

2007

New Jersey

Smoke-Free Air Act  
Policy Survey

A Statewide Report

September 2008



Jon S. Corzine, Governor  
Heather Howard, Commissioner

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## Introduction

More than two years ago, the State of New Jersey became one of several states in the nation to enact a comprehensive smoke-free workplace law to protect workers from secondhand smoke. Effective April 15, 2006, the New Jersey Smoke-Free Air Act (NJSFAA) banned smoking in all indoor public places, including those places at which a person provides a service or labor. Certain establishments were deemed exempt from the law including private residences, casinos, and cigar bars and retail establishments that make over 51% of their retail sales from tobacco products. In April 2008, the Atlantic City Council passed a local ordinance banning smoking on casino floors, which became effective October 15, 2008. However, shortly after its enactment, the City Council voted to postpone the ban for one year because of economic concerns and as of November 16, Atlantic City reverted to its prior partial ban ordinance.

Although compliance with the NJSFAA is the responsibility of the establishment owner, enforcement is delegated to local health departments. Employees and the public may file complaints directly with the health department located in the city or county of the violating workplace. Tracking the enforcement activities of local health departments helps assess compliance with New Jersey's smoke-free workplace law.

The Centers for Disease Control and Prevention (CDC) recommends three key outcome indicators specific to evaluating enforcement of smoke-free public policies including:

1. Number of compliance checks conducted by enforcement agencies
2. Number of enforcement agency responses to complaints regarding non-compliance with tobacco-free public policies
3. Number of warnings, citations, and fines issued for infractions of tobacco-free public policies

The University of Medicine and Dentistry of New Jersey (UMDNJ) – School of Public Health (SPH) developed the New Jersey Smoke-Free Air Act Policy Survey (NJSFAAPS) to monitor enforcement of the State's law banning smoking in indoor public places. The survey collects data based on CDC's suggested indicators described above.

Repeated surveys of local health departments are necessary to determine the long-term level of compliance. The first survey was conducted between August and October 2006 to assess enforcement following the newly enacted law. A second survey was completed by local health departments between February and March 2008 and assessed enforcement of smoke-free public policies in New Jersey during the first full calendar year (2007) following the law's enactment. This report provides a summary of the key findings from the survey assessing compliance of the NJSFAA during 2007.

## Results

The jurisdiction of participating health departments included 36,820 retail food establishments including bars and restaurants. The majority (46.4%) of health departments reported having between 1-10 bars within their jurisdiction, 31.0% reported having between 11-50 bars, and 19.0% said they had more than 50 bars. Only 3.6% of health departments reported having no bars under their jurisdiction. Participating health departments were responsible for enforcement in approximately 22,654 restaurants, with an average of 266 restaurants for each health department. Information on the number of other indoor workplaces in the municipalities of these participating health departments was not readily available.

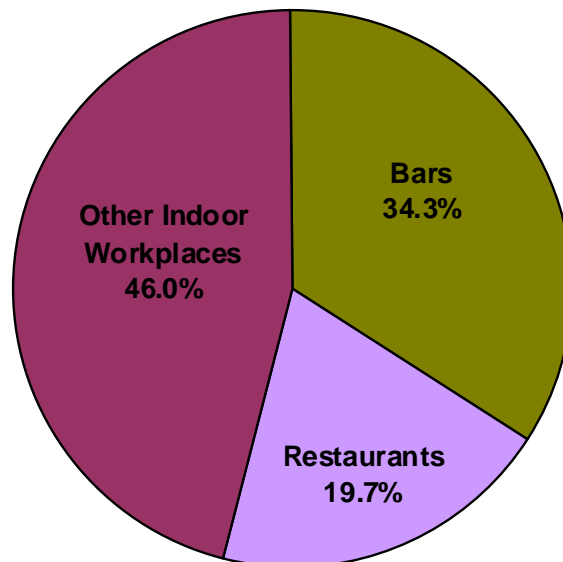
Four overall measures were used to assess compliance, including number of complaints, number of compliance checks, and number of warnings and citations.

