

10

YEARS



SMOKE
FREE
ARIZONA

“IT’S A BENEFIT, NOT A BAN!”

THE SMOKE-FREE ARIZONA ACT 2017 ANNUAL REPORT



ARIZONA DEPARTMENT
OF HEALTH SERVICES



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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), through delegation agreements with all but one of Arizona’s counties, works 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, 2016 and April 30, 2017, a total of 25,611 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 tenth year after the Law went into effect, between May 1, 2016 and April 30, 2017, a total of 1,418 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 three NOVs were issued statewide between May 1, 2016 and April 30, 2017, two of which were issued by the Coconino County Public Health Services District and one was issued by the Mohave County Environmental Health Department. The Coconino County Smoke-Free Arizona Program issued \$100 in civil money penalties. As a result of education provided by the Mohave County Environmental Health Department, the proprietor that was issued this NOV corrected violations observed and did not face any civil money penalties. The NOVs in Coconino County were issued to a proprietor that permitted employees to smoke too close to all the entrances into the building; the NOV in Mohave County was issued to a proprietor that permitted active smoking inside in the enclosed common areas of the public place. There were no new cases brought before the Superior Court for injunctive relief this year.

In 2016, 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 tenth year in a row, the report has recognized the continued success of the Smoke-Free Arizona Act.

1.0

SMOKE-FREE ARIZONA PROGRAM

1.1

BACKGROUND AND HISTORY

In January of 2007, the SFA website was launched to educate the public regarding the provisions of the Act.

In February 2007, ADHS launches a statewide campaign with print ads and radio spots to raise awareness about the SFA Act becoming effective on May 1, 2007

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 lit 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 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.

In January of 2007, the Smoke-Free Arizona website, www.smokefreearizona.org, was launched to educate the public regarding the provisions of the Act and to help businesses prepare for the implementation of the new Law. In February of 2007, ADHS launched a statewide campaign with print ads and radio spots to raise awareness about the SFA Act becoming effective. In March of 2007, ADHS held three public meetings in Phoenix, Tucson and Flagstaff to obtain feedback regarding the proposed exempt rules for implementing and enforcing the Act. Also in March, the first SFA “No Smoking” signs were created and were posted on the SFA website for the public to order them online using the website, by email or by calling the program. Arizona was the 16th state to pass a comprehensive smoke-free air 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:

Private residences, except when used as a licensed child care, adult day care, or health care facility;

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;

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;

Veterans and fraternal clubs when they are not open to the general public;

Smoking when associated with a religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978;

Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means; and

A theatrical performance upon a stage or in the course of a film or television production.

In March of 2007 ADHS held three public meetings in Phoenix, Tucson and Flagstaff to obtain feedback regarding the SFA proposed exempt rules.

Arizona was the 16th State to pass a comprehensive smoke-free air law

1.2

Also in March, the first SFA “No Smoking” signs were created and were posted on the SFA website for the public to order them.

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 from 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, (s)he is subject to enforcement action. (S)he 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.

