

The Smoke-Free Arizona Act

“It’s a Benefit, Not a Ban!”

The logo consists of a green circle with a white border, partially overlapping a blue square. The text "SMOKE FREE ARIZONA" is written in white, bold, sans-serif capital letters inside the green circle.

SMOKE
FREE
ARIZONA

Annual Report 2013

Arizona Department of Health Services

The logo features a blue square with a white sunburst icon in the top right corner. The text "Arizona Department of Health Services" is written in white, sans-serif font below the icon.

Arizona
Department of
Health Services



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“It’s a Benefit, Not a Ban”

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Executive Summary

On November 7, 2006, Arizona voters approved Proposition 201, the Smoke-Free Arizona Act, A.R.S. § 36-601.01 (the Act or the Law). The Law went into effect on May 1, 2007, prohibiting smoking inside and within 20 feet of entrances, open windows, and ventilation systems of most enclosed public places and places of employment, with a few exemptions.

While the Act prohibits smoking inside most enclosed public places and places of employment in Arizona, smoking is allowed in establishments that meet specific exemption criteria. There are seven exemptions, including private residences, designated smoking rooms in hotels and motels, retail tobacco stores, Veterans and fraternal clubs, smoking when associated with a religious ceremony pursuant to the American Indian Religious Freedom Act of 1978, outdoor patios, and theatrical performances upon a stage or in the course of a film or television production.

Also included in Proposition 201, was the imposition of a two-cent tax per pack of cigarettes to be deposited into the Smoke-Free Arizona Fund, which must be used to enforce the provisions of the Law. If a proprietor of an establishment does not correct violations as requested, demonstrates willful violations, or exhibits a pattern of noncompliance with the Act, they are subject to enforcement action. They may receive a Notice of Violation (NOV) or an assessment of civil penalty fines between \$100 and \$500 for each violation. If injunctive relief is requested, the Superior Court may impose appropriate injunctive relief and civil penalty fines up to \$5,000 per violation.

The Arizona Department of Health Services (ADHS) and all but one of Arizona's counties work through delegation agreements, to ensure that Arizonans are protected from secondhand smoke exposure in most enclosed public places and places of employment. The county health departments conduct consultations and on-site visits at public places and places of employment, including but not limited to, local businesses, bars, and restaurants to provide education and to ensure continued compliance with the Smoke-Free Arizona Act. Between May 1, 2012 and April 30, 2013, a total of 23,587 educational visits, consultations, and on-site visits were conducted. Many business proprietors have made steps to go above and beyond the requirements of the Smoke-Free Arizona Act. In addition to making the necessary changes to comply with the Act, such as posting the required "No Smoking" signs and moving ashtrays, proprietors have also continued to build outdoor patios, provide designated smoking areas, and establish in-house policies that are more strict than the Act to accommodate their employees and customers.

During the sixth year after the Law went into effect, between May 1, 2012 and April 30, 2013, a total of 1,681 complaints alleging violations of the Smoke-Free Arizona Act were filed statewide. Most of the complaints were regarding people smoking outside within twenty feet of an entrance and the presence of ashtrays located outside within twenty feet of an entrance.

A total of 6 NOVs were issued statewide between May 1, 2012 and April 30, 2013, 4 of which were issued by the ADHS Smoke-Free Arizona Program. The majority of the NOVs were issued to proprietors that permitted employees, customers, or visitors to smoke inside enclosed public places and places of employment. The proprietors that were issued these NOVs faced a total of \$7,750 in civil penalty fines. Numerous settlements were reached with the said recipients and a total of \$650 in civil penalty fines was collected statewide.

In 2012, Arizona earned an "A" grade on the *American Lung Association State of Tobacco Control Report* for maintaining a strong and comprehensive enforcement program of the Smoke-Free Arizona Act. For the sixth year in a row, the report has awarded a grade "A" recognizing the continued success of the Smoke-Free Arizona Act.



1.0 Smoke-Free Arizona Program

1.1 Background

Secondhand smoke is defined as the combination of smoke exhaled by a smoker and the smoke generated by the burning end of a cigarette (or other tobacco product). Secondhand smoke is a mixture of 4,000 chemical compounds that are released into the air as gases and particles. Of these 4,000 compounds, 69 have been identified as carcinogens or cancer-causing agents, 11 of which have been specifically identified as human carcinogens.

Exposure to secondhand smoke is a health concern for people of all ages. In 1992, the U.S. Environmental Protection Agency (EPA) officially listed secondhand smoke as a Class A carcinogen. In 2006, the U.S. Surgeon General's report stated that there is no risk-free level of exposure to secondhand smoke. Breathing even a little secondhand smoke can be harmful to your health.

In November of 2006, Arizona voters made their voices heard by passing the Smoke-Free Arizona Act, A.R.S. § 36-601.01 ("the Act" or "the Law"). The Act protects all Arizonans from the harmful effects of secondhand smoke exposure in most enclosed public places and places of employment and within 20 feet of entrances, open windows, and ventilation systems. Also included in the Act, is a two-cent tax per pack of cigarettes to be deposited in the Smoke-Free Arizona Fund, which must be used to enforce the provisions of the Law. The Act went into effect on May 1, 2007.

The Act prohibits smoking inside enclosed public places and places of employment with a few exemptions:

- 1) Private residences, except when used as a licensed child care, adult day care, or health care facility;
- 2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided however that not more than fifty percent of rooms rented to guests in a hotel or motel are so designated;
- 3) Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section;
- 4) Veterans and fraternal clubs when they are not open to the general public;
- 5) Smoking when associated with a religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978;
- 6) Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means; and
- 7) A theatrical performance upon a stage or in the course of a film or television production.



For each exemption to the Act, there are specific requirements that must be met to qualify. These criteria are defined in the Act and in the Arizona Administrative Code, Title 9, Chapter 2, Article 1.

Under the Act, the proprietor of a public place or a place of employment is responsible for:

- Removing all indoor ashtrays and smoking receptacles and moving all outdoors ashtrays and smoking receptacles at least 20 feet away of entrances;
- Posting the required “No Smoking” signs at every entrance into the establishment;
- Educating all existing and prospective employees about the Act;
- Prohibiting anyone, such as employees, vendors, visitors, and customers from smoking within 20 feet of all entrances, open windows, and ventilation systems, and inside the establishment; and
- Informing violators by politely requesting that they extinguish their lit tobacco product or that they smoke outside at least 20 feet away from the entrance, open window, or ventilation system.

If a proprietor of an establishment does not correct violations as requested, or demonstrates willful violations or a pattern of noncompliance with the Act, they are subject to enforcement action. They may receive a Notice of Violation (“NOV”) or an assessment of civil penalty fines between \$100 and \$500 for each violation. If injunctive relief is requested, the Superior Court may impose appropriate injunctive relief and civil penalty fines up to \$5,000 per violation.

1.2 Roles and Responsibilities of ADHS

The provisions of the Act assign implementation and enforcement of the Law to ADHS. In order to accomplish this, the Office of Inspection and Compliance, due to its extensive experience with education, inspections, investigations, and enforcement, oversees the Smoke-Free Arizona Program.

The Smoke-Free Arizona Program is responsible for:

- Providing free signage to businesses;
- Maintaining the Smoke-Free Arizona website:
www.smokefreearizona.org;
- Answering inquiries coming via the information line: 1-877-AZSTOPS (1-877-297-8677), or from the smokefreearizona@azdhs.gov mailbox;
- Taking complaints coming through the complaint line: 1-877-4AZNOSMOKE (1-877-429-6676), or from the nosmokingarizona@azdhs.gov mailbox;
- Conducting on-site advisory visits;

- Maintaining a statewide database used by the county health departments for complaint investigations and referrals;
- Providing training to new and existing health educators and environmental health inspectors;
- Providing educational materials to county health departments;
- Assisting county health departments during complaint investigations or advisory visits by riding along with the health educators or the environmental health inspectors;
- Providing guidance to the county health departments with regards to education, compliance, and enforcement;
- Initiating enforcement procedures for cases referred by Maricopa, Gila, Pinal, Yavapai, Cochise, and Santa Cruz counties; and
- Conducting education and compliance activities in Santa Cruz County.

