

**REPORT
HIGHLIGHTS**
PERFORMANCE AUDIT

Our Conclusion

Research shows that active, visible investigative efforts and strong enforcement actions when violations are found help deter liquor law violations. The Department can increase its enforcement presence by notifying licensees of the results of all investigations, including covert investigations, and by conducting targeted follow-up investigations of problem establishments. The Department should also take stronger action against repeat and serious violators by including more violations under its penalty guidelines, by addressing how it defines a “repeat violation,” and by ending or revising its policy of discounting penalties by 50 percent for first-time violations.



2009

Additional steps needed to improve investigations

Liquor regulation is an important means of protecting the public from the dangerous effects of alcohol misuse. To protect the public, the Arizona Department of Liquor Licenses and Control (Department) licenses the manufacturing, distribution, and sale of liquor. It issues 17 different licenses and had about 11,000 active licensees as of April 2009.

Investigative Unit—Statute requires the Department to establish a separate investigations unit to ensure compliance with state liquor laws. This unit is staffed with certified peace officers. In March 2009, the size of the unit was reduced from 17 to 10 officers because of budget cuts. During fiscal year 2008, the unit conducted:

- 701 complaint investigations
- 4,326 covert investigations of licensed establishments
- 4,738 routine license inspections
- 572 Covert Underage Buyer (CUB) investigations using undercover teens who try to buy liquor
- 3 investigations tracing DUI drivers who are involved in serious accidents back to the last liquor establishment
- Reviews and, when necessary, further investigations of about 5,100 police reports relating to liquor law violations

Efforts to maintain presence despite cuts—Literature indicates that active, visible enforcement deters liquor violations. After having to reduce its number of officers, the Department has made efforts to maintain its enforcement presence. It has changed where it assigns its officers and the days and shifts they work to place officers in the communities at times when licensees are busiest. The Department has also doubled from 30 to 60 the number of routine license

inspections each officer is expected to conduct each month, which will also increase licensees’ awareness of the Department’s presence.

Additional actions can improve enforcement—The Department can do more to enhance enforcement efforts. For example, the Department does not notify licensees when officers conduct a covert investigation unless violations are found. Auditors observed four different investigation shifts between October 2008 and January 2009, and 33 of the 44 investigative activities performed during these shifts (75 percent) were covert investigations. If no violations were found during these investigations, licensees remained unaware that an investigation had been conducted. The Department can increase its enforcement presence by notifying licensees of the outcomes of all investigations, including covert investigations.

The Department can also conduct targeted follow-up investigations for licensees who have been found selling liquor to minors and committing other serious violations. A study on alcohol service to already intoxicated patrons suggests enforcement agencies should monitor problem establishments to promote future compliance.

Improved information needed to guide investigative efforts—The Department is getting a new database that can be used to collect and analyze data regarding its enforcement efforts. The new database will generate reports on such things as repeat violators, the status of complaint investigations, and officer caseloads. In order to provide the information desired,

the Department will have to ensure the integrity of the data entered into the database. Prior to May 2009, the investigative information that officers recorded was inaccurate, inconsistent, and incomplete. For example, officers did

not accurately and consistently track which licensees were investigated and which types of investigative activities were performed, and the Department's existing database did not contain information on all investigative activities.

Stronger action needed against repeat and serious violators

Research shows that strong, deterrence-based penalties are needed to deter liquor law violations. Further, the majority of the enforcement cases the Department handled involved serious and/or repeat violations. For example, 87 percent of the 2,495 violations processed between 2004 and 2008 involved serious violations such as underage drinking, serving intoxicated patrons, and other threats to public health and safety. However, we found systemic weaknesses in the Department's policies and practices that consistently reduced the penalties for these serious violations.

The Department should take several steps to strengthen its enforcement actions. First, it should include all liquor-related violations under its penalty guidelines. The Department uses these guidelines to determine penalties, including when to escalate penalties, and ensure consistent action. However, only 75 of the 134 liquor-related violations are included in the guidelines. For those violations not covered by guidelines, the Department's actions can be inconsistent. For example, one licensee had to pay a \$1,000 penalty while another paid \$375 for the same violation.

Second, the Department should address weaknesses in how it determines whether violations are repeat violations. The Department has developed groupings of violations and considers a violation to be a repeat violation if it (1) occurs within the same grouping and (2) was committed

within 2 years of the previous violation. However, it has placed only 19 of the 134 liquor-related violations into groups. For example, although there are 12 underage drinking violations, only 5 are included in the grouping involving underage drinking. A subsequent violation of one of the other 7 would not be a second violation and would not increase the penalty.

In addition, the Department's policy does not consider the seriousness of violations; a second serious violation does not carry an increased penalty if it does not occur in the same grouping as the first violation. Instead, it is treated as a first violation. We found that Utah classifies violations according to seriousness: grave, serious, moderate, or minor. Any violation from the same category of seriousness within a 3-year period would escalate the penalty as a repeat offense.

Finally, the Department should either eliminate or revise its policies for discounting penalties for first-time offenses. The Department gives up to a 50 percent reduction for minor first-time offenses. However, the Department has not defined "minor," and we found it was giving this discount for serious offenses such as selling alcohol to a minor. We also found it gave the discount for some offenses that were not first-time offenses. Only three of the nine states that auditors contacted allow discounts for first offenses, and they do so only when there are mitigating circumstances.

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Contact person for
this report:
Dale Chapman