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

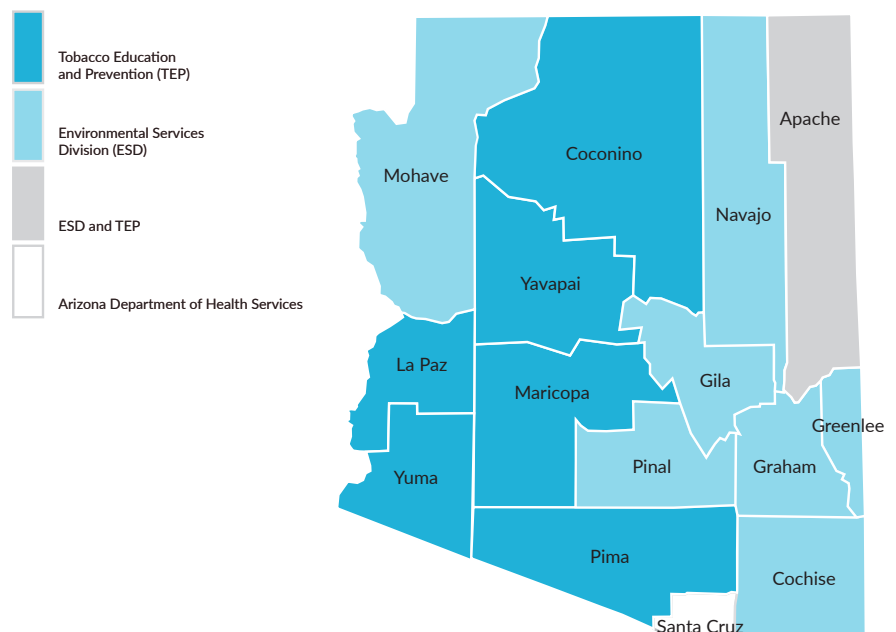
EDUCATION AND COMPLIANCE

During the first year of the passing of the Law, the SFA program received approximately 4,803 complaints.

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. A two-cent tax per pack of cigarettes is deposited into the Smoke-Free Arizona Fund. 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:

FIGURE 1
Lead Program Responsible for Education and Compliance for Each County Health Department



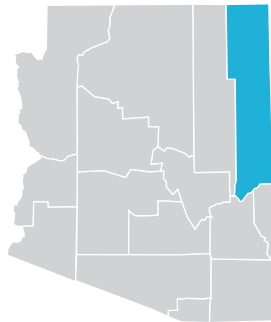
ENVIRONMENTAL SERVICES DIVISION

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 Coconino, La Paz, Maricopa, 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.

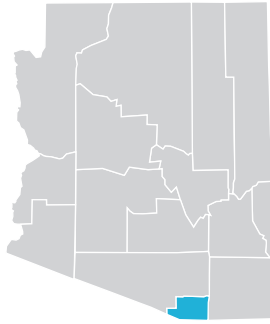
In the majority of these counties, a solid partnership exists between the Tobacco Education and Prevention Program and the Environmental Services Division. For example, if an environmental health inspector observes a smoking violation during a routine inspection in a food establishment, he or she will notify the health educator. 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.



ADHS – SANTA CRUZ COUNTY

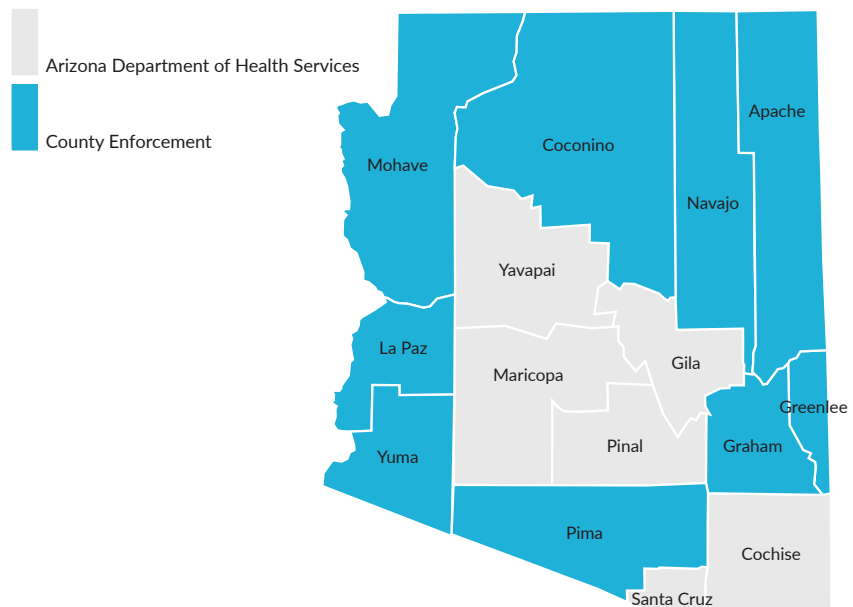
The ADHS Smoke-Free Arizona Program is responsible for education and compliance in Santa Cruz County. This includes investigating complaints, conducting on-site inspections, and educating the community about the Law and its requirements.

