

# 2008 New Jersey Smoke-Free Air Act Policy Survey

## A Statewide Report

### January 2010



Chris Christie, Governor  
Kim Guadagno, Lt. Governor  
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## Introduction

More than three 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 at least one year because of economic concerns and as of November 16, 2008, Atlantic City reverted to its prior partial ban ordinance.

Compliance with the NJSFAA is the responsibility of the establishment owner and 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 and a second survey was completed between February and March 2008 to assess enforcement during calendar year 2007. Most recently, a third survey was completed by local health departments between April and June 2009 and assessed enforcement of smoke-free public policies in New Jersey during the second full calendar year (2008) following the law's enactment. This report provides a summary of the key findings from the survey assessing compliance of the NJSFAA during 2008.

## Results

The jurisdiction of participating health departments included 43,062 retail food establishments including bars and restaurants. The majority (40.7%) of health departments reported having between 1-10 bars within their jurisdiction, 36% reported having between 11-50 bars, and 18.6% said they had more than 50 bars. Only 4.7% of health departments reported having no bars under their jurisdiction. Participating health departments were responsible for enforcement in approximately 23,534 restaurants, with an average of 291 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.

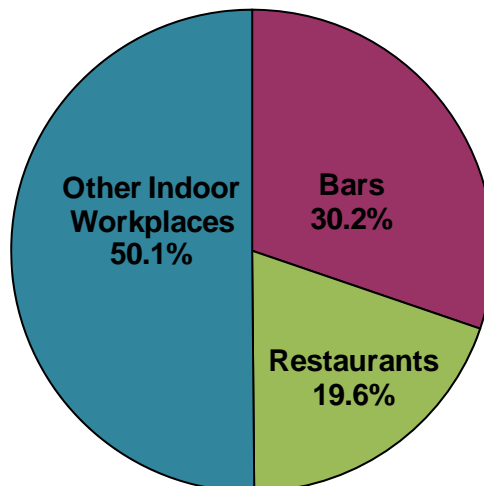
Four overall measures were used to assess compliance, including number of complaints, number of compliance checks, and number of warnings and citations.

### 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.

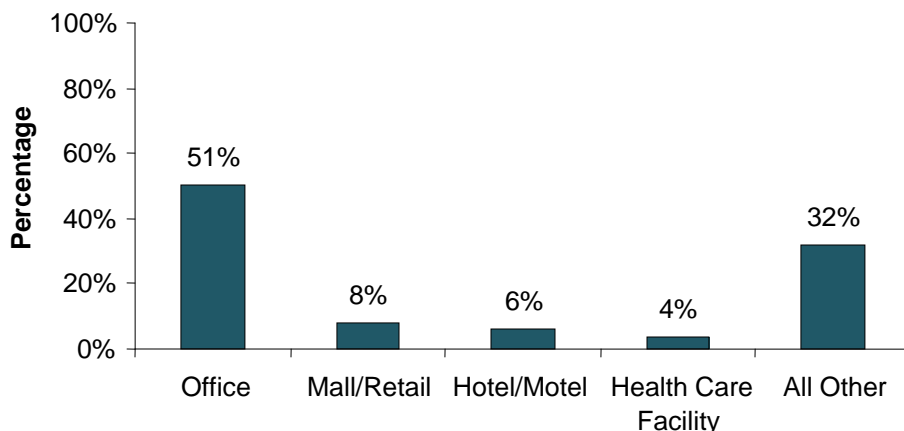
During the period of January 1, 2008 to December 31, 2008, the total number of smoking-related complaints received by departments participating in the survey was 367. This represents a 13.6% decrease from the number of complaints received in 2007 (417). As shown in Figure 1, the highest number of complaints was related to smoking in other indoor workplaces (50.1%), followed by bars (30.2%), while the fewest number of complaints was related to violations in restaurants (19.6%), a pattern consistent with that observed in 2007. The range of complaints received per health department was 0-27 for other indoor workplaces, 0-15 for bars, and 0-15 for restaurants. Overall, 94.4% of health departments that received smoking-related complaints responded to them.