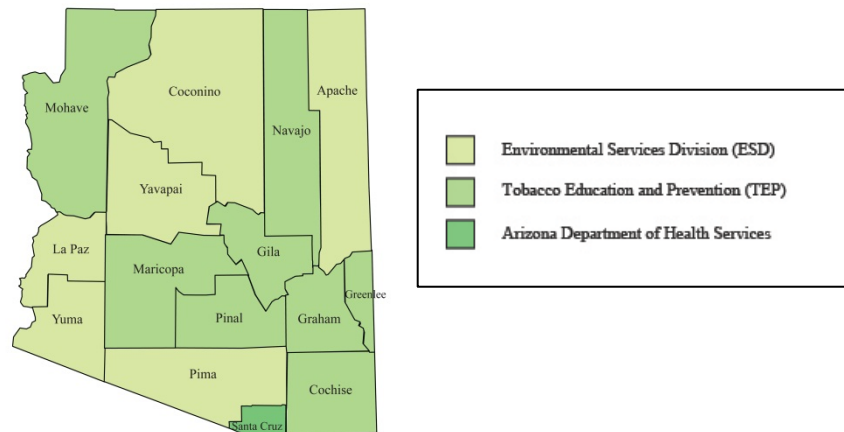
1.3 Roles and Responsibilities of the County Health Departments

1.3.1 Education and Compliance

ADHS and the county health departments work diligently to protect all Arizonans from secondhand smoke exposure and to ensure uniform compliance with the Law throughout the State. Delegation agreements have been signed with all but one of the State’s fifteen counties to assist ADHS with education and compliance assistance. Funding is provided to these counties using money from the Smoke-Free Arizona Fund.

Depending on the infrastructure of the county health department, education and compliance assistance are performed by either health educators from their Tobacco Education and Prevention Program or by environmental health inspectors from their Environmental Services Division. The map below represents the lead program for each county:

Map 1.1 Lead Program Responsible for Education and Compliance for Each County Health Department



Environmental Services Division

The Environmental Services Division is the lead program for education and compliance in Cochise, Gila, Graham, Greenlee, Mohave, Navajo, and Pinal counties. Environmental health inspectors verify compliance and provide education about the Act during routine food safety and environmental health inspections. Smoke-Free Arizona violations have been included on inspection checklists to monitor compliance with the Act. In addition, environmental health inspectors carry “No Smoking” signs and educational brochures for distribution during routine inspections and complaint investigations.

Tobacco Education and Prevention Program

The Tobacco Education and Prevention Program is responsible for compliance and education in Apache, Coconino, La Paz, Pima, Yavapai, and Yuma counties. Health educators have been actively working with businesses in their communities by providing education about the Smoke-Free Arizona Act and explaining the benefits of smoke-free environments.

In these counties, a solid partnership exists between the Tobacco Education and Prevention Program and the Environmental Services Division. For example if an environmental health inspector observes a smoking violation during a routine inspection in a food establishment, he or she will notify the health educator about their observation(s). The health educator will follow-up with the person in charge of the food establishment to ensure compliance with the Law.

Maricopa County: No Longer a Dual Lead Program



With a population of 3,942,169 Maricopa County is by far Arizona's most populous county, encompassing more than half of the State's residents. Joining efforts with Maricopa County Department of Public Health is the key to ensuring compliance in Maricopa County.

In previous years, education and complaint investigations were conducted by environmental health inspectors at establishments permitted under the Maricopa County Health Code, such as restaurants, bars, grocery stores, hotels/motels, and public accommodations. For non-permitted establishments such as retail stores, repair shops, business offices, and shopping centers, education and complaint investigations were conducted by Maricopa County Department of Public Health. In July 2012, the Maricopa County Department of Public Health took sole responsibility for conducting education and compliance investigations at both permitted and non-permitted establishments. Complaint statistics show the number of complaints in Maricopa County was more than twice as high in non-

permitted establishments than in permitted establishments, causing the shift in focus to non-permitted establishments that were handled by Maricopa County Department of Public Health.



ADHS – Santa Cruz County

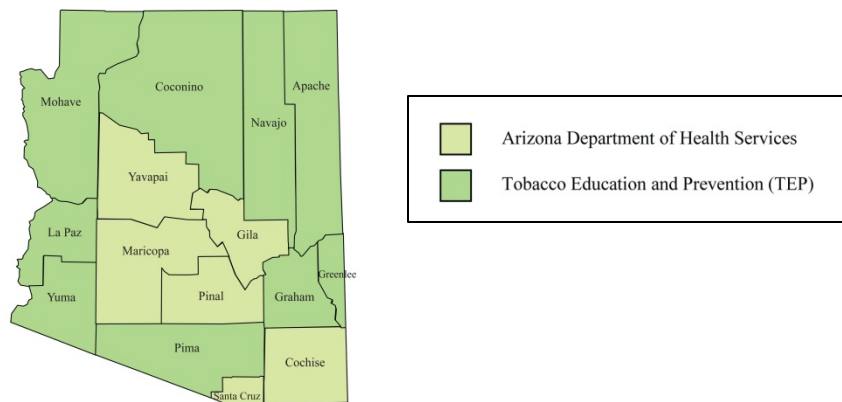
The ADHS Smoke-Free Arizona Program is responsible for education and compliance in Santa Cruz County. This includes investigating complaints, conducting on-site inspections, and educating the community about the Law and its requirements.

Enforcement of the Law

Nine county health departments have the delegated authority for enforcement activities such as issuing NOVs, assessing civil penalty fines, attending administrative hearings, and seeking injunctive relief.

The map below illustrates who is responsible for enforcement in each county.

Map 1.2 Enforcement Responsibilities for each County Health Department



The counties conducting their own enforcement activities are Apache, Coconino, Graham, Greenlee, La Paz, Mohave, Navajo, Pima and Yuma. For these counties, the delegation agreement delineates the enforcement duties and additional funding is provided to support these duties.

For the remaining six counties, Maricopa, Gila, Cochise, Yavapai, Pinal, and Santa Cruz, ADHS provides assistance for enforcement. This means that once a pattern of noncompliance is documented, or there is evidence of willful violation of the Act, the county health department refers the

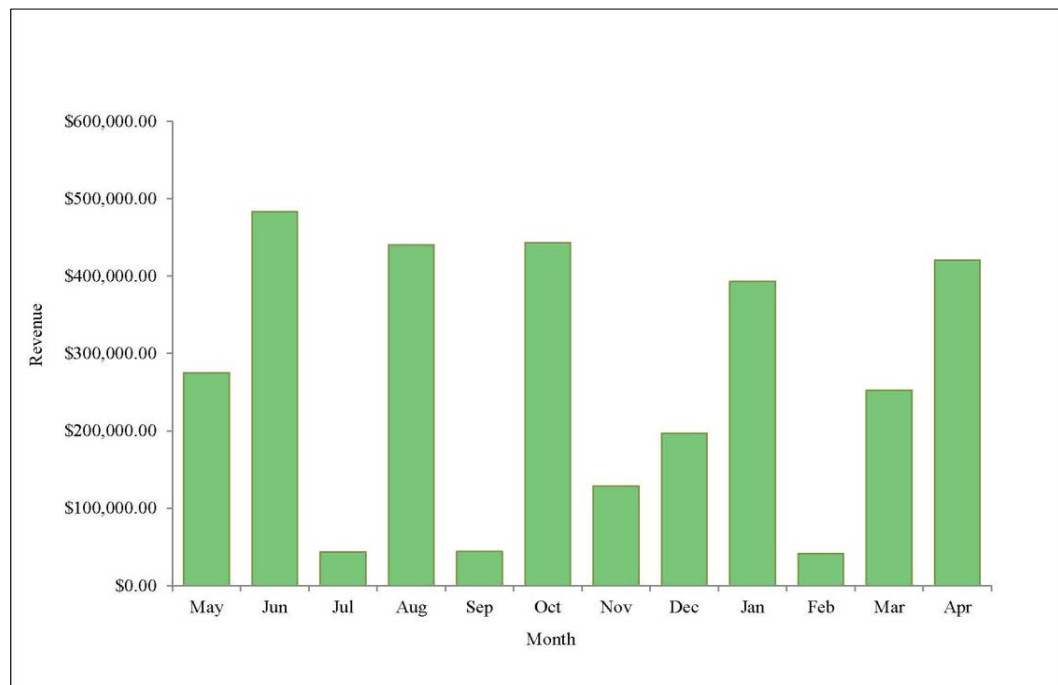
case to ADHS for enforcement. The enforcement procedures are explained in Section 5.0 of this report.