1.3.2

ENFORCEMENT OF THE LAW

FIGURE 2

Enforcement Responsibilities for each County Health Department



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

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

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 a 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

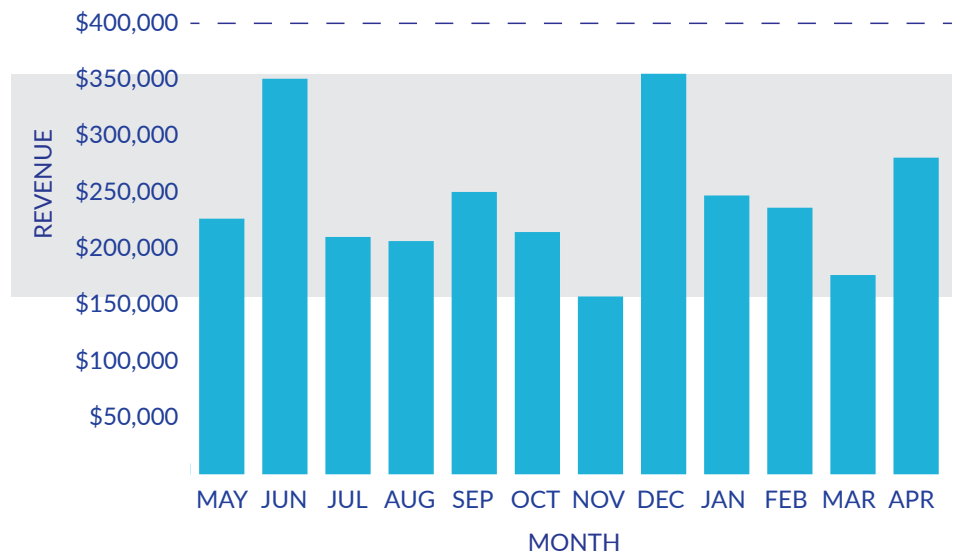
AMOUNT AND SOURCE OF PROGRAM FUNDING

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, 2016 to April 30, 2017. The total revenue for the Smoke-Free Arizona Fund from May 1, 2016 to April 30, 2017 was \$2,941,469.82

FIGURE 3

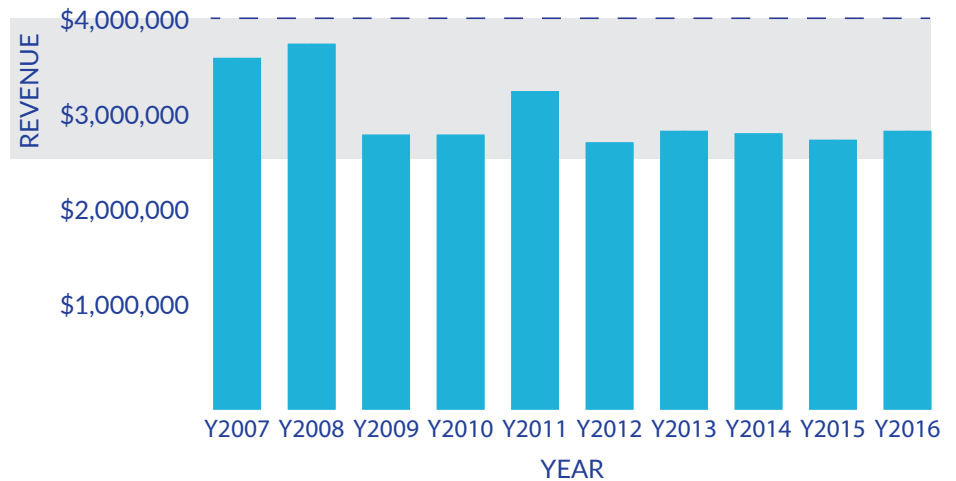
Smoke-Free Arizona Fund Monthly Tax Revenue from May 1, 2016 to April 30, 2017



The graph below shows the amount of money received yearly in the Smoke-Free Arizona Fund from May 1, 2007 to April 30, 2017.

FIGURE 4

Smoke-Free Arizona Fund Year Tax Revenue from May 1, 2007 to April 30, 2017



2.0 EDUCATION

As we cross the threshold of the tenth 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.