**Figure 1. Percent of complaints received, by workplace type (n=367)**



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, parking facility). Figure 2 depicts that the majority of the complaints received were from offices (51%), followed by malls/retail stores (8.0%) and hotels/motels (6.0%). Although the proportion of complaints attributed to offices was lower than that in 2007 (59%), those attributed to retail stores and hotels/motels were greater than that in 2007 (6% and 1%, respectively).

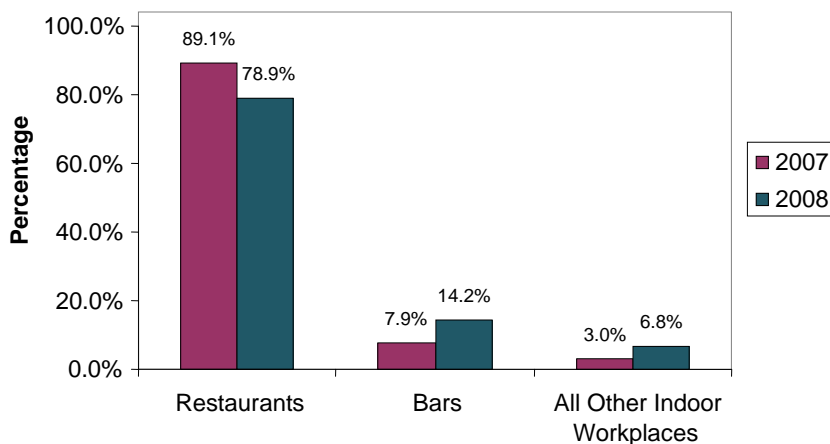
**Figure 2. Percent of smoking-related complaints received about other indoor workplaces, by type of workplace (n=166)**



### Compliance Checks

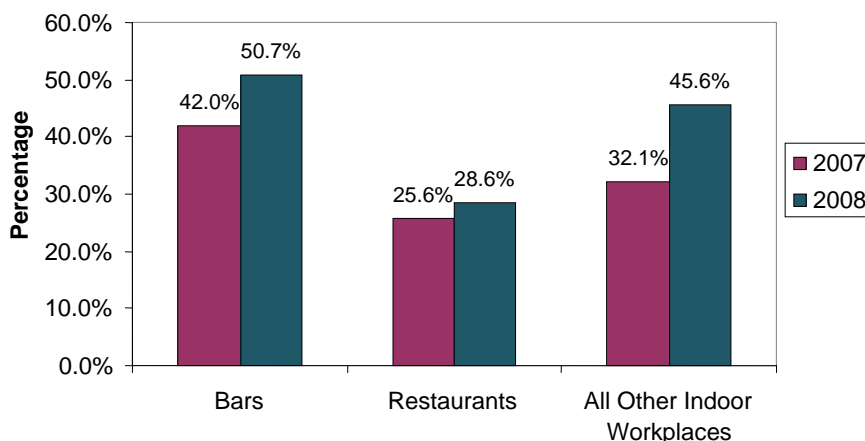
Compliance checks were defined as any instance in which an employee of a local health department inspected a bar, restaurant or other indoor workplace for compliance with the NJSFAA (either specifically in reference to the NJSFAA or in conjunction with regular food inspections). In 2008, a total of 515 compliance checks specific to the NJSFAA were conducted in bars, 2,851 in restaurants and 246 in all other indoor workplaces, for an overall total of 3612 compliance checks and an average of approximately 47.7 checks per responding department. The average number of compliance checks in 2008 was lower than that of 2007 (65.3) due to a substantially lower number of checks conducted in restaurants. In 2008, a greater proportion of compliance checks was conducted in bars and other indoor workplaces than in 2007 (see Figure 3).

**Figure 3. Percent of compliance checks conducted, by type of workplace and year**



In addition, as shown in Figure 4, the proportion of health departments conducting compliance checks in each venue increased between 2007 and 2008. In 2008, 50.7% of responding health departments conducted one or more compliance checks in bars, 28.6% conducted these checks in restaurants and almost half conducted them in all other indoor workplaces (45.6%).

