its development of and published rules for the cocktails and alcohol to-go programs in November 2022.

### **Sunset Factor 5: The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.**

18. The Department should develop and implement open meeting law policies and procedures to help ensure the Board's continued compliance with open meeting law requirements.

**Implementation in process**—The Department has developed policies and procedures in accordance with open meeting law requirements. However, our review of 4 Board meetings held between September 2022 and August 2023 found that the Department did not make minutes from these meetings available within 3 business days as required by its policies and statute. Although the Department provided a document highlighting Board decisions on its website within 3 business days of these meetings, the document did not include all meeting minute information required by statute, such as how each Board member voted on various agenda items. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

### **Sunset Factor 6: The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction and the ability of the Department to timely investigate and resolve complaints within its jurisdiction.**

19. The Department should investigate complaints within 35 days, as required by its policies and procedures.

**Implementation in process**—In response to this recommendation, the Department twice revised its complaint-investigation policies in 2023 to establish 2 tiers of complaints, each with specific investigation time frames. Initially, Department policies specified that level 1 complaints should be investigated within 35 days and level 2 complaints should be investigated within 45 days. As of November 2023, the Department further revised its policies to specify that level 1 complaints should be investigated within 60 days and level 2 complaints should be investigated within 90 days. However, the policies do not specify what is classified as a level 1 or level 2 tier complaint. We will assess the Department's compliance with its complaint-investigation time frames during our 24-month followup.

20. The Department should revise and implement its policies and procedures to require its staff to identify and monitor complaint investigations that may need to exceed the 35-day time frame to investigate, such as complaint investigations involving serious injuries, death, or that require the receipt of subpoenaed information and/ or police reports, and document the reasons for complaint investigations exceeding the 35-day time frame requirement.

**Implementation in process**—The Department has revised its policies and procedures to require its staff to identify and monitor complaint investigations that may exceed the 60- or 90-day time frame to investigate, document reasons for any delays, and notify their supervisor of delays prior to the end of the investigation time

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<sup>4</sup> A.R.S. §41-1039 became effective on September 24, 2022.

frame. Because the Department revised its investigation time frames in November 2023, we will assess its compliance with its policies and procedures during our 24-month followup.

21. The Department should develop and implement time frames in its policies and procedures for resolving complaint cases referred to its compliance unit for disciplinary action.

**Implementation in process**—The Department has developed a policy that establishes a time frame of 60 calendar days for resolving complaints forwarded to its compliance unit for disciplinary action. However, our review of the tracking log of complaints referred to the Department's compliance unit between July 1, 2022 and January 31, 2023, found that 2 of 25 complaints exceeded the 60-day time frame to resolve the complaint. The Department attributed delays for resolving these 2 complaints in part to issues outside the Department's control, including a respondent being unavailable for 3 weeks. We will continue to assess the Department's compliance with its 60-day time frame during our 24-month followup.

22. The Department should continue to implement its new process for ensuring that all complaint allegations are investigated, either by investigating all allegations and/or forwarding applicable allegations to the appropriate authority for investigation, and revise its investigation policies and procedures accordingly.

**Implementation in process**—The Department revised its policies and procedures in November 2023 to require that complaints alleging potential violations of State liquor laws and potential violations of other State/local laws be investigated by its staff, who are law enforcement officers. Because Department law enforcement officers are conducting complaint investigations, it reported they can investigate all potential violations of State/local laws. Previously, the Department forwarded potential violations of other State/local laws to the appropriate State/local law enforcement agency for review and investigation. We will continue to assess the Department's implementation of this recommendation during our 24-month followup.

23. The Department should document explanations for all deviations from its established penalty guidelines as required by its policy.

**Implementation in process**—The Department reported that from August 2022 to January 2023, its Compliance Division had only 1 case that deviated from its penalty guidelines. Based on our review of the documentation provided for this case, the Department documented the reason for deviating from its penalty guidelines in this instance. Because there was only 1 case that deviated from its penalty guidelines during this time frame, we will continue to assess the Department's implementation of this recommendation during our 24-month followup.