



Arizona Department of Health Services

The Smoke-Free
Arizona Act
**ANNUAL
REPORT**
2014

*“It’s a Benefit,
Not a Ban!”*





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Annual Report 2014
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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, (s)he is subject to enforcement action. The proprietor 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, 2013 and April 30, 2014, a total of 20,202 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 seventh year after the Law went into effect, between May 1, 2013 and April 30, 2014, a total of 1,295 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 five NOVs were issued statewide between May 1, 2013 and April 30, 2014, one of which was issued by the ADHS Smoke-Free Arizona Program. There were no civil penalty fines issued for the four NOVs filed by county health departments. The proprietor who received the NOV issued by ADHS faced a total of \$2,400 in civil penalty fines. These 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.

In 2014, 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 seventh 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 Environmental Health, 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 Cochise, Gila, Maricopa, Pinal, Santa Cruz, and Yavapai counties; and
- Conducting education and compliance activities in Santa Cruz County.

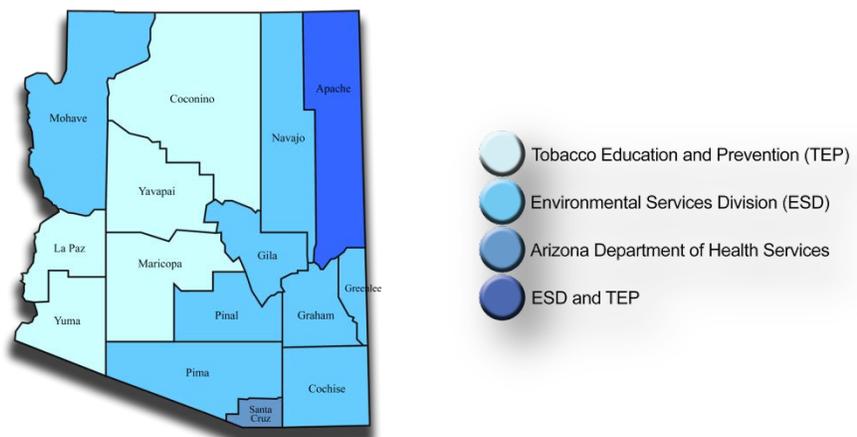
1.3 Roles and Responsibilities of the County Health Departments

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, Pima, 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, Maricopa, 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 the majority of 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.

Apache County Dual Lead Programs – Environmental Services Division & Tobacco Education and Prevention Program



Joining efforts of health educators from the Tobacco Education and Prevention Program and environmental health inspectors from the Environmental Health Services Division is the key to ensuring compliance in Apache County.

For establishments permitted under the Apache County Health Code, such as restaurants, bars, grocery stores, hotels/motels, and public accommodations, education and complaint investigations are conducted by environmental health inspectors. For non-permitted establishments such as retail stores, repair shops, business offices, and shopping centers, education and complaint investigations are conducted by health educators from the Tobacco Education and Prevention Program.



Maricopa County:

With a population of 4,009,412 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 then 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.

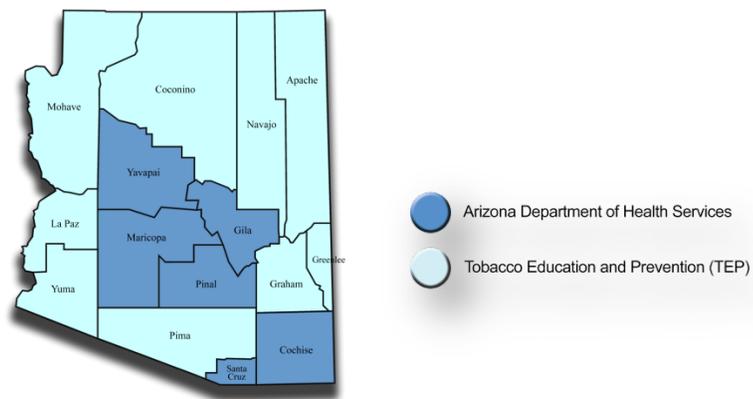


Enforcement of the Law

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, Cochise, Gila, Maricopa, Pinal, Santa Cruz, and Yavapai, 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.