**Figure 4. Percent of health departments conducting NJSFAA specific compliance checks, by type of workplace and year**



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. Approximately two-thirds of health departments reported conducting integrated compliance checks in bars (67.1%) and restaurants (64.7%). 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

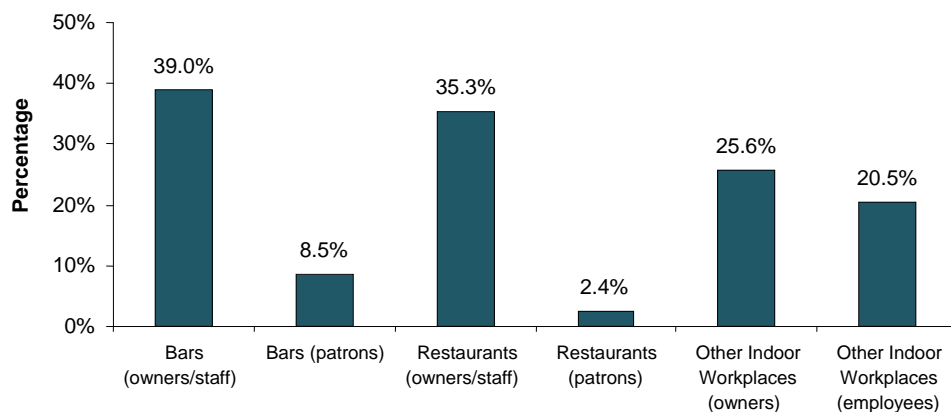
Warnings or citations are issued based upon evidence of non-compliance with the NJSFAA, which includes smoking in indoor public places and workplaces or not displaying the appropriate signage. Warnings issued by local health departments included any official notation of non-compliance given to the establishment.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

Consistent with findings in 2007, most health departments reported never or rarely issuing warnings to restaurants (90.5%), bars (82.7%), or other indoor workplaces (78.3%). However, the total reported number of citations issued increased by 41.5% from 41 in 2007 to 58 in 2008. The 2008 citations were issued by 23 health departments and more than half were issued to other indoor workplaces (55.2%). Fewer citations were issued to restaurants (34.5%) and bars (10.3%).

### Signage & Educating Owners or Patrons

Respondents were asked to report how often they requested owners to use the official “No Smoking” signage and almost a third indicated that they never requested use of signs in bars (32.1%), restaurants (32.5%) or all other indoor workplace (31.3%). Health departments were also asked how often they educated establishment owners about the NJSFAA; respondents who reported *often* or *very often* were defined as having provided information/education. As shown in Figure 5, departments were more likely to report providing information to owners of bars (39.0%) or restaurants (35.3%) compared to other indoor workplaces (25.6%). In addition, while the percentage of health departments who reported educating patrons of bars and restaurants decreased from 2007 (13.8% and 6.1%, respectively) to 2008, the percentage who indicated educating employees of other indoor workplaces nearly doubled from 11.3% to 20.5%.

**Figure 5. Percent of health departments who reported providing education or information on the NJSFAA, by type of workplace**



### Perceived Compliance and Barriers

Consistent with findings in 2007, health departments believed that compliance was high, particularly in restaurants and bars. Almost all health officers felt compliance was going very well in restaurants (94.2%) while the majority also felt compliance was going very well in bars (86.7%) and in all other indoor workplaces (76.7%). Health departments were asked to identify barriers to achieving compliance with the New Jersey Smoke-Free Air Act. While approximately 35% of reporting health departments in 2007 found lack of media coverage of the SFAA to be a barrier, at least to some degree, more than half indicated this to be a barrier in 2008 (see Table 1). A greater proportion of health departments also found insufficient enforcement activities, lack of English signage, and the issue of fines being insufficient deterrents to be barriers in 2008 relative to 2007.

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

	2007	2008	% Point Diff.
Lack of media coverage	35.4%	51.8%	+16.4
Lack of awareness by establishment owners	46.5%	43.5%	-3.0
Insufficient enforcement activities	30.5%	40.0%	+9.5
Fines/penalties are insufficient deterrents	26.8%	34.1%	+7.3
Lack of signage in Spanish	29.7%	28.2%	-1.5
Lack of signage in English	17.3%	26.2%	+8.9

## Summary and Recommendations

This survey provides the second full year of data on compliance and enforcement of the NJSFAA at bars, restaurants and other indoor workplaces. A summary of major findings, conclusions and recommendations are provided below.