### Complaints

Persons calling in or sending written complaints to local health departments about non-compliance with the smoking ban were recorded as complaints. Complaints did not include general inquiries regarding the law.

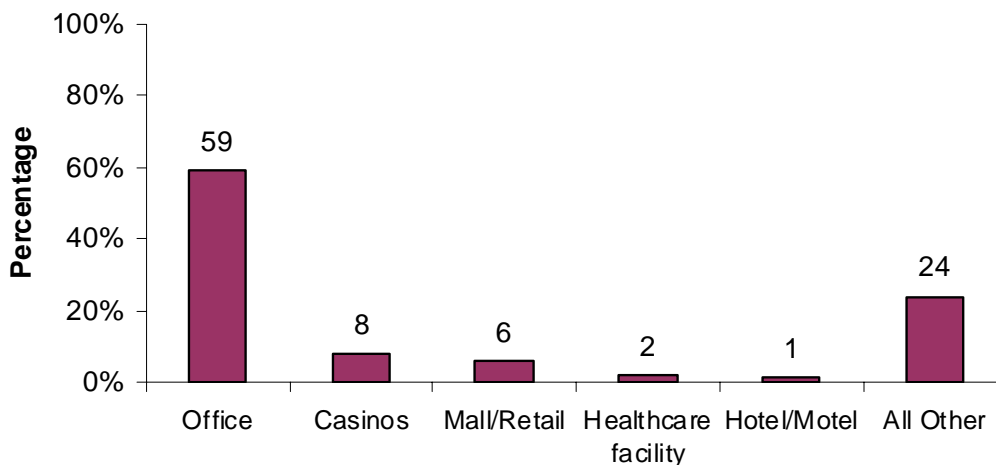
During the period of January 1, 2007 to December 31, 2007, the total number of smoking-related complaints received throughout the state was 417. As shown in Figure 1, the highest number of complaints was related to smoking in other indoor workplaces (46.0%), followed by bars (34.3%). The fewest number of complaints was related to violations in restaurants (19.7%). The range of complaints received per health department was 0-39 for bars, 0-30 for other indoor workplaces and 0-24 for restaurants. Overall, 93.0% of health departments that received smoking-related complaints responded to them.

**Figure 1. Percent of complaints received, by workplace type (n=417)**



For smoking-related complaints in other indoor workplaces (not restaurants or bars), respondents were requested to describe the establishment type (e.g., office, health care facility, and parking). Figure 2 depicts that the majority of the complaints received were from offices (59.0%), followed by casinos (8.0%) and malls/retail stores (6.0%).

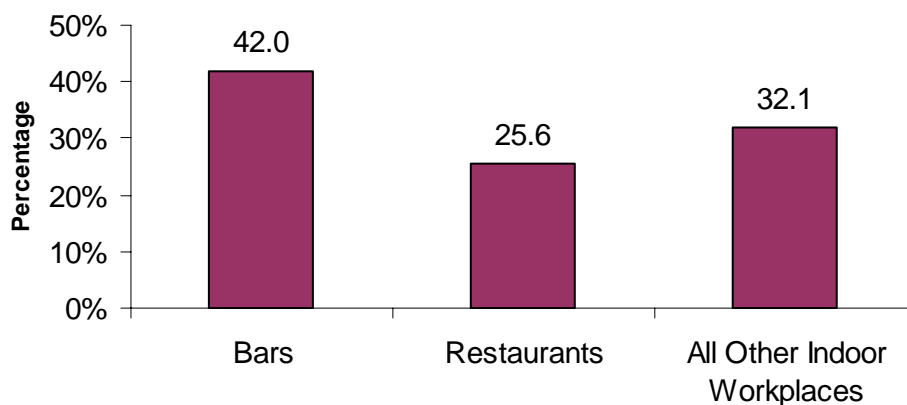
**Figure 2. Percent of smoking-related complaints received about other indoor workplaces, by type of workplace (n=192)**



