

# 2009 New Jersey Smoke-Free Air Act Policy Survey

## A Statewide Report

June 2010



Chris Christie, Governor  
Kim Guadagno, Lt. Governor  
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## **Acknowledgments**

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## Introduction

More than four 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 a complete ban because of economic concerns and to revisit the issue in the future. 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. Two subsequent surveys were conducted to assess compliance and enforcement during calendar years 2007 and 2008, respectively. Most recently, a fourth survey was completed by local health departments between March and April 2010 and assessed enforcement of smoke-free public policies in New Jersey during the third full calendar year (2009) following the law's enactment. A summary of key findings from this survey, the 2009 NJSFAAPS, are provided.

## Results

The jurisdiction of participating health departments included at least 43,597 retail food establishments. The majority (42.1%) of health departments reported having between 1-10 bars within their jurisdiction, 34.7% reported having between 11-50 bars, and 18.9% said they had more than 50 bars. Only 4.2% of health departments reported having no bars under their jurisdiction. Participating health departments were responsible for enforcement in approximately 25,963 restaurants, with an average of 279 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.

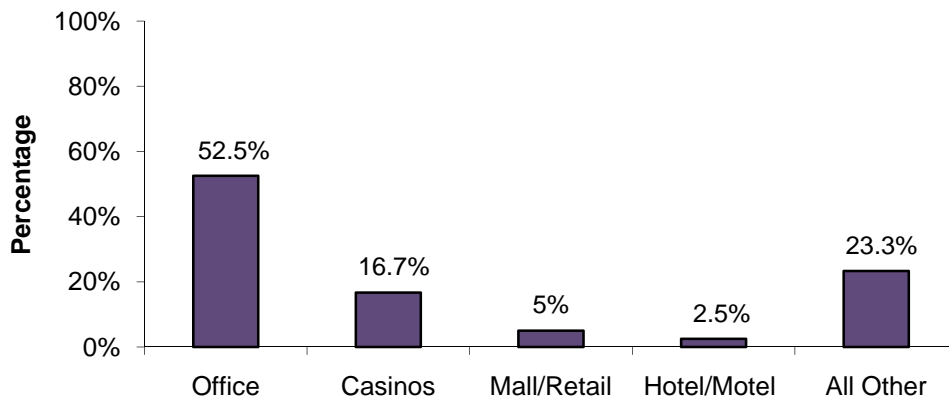
During the period of January 1, 2009 to December 31, 2009, the total number of smoking-related complaints received by departments participating in the survey was 289. This represents a 30.7% and a 21.2% decline in the number of complaints received in 2007 and 2008, respectively (see Table 1). Although the number of complaints received about restaurants remained relatively constant, the number of complaints received about bars and other indoor workplaces decreased each year since 2007. In 2009, the highest proportion of complaints received was related to smoking in other indoor workplaces (44.6%), a trend consistent with previous years. The range of complaints received per department was 0-20 for other indoor workplaces, 0-22 for bars, and 0-32 for restaurants. Overall, 94% of health departments that received any smoking-related complaints responded to at least one complaint and 85.5% of health departments responded to all received complaints. In 2009, 76.1% of health departments received no complaints in restaurants, 75% received none for bars and 50.5% received none about other indoor workplaces.

**Table 1. Number of complaints received, by workplace type and year**

	<b>2007</b>	<b>2008</b>	<b>2009</b>
Indoor Workplaces	192 (46.0%)	184 (50.1%)	129 (44.6%)
Bars	143 (34.3%)	111 (30.2%)	81 (28.0%)
Restaurants	82 (19.7%)	72 (19.6%)	79 (27.3%)
<b>Total</b>	<b>417</b> <b>(100%)</b>	<b>367</b> <b>(100%)</b>	<b>289</b> <b>(100%)</b>

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). Figure 1 depicts that the majority of the complaints received were from offices (52.5%), followed by casinos (16.7%), malls/retail stores (5.0%) and hotels/motels (2.5%). Although the proportion of complaints attributed to offices was lower than that in 2007 (59%), it did not decline from that reported in 2008 (51%).

