Arizona Business & Money

Outdoor patios offer opportunities to puff

by **Andrew Johnson and Cathryn Creno** - Apr. 25, 2008 07:09 PM
The Arizona Republic

Almost a year after Arizona's statewide smoking ban took effect, complaints about alleged violations have slowed from a flood to a trickle. In the nearly 12 months since the smoke cleared, only three businesses have received fines.

Regulators cite efforts to educate business owners and incorporate smoking checks in their routine restaurant inspections as main reasons for declining activity.

A question still persists, though, of whether the ban has hurt bars and restaurants as many business owners feared before it took effect.

The answer remains hazy. The weakening economy and rising food prices have been a blow, so it's hard to measure the direct impact of the smoking ban.

Some bar and restaurant managers say business dipped slightly in the months after the ban went into effect. Sales since have picked up or have leveled off, they said.

Other proprietors, especially those of neighborhood establishments that lack outdoor seating, say that the ban has taken away a big chunk of their business by causing patrons to go to new watering holes or to stay home.

$13,000 in fines

The Smoke-Free Arizona Act, which makes it illegal to smoke inside bars, restaurants, public buildings and other businesses, was enacted May 1, 2007.

Between then and April 21, the state has received 4,722 complaints, ranging from reported smoking inside bars, businesses failing to post proper signage, restaurant employees smoking right outside a front entrance - not 20 feet away as the law requires - and other allegations.

Three businesses have received fines totaling about $13,000.

"We have had very good cooperation with businesses on this," said Don Herrington, bureau chief for epidemiology and disease control services at the Arizona Department of Health Services.

Some have made changes to keep regular clientele happy by adding outdoor patios and extending liquor licenses so they can serve alcohol outside.

Still, data and anecdotal information from several Valley municipalities don't show bars and restaurants in droves building patios.

Financial impact unclear

No official estimate is available for what Smoke-Free Arizona's economic impact has been, but state and county officials say they haven't heard of businesses that have shut their doors because of the ban.

Arizona State University researchers currently are studying the economic impact of the ban on businesses in the past year. Results aren't expected until July, Herrington said.

"One of the things we heard initially from some of the states that had enacted the law was the first year they had a slight downturn in business and in subsequent years it improved," Herrington said.

Measuring any direct financial impact of the ban is difficult because several factors may be affecting those businesses, including recent minimum-wage laws, employer sanctions, stiffer DUI penalties and rising fuel costs.

Those factors and others have "dwarfed" any possible smoking-ban-related economic problems bars and restaurants have had, said Steve Chucri, president and chief executive officer of the Arizona Restaurant and Hospitality Association in Phoenix.

Prior to Smoke-Free Arizona, "a smoking ban was always the 900-pound gorilla in the room whenever we had discussions about things that could negatively affect business," Chucri said.

"I will tell you my bigger concerns today are immigration, getting relief on minimum wage and trying to get the economy cooking again," he said. "Restaurant owners are telling me these are bigger concerns now."

State Rep. Mark Anthony DeSimone owns Hidden House Cocktail Lounge southeast of Seventh Avenue and Osborn Road in Phoenix. He said his business saw a slowdown right after the ban went into place.

"Our business dropped about 20 percent immediately," said DeSimone, who in 2006 was chairman of a campaign for an alternative smoking ban that would have exempted bars and restaurant bars with separate ventilation systems.

"It was just like day and night," he added.

Scottsdale-based P.F. Chang's China Bistro Inc., which operates the P.F. Chang's and Pei Wei Asian Diner restaurants, had adjusted to a no-smoking environment. It banned smoking in all its Valley restaurants five years ago when the city of Tempe adopted its anti-smoking ordinance, according to spokeswoman Laura Cherry.

The smoke-free atmosphere is easier on restaurants "maintenance wise," Cherry said.

Changing habits

Some regular patrons of bars and restaurants say they've changed their habits because of the ban.

Non-smoker Kris Chavez said she and her family used to avoid the Native New Yorker restaurant on McDowell Road near 99th Avenue in Avondale to go a like restaurant in Goodyear because it was less smoky.

"We'd go the extra five miles just to get away from the smoke," the Avondale resident said.

Now, Chavez says, she doesn't have a problem going to the restaurant in Avondale.

Conversely, Phoenix resident Monica Jones said she tries to avoid bars that don't have outdoor patios so she can smoke.

Jones said she sees benefits from the ban, but she doesn't think it's right that the government should tell business owners whether they can allow smoking.

"I think it should be up to businesses whether they want it or not, especially in the summer months," Jones said as she smoked a cigarette at Hamburger Works on a recent Monday night.

Business response

Hamburger Works, at the southeastern corner of 15th Avenue and Thomas Road in Phoenix, is among several establishments that have taken steps to accommodate its smoking patrons since the ban took effect.

Prior to the ban, Hamburger Works had just a few concrete tables and benches on the western side of the restaurant, next to where its bar is located.

Hamburger Works' owners have spent close to $15,000 on new tables, chairs, fencing, cooling misters and heating for its outdoor patio, according to Carla Carlson, a bartender.

The establishment has experienced a small drop in business, which she attributes to the ban, but "it hasn't been huge," she said.

One thing that has changed is the atmosphere in the bar area, she said. Smokers and their friends typically flock to the outdoor patio while non-smokers remain inside, which "makes the bar a little less fun," she said.

Jimmy Llacuna, manager of 5030 Lounge in Glendale, said that sales are down about 20 percent, which he attributes mostly to the smoking ban.

The neighborhood bar is in a strip mall near 51st Avenue and Peoria Avenue. Llacuna said he's having plans drawn up to add an outdoor patio area in hopes of keeping the customers he has. He doesn't expect a patio to bring back customers who no longer come to the bar.

"Are the people that smoke going to go out and use it?" he asked. "Yeah, they're going to use it. Is it going to bring people back who stopped coming?

"It's not bringing them back. It's just making it a little bit more convenient. I'll spend the money and build this patio and make it a little bit more comfortable for the people that still come."

John Kunst has owned the Recovery Room bar at 21st Avenue and Bethany Home Road in Phoenix for 24 years. He said his sales are down from a year ago, but he doesn't blame the ban.

"I tell people if they're using the smoking ban as an excuse for their business going down, their business was going down before the smoking ban went into effect," Kunst said.

He has decided not to add a patio to the bar, but he has put a few chairs behind the building for customers who want a smoke break.

Patio activity

Municipal officials in cities such as Mesa, Chandler and Glendale said that they haven't seen a big rise in the past year in requests for businesses that want to add outdoor patios.

In Phoenix, though, the number of use-permit applications for outdoor dining increased from 56 in 2006, to 93 in 2007. The city does not track reasons a bar or restaurant applies for a use-permit extension.

"We certainly have seen an increase in use permits for the outdoor-dining requirements during the time frame, and I think a large part of that's due to the smoking ban," said Alan Stephenson, a principal planner with Phoenix.

Establishments that want to serve alcohol on an outdoor patio also must apply for an "extension of premise" with the Arizona Department of Liquor Licenses and Control if the area in question is not covered by their current liquor licenses.

Between 2006 and 2007, the number of extension-of-premise applications the department received jumped 28.5 percent, to 509.

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