1.4 Amount and Source of Program Funding

The Smoke-Free Arizona Act includes a two-cent tax that is imposed on each pack of cigarettes purchased. The money collected from this tax is deposited into the Smoke-Free Arizona Fund and used to enforce the Act. Any money remaining in the Smoke-Free Arizona Fund, after ADHS and its delegates have met enforcement obligations for the fiscal year, is deposited into the Tobacco Products Tax Fund and used for education programs to reduce and eliminate tobacco use.

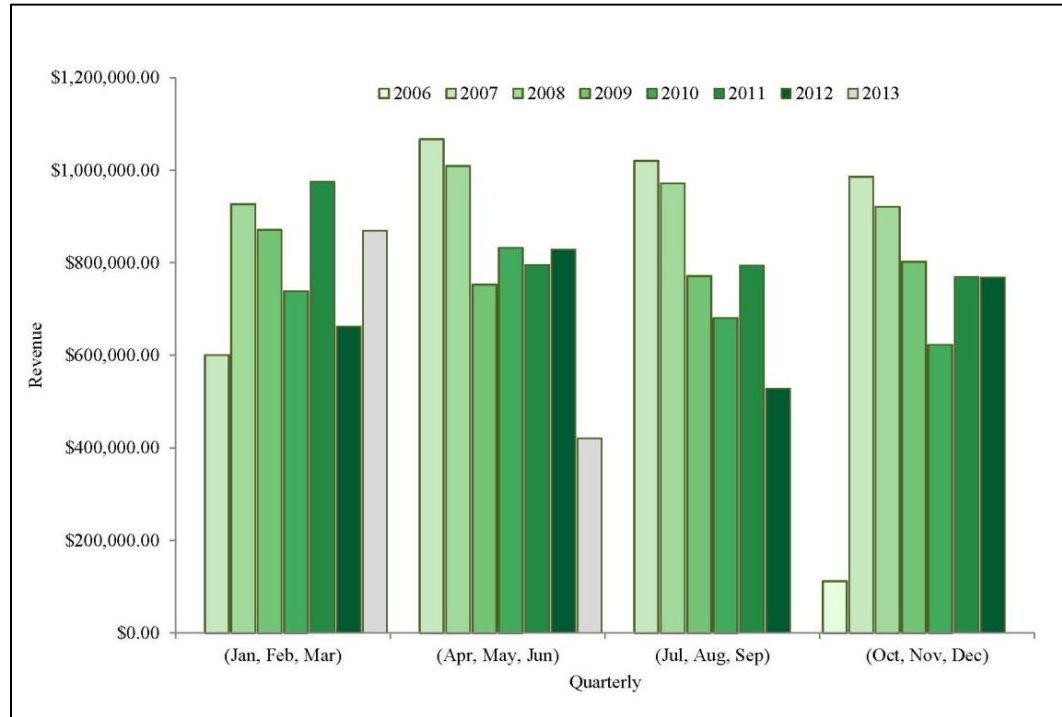
The graph below shows the amount of money received monthly in the Smoke-Free Arizona Fund from May 1, 2012 to April 30, 2013.

Graph 1.1 Smoke-Free Arizona Fund Monthly Tax Revenue from May 1, 2012 to April 30, 2013



The graph below shows the amount of money received quarterly in the Smoke-Free Arizona Fund from May 1, 2007 to April 30, 2013.

Graph 1.2 Smoke-Free Arizona Fund Quarterly Tax Revenue from May 1, 2007 to April 30, 2013





2.0 Education

As we cross the threshold of the sixth year after implementation of the Smoke-Free Arizona Act, we continue to make major strides to improve the communication and educational information about the Act that is disseminated to the public and businesses of Arizona.

2.1 Enhancing the Website: www.smokefreearizona.org

As the main channel of communication with the public, business owners, and other partners throughout Arizona, the Smoke-Free Arizona website is an essential part of the educational outreach of the Smoke-Free Arizona (SFA) Program. The SFA website contains detailed information about all the requirements of the Act and how these requirements apply to different indoor and outdoor areas. Useful information explaining the dangers of secondhand smoke, news archives, tips for compliance, program updates, answers to frequently asked questions about the Law, and links to valuable resources are also available. In addition, users can order free “No Smoking” signs, and report violations by either filling out an easy online form or by downloading the mySmokeFreeAZ mobile phone application.

The Smoke-Free Arizona website is continuously maintained by updating or adding relevant information that can aid in reaching the general public and assisting proprietors to comply with the Act. This year, the entire Smoke-Free Arizona website was revamped and updated. In addition, a new Smoke-Free Arizona Timeline was created in a more contemporary format. This timeline provides an overview of the most important milestones in the Smoke-Free Arizona Program history. It also provides a quick insight into the types of activities and responsibilities of the Smoke-Free Arizona Program.

To date, the most popular features of the website are still the sign order page and the online reporting system. Since the Law went into effect, business owners have been able to order required “No Smoking” signage free of charge from the website. In addition, concerned citizens continue to report violations of the Act by filing a complaint form online in three easy steps. Allowing concerned citizens to file complaints alleging violations of the Law is not only mandated by the Act, but it is also an effective tool to aid in education and compliance assistance.

The image below is a print screen of the recently updated Smoke-Free Arizona Program website.



An approximate combined total of 1,216 calls were received between May 1, 2012 and April 30, 2013.

ADHS received 648 calls during business hours.

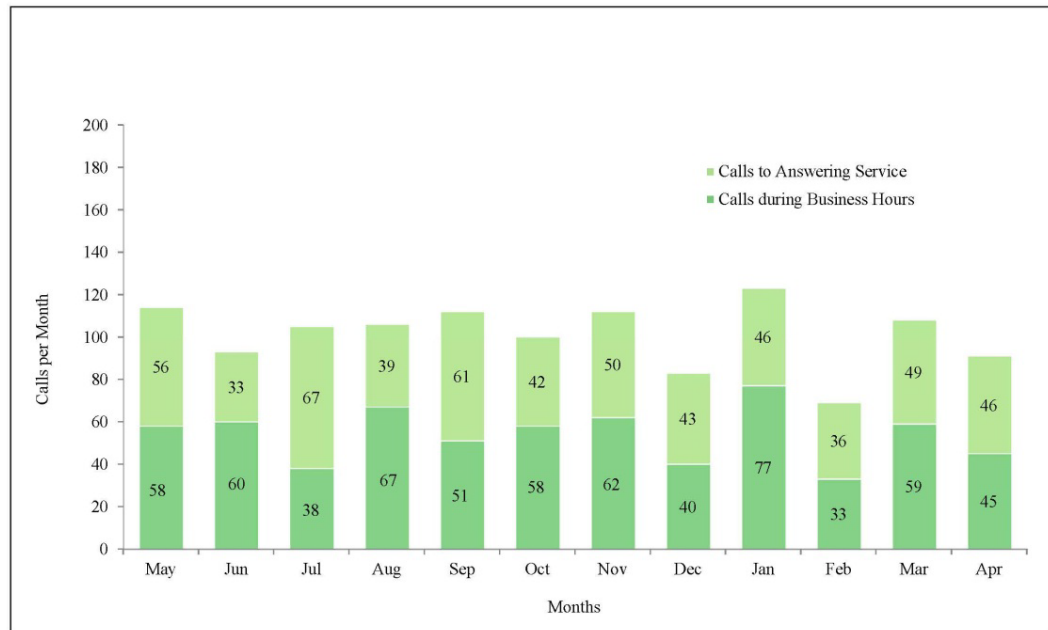
2.2 Answering the Information Hotline: 1-877-AZ-STOPS (1-877-297-8677)

As required by the Smoke-Free Arizona Act, ADHS provides a 24/7 toll-free information line to answer inquiries from the general public and business owners. During business hours, ADHS Smoke-Free Arizona Program staff answers the calls. After business hours, live assistance is provided by an answering service agency. The answering service agency staff is trained to answer general questions about the Act, fulfill requests for free signage, and document reports of violations. This year, a training video was sent to the answering service agency for new employees and to serve as a refresher for existing staff. ADHS Smoke-Free Arizona Program staff returns calls from people requesting further assistance during the next business day. An approximate combined total of 1,216 calls were received between May 1, 2012 and April 30, 2013.