### Compliance Checks

Compliance checks were defined as any instance in which an employee of a local health department inspected a bar, restaurant or other indoor workplace for compliance with the NJSFAA. Compliance checks were either conducted specifically in reference to the NJSFAA or in conjunction with regular food inspections. A total of 414 compliance checks specific to the NJSFAA were conducted in bars, 4,656 in restaurants and 155 in all other indoor workplaces. As shown in Figure 3, between January and December 2007, 42.0% of responding health departments conducted 1 or more compliance checks in bars, roughly a quarter of health departments conducted these checks in restaurants (25.6%) and less than one third conducted them in all other indoor workplaces (32.1%).

**Figure 3. Percent of health departments conducting NJSFAA compliance checks, by type of workplace**



In addition to checking for compliance during inspections specific to the NJSFAA, health departments can assess compliance during routine Chapter 12 food inspections. The health departments that reported *often* or *very often* conducting compliance checks during Chapter 12 food inspections were categorized as having integrated NJSFAA compliance checks with Chapter 12 inspections. More than half of health departments reported conducting integrated compliance checks in bars (60.2%) and restaurants (62.2%). Since other indoor workplaces (e.g., offices, retail stores) may or may not have routine Chapter 12 inspections, this information was not collected for other indoor workplaces.

### **Warnings and Citations**

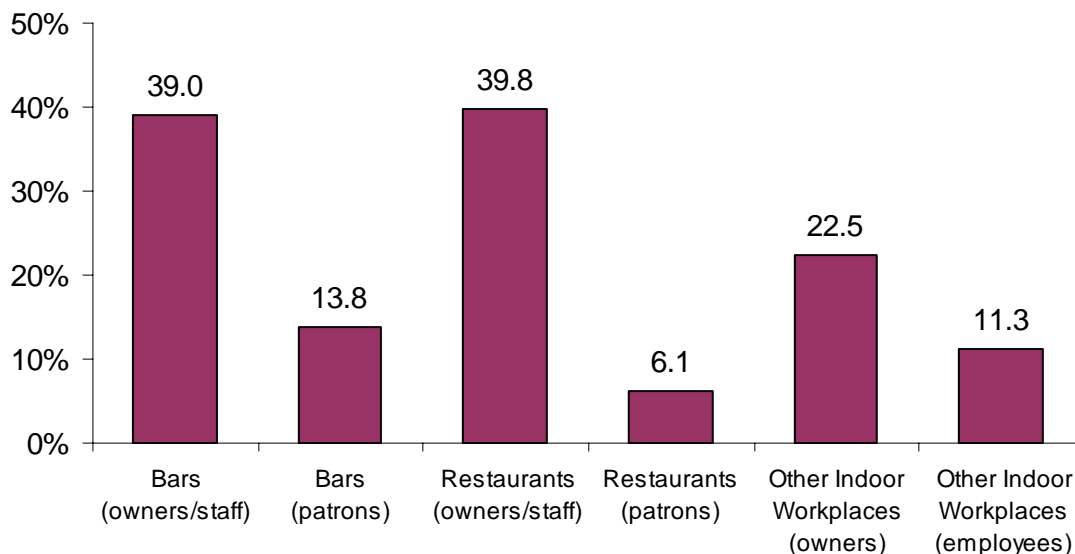
Warnings or citations are issued based upon evidence of non-compliance with the NJSFAA, which includes smoking in indoor public places and workplaces or not displaying the appropriate signage. Warnings issued by local health departments included any official notation of non-compliance given to the establishment. Warnings are typically not associated with fines. Citations, however, include fines.