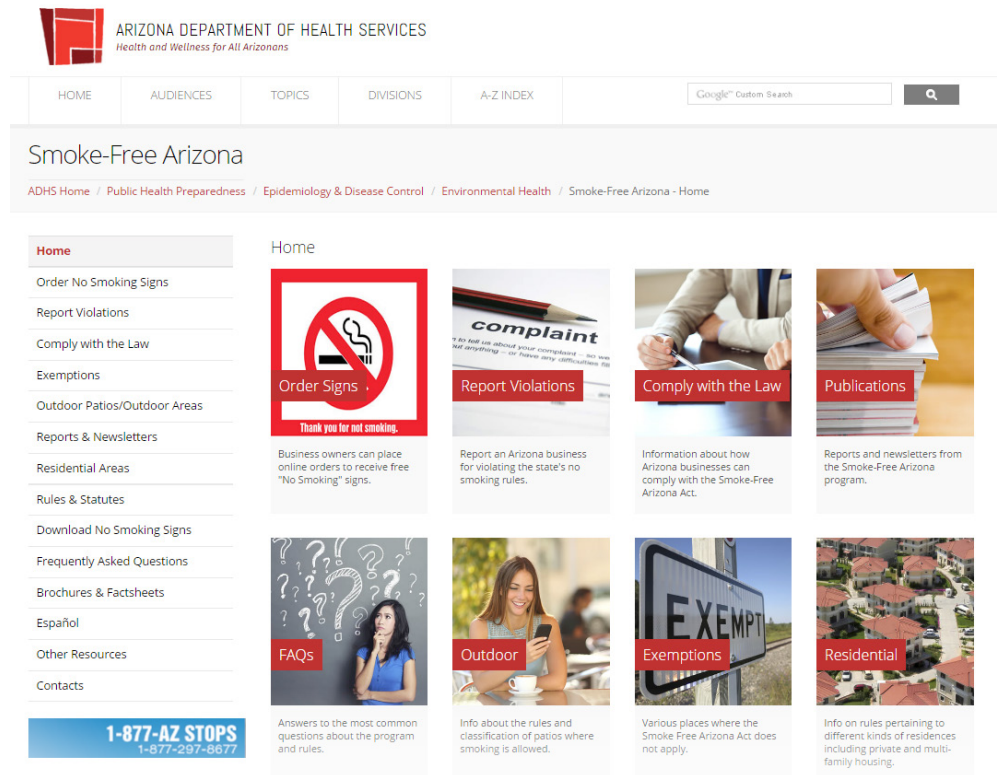
2.1 THE SMOKE-FREE ARIZONA WEBSITE: WWW.SMOKEFREEARIZONA.ORG

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 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.

In the past year, the Smoke-Free Arizona Program website was redesigned with a streamlined layout that features user-friendly navigation. There are easy to access information boxes that highlight important features of the program such as reporting violations, ordering signs, complying with the law, outdoor areas, residential areas, exemptions, and publications. The FAQ section also provides answers to many of the most frequently asked questions. Visitors to the website can also access links to the rules and statutes, and other resources.

The Smoke-Free Arizona website is maintained by updating or adding relevant information that can aid in reaching the general public and assisting proprietors to comply with the Act. To date, the most popular features of the website are still the sign order page and the online complaint 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 or by downloading the mySmokeFreeAZ mobile phone application. 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.



2.2

An approximate combined total of 988 calls were received between May 1, 2016 and April 30, 2017.

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 answer the calls. Difficult or very technical questions can be referred to Program Specialists that have extensive knowledge of the SFA Act. 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. The ADHS Smoke-Free Arizona Program and the after hour answering service agency provide live assistance to citizens, business owners and property management specialists inquiring about the Smoke-Free Arizona Act. An approximate combined total of 988 calls were received between May 1, 2016 and April 30, 2017. Of the 988 calls received, 513(52%) were answered during working hours by Smoke-Free Arizona Program Specialists. Sixty-seven percent 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.