### Complaints and Citations

Based on data provided by local health officers from 86 reporting health departments, the total number of smoking-related complaints received throughout the state during 2008 was 367, representing 50 fewer complaints than that reported in 2007 by 87 health departments. In 2008, health officers continued to be attentive to these complaints, with 94.4% of health departments that received complaints reporting responding to them. Of these complaints, it is important to note that the percentage of complaints from indoor workplaces (e.g., offices, health care facilities) continues to be disproportionately high relative to bars and restaurants. In 2007, 46% of complaints were about smoking in indoor workplaces and in 2008, the figure increased slightly to 50.1%. Furthermore, although health officers' perceived compliance of the NJSFAA was high overall in all types of workplaces, perceived compliance in other indoor workplaces remained lower relative to bars and restaurants. Overall, the number of total citations issued by health officers increased from 41 in 2007 to 58 in 2008. While the proportion of citations issued to bars declined from 24.4% in 2007 to 10% in 2008, more than half of the citations issued in 2008 were to other indoor work places (55.2%), up from 46.3% in 2007.

### Compliance Checks

The total (3612) and average (47.7) number of compliance checks conducted by reporting health departments in 2008 was lower than that in 2007, a finding attributed to fewer compliance checks conducted in restaurants. However, in 2008 a greater proportion of compliance checks were conducted in other indoor workplaces, and more health departments reported conducting checks in other indoor workplaces relative to 2007. This is consistent with previous recommendations to make enforcement in these workplaces equally important with that in bars and restaurants. Furthermore, although the total number of compliance checks conducted was lower than that reported in 2007, the percentage of health departments reporting conducting checks increased in 2008 for each workplace type.

It should also be noted that health departments can conduct compliance checks in conjunction with Chapter 12 food inspections. In 2008, 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.

### **Education about SFAA and Barriers to Achieving Compliance**

Given the disproportionate number of complaints and citations attributed to indoor workplaces, it is important to note that the percentage of health departments who reported educating owners of other indoor workplaces increased slightly between 2007 and 2008 (i.e., from 22.5 to 25.6%) and the percentage who indicated educating *employees* of other indoor workplaces nearly doubled from 11.3% to 20.5%. Health departments are encouraged to continue to provide education and information for both employees and owners to provide consistent information about the law as well as information on how to report violations. Indeed, in 2008, over 40% of reporting health departments continued to indicate lack of awareness by establishment owners to be a barrier in achieving compliance with the law. Health departments also reported lack of media coverage and insufficient enforcement activities to be barriers. 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.

### **Conclusions and Recommendations**

The New Jersey Department of Health and Senior Services and local government should continue to encourage regular compliance checks for the NJSFAA. Although health departments did not receive a high number of smoking-related complaints, this does not guarantee consistent compliance. In addition, the results of this survey revealed that health departments received the majority of complaints from indoor workplaces including offices 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.

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. 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 April 2009 and June 2009, 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 2008 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 111 health departments was retrieved in March 2009 from the Office of Public Health Infrastructure's Directory of Local Health Departments (<http://nj.gov/health/lh/directory/lhdselectcounty.shtml>). Seven 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 accessed Directory of Local Health Departments. Of the 104 eligible health departments, 86 completed the survey, yielding an overall response rate of 82.7%. Responding health departments cover enforcement in approximately 91.9% of municipalities in New Jersey.

The 18 non-responding health departments cover enforcement at roughly 8.1% of municipalities in New Jersey and included municipalities from 8 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.
2. United States Census Bureau. New Jersey – Place and County Subdivision. 2007 Population Estimates. Retrieved June 26, 2009. Available at: [http://factfinder.census.gov/home/en/official\\_estimates\\_2007.html](http://factfinder.census.gov/home/en/official_estimates_2007.html)



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