Most health departments reported never or rarely issuing warnings to bars (82.7%), restaurants (89.0%) or other indoor workplaces (77.7%). A total of 41 citations were issued by 18 health departments and almost half were issued to other indoor workplaces (46.3%). Fewer citations were issued to restaurants (29.3%) and bars (24.4%).

### **Signage & Educating Owners or Patrons**

Respondents were asked to report how often they requested owners to use the official “No Smoking” signage and more than a third indicated that they never requested use of signs in bars (41.9%), restaurants (39.8%) or all other indoor workplace (37.0%). Health departments were asked how often they educated establishment owners about the NJSFAA; respondents who reported *often* or *very often* were defined as having provided information about the NJSFAA. As shown in Figure 4, health departments were more likely to report providing information or education to a bar (39.0%) or restaurant (39.8%) compared to other indoor workplaces (22.5%).

**Figure 4. Percent of health departments who reported providing education or information on the NJSFAA, by type of workplace**



**Perceived compliance and barriers**

Overall, health departments believed that compliance was high, particularly in restaurants and bars. Almost all health officers felt compliance was going very well in restaurants (96.5%) while the majority also felt compliance was going very well in bars (89.2%) and in all other indoor workplaces (79.8%).

Health departments were asked to identify barriers to achieving compliance with the New Jersey Smoke-Free Air Act. Lack of awareness by establishment owners was identified as a barrier, at least to some degree, by 46.5% of health departments. Fewer health departments found lack of media coverage (35.4%) and insufficient enforcement activities (30.5%) to be barriers (see Table 1).

**Table 1. Percent of health departments reporting specific barriers to compliance**

Lack of awareness by establishment owners	46.5%
Lack of media coverage	35.4%
Insufficient enforcement activities	30.5%
Lack of signage in Spanish	29.7%
Fines/penalties are insufficient deterrents	26.8%
Lack of signage in English	17.3%

## Conclusions and Recommendations

The survey provides the first full year of data on compliance and enforcement of the NJSFAA at bars, restaurants and other indoor workplaces.

Based on data collected from local health officers, the total number of smoking-related complaints received throughout the state during 2007 was 417. Restaurants had fewer complaints compared to bars and other indoor workplaces. During this time period, health departments reported issuing a total of 41 citations regarding smoking related complaints. However, it is important to note that the guidelines and rules for the NJSFAA (P.L. 2005, c.383) were not made official until publication in the New Jersey Register on May 21, 2007. These guidelines provided health departments with specific guidance on implementation of the NJSFAA.

### Compliance Checks

The New Jersey Department of Health and Senior Services and local government should encourage regular compliance checks for the NJSFAA. Although health departments did not receive high number of smoking-related complaints, this does not guarantee consistent compliance. For example, among the 87 responding health departments, over 4,000 compliance checks were conducted in restaurants but the jurisdictions of responding health departments included over 35,000 restaurants. Thus, only a small proportion of existing restaurants were inspected for non-compliance with NJSFAA. Alternatively, health departments could conduct compliance checks in conjunction with Chapter 12 food inspections. Roughly two-thirds of responding health departments reported integrating NJSFAA compliance checks into routine food inspections of bars and restaurants. Given the high priority placed on Chapter 12 food inspections, local health departments should be encouraged to integrate NJSFAA compliance checks into all of their Chapter 12 food inspections.

Although compliance and enforcement at restaurants and bars are essential to protecting the public from secondhand smoke, enforcement at other indoor workplaces is equally important. The results of this survey revealed that health departments received the majority of complaints from indoor workplaces including offices, casinos, and malls/retail stores. Furthermore, more health officers reported a lack of perceived compliance in other indoor workplaces compared to bars and restaurants. All employees should be educated about the NJSFAA and how to report violations of the NJSFAA. Health departments should continue responding to complaints at these types of establishments and consider citations when appropriate.