FIGURE 5

Number of Calls Received by ADHS and by the After Hours Answering Service between May 1, 2016 and April 30, 2017

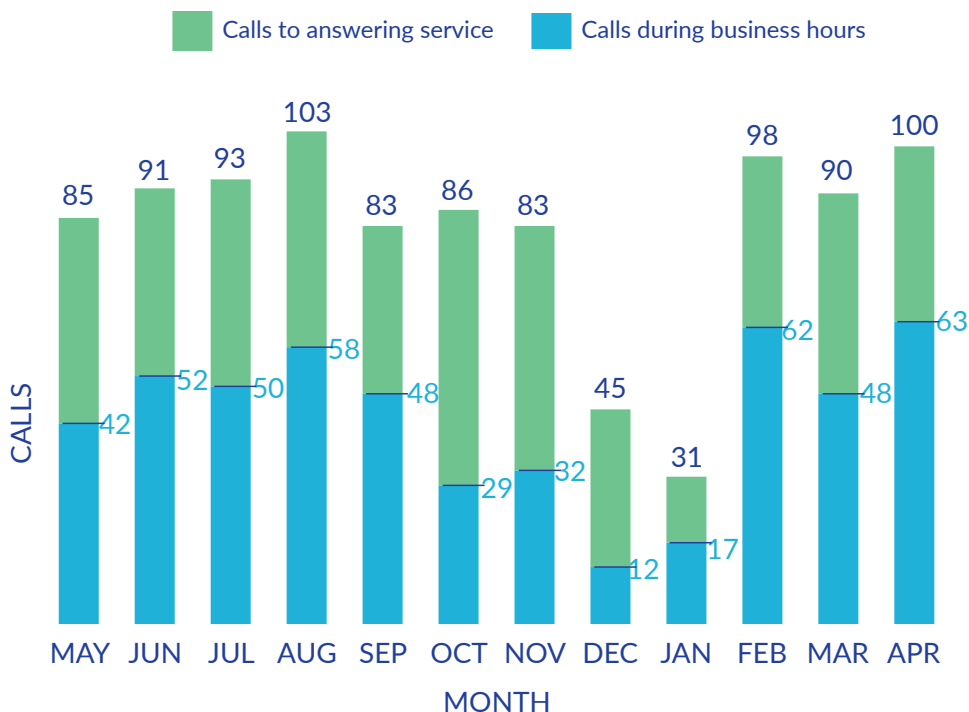


FIGURE 6

Percentage of Calls by Category Received by ADHS between May 1, 2016 and April 30, 2017



of the Calls were **Inquiries.**

19% of the calls were to **place a complaint.**

14% of the calls were to **order No Smoking signage.**

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

Smoking in multi-family housing;

The reasonable distance from entrance where smoking is prohibited (the “20 Foot Rule”);

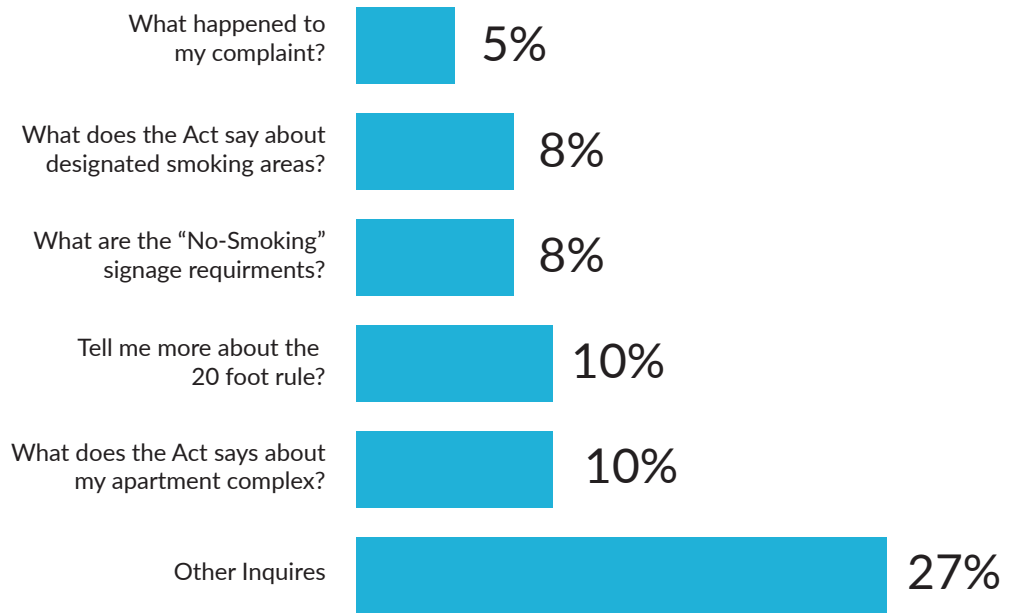
Sign requirements;

“Designated smoking areas”; and

Following-up on complaints submitted.