ADHS received a total of 648 calls during business hours. Over half of the calls received were inquiries about the Smoke-Free Arizona Act, while the remaining calls were either requests for free signage or from individuals reporting violations of the Act.

The graph below shows the number of calls received during and after business hours.

Graph 2.1 Number of Calls Received by ADHS and by the After Hours Answering Service between May 1, 2012 and April 30, 2013



The pie chart below shows the categories of calls (by percentage) received during business hours by ADHS.

Pie Chart 2.1 Percentage of Calls by Category Received by ADHS between May 1, 2012 and April 30, 2013

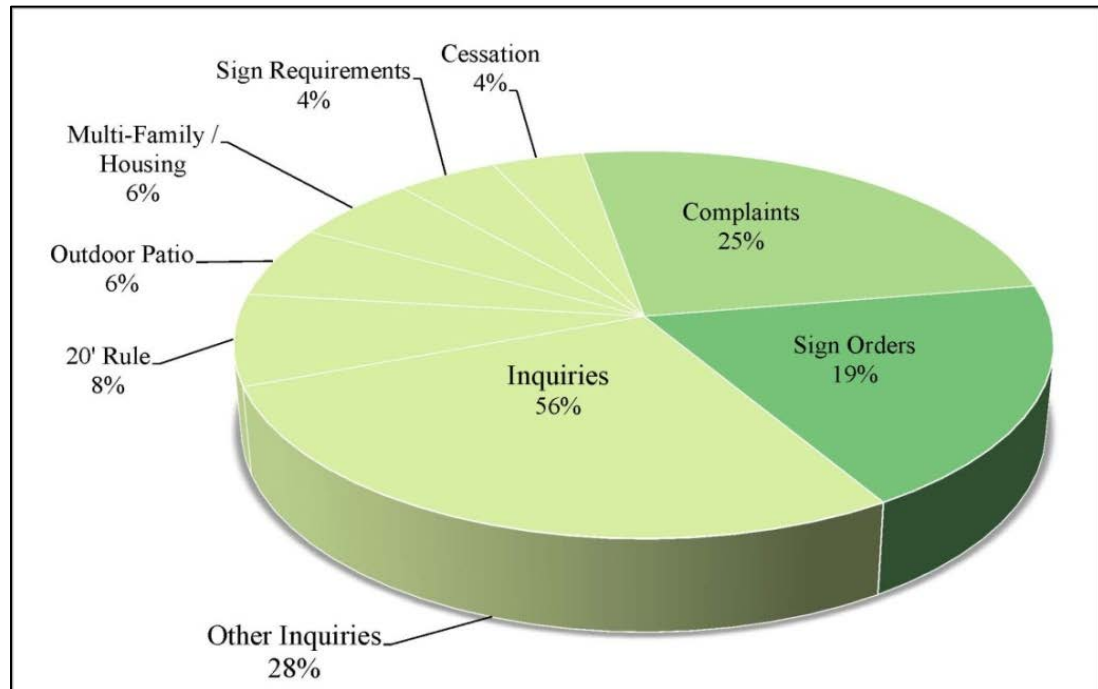


Of these calls, the top five types of inquiries received during business hours were regarding:

1. The reasonable distance from entrances where smoking is prohibited (the “20 Foot Rule”);
2. Outdoor patios;
3. Smoking in multi-family housing;
4. “No Smoking” signage requirements; and
5. Cessation information.

The pie chart below illustrates the types of calls received and the most frequent questions received.

Pie Chart 2.2 Percentage of Calls by Category Received by ADHS between May 1, 2012 and April 30, 2013 Including the Top Five Inquiries



2.3 Maintaining the Email Addresses:

smokefreearizona@azdhs.gov and nosmokingarizona@azdhs.gov

The smokefreearizona@azdhs.gov email address is solely dedicated to answering questions and providing information to the general public and business owners about the requirements of the Smoke-Free Arizona Act. The ADHS Smoke-Free Arizona Program Specialists are responsible for replying to all inquiries received in this email mailbox.

The nosmokingarizona@azdhs.gov email address is used to process reports of violations. Occasionally this email mailbox will receive general questions from citizens and business owners, which are answered by an ADHS Smoke-Free Arizona Program Specialist.

2.4 “No Smoking” Signs

The Smoke-Free Arizona Act requires that most enclosed public places and places of employment in Arizona have a “No Smoking” sign posted at every entrance. All entrances should have signs posted except for doors leading to an outdoor patio and doors used as an emergency exit. Signs should include all the required information and be clearly and conspicuously posted.

Business owners have the option to order “No Smoking” signs free of charge from the Smoke-Free Arizona Program or they may choose to create their own signs as long as the required information is included. The Smoke-Free Arizona Program offers four unique 4 x 6 inch “No Smoking” stickers with an adhesive on the back that easily attaches to any surface. The newest sign created is a larger, more conspicuous 4 x 12 inch sticker. This sign is clearly visible, contains all the required language and reporting information, and accentuates the 20 Foot Rule. The larger 20 Foot Rule helps businesses communicate to their employees and customers that smoking is prohibited inside and within 20 feet of entrances.

The Smoke-Free Arizona Program provides the following types of signs:

- 3 x 5 inch vehicle sticker
- 4 x 6 inch English sticker (with or without the 20 Foot Rule disclosure)
- 4 x 6 inch Bilingual sticker (with or without the 20 Foot Rule disclosure)
- 4 x 12 inch English sticker (with the 20 Foot Rule disclosure)

The 4 x 6 sticker is the most popular sign because of its size and design, adhesive back, and its ultraviolet (UV) coating on the front to protect the sign from fading in the Arizona sun.

A total of 1,240 sign orders were placed by businesses. In addition, signs are distributed to businesses during complaint inspections, advisory visits, educational visits, and routine inspections conducted by county health educators and health inspectors. A total of 56,592 signs were distributed statewide. The demand for free signs has remained steady over the last four years. On average, the Smoke-Free Arizona Program has distributed approximately 55,949 signs yearly in the last five years.

The images below include each of the “No Smoking” stickers provided by the Smoke-Free Arizona Program.





2.5 Advisory Visits

Smoke-Free Arizona Program staff provides compliance assistance to proprietors by performing advisory visits at their public place or place of employment. Upon request, county environmental health inspectors, county health educators, and ADHS Smoke-Free Arizona Program Specialists visit public places and places of employment to assist with answering any questions that the proprietor may have about a specific area of concern. In 2011, the Smoke-Free Arizona Program created two advisory forms as a tool to document compliance efforts during these educational visits and to provide information to business proprietors. The standard Advisory Form not only documents the visit and the establishment's information, but it also includes a list of requirements of the Act to which proprietors must comply.

Since most advisory visits are requested by proprietors that have questions about outdoor patios and/or designated smoking areas, the Smoke-Free Arizona Program also created in September of 2009, an Outdoor Patio Advisory Form. This advisory form is used frequently to provide guidance about the requirements of outdoor patios as defined by Arizona Administrative Code R9-2-108. The advisory form also defines the 20 Foot Rule and further clarifies how it applies to outdoor patios. County environmental health inspectors, county health educators, and Smoke-Free Arizona Program Specialists do not perform plan review for outdoor patios; however, they can ensure that proprietors understand the requirements of the outdoor patio exemption. The Outdoor Patio Advisory Form informs proprietors that the advisory visit does not indicate compliance with any other code, law, or regulation that may be required - federal, state, or local, and that it does not constitute endorsement or acceptance of the current or proposed patio.

Over the last two years, both the Advisory Form and the Outdoor Patio Advisory Form have proven to be useful tools. These two forms serve as documentation for the advisory visits and as a tracking method used to account for educational activities conducted. For this reason, the ADHS Smoke-Free Arizona Program has shared the forms with the county health departments and encouraged their use.

3.0 Outreach

3.1 Reaching Out to Public Places and Places of Employment

Arizona county health departments conduct consultations and on-site visits at local businesses, bars, and restaurants and provide education to ensure continued compliance with the Smoke-Free Arizona Act. Between May 1, 2012 and April 30, 2013, a total of 23,587 educational visits and consultations were conducted.