### **Barriers to achieving compliance**

In addition to perceived compliance by establishment type, health departments were asked to identify barriers to compliance. Several barriers were identified including lack of awareness by establishment owners, lack of media coverage, and insufficient enforcement activities. Educational campaigns targeted to business owners and managers to encourage rigorous enforcement and warn of penalties may assist with long-term compliance of the NJSFAA.

### **Comparison to Baseline Data**

In a previous survey administered between August and October 2006, health officers were asked to report on the experience of their health department since the NJSFAA became effective on April 15, 2006. While these two surveys are not directly comparable (the second survey asked health officers to report on a broader time frame), it is worth examining variations between the two observations. In the four to six months following the newly enacted law, 92 responding health departments reported receiving 261 smoking related complaints and issuing 31 citations, compared to 417 complaints and 41 citations reported from 87 responding health departments during 2007. The data from 2007 suggest that indoor workplaces may represent an increased proportion of smoking-related complaints and citations. In addition, although an increased proportion of health officers perceived high compliance of the NJSFAA in all types of workplaces, perceived compliance in other indoor workplaces remained lower relative to bars and restaurants. Also, in 2007, there was an increase in the proportion of health officers who reported integration of NJSFAA compliance checks and food inspections as well as a higher proportion indicating that they provided education or information about the NJSFAA to business owners and employees.

### **Future Assessments of CDC Indicators**

Repeated data collection from health officers regarding NJSFAA compliance will allow state and local health departments to tailor educational messages or interventions to business owners appropriately. Surveys conducted annually will also allow enough time to determine whether citations and fines are issued in greater or lesser numbers. However, additional indicators cannot be addressed by looking at the local health departments' experiences alone. CDC recommends that data be collected by direct observations of public places to determine compliance with smoke-free policies. To date, no observational study has been designed or conducted in New Jersey to systematically assess compliance in public establishments. Since regular compliance checks cannot be solely executed by local health departments, it would be beneficial to enlist other parties to assess compliance and work in collaboration with the local health departments.

## Technical Notes

### Instrument

Local health departments in New Jersey were surveyed using the web-based New Jersey Smoke-Free Air Act Policy Survey (NJSFAAPS) instrument. Between February 2008 and March 2008, emails were sent to health departments in New Jersey requesting the participation of Health officers in a survey regarding enforcement of the NJSFAA. Respondents accessed an html link with a unique User ID and password that ensured the confidentiality of responses. Health officers were asked to respond representing the cumulative experience of their health department during the 2007 calendar year. The survey collected information on three types of workplace locations: bars, restaurants and all other indoor workplaces. For each type of workplace location, health officers were asked to provide information about perceived compliance, compliance checks, complaints received, responses to complaints, warnings issued and citations issued. Additionally, information was collected about how complaints were recorded and perceived barriers to compliance.

### Sample

The sample included all health departments in New Jersey that collect complaints regarding violations of the New Jersey Smoke-Free Air Act in their respective jurisdiction(s). A list of 114 health departments was retrieved on January 3, 2008 from the Office of Public Health Infrastructure's Directory of Local Health Departments (<http://www.state.nj.us/health/lh/directory/lhdselectcounty.htm>). Four health departments were deemed ineligible because these departments refer all incoming complaints to other health departments and do not handle air pollution or tobacco enforcement in any form.

Email addresses for all health officers in New Jersey were obtained through the website of the New Jersey Department of Health and Senior Services. Of the 110 eligible health departments, 88 completed the survey, yielding an overall response rate of 80%. Responding health departments cover enforcement in approximately 87% of municipalities in New Jersey.

The 22 non-responding health departments cover enforcement at roughly 13% of municipalities in New Jersey and included municipalities from 11 different counties. The non-responding health departments included two of the six major cities in New Jersey.

### Analysis

SPSS (v.15) statistical software was used to generate frequencies.

## References

1. Centers for Disease Control and Prevention. Key Indicators for Evaluating Comprehensive Tobacco Control Programs. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2005.





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