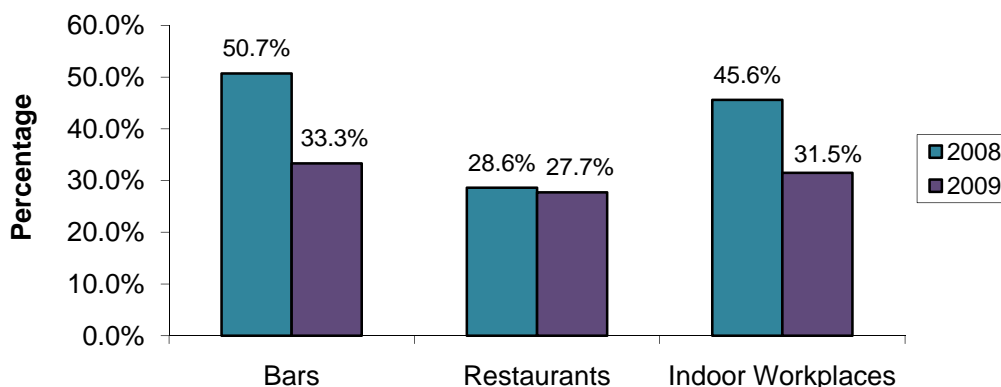
**Figure 1. Percent of smoking-related complaints received about other indoor workplaces, by type of workplace (n=120)**



### Compliance Checks

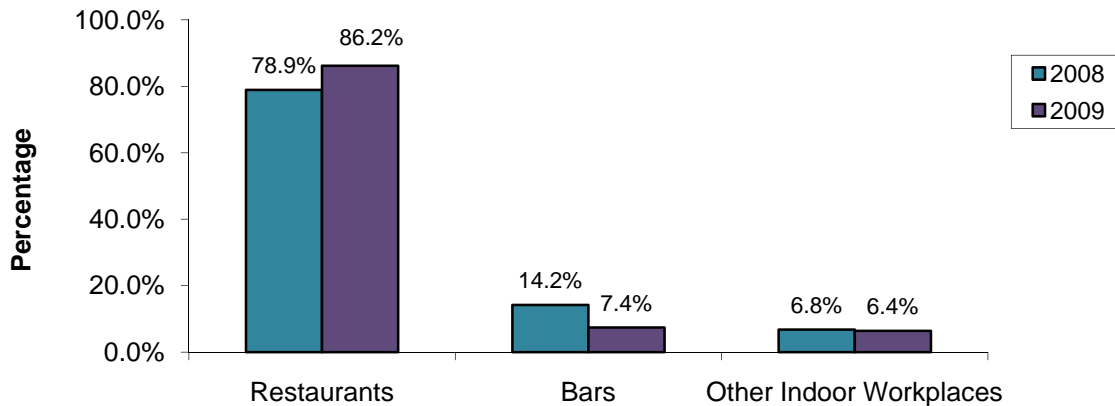
Health departments were asked to report whether they had conducted any checks in bars, restaurants, and other indoor workplaces during 2009 specifically for compliance with the NJSFAA. As shown in Figure 2, the proportion of health departments conducting NJSFAA specific compliance checks in each venue decreased between 2008 and 2009, particularly among bars and other indoor workplaces. In 2009, approximately one-third of responding health departments conducted one or more compliance checks in bars and in other indoor workplaces, and about 28% conducted these checks in restaurants.

**Figure 2. Percent of health departments conducting NJSFAA specific compliance checks, by type of workplace and year**



In 2009, health departments which reported having conducted one or more compliance checks specific to the NJSFAA reported conducting a total of 241 checks in bars, 2788 in restaurants and 207 in all other indoor workplaces, for an overall total of 3236 compliance checks. This total was 376 fewer than the number of checks reported in 2008. In 2009, a greater proportion of compliance checks was conducted in restaurants and a smaller proportion in bars compared to the previous year (see Figure 3).

**Figure 3. Percent of compliance checks conducted, 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. Similarly to trends in 2008, approximately two-thirds of health departments reported conducting integrated compliance checks in bars (67.8%) and restaurants (66.7%). 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

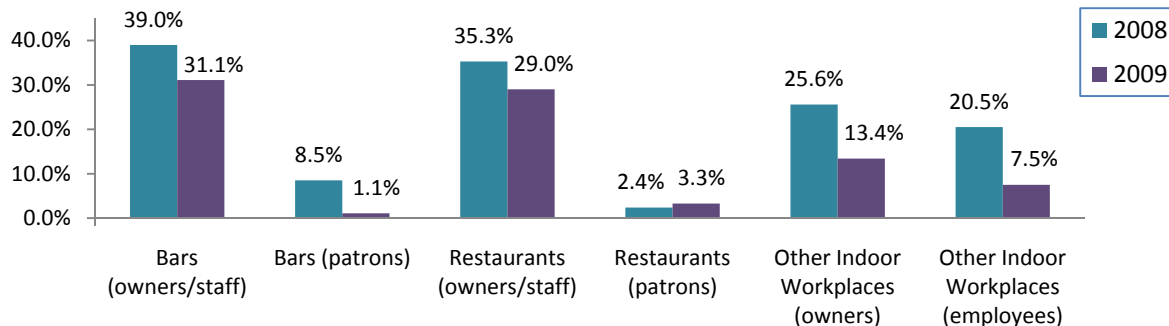
Warnings or citations are issued based upon evidence of non-compliance with the NJSFAA, which includes smoking in indoor public places and workplaces or not displaying the appropriate signage. Warnings issued by local health departments included any official notation of non-compliance given to the establishment.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

Consistent with findings in 2007 and 2008, in 2009 most health departments reported never or rarely issuing warnings to restaurants (85.7%), bars (86.8%), or other indoor workplaces (84.9%). In addition, in 2009 health departments reported issuing a total of 27 citations, 53.4% fewer than that issued in 2008 (58) and 34.1% fewer than that issued in 2007 (41). Of the 2009 citations, more than half were issued to restaurants (55.5%). Fewer citations were issued to other indoor workplaces (37%) and bars (7.4%). At least 71 health departments issued no citations in 2009 in any of the three types of workplaces.

### Signage & Educating Owners or Patrons

Respondents were asked to report how often they requested owners to use the official “No Smoking” signage and about a third indicated that they never did so in bars (33.3%) or restaurants (30.4%). A greater proportion reported that they never requested use of signs in other indoor workplace (44.1%), up from 31% in 2008. 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 education. As shown in Figure 4, in 2009 departments were more likely to report educating owners of bars (31.1%) or restaurants (29%) compared to other indoor workplaces (13.4%), a trend consistent with that found in 2008. Few health departments reported educating patrons of bars or restaurants in 2009. Between 2008 and 2009, the percentage of health departments who indicated educating owners and employees of other indoor workplaces decreased by 47.6% and 63.4%, respectively.

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



### Perceived Compliance and Barriers

Consistent with findings in 2007 and 2008, almost all health departments believed that compliance with the smoking ban was going very well in restaurants (95.7%) and the vast majority also perceived compliance to be high in bars (89%). In addition, 84.2% of responding departments in 2009 perceived compliance to be going very well in other indoor areas, up from 76.7% in 2008 and 79.8% in 2007. Health departments were also asked to identify issues that were barriers, at least to some degree, to achieving compliance with the NJSFAA. In 2009, lack of media coverage continued to be the issue most predominantly cited as being a barrier, although less so than in 2008 (see Table 2). The percentage of health departments reporting lack of awareness by establishment owners and insufficient enforcement activities as being barriers decreased only slightly and remained close to 40%. In both years lack of signage was the issue least commonly reported to be a barrier.

**Table 2. Percent of health departments reporting specific barriers to compliance, by year**

	2008	2009	% Point Diff.
Lack of media coverage	51.8%	44.2%	-7.6
Lack of awareness by establishment owners	43.5%	38.3%	-5.2
Insufficient enforcement activities	40.0%	38.3%	-1.7
Fines/penalties are insufficient deterrents	34.1%	35.1%	+1.0
Lack of signage in Spanish	28.2%	23.6%	-4.6
Lack of signage in English	26.2%	20.4%	+5.8

## Summary and Recommendations

This survey provides the third full year of data since the ban's implementation 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

As with the previous two years, this study found that the vast majority of health departments perceived compliance with the NJ Smokefree Air Act in 2009 to be high in restaurants (95.7%) and bars (89%). Perceived compliance was lower for other indoor workplaces (84.2%), though it increased from that reported in 2008 (76.7%). In 2009, a total of 289 smoking-related complaints were received throughout the state, representing the lowest number of reported complaints in the three full years since the ban's implementation. Similarly, health departments reported issuing a total of 27 citations in 2009, also the lowest total of the last three years. Despite these decreases, the percentage of received complaints attributable to other indoor workplaces (44.6%) remained disproportionately high. Additionally, while the majority of health departments reported receiving no complaints at all for bars or restaurants, only about half of departments received no complaints about other indoor workplaces. With respect to complaints about indoor workplaces, over half of these were attributable to violations in offices (52.5%), a trend consistent with previous years.

### Compliance Checks

In 2009, both the total number of compliance checks conducted (3236) and the percentage of health departments conducting compliance checks in each workplace type specific to the NJSFAA decreased relative to that in 2008. This may be related to the decrease in number of overall complaints received, such that health departments may perceive a lesser need for NJSFAA specific compliance checks. It may also be the result of decreased resources of health departments to conduct such checks. It should be noted that despite a continuing higher proportion of complaints about other indoor workplaces relative to those about bars and restaurants, compliance checks were least commonly conducted in other indoor workplaces, and the proportion of health departments conducting compliance checks in indoor workplaces decreased from 45.6% in 2008 to 31.5% in 2009.

Health departments can also conduct compliance checks in conjunction with Chapter 12 food inspections. In 2009, roughly two-thirds of responding health departments reported integrating NJSFAA compliance checks into routine food inspections of bars and restaurants, a figure consistent with that in 2008. 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 health departments least frequently educated owners of other indoor workplaces about the NJSFAA relative to owners of bars and restaurants. In addition, between 2008 and 2009 the percentage of health departments who reported educating owners and employees of other indoor workplaces decreased by 47.6% and 63.4%, respectively. 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 2009, close to 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 continued to report 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**

In 2009, health departments continued to perceive compliance with the NJSFAA to be high and reported the fewest number of complaints and citations in the three full years since the ban's implementation. Despite this improvement, this does not guarantee consistent compliance, and the New Jersey Department of Health and Senior Services and local government should continue to encourage regular compliance checks for the NJSFAA. In addition, the results of this survey revealed that health departments continue to receive the majority of complaints from indoor workplaces, including offices and casinos. Furthermore, more health departments reported a lack of perceived compliance in other indoor workplaces compared to bars and restaurants. All employees should continue to be educated about the NJSFAA and how to report violations of the NJSFAA. In addition, clean indoor air supporters should continue to advocate for a complete smoking ban in casinos to replace the current partial ban. A complete ban would provide the safest environment for both casino patrons and employees.

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 March 2010 and April 2010, 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 2009 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 108 health departments was retrieved in March 2010 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 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 101 eligible health departments, 95 completed the survey, yielding an overall response rate of 94%. Responding health departments cover enforcement in approximately 92.6% of municipalities in New Jersey.

The six non-responding health departments cover enforcement at roughly 7.4% of municipalities in New Jersey in five different counties, and include one of the top ten major cities in New Jersey, Trenton. It should be noted that one of the non-responding health departments was the only health department in Warren County. Although this department did not complete a full survey, it did indicate that it had received no complaints in 2009. Therefore only data from this department regarding received complaints is included in this report.

### Analysis

SPSS (v.17) statistical software was used to generate frequencies.

## References

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2. United States Census Bureau. New Jersey – Place and County Subdivision. 2008 Population Estimates. Retrieved May 20, 2010. Available at: [http://factfinder.census.gov/home/en/official\\_estimates\\_2008.html](http://factfinder.census.gov/home/en/official_estimates_2008.html)



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