Between May 1, 2012 and April 30, 2013, the ADHS Smoke-Free Arizona Program Specialists as well as county health educators and county environmental health specialists conducted 189 educational presentations to large employers and community partners such as grocers, hotels, churches, childcare centers, Head Start programs, after school programs, juvenile detention centers, women’s transitional housing facilities, multi-family housing, and collegiate campuses. Combined, an estimated 8,664 people attended these educational presentations.

The Smoke-Free Arizona Program and county health educators used health fairs as an effective forum to provide education to the public regarding the requirements of the Smoke-Free Arizona Act. Some of the health fairs attended by program specialists and health educators included small businesses, large pharmaceutical and biotechnology companies, insurance providers, and car dealerships.

Multi-Family Housing Mass Mailing

In May 2012, the Smoke-Free Arizona Program had the opportunity to sponsor a part-time internship position. The objective of the internship project was to outreach to multi-family housing complexes through a mass mailing. The Smoke-Free Arizona Program intern worked diligently to put together a list of contact information for multi-family housing complexes statewide. Once the list was compiled, messaging was created, which educated business proprietors about how the Act applies to individual units, enclosed common areas, outdoor common areas, and swimming pools in multi-family housing complexes. In December 2012, a total of 1,284 letters and 447 emails were sent to these multi-family housing complex proprietors to assist them in achieving compliance with the Act. The proprietors received a letter or email, an informative Private Residence and Multi-Family Housing brochure, and a required “No Smoking” sign. Proprietors were encouraged to contact the Smoke-Free Arizona Program with questions or for further information about their specific complex. As a result, the Program saw an increase in sign orders from multi-family housing facilities.



County Health Department Assessments

Beginning in October 2012 and concluding in February 2013, the Smoke-Free Arizona Program conducted on-site assessments at each of the delegated county health department in the State. The assessments provided the counties with a platform to showcase their educational and outreach efforts, share experiences, discuss difficult inspections, seek guidance, and detail enforcement practices. As a result, the assessments not only gave the Smoke-Free Arizona Program an opportunity to become more familiar with how the counties operate their programs, but to also improve communication between partners and provide feedback and resources that were geared toward creating Smoke-Free programs that are more consistent statewide.

Health Fairs

The Smoke-Free Arizona Program actively participates in forums that can reach the community on a one-to-one basis, such as health fairs. The Smoke-Free Arizona Program partners with the Wellness Council of Arizona to outreach to large employers and distribute information at wellness health fairs. This year, the Smoke-Free Arizona Program attended 5 employee health fairs hosted by Earnhardt Lexus and Dodge, Blue Cross Blue Shield, Medicis Pharmaceutical Corporation, and GE Capital. Information about the Act was distributed to approximately 450 attendees.

3.2 Reaching Out to the Community: Success Stories

Coconino County: Continued Success in Multi-Family Housing Complexes

In 2009-2010 with the help of other professionals in several different states, the Coconino County Public Health Services District worked with some proactive apartment communities in Flagstaff to develop plans for voluntary smoke-free policies. Some apartment communities designated select units as smoke-free, while others designated entire buildings. Other communities designated all units as smoke-free, one of which went even further to make all units and the entire grounds smoke-free. Two more communities adopted a smoke-free policy for some of their apartment buildings. Those buildings filled up so quickly and received so much interest that additional buildings were projected to be phased into the smoke-free policy in the near future.

In 2012-2013, the Coconino County Public Health Services District continued its outreach to multi-family housing complexes and added two additional apartment communities and 704 units of smoke-free housing to the area. At this time, Flagstaff has 1,042 units and Page has 120 units, bringing the county's total up to 1,162 smoke-free units. Coconino County residents seeking a smoke-free apartment complex may search



the county's website to find smoke-free apartments under the section, Multi-Unit Rental Properties with Non-Smoking Policies Available.

Through a tremendous amount of education and “pavement pounding,” the Coconino County Health Department has seen this idea sprout from a seedling of an idea into a pretty nice blossom of reality that will hopefully continue to grow.

Maricopa County: Helping Businesses Through Education

As the most populated county in the state, Maricopa County receives the highest amount of complaints statewide. During the past year, the Maricopa County Department of Public Health had the opportunity to use their educational abilities to turn some of their inspections into a positive experience for the proprietors. After inspecting multiple bars, employees educated on the Smoke-Free Arizona Act said that they felt empowered to tell customers to move 20 feet away from entrances, open windows and ventilation systems in their establishments. Additionally, these same employees reported feeling relieved knowing the Law was being enforced to protect them from secondhand smoke while on the job.

For one company in Maricopa County, after a complaint inspection was conducted and education was provided on the Smoke-Free Act, the business voluntarily chose to go smoke-free. A designated smoking area was created outside the gated area of the entrance to the business. This company also posted signage declaring their worksite as a smoke-free facility and grounds. Likewise, after receiving a complaint inspection, an apartment complex in Surprise requested information on becoming smoke-free. This apartment manager is the coordinator of the West Valley multi-housing meetings and wanted to develop a collaboration and partnership with the Maricopa County Health Department of Public Health to address apartment managers about going smoke-free. As a result of continued education and enforcement, new collaborations are being formed that intend to aid in prolonged benefits to many families and individuals in multi-family housing complexes.

Santa Cruz County: Working Towards Compliance through Partnerships and Educational Outreach Efforts

ADHS Smoke-Free Arizona Program has remained successful in reaching out to businesses located in Santa Cruz County despite some challenges caused by the distance between the ADHS Smoke-Free Arizona Program and the Santa Cruz County communities. A continuing partnership with the Nogales Chamber of Commerce is an effective channel used to stay in touch with business owners. The Chamber of Commerce provides Smoke-Free Arizona “No Smoking” signs and educational brochures to the community of Nogales and to business proprietors.



As previously mentioned, Smoke-Free Arizona staff provides compliance assistance and education to businesses and proprietors throughout the State. This year, Smoke-Free Arizona Program Specialists focused on three different methods to conduct educational outreach efforts in Santa Cruz County. During the month of July 2012, 20 advisory visits were conducted in Nogales. Proprietors received the required “No Smoking” signs to post at all business entrances as well as a general brochure that explains the basic information about the requirements of the Smoke-Free Arizona Act. In addition, Advisory Forms were used to document these educational visits, the establishment’s information, and provide a list of requirements of the Act with which proprietors must comply. In the same month, the Smoke-Free Arizona Program attended the Carondelet Health Network Wellness Fair at the Holy Cross Hospital in Nogales. A total of 83 participants received information about the Act as well as smoking cessation resources. In April 2013, the Smoke-Free Arizona Program completed a mass mailing educational outreach project. 218 businesses received a letter with information about the Act, a brochure, and a required “No Smoking” sign. Proprietors were encouraged to order additional “No Smoking” signage if necessary. The Smoke-Free Arizona Program hopes to see increased compliance in Santa Cruz County as a result of successful outreach efforts.

The Smoke-Free Arizona Program conducted 20 advisory visits, attended a health fair, and sent 218 letters as part of the educational outreach efforts in Santa Cruz County.

Yuma County: Educating RV Resorts and Parks

Yuma County is one of the most popular destinations in Arizona for winter visitors and residents. The mild winter climate and the inexpensive RV resorts geared towards active retirees lures over 83,000 winter residents each year to the county. Yuma County has more than 60 RV resorts and parks in the area to accommodate such visitors. Most visit the county from northern states and/or Canada; consequently many are not familiar with the Smoke-Free Act and/or have misconceptions of the Law. With such an influx of people residing in the county during the months of October through March, the Yuma County Tobacco Use Prevention Program experiences a rise in the number of complaints against RV resorts and parks. This year the program worked diligently with RV resorts and parks managers to ensure proper education of the Law was made available to them and their staff. The Yuma County Tobacco Use Prevention Program provided advisory visits to several RV resorts that requested inspections of their premises to provide assistance on how to clearly mark areas as designated smoking-areas. In addition, the program provided practical suggestions on how to inform their guests about the Act and how to report violations. Yuma County staff focused on providing a clear definition of what the Smoke-Free Arizona Law defines as “common areas” as this seemed to be the most common reason for complaints. Yuma County’s goal was to ensure that all visited resorts and parks had proper signage where needed and that all staff and guests obtained a basic knowledge of the Law in hopes of reducing the number of invalid complaints filed by residents and guests of these communities.

3.3 Educational Newsletter

In a continued effort to disseminate information about the Act, two new Smoke-Free Arizona newsletters were created and distributed to citizens and businesses of Arizona during the last year. The second issue of the third volume of the newsletter was designed with the intent of educating business proprietors and property management companies on how the Act applies to office buildings, strip malls, high-rise buildings, and commercial and retail properties. In certain facilities, some of the requirements of the Act may fall under the property management’s responsibility and some fall on business proprietors. This newsletter discussed the differences. This newsletter was distributed electronically to approximately 10,881 business proprietors. The first issue of the fourth volume of the newsletter contained information for proprietors about educating existing and prospective employees. It also provided useful tips for proprietors to consider when designating smoking or smoke-free areas. This newsletter was sent to approximately 9,921 recipients via email.

The two Smoke-Free Arizona newsletters were distributed electronically to a collective approximate total of 20,802 business proprietors throughout Arizona.

The two Smoke-Free Arizona newsletters were distributed electronically to a collective approximate total of 20,802 business proprietors throughout Arizona. The distribution of the Smoke-Free Arizona newsletter is a successful and cost efficient educational outreach effort. The images below are copies of the Smoke-Free Arizona newsletters.



Volume 3, Issue 2

Volume 4, Issue 1



3.4 Working with Smoke-Free Arizona Partners

One of the most important and constant partnerships the Smoke-Free Arizona Program has is with the county health departments. Through delegation agreements, county health departments play a major role in providing education, compliance assistance, and in some instances enforcement of the Smoke-Free Arizona Act. Each year, the Smoke-Free Arizona Program offers a training session to provide standard and consistent information to county health educators and county health inspectors. As technology advances, the Smoke-Free Arizona Program is always looking for new ways to provide continuing education to county health educators and county health inspectors. Last year, for the first time, the training was offered as a YouTube video. Recorded audio was added to each slide of the PowerPoint training presentation and then it was uploaded as a video on YouTube.

The Smoke-Free Arizona Program strives for consistent program education, compliance, and enforcement throughout the State. For this reason, this YouTube training video has been used recurrently by county health departments as the primary training for new staff and as a refresher for existing staff. This training was cost effective and also allows educators and inspectors to take the training when convenient for their schedule. Each county health inspector who is a Registered Sanitarian is required to have at least 12 hours of continuing education units (CEUs). This training offered Registered Sanitarians 1 CEU hour.



4.0 Compliance

4.1 Verifying Compliance through Complaint Response and Routine Inspections

Compliance with the Smoke-Free Arizona Act is continuing to increase throughout the State. Compliance is monitored through complaint response inspections at enclosed public places and places of employment. Additionally, compliance is verified during routine food safety inspections conducted at foodservice establishments, such as bars and restaurants.

During the sixth year of the Smoke-Free Arizona Act business proprietors have continued to go above and beyond the requirements of the Smoke-Free Arizona Act. In addition to making the necessary changes to comply with the Act, such as posting the required “No Smoking” signs and moving ashtrays, proprietors continue to build outdoor patios, provide designated smoking areas, and establish in-house smoking policies that are more strict than the Act to accommodate their employees and customers.

4.2 Complaint Investigation

Complaints alleging violations of the Smoke-Free Arizona Act are investigated by all but one of the State’s fifteen counties (*See Map 1.2*). Once a complaint is received and it is determined that the allegations are valid violations of the Act, an unannounced inspection will take place and/or the business proprietor is notified within 15 days of the complaint. When necessary, investigators go in pairs to perform inspections, for example, during night inspections and for cases where the evidence may be difficult to find. If a violation of the Act is observed during an inspection, the proprietor is requested to correct the violation at the time of the inspection. If the violation is not corrected at that time, a re-inspection will take place to verify that a corrective action has been made. Re-inspections have shown to be an effective approach in achieving compliance.

Complainants may follow-up on their complaints by calling the ADHS Smoke-Free Arizona Program or their county health department. Complaint investigation findings are entered into a database that can be accessed by Smoke-Free Arizona Program officials only. Complaints can be located with a complaint identification number that is issued when a complaint is filed, the complainants’ last name (if provided), the business name, address, or cross streets.

4.3 Complaint Numbers Stabilize With Increased Compliance throughout Arizona

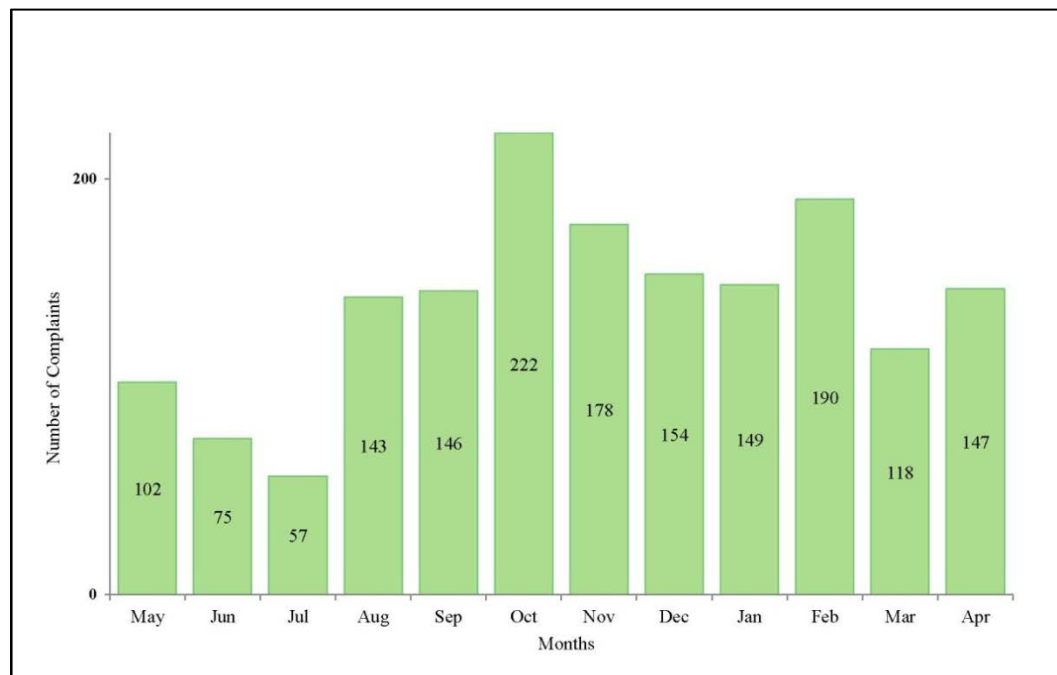
The ADHS Smoke-Free Arizona Program continues to encourage members of the public to report violations of the Smoke-Free Arizona Act. Complaints can be filed by one of the following:

- Filling out an online complaint form at www.smokefreearizona.org;
- Calling the toll-free Smoke-Free Arizona hotline at 877-4-AZ-NOSMOKE (877-429-6676);
- Sending an e-mail to nosmokingarizona@azdhs.gov; or
- Capturing and sending a complaint using the mysмоkefreeaz App available for smartphones.

During the sixth year after the Law went into effect, between May 1, 2012 and April 30, 2013, a total of 1,681 complaints alleging violations of the Smoke-Free Arizona Act were filed statewide. The numbers of complaints filed this year resulted in a slight increase when compared to last year’s total of 1,594 complaints and the previous year’s total of 1,450 complaints filed statewide. Overall the complaint trend during the last three years has been consistent. Most of the complaints were regarding people smoking outside within twenty feet of an entrance and the presence of ashtrays located outside within twenty feet of an entrance.

The graph below illustrates the number of complaints filed monthly statewide between May 1, 2012 and April 30, 2013.

Graph 4.1 Total Complaints Filed Statewide from May 1, 2012 to April 30, 2013



The counties that received the highest number of complaints are: Maricopa (81%), Pima (8%), Mohave (2%), Pinal (2%), and Yavapai (2%). Of the 1,681 complaints received, 1,596 complaints reporting violations of the Act were located in these five counties.

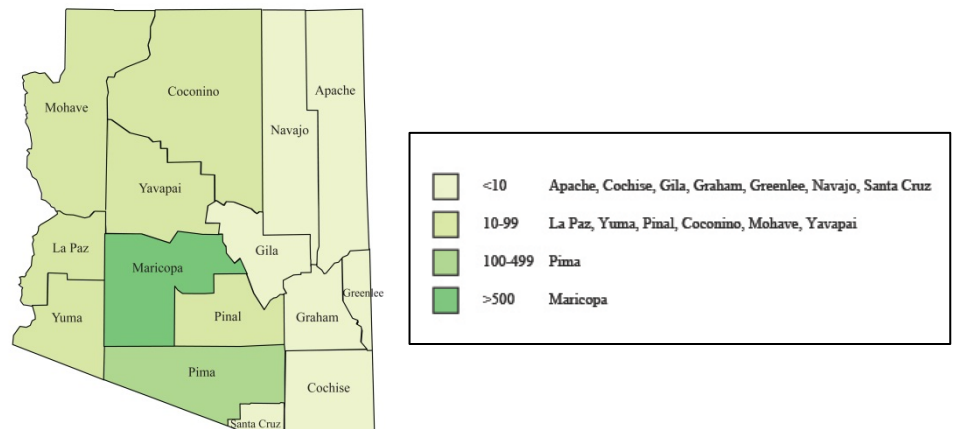
The top five counties that received the highest percentage of complaints between May 1, 2012 and April 30, 2013 are shown in the map below.

Map 4.1 Top Five Counties with the Highest Percentage of Complaints between May 1, 2012 and April 30, 2013



The number of complaints received for each county between May 1, 2012 and April 30, 2013 is shown in the map below.

Map 4.2 Number of Complaints for Each County between May 1, 2012 and April 30, 2013

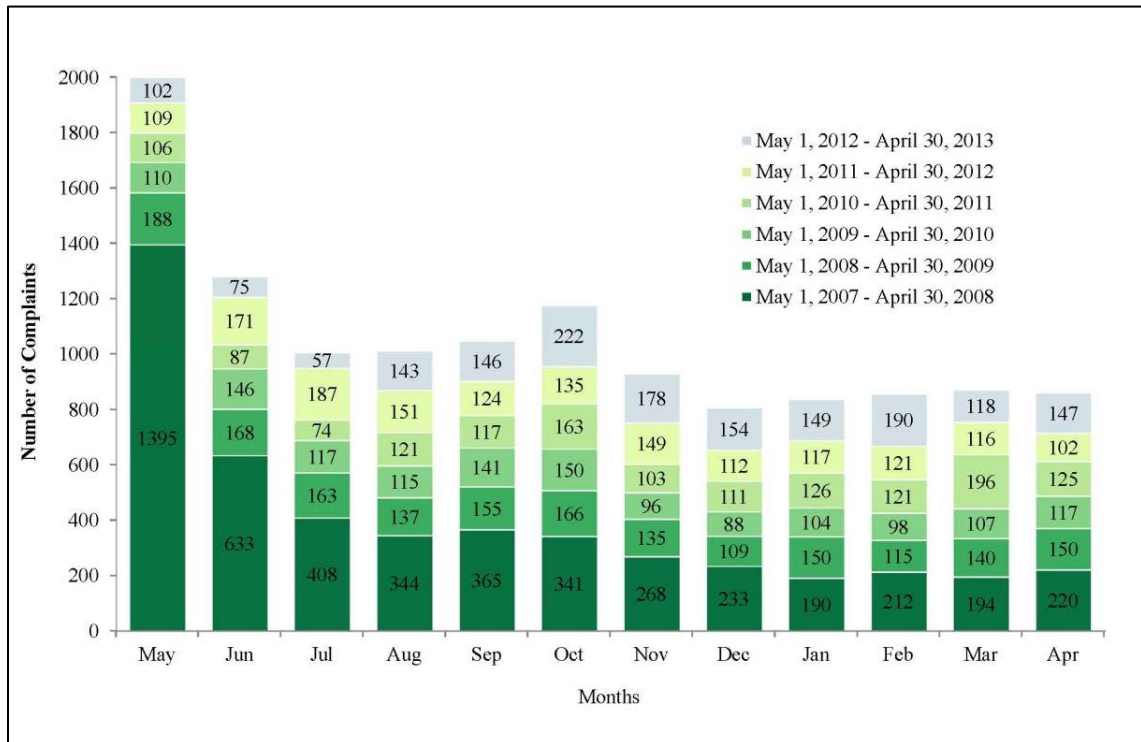


With the exception of year 1, May 1, 2007 – April 30, 2008, which showed 4,803 complaints filed, yearly complaint numbers have been consistent since May 1, 2008, averaging 1,578 complaints per year. A total of 1,681 complaints were filed statewide in year six, May 1, 2012 – April 30, 2013. Efforts to educate business owners and to incorporate

compliance checks into routine food safety inspections continue to result in maintaining a steady number of complaints and thus continuing to achieve compliance statewide.

The graph below illustrates the comparison between the number of complaints received monthly since May 1, 2007.

Graph 4.2 Comparison of Complaints Filed Monthly Statewide between May 1, 2007 and April 30, 2013





5.0 Enforcement

5.1 Initiating Legal Procedures

Nine of the fifteen Arizona county health departments have the delegated authority to enforce the provisions of the Smoke-Free Arizona Act. These include Apache, Coconino, Graham, Greenlee, La Paz, Mohave, Navajo, Pima, and Yuma counties. The ADHS Smoke-Free Arizona Program is responsible for enforcement in the remaining six counties, including Cochise, Gila, Maricopa, Pinal, Santa Cruz, and Yavapai (*See* Map 1.2).

If a proprietor of an establishment does not correct violations as requested, demonstrates willful violations, or a pattern of noncompliance with the Act, he or she is subject to enforcement action and may receive a Notice of Violation (“NOV”) or an assessment of civil penalty fines between \$100 and \$500 for each violation. If injunctive relief is requested, the Superior Court may impose appropriate injunctive relief and civil penalty fines up to \$5,000 per violation.

A total of 6 NOVs were issued statewide between May 1, 2012 and April 30, 2013, 4 of which were issued by the ADHS Smoke Free Arizona Program.

To attain consistent statewide enforcement of the Act training is given by ADHS to each county health department. The annual training provides an opportunity for all existing and new inspectors to receive uniform training to ensure all inspectors are implementing the Smoke-Free Arizona Act consistently throughout the State. The annual training also gives inspectors a chance to ask enforcement questions specific to their County. During the sixth year after the Law went into effect, between May 1, 2012 and April 30, 2013, ADHS did not provide an annual training; however, ADHS began performance of county assessments with each county health department as a way to ensure uniform education and enforcement of the Smoke-Free Arizona Program statewide. During the assessments, ADHS met with each individual County to discuss how education, compliance assistance, and enforcement were conducted. The assessments afforded the opportunity to create dialog to address county specific items and strengthen the lines of communication and collaboration. ADHS also was able to join several county health departments on a handful of advisory visits for businesses which there were questions or had a difficult history. The county assessments served as an opportunity to provide a training module for ADHS and each respective county to verify uniformity when implementing and enforcing the Smoke-Free Arizona Act throughout the State.

5.2 Achieving Compliance through Legal Proceedings

Enforcement actions take place when educational efforts fail to result in compliance with the Smoke-Free Arizona Act in a timely manner. The ADHS Smoke-Free Arizona Program has had tremendous support from the Education & Health Section attorneys from the Office of the Arizona Attorney General and from the Office of Administrative Rules at ADHS. This support, combined with an effective enforcement protocol, allows



ADHS to better serve the county health departments when cases are referred to the ADHS Smoke-Free Arizona Program for enforcement.

Notices of Violation are issued in response to a pattern of noncompliance or willful violations of the Law. An NOV details violations that have been observed and documented during complaint investigations. A total of 6 NOVs were issued statewide between May 1, 2012 and April 30, 2013, 4 of which were issued by the ADHS Smoke-Free Arizona Program. The proprietors that were issued these NOVs faced a total of \$7,750 in civil penalty fines. Numerous settlements were reached with said recipients and a total of \$650 in civil penalty fines was collected statewide. There were no civil penalty fines issued for the 2 NOVs filed from county health departments. The total 6 NOVs were issued to proprietors that permitted employees, customers, or visitors to smoke inside enclosed public places and places of employment. No new cases were brought before the Superior Court for injunctive relief this year.

The number of NOVs issued to proprietors of public buildings and places of employment were greater than the number of NOVs issued to retail food establishments. 6 NOVs were issued to proprietors of places of employment and public places, such as vehicle repair shops, retail store, and a pest control business. No NOVs were issued to proprietors of retail food establishments, such as bars, restaurants, and gas station convenience stores.

The 4 NOVs issued by the ADHS Smoke-Free Arizona Program, have completed the enforcement process and successfully closed. The proprietors of the establishments chose not to appeal the NOVs and assessment of civil penalties.

In previous annual reports, ADHS indicated that settlement agreements have been met which included a lesser fine; however, the remainder of the original fine was deferred, as long as the business is not found in violation of the Act at any time in the future. Should a business be found in violation after signing a settlement agreement, the deferred amount must be paid and additional fines may be assessed. Between May 1, 2012 and April 30, 2013, ADHS reached settlement agreements with all of the enforcement proceedings. Additionally, ADHS has previously reported enforcement cases which have been referred to the Attorney Generals collections department for non-payment of civil penalties. Between May 1, 2012 and April 30, 2013, no enforcement cases are currently referred to collections.

During the sixth year, no administrative hearings were held to determine the outcome of the six enforcement cases statewide.

6.0 Protecting Arizonans Health

6.1 State of Tobacco Control Report Card: Smoke-Free Arizona Scores a Grade A

The American Lung Association State of Tobacco Control report tracks progress on key tobacco control policies at the state and federal level and assigns grades to tobacco control laws and regulations enacted based on recognized criteria for effective tobacco control measures. The grading criteria were developed by an advisory committee assembled by the National Cancer Institute. This grading system provides scoring in nine main categories: Government

Workplaces, Private Workplaces, Schools, Child Care Facilities, Restaurants, Retail Stores, Recreational/Cultural Facilities, Penalties and Enforcement.

The grade for each state is based on a total of all points received in all categories. A grade of “A” is assigned for excellent tobacco control policies while an “F” indicates inadequate policies.

Arizona is one of 36 states, along with American Samoa, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands and the District of Columbia, that have passed comprehensive smoke-free air laws that protect the public and workers from the dangers of secondhand smoke by requiring that non-hospitality workplaces and/or restaurants and/or bars be 100% smoke-free (as of April 5, 2013).



Empower Pack kits included 3,000 Smoke-Free Arizona “No Smoking” signs and educational brochures to be sent to childcare centers in Arizona

This year once again and for the sixth consecutive year, Arizona earned a grade A in *The American Lung Association State of Tobacco Control 2013* report, for maintaining a strong and comprehensive enforcement program of the Smoke-Free Arizona Act. The American Lung Association works diligently with organizations, state departments, and legislators to address tobacco control issues. The Arizona Department of Health Services continues to work in partnership with the American Lung Association in Arizona to make sure that the Law is appropriately enforced throughout the state.

6.2 Empower Pack

As in years past, the Smoke-Free Arizona Program has partnered with the ADHS Bureau of Nutrition and Physical Activity to provide educational materials for the Empower Pack Program. The Empower Pack Program is a nutrition and tobacco-free program that childcare centers may choose to participate in to receive discounted state licensing fees, with the agreement that centers will adopt more healthy habits by implementing program standards. Empower Centers teach children how to live healthy lives by using the following ten curriculum requirements:



1. Facilities should encourage physical activities as part of their curriculum by scheduling at least 60 minutes of planned activity (which can be broken up in shorter time periods) per day. Encourage “sun safe” physical activities.
2. Limit kids’ screen time to under one hour a day.
3. Avoid more than 60 minutes of sedentary activity at a time, except while the child is sleeping.
4. Offer water at least 4 times during the day.
5. Serve 1% low fat or fat free milk for all children over two years of age.
6. Serve only 100% percent fruit juice (with no added sugars), and limit kids to (4 ounces) per day.
7. Serve meals family style and let the child decide how much to eat. Avoid rewarding good behavior or a clean plate with foods of any kind.
8. If able, participate in the USDA Child and Adult Care Food Program.
9. Facilities and homes should be totally (24-hour) smoke-free campuses.
10. All families should receive education and referrals regarding tobacco prevention cessation and second hand smoke at least 4 times per year.

The Smoke-Free Arizona Program provided one “No Smoking” 4 x 6 sticker sign per Empower Pack kit. Also included was The Smoke-Free Arizona Act Clearing the Air for Employers brochure. This year, 3000 signs and brochures were provided to be included in the Empower Pack kits. A link to the Smoke-Free Arizona website, www.smokefreearizona.org, can also be found on the Empower Pack website as a resource for Empower Centers to utilize.

6.3 Indoor Air Quality at Nine Large-Hub Airports With and Without Designated Smoking Areas Study – Phoenix Sky Harbor International Included

The Centers for Disease Control and Prevention’s (CDC) Office on Smoking and Health and its National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) conducted the “Indoor Air Quality at Nine Large-Hub Airports With and Without Designated Smoking Areas” study (see [November 23, 2012 Morbidity and Mortality Weekly Report](#)) in collaboration with representatives from Arizona, Colorado, Florida, Georgia, Illinois, Massachusetts, Nevada, Utah, and Virginia. For this comparison study, five large-hub U.S. airports with designated indoor smoking areas accessible to the public and four large-hub U.S. airports that prohibit smoking in all indoor areas (smoke-free) were chosen. The U.S. airports with designated smoking areas accessible to the public included Denver International, Hartsfield-Jackson Atlanta International, McCarran International in Las Vegas, Salt Lake City International, and Washington Dulles International. The four smoke-free large-hub airports selected for comparison included Chicago



O'Hare International, Fort Lauderdale-Hollywood International, Orlando International, and Phoenix Sky Harbor International. These specific airports chosen for the study were selected based on their similar boarding totals in 2011.

CDC epidemiologists measured the levels of respirable suspended particulates (RSPs), specifically particulate matter ≤ 2.5 microns in diameter (PM_{2.5}), a marker for secondhand smoke (SHS). This sized particle was selected because it is similar to the particles released from burning cigarettes and inhaled via secondhand smoke into the lungs. The study took place between October 19 – November 1, 2012, and included the use of an air monitor (TSI Sidepak AM510 Personal Aerosol Monitor) that measured the PM_{2.5} levels at several areas within each airport. The average time spent at each site was 30 minutes.

The results of the study showed that the average level of RSPs in the smoking areas of the five airports with indoor designated smoking areas was 16 times the average level in nonsmoking areas (boarding gate seating sections) and 23 times the average level of RSPs in the four smoke-free airports. In the five airports with designated indoor smoking areas, the average RSP level in areas adjacent to the smoking areas was four times the average level in the nonsmoking areas. Additionally, these RSP levels were shown to be five times the average level in smoke-free airports.

The Smoke-Free Arizona Program commends the Phoenix Sky Harbor International Airport for maintaining a smoke-free airport and protecting travelers, employees, and other visitors of the airport from involuntary secondhand smoke exposure.



7.0 Conclusion

The sixth year of the Smoke-Free Arizona Act saw a continuous number of inquiries from Arizona citizens and a continued stabilization although with a slight increase in the number of complaints filed by concerned citizens. Partnerships with county health educators and county environmental health inspectors provided education and timely complaint assistance to citizens and business owners throughout their communities.

Providing awareness of the Act results in higher levels of compliance. This was achieved in multiple ways including but not limited to educational outreach, compliance assistance during complaint inspections, advisory visits, health fairs, conferences and the media. For the sixth consecutive year the American Lung Association State of Tobacco Control report card awarded an “A” to the Smoke-Free Arizona Program recognizing the success the program has achieved by using the previously mentioned methods.

The ADHS Smoke-Free Arizona Program continues to encourage members of the public to report violations of the Act by filling out a complaint form online, by calling the toll-free complaint line, by sending an email, or filing a complaint through a smartphone application. A total number of 1,681 complaints were filed between May 1, 2012 and April 30, 2013. Most of the complaints, as in years past, were regarding people smoking outside, but within 20 feet of an entrance, and the presence of an ashtray outside within 20 feet of an entrance. Compared to the total number of complaints, only a minimal number of complaints resulted in legal proceedings. Enforcement took place only when educational efforts did not result in timely compliance.

We are pleased to report that the sixth year of implementation of the Smoke-Free Arizona Act has continued to provide cleaner air for the citizens of Arizona demonstrating “It’s a Benefit, Not a Ban.”



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