FIGURE 7

Percentage of Calls by Category Received by ADHS Between May 1, 2016 and April 30, 2017 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

Approximately 436,000 “No Smoking” signs were distributed during the first year after the implementation of the SFA Act; a combined total of more than 871,050 have been distributed thus far.

“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. A larger, more conspicuous 4 x 12 inch sticker is also offered. This sign is clearly visible, contains all the required language and reporting information, and accentuates the 20 Foot Rule. Last year a 4 x 6 English sticker with the 20 Foot Rule accentuated with a larger font was created. Both these signs that contain the larger 20 Foot Rule aid in compliance by helping businesses communicate to their employees and customers that smoking is prohibited inside and within 20 feet of entrances. 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).

Over 1,060 sign orders were placed by businesses between May 1, 2016 and April 30, 2017. 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 34,220 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 48,339 signs yearly in the last nine years. Approximately 436,000 “No Smoking” signs were distributed during the first year after the implementation of the Act; a combined total of more than 871,050 have been distributed thus far.



2.5

ADVISORY VISITS AND CONSULTATIONS

Arizona county health departments and Smoke-Free Arizona Program staff provide compliance assistance to proprietors by performing advisory visits or conducting consultations 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. Advisory visits or consultations may also occur as part of a new business compliance check or as educational outreach efforts. Between May 1, 2016 and April 30, 2017, a total of 25,611 educational visits and consultations were conducted. All advisory visits and consultations are tracked. The Smoke-Free Arizona Program documents these advisory visits using an Advisory Form. The standard Advisory Form not only documents the visit and the establishment's information, but it also provides information to business proprietors including 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, the Smoke-Free Arizona Program often performs these compliance checks to ensure that the exemption criteria are being met. These advisory visits are documented using an Outdoor Patio Advisory Form which also provides guidance about the requirements of outdoor patios as defined by Arizona Administrative Code R9-2-108. The advisory form 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 is still a great way to inform 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 past 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. Several county health departments have updated the Advisory Form with their contact information and utilize this form as a tool to document onsite-visits

3.0 OUTREACH

3.1 REACHING OUT TO PUBLIC PLACES AND PLACES OF EMPLOYMENT

Between May 1, 2016 and April 30, 2017, the ADHS Smoke-Free Arizona Program Specialists as well as county health educators and county environmental health specialists conducted 76 educational presentations. Health educator and program representatives conducted presentations to large employers and community partners such as schools and after school programs, doctor's offices, community centers, juvenile detention centers, apartment complexes, city wellness groups and employees, city chamber of commerce, local departments of transportation, churches, a children's museum, and a military base. All combined, an estimated 8,487 people attended these educational presentations.

HEALTH FAIRS

The Smoke-Free Arizona Program and county health educators used health fairs as an effective forum to provide education to the public face-to-face regarding the requirements of the Smoke-Free Arizona Act. 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 Toyota Earnhardt, Lexus Earnhardt, Ford Earnhardt, Honda Earnhardt, Dodge Earnhardt, the Costco Employee Safety Week, the American Traffic Solutions employee health fair, and the Highway Patrol Public Safety Health Fair at the State Fair Grounds. The program also attended the Environmental Health Association Conference which hosted around 150 registered sanitarians.

Some of the wellness fairs and events attended by program specialists and health educators included senior centers, health festivals, tobacco alliance event, employee wellness fair at a casino, county fairs, and community centers in Bouse, Page, Parker, and Salome.



COUNTY HEALTH DEPARTMENT ASSESSMENTS

In 2012, the Smoke-Free Arizona Program commenced a new venture with each of the State's county health departments by conducting on-site assessments. The assessment visits, 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, highlight strengths, discuss difficult inspections, seek guidance, and detail their enforcement practices.