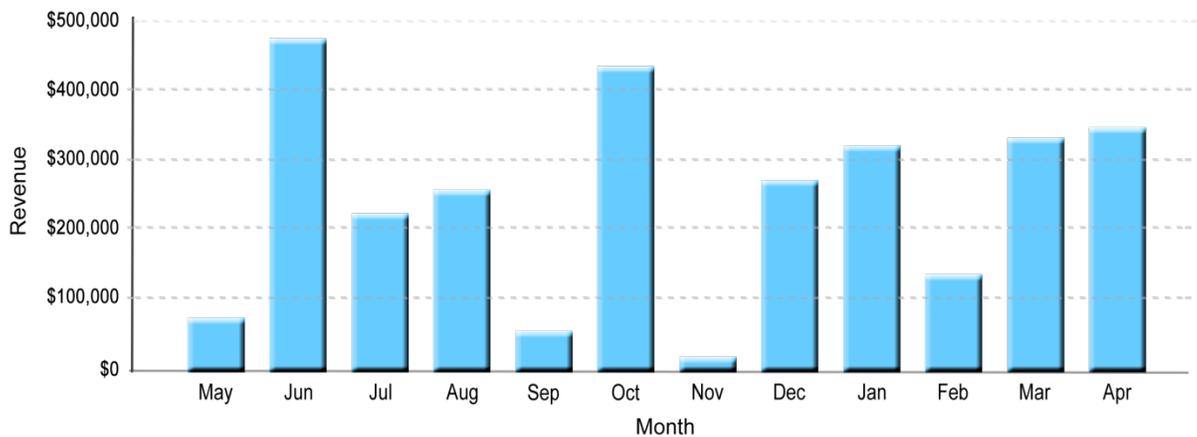


1.4 Amount and Source of Program Funding

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, 2013 to April 30, 2014. The total revenue for the Smoke-Free Arizona Fund from May 1, 2013 to April 30, 2014 was \$2,389,496.81.

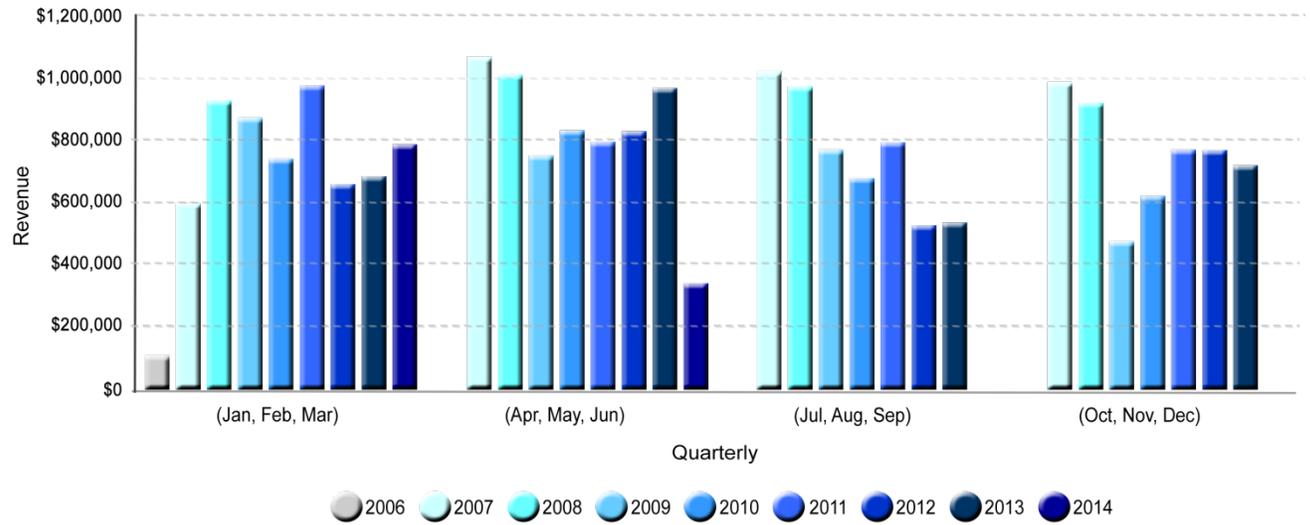
Graph 1.1 Smoke-Free Arizona Fund Monthly Tax Revenue from May 1, 2013 to April 30, 2014





The graph below shows the amount of money received quarterly in the Smoke-Free Arizona Fund from May 1, 2007 to April 30, 2014.

Graph 1.2 Smoke-Free Arizona Fund Quarterly Tax Revenue from May 1, 2007 to April 30, 2014





2.0 Education

As we cross the threshold of the seventh 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, answering 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. In addition, the Smoke-Free Arizona Timeline provides an overview of important milestones in the Smoke-Free Arizona Program history. The Timeline 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 1,408 calls were received between May 1, 2013 and April 30, 2014

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

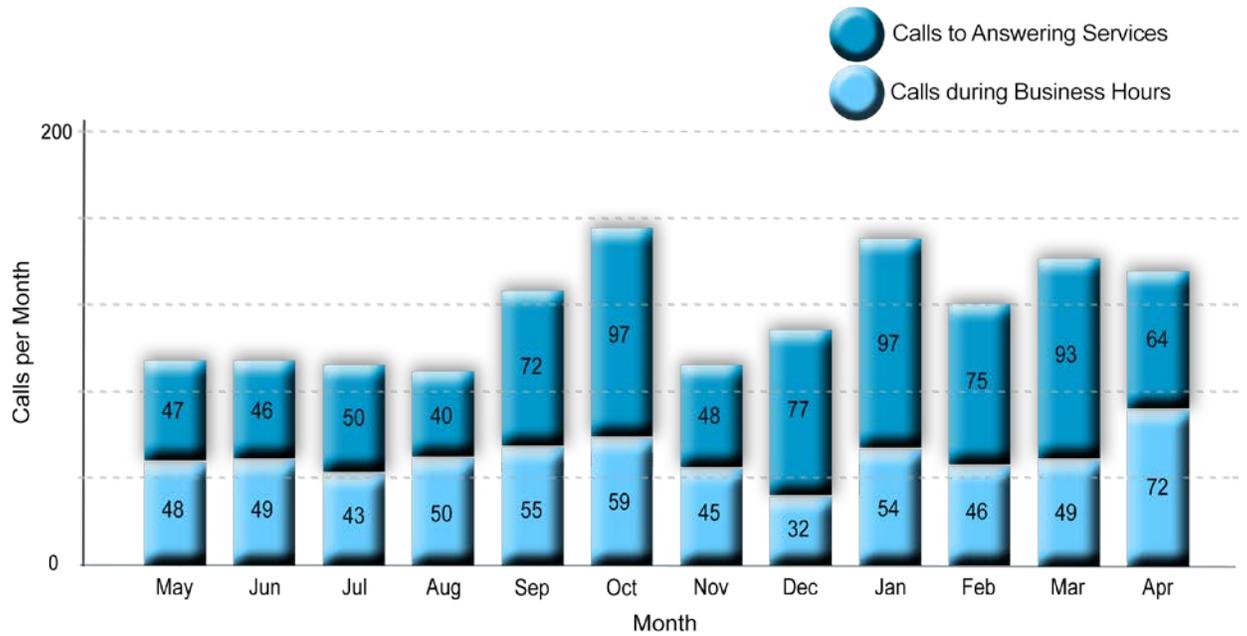
As required by the Smoke-Free Arizona Act, ADHS provides a 24/7 toll-free information line to answer inquiries from the general public and business owners. During business hours, ADHS Smoke-Free Arizona Program staff answers the calls. After business hours, live assistance is provided by an answering 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. ADHS Smoke-Free Arizona Program and the after hour answering service agency provides live assistance to citizens, business owners and property management specialists inquiring about the Smoke Free Arizona Act. An approximate combined total of 1,408 calls were received between May 1, 2013 and April 30, 2014.



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.

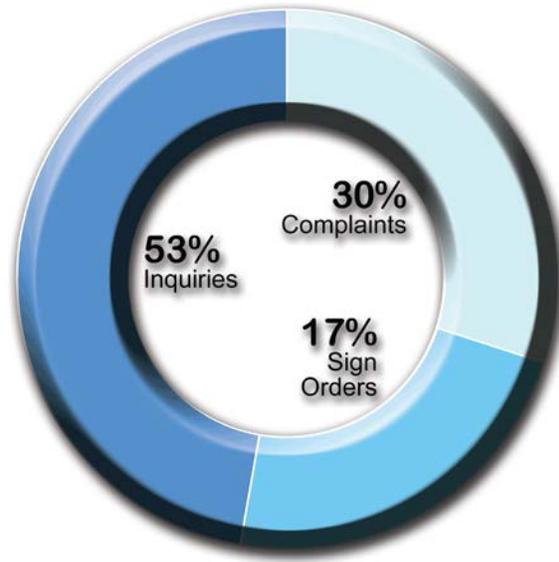
Graph 2.1 Number of Calls Received by ADHS and by the After Hours Answering Service between May 1, 2013 and April 30, 2014





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, 2013 and April 30, 2014



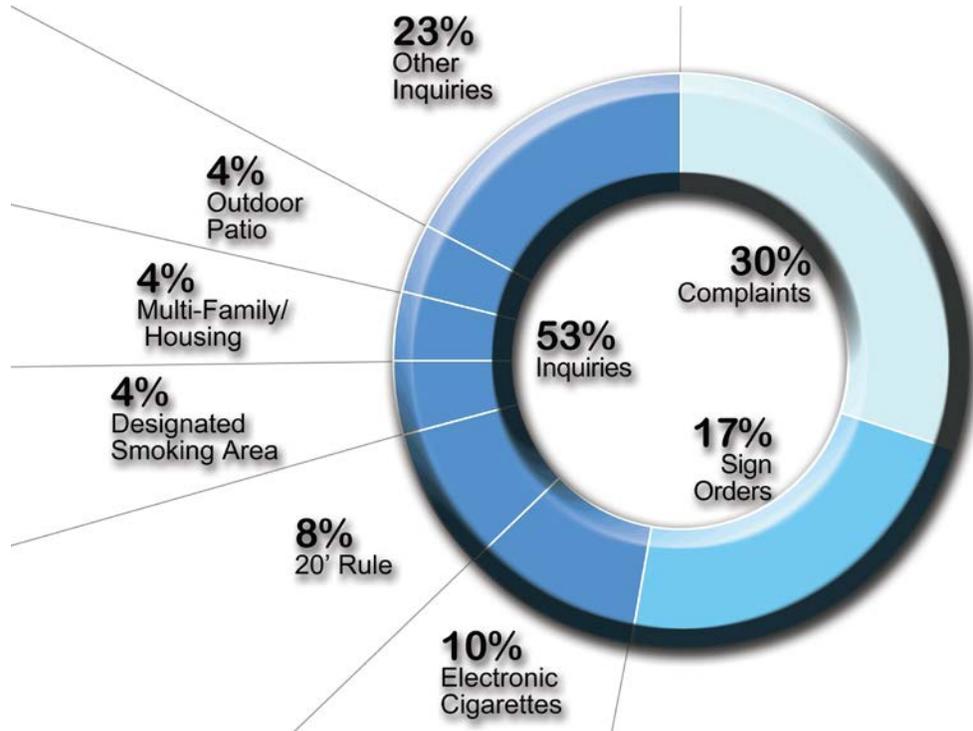
Of these calls, the top five types of inquiries received during business hours were regarding:

1. Electronic cigarettes;
2. The reasonable distance from entrances where smoking is prohibited (the “20 Foot Rule”);
3. Outdoor patios;
4. Smoking in multi-family housing; and
5. “ Designated smoking areas”;



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, 2013 and April 30, 2014 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. Last year, a larger, more conspicuous 4 x 12 inch sticker was created. 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 newest sign created is a 4 x 6 English sticker with the 20 Foot Rule accentuated with a larger font. 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.

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 image below is the newest 4 x 6 “No Smoking” sticker.





A total of 1,003 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 40,862 signs were distributed statewide. The demand for free signs has remained steady over the years. On average, the Smoke-Free Arizona Program has distributed approximately 53,328 signs yearly in the last six years.

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 previous years, 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 with 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 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 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.



2.6 Annual Training

To attain consistent implementation of the Act statewide, an annual 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 gives inspectors a chance to receive a refresher on the various items concerning the Act. This year the training focused on private residences and multi-family housing complexes and how the Act applies to those premises.

The Smoke-Free Arizona Program regularly receives complaints regarding multi-family housing units. In these types of multi-family housing complexes, only enclosed common areas have to be smoke-free. Since each unit is considered a private residence, tenants can smoke inside and on their balconies, patios, or decks even if it is within 20 feet of a neighboring unit. The Act does not address smoke entering an apartment (condo, etc.) from outside, through a ventilation system, or from a neighboring residence or apartment.

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, 2013 and April 30, 2014, a total of 20,202 educational visits and consultations were conducted.

Between May 1, 2013 and April 30, 2014, the ADHS Smoke-Free Arizona Program Specialists as well as county health educators and county environmental health specialists conducted 99 educational presentations to large employers and community partners such as Head Start programs, after school programs, juvenile detention centers, women's transitional housing facilities, multi-family housing complexes, youth groups, and science camps. All combined, an estimated 6,420 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 large electronic, fabrics industrial, and medical biotechnology companies, insurance providers, health clubs, and community centers.



County Health Department Assessments

Beginning in 2012, the Smoke-Free Arizona Program began the inaugural commencement of county health department assessments. The Smoke-Free Arizona Program began conducting on-site assessments at each of the delegated county health department in the State. The assessments, which will occur every two calendar years, are intended to provide 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 give 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. This year's county health department assessments began in January and will conclude in December. The assessments have allowed the county health departments and the Smoke-Free Arizona Program to complete joint inspections to local business to provide education and compliance with the Act. These joint inspections prove to be invaluable opportunities for training, dialog and the provision of education to proprietors, business owners and community partners.

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 an employee health fair hosted by Blue Cross Blue Shield. Questions were answered and information about the Act was distributed to approximately 200 attendees.





3.2 Reaching Out to the Community: Success Stories

Apache County: Social Media

The Apache County Public Health Services District joined social media by creating a Facebook page in March 2014. In this digital era, Apache County knew the importance of seeking effective, concise, and innovative ways to reach the public in the most effective way. The Apache County page promotes important health services such as the Women, Infants, and Children (WIC) Program, the Immunization Program, and the local Vital Records offices. Valuable information is also provided to educate the public on campfire restrictions, wildfire and preparedness information, substance abuse and teen pregnancy prevention. The Apache County Facebook page included the March 2014 Smoke Free AZ Newsletter and will continue to post other information regarding the Smoke Free AZ

Act. <https://www.facebook.com/ApacheCountyPublicHealth>

Maricopa County: Successful Compliance through Education, Inspections, and Partnerships

Maricopa County has had great success working with bar owners, managers and employees to provide a smoke-free environment for patrons and staff. They were instrumental in supporting a smoke-free environment at numerous apartment complexes. They are also working with Arizona Hot Spot Task Force and The Arizona Smoke-Free Living Coalition. In order to better serve the public, the County began doing inspections of the worksite exterior when they were unable to inspect the interior and noted any observed deficiencies in the database. This led to a re-inspection and enabled them to meet required deadlines.

Pinal County: Proactive Education

Pinal County continues to remain proactive in their efforts towards compliance with Smoke-Free Arizona. They identified an agency that had a fleet of about 1,000 vehicles that needed Smoke-Free Arizona signage. Once they provided the agency with the needed signage, they remain in contact with the agency to give support on an on-going basis. Their proactive approach has led to a relatively low number of complaints and their educational efforts have helped business owners to come into, and stay, in compliance.



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. In April 2014, the Nogales Chamber of Commerce contacted the Smoke-Free Arizona Program to order additional “No Smoking” signs. The Chamber will distribute these signs to any new or existing members in need of a required sign.

The Smoke-Free Arizona Program conducted a mass mailing project that reached 500 businesses (or public places and places of employment) as part of the educational outreach efforts in Santa Cruz County.

As previously mentioned, Smoke-Free Arizona staff provides compliance assistance and education to businesses and proprietors throughout the State. This year, the Smoke-Free Arizona Program completed a mass mailing educational outreach project. A total of 500 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.

Yavapai County: Thorough Inspections

Over the past year, Yavapai County had received numerous complaints from neighboring businesses about a restaurant that was allowing smoking to occur in their office area. The County did an inspection, which indicated that they needed follow up inspections and education in order to create an environment of compliance. Even with follow up inspections, the complaints continued. With repeated visits and educational outreach, a smoke-free environment has been established and eliminated complaints at this establishment.

Yuma County: A Welcoming Patio

In 2013-2014 Yuma County’s Smoke Free Arizona Program continued to experience a high level of compliance throughout the County. Outreach efforts have successfully established this program as a resource from which business owners and proprietors can receive information and assistance in complying with the Act.



A recent example of this is a bar/lounge located on the north end of town in Historic Downtown Yuma's Main Street. During the course of a routine compliance check it was noticed that the business' smoking patio had its ventilation system turned off and the door to the establishment was propped open. It was noticed that a rear patio was also a smoking patio, providing no smoke free entrance to the establishment. The owner, wanting her establishment to be not only be compliant, but also welcoming, decided to designate the back patio a smoking patio and the front patio smoke free, posting signage designating it as a smoke free entrance.

Currently, shoppers and others enjoying events held on Main Street can do so without being exposed to secondhand smoke from this business. Yuma County Smoke Free Arizona commends this proprietor who made the extra effort to comply with the Act.



3.1 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 fourth volume of the newsletter was designed with the intent of educating the public and business proprietors about Retail Tobacco Stores. Retail Tobacco Stores are one of the seven exemptions of the Act. In order to allow smoking inside a Retail Tobacco Store, the establishment must meet the exemption criteria. This newsletter discussed the exemption requirements defined in the Act. This newsletter was distributed electronically to approximately 9,035 business proprietors. The first issue of the fifth volume of the newsletter explained the three simple steps for the public to report violations and enter a complaint. A complaint can be placed using the Smoke-Free Arizona website, via email, or by calling 1-877-429-6676. Complaints can also be filed through the mysmokefreeAZ App for iPhone and Android. This newsletter was sent to approximately 9,770 recipients via email.

The two Smoke-Free Arizona newsletters were distributed electronically to a collective approximate total of 18,805 business proprietors throughout Arizona.

The two Smoke-Free Arizona newsletters were distributed electronically to a collective approximate total of 18,805 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 4, Issue 2



Volume 5, Issue 1



3.2 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. Every other 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. In previous years, the Smoke-Free Arizona Program has provided trainings offered as a YouTube video and numerous PowerPoint presentations.

The Smoke-Free Arizona Program strives for consistent program education, compliance, and enforcement throughout the State. The trainings have been used recurrently by county health departments as the primary training for new staff and as a refresher for existing staff.



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 seventh 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 Investigations

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.

A very effective approach while conducting complaint investigations is to conduct a joint inspection. Occasionally, the county health departments (CHD) request assistance during difficult inspections. The inspection might involve indoor smoking. When confronted with the evidence of violations, some proprietors can be inflexible to the request to perform the necessary corrective actions as soon as possible. The ADHS takes this opportunity to partner with the CHD to approach challenging situations or proprietors and to help these businesses come into compliance with the Act through joint inspections. From May 1, 2013 to April 30, 2014 the ADHS conducted 12 joint inspections with CHDs that requested it.



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

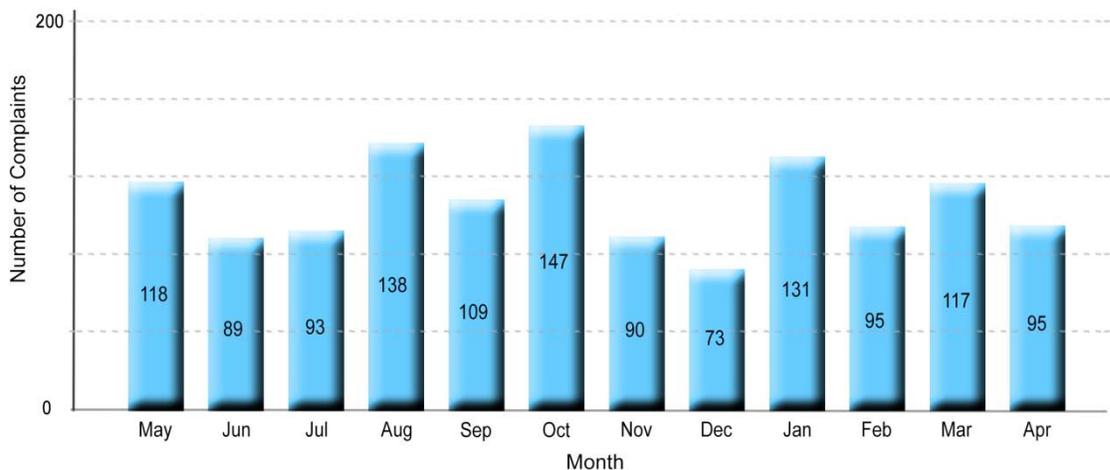
The ADHS Smoke-Free Arizona Program continues to encourage members of the public to report violations of the Smoke-Free Arizona Act. Complaints can be filed by one of the following:

- Filling out an online complaint form at www.smokefreearizona.org;
- Calling the toll-free Smoke-Free Arizona hotline at 1-877-4-AZ-NOSMOKE (1-877-429-6676);
- Sending an e-mail to nosmokingarizona@azdhs.gov; or
- Capturing and sending a complaint using the mysмоkefreeaz App available for smartphones.

During the seventh year after the Law went into effect, between May 1, 2013 and April 30, 2014, a total of 1,295 complaints alleging violations of the Smoke-Free Arizona Act were filed statewide. The numbers of complaints filed this year resulted in a slight decrease when compared to last year’s total of 1,681 complaints and the previous year’s total of 1,594 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, 2013 and April 30, 2014.

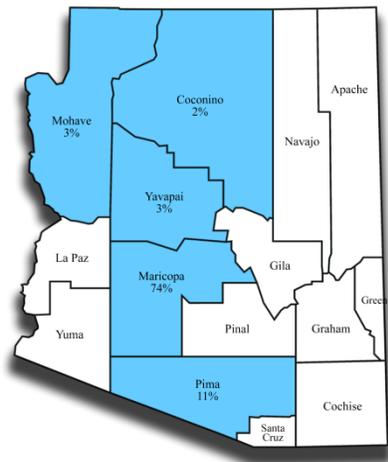
Graph 4.1 Total Complaints Filed Statewide from May 1, 2013 to April 30, 2014



The counties that received the highest number of complaints are: Maricopa (74%), Pima (11%), Yavapai (3%), Mohave (3%), and Coconino (2%). Of the 1,293 complaints received, 1,206 complaints (93%) reporting violations of the Act were located in these five counties.

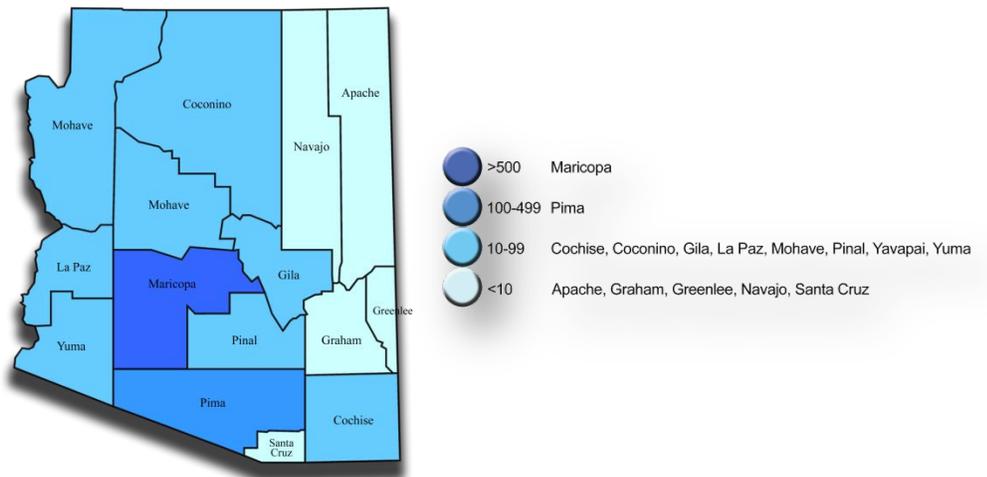
The top five counties that received the highest percentage of complaints between May 1, 2013 and April 30, 2014 are shown in the map below.

Map 4.1 Top Five Counties with the Highest Percentage of Complaints between May 1, 2013 and April 30, 2014



The number of complaints received for each county between May 1, 2013 and April 30, 2014 is shown in the map below.

Map 4.2 Number of Complaints for Each County between May 1, 2013 and April 30, 2014

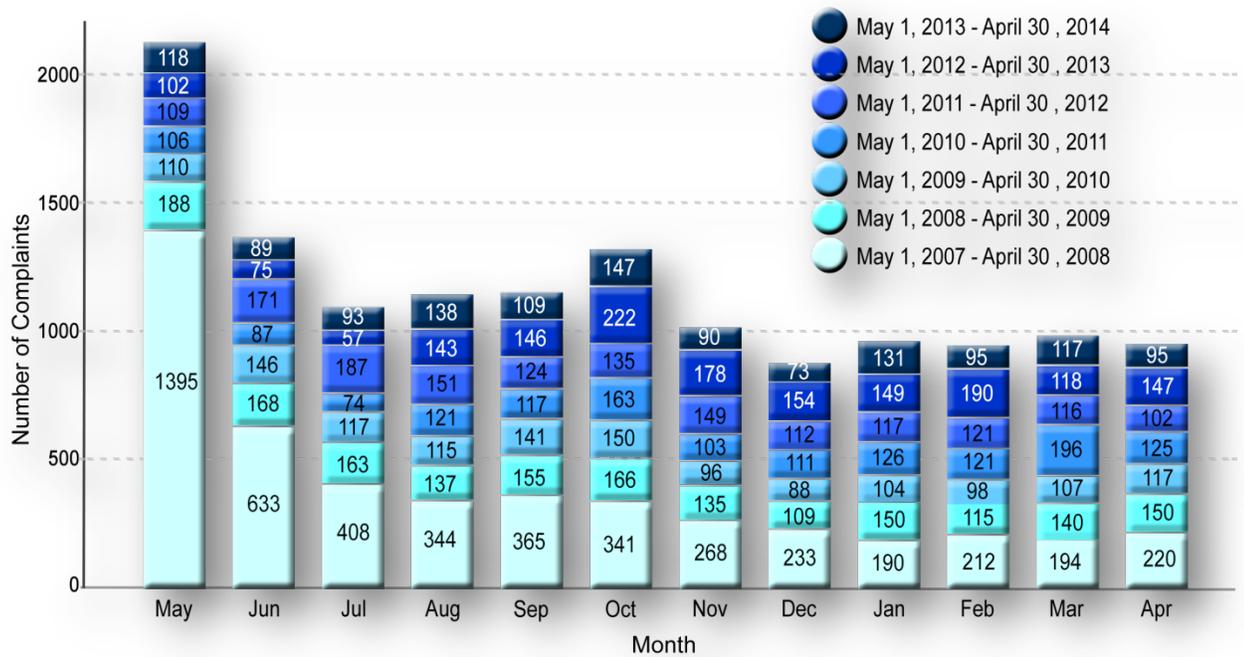




With the exception of year 1, May 1, 2007 – April 30, 2008, which showed 4,803 complaints filed, yearly complaint numbers have been consistent since May 1, 2008, averaging 1,531 complaints per year. A total of 1,295 complaints were filed statewide from May 1, 2013 – April 30, 2014. Efforts to educate 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, 2014





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 five NOV's were issued statewide between May 1, 2013 and April 30, 2014, one of which was issued by the ADHS Smoke Free Arizona Program.

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 Counsel and 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 (NOV) 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 five NOV's were issued statewide between May 1, 2013 and April 30, 2014, one of which was issued by the ADHS Smoke-Free Arizona Program. One proprietor who was issued one of these NOV's faced a total of \$2,400 in civil penalty fines. There were no civil penalty fines issued for the four NOV's filed from county health departments. The five total NOV's 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 NOV's issued to proprietors of public buildings and places of employment was smaller this year than the number of NOV's issued to retail food establishments. Two NOV's were issued to proprietors of



places of employment and public places, such as a hair salon, and a pet shop. Three NOVs were issued to proprietors of retail food establishments, such as bars and restaurants.

The one NOV issued by the ADHS Smoke-Free Arizona Program, has not completed the enforcement process at this time and further action is yet to be determined. The proprietor has the right to schedule an informal settlement agreement or to request an Administrative Hearing within the time allotted.

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, 2013 and April 30, 2014, ADHS did not reach any settlement agreements with any of the enforcement proceedings. Additionally, ADHS has previously reported enforcement cases which have been referred to the Attorney General's collections department for non-payment of civil penalties. Between May 1, 2013 and April 30, 2014, no enforcement cases are currently referred to collections.

During the seventh 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, Recre-

ational/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 and/or state-run gambling establishments be 100% smoke-free (as of April 1, 2014).

This year, once again and for the seventh consecutive year, Arizona earned a grade A in *The American Lung Association State of Tobacco Control 2014* 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. This year the Arizona Smoke-Free Living coalition, a program of the American Lung Association in Arizona, joined forces with the American Heart Association and the American Cancer Society and assisted five apartment complexes in becoming smoke-free. With the increasing demand for smoke-free housing, the coalition is sure to gain momentum and continue to assist other complexes to become smoke-free.



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 four times per year.

Empower Pack kits included 200 Smoke-Free Arizona “No Smoking” signs and educational brochures to be sent to childcare centers in Arizona

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, 200 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 Surgeon General's Report: *The Health Consequences of Smoking – 50 Years of Progress*

In 1964, the first Surgeon's General Report was released with conclusions considering a relationship between smoking and cardiovascular disease and low birth weight babies resulting from maternal smoking. At that time, the effects of secondhand smoke were not known, but most nonsmokers considered smoking to be aggravating in public places.

During the 1970's, there was an increase in public awareness and concern over environmental pollutants. In 1973, Arizona spearheaded the smoke-free policy movement when it became the first state to prohibit smoking in some public places. In 1979, the Surgeon General's report was released, in parts, surprising readers with strong rhetoric that exhorted the public to ask why the government should discourage cigarette smoking. The overwhelming answer was that government involvement was necessary because the consequences of smoking were not personal and private. Government intervention was necessary not only because of spiraling federal government financial burden, but also to protect vulnerable and high-risk populations. This report provided decades of data accumulated through epidemiology, disease, behavioral and psychosocial studies on tobacco use. The report touched on data collected on contamination of indoor environments by tobacco smoke and the health consequences of secondhand smoke.

By the mid-1980's almost all states had passed some restrictions or local ordinance regarding public smoking. Once this movement gained momentum, scientific studies were underway to corroborate the need for further policy implementation. Multiple studies have revealed sufficient evidence to connect the implementation of a smoke-free policy or law to reduction in coronary and respiratory events. Findings suggest that chronic exposure to secondhand smoke increases the risk of COPD and causes respiratory inflammation.

In 1986, the U.S. Surgeon General's report and the National Academy of Science's report concluded that secondhand smoke could be directly linked to lung cancer in adult nonsmokers and respiratory effects in children. The U.S. General's report had 3 powerful and astounding results. The report concluded that 1) exposure to secondhand smoke causes disease, 2) children's respiratory health was being affected by smoking parents and 3) the creation of smoking and non-smoking areas was not sufficient to protect non-smokers from secondhand smoke.

According to the 2014 Surgeon General's Report, 8 million deaths have been prevented since the first report was published in 1964. This report highlights the importance of media campaigns, taxes, access to cessation, tobacco control programs, product regulation, and smoke-free laws to end the tobacco use epidemic.



7.0 Conclusion

The seventh year of the Smoke-Free Arizona Act saw a continuous number of inquiries from Arizona citizens and a continued stabilization although with a slight decrease 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 1,295 complaints were filed between May 1, 2013 and April 30, 2014. 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 seventh 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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