The 2016 county health department assessments began in March and concluded in January of 2017. All county health departments were visited in this collaborative effort. The assessments give the Smoke-Free Arizona Program an opportunity to become more familiar with how the counties operate their programs, improve communication between partners, and provide mutual feedback between ADHS and county partners thus creating Smoke-Free programs that are more consistent statewide. As the Smoke-Free Arizona Program moves forward, these assessments will only continue to prove valuable in ensuring the health of Arizonans.

3.2

REACHING OUT TO THE COMMUNITY: SUCCESS STORIES

GRAHAM COUNTY: STRENGTHENING COLLABORATIONS

Graham County and its Smoke-Free Arizona Program is happy to announce the re-introduction of the Graham Alliance on Tobacco Education (GATE) program into the Graham County Health Department. Both programs have collaborated in years past, but the relationship is strengthening to a greater extent now due to their close proximity. Since GATE moved into the health department, the ease and frequency of these collaborations have truly increased. The Graham County Health Department and the GATE Program promoted information about the Smoke-Free Arizona Act at Safford's Harvest Festival on October 10, 2016; GATE even represented the SFA program on a float during the parade at the county fair which took place three days prior. The Graham County Smoke-Free Arizona Program also attended the Gila Valley Health & Science Festival held at Eastern Arizona College on February 24-25, 2017. Smoke-Free Arizona brochures were offered and signs were available. Approximately 1,790 people attended these events in Thatcher and Safford.

The Graham County Smoke-Free Arizona Program recently received a complaint against a senior apartment complex. The Graham County Smoke-Free Arizona Program shared the provisions of the SFA Act with both the complainant and the apartment complex and helped the complex come into compliance. As a result of this complaint, the GATE program started working with the complex to begin the process of becoming a tobacco-free campus. GATE members have been able to continue working closely with the complex hoping to see positive results in the near future. GATE and the Graham County Smoke-Free Arizona Program are looking forward to working on new outreach ideas not only to ensure existing businesses are still in compliance with the Act but to positively impact their community through education.

YAVAPAI COUNTY: CHANGE THROUGH POLICY

The Yavapai County Community Health Services Smoke-Free Arizona Program has had a successful year strengthening relationships within the community and community partnerships such as the one with Students Taking a New Direction (STAND) and YATCY (Yavapai Anti-Tobacco Coalition of Youth). STAND is Arizona's anti-tobacco youth coalition which works to raise awareness about the dangers of tobacco use among their peers and in their schools, communities, and local government. On June 9th, 2016 the annual STAND Summer Summit Awards Gala took place in Phoenix. The Summit hosted 25 different youth coalitions from all over Arizona. The youth were there to celebrate the work they have been doing throughout the year, network with other coalitions, and continue leadership training and planning for upcoming events.

Cottonwood Mayor Diane Jones was in attendance for the awards ceremony, where she spoke to all coalitions about the importance of youth involvement, and presented YATCY with the Arizona Youth Advocate Group of the Year Award making it a very special year. YATCY was chosen by their peers and STAND representatives because of their instrumental policy work with Tobacco 21. Cottonwood and YATCY made history by becoming the first city in Arizona to increase the age from 18 to 21 to legally purchase tobacco products. A unanimous yes vote was given on May 3, 2016 and Tobacco 21 is now in effect. Currently there are over 200 cities across the nation that have gone to Tobacco 21 and two states (Hawaii and California). YATCY youth are already speaking with several other coalitions across Arizona and helping them pursue Tobacco 21 policy changes in other cities. YATCY has made contact with the Yavapai Apache Nation to start speaking with their youth coalition about Tobacco 21 in the hopes to create new policy within the nation. YATCY President Gunner Tillman was also awarded with the MVP Arizona Youth Advocate Award for his continued hard work within YATCY and with other coalitions and allies regarding tobacco prevention and policy work.

The Yavapai County Community Health Services section is extremely proud to see such passionate and dedicated youth in the city of Cottonwood making positive and healthy changes in their community.

YUMA COUNTY: USING GIS TECHNOLOGY TO IMPROVE TRACKING ACCURACY

During this past year, Yuma County's Smoke-Free Arizona Program has continued to work diligently to protect Yuma citizens and visitors from secondhand smoke exposure and to ensure uniform compliance with the SFA Act throughout the County.

This year the Yuma County's Smoke-Free Arizona Program had the opportunity to partner with the Information Technology Services (ITS) Department on a special project using the Geographical Information System (GIS) mapping. The goal of this collaboration was to ease and enhance the process and accuracy of inspection visits and reporting. GIS is a geographic information system designed to capture, store, analyze, manage, and present all types of spatial or geographical data; the purpose of GIS is to replace paper-based data collection with a trustworthy digital solution that fits the needs of field personnel in diverse environments.

The Yuma County Smoke-Free Program began collaborating with the ITS/GIS Program on Smoke-Free GIS mapping in August 2016. The ITS team provided system and app training, and continuous tech support throughout the implementation of this project at no cost. Yuma County clearly addressed the SFA program needs for documenting inspections, etc. and the GIS Analyst worked on building and publishing Compliance Check Surveys and Summary Inspection Report surveys on the Survey123 application within ArcGIS for usage on a mobile device. In the month of September, the Yuma County SFA Program attended ArcGIS training, provided by ITS-GIS Services, which helped them navigate the ArcGIS website and application used to compile and review data and create reports. Quarterly reports can be drafted in a PDF file to be provided to ADHS SFA Program in a single file, still meeting all the reporting requirements. This cost effective pilot project has proved to be proficient and successful as it allows all staff members to have an instant, real-time visual representation of where inspections are being done, which helps improve the fluidity of the program and allows team members to access data records in a more convenient, time efficient manner.

The Yuma County Smoke-Free Arizona Program also incorporated the use of a GPS PRO gadget to accurately identify specific locations in the ArcGIS mapping website, to further enhance the accuracy of information. This tool is especially important in helping keep track of all locations entered throughout the year. Local businesses seem to be receiving this new method of inspection well as they find that emailed copies of their surveys are more convenient for their records.

Ultimately, utilizing a system like this will help the program better identify locations visited while allowing them to create a visual action plan of which locations to visit next. This tool will provide the Yuma Smoke-Free Arizona Program with real-time, accurate updated information that aids in conducting educational visits and compliance inspections within the county and decrease the chance of error. The implementation of this sustainable program system will continue to provide accurate virtual reports and will hopefully continue to be utilized in coming years.

3.3

The two Smoke-Free Arizona newsletters were distributed electronically to an approximate total of 19,372 business proprietors throughout Arizona.

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 seventh volume of the newsletter was designed with the intent of educating the public and business proprietors about the differences between local ordinances and in-house smoking policies and how the Act relates to both. This newsletter was distributed electronically to approximately 9,623 contacts. The first issue of the eighth volume of the newsletter highlights the 10 year anniversary of the inception of the Smoke-Free Arizona Act. Since the Act went into effect, a total of over 17,935 complaints had been filed, and 862,827 signs had been distributed statewide by April of this year. This newsletter was sent approximately 9,749 recipients via email.

The two Smoke-Free Arizona newsletters were distributed electronically to an approximate total of 19,372 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.



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 and other community partners such as the Arizona Attorney General's Office, the Hot Spot Liquor Taskforce (HSLTF), and the Wellness Council of Arizona to name a few. The Assistant Attorney General's Office collaborates directly with the Smoke-Free Arizona Program when cases go to administrative hearings. They are the ones issuing the Notices of Violation (see Section 5.2) and executing the final determination of the judge often resulting in payment of civil money penalties. The Hot Spot Liquor Taskforce is a group of different governmental agencies that ensure business compliance across a spectrum of regulations. Some of the agencies in the taskforce are police department precincts, the Maricopa county environmental health department, local fire departments, building and planning department, Arizona department of revenue, Phoenix city council, gaming department, and local and federal tobacco enforcement. The purpose of the taskforce is to bring establishments into compliance that are in violation of multiple state and local laws. The Smoke-Free Arizona Program attends the HSLTF meetings and collaborates with the taskforce on joint inspections. The Wellness Council of Arizona is a non-profit organization that collaborates with healthcare providers, community agencies and leaders, businesses, and institutions to improve the health of employees and their families. The Smoke-Free Arizona Program works closely with the Wellness Council of Arizona by attending wellness outreach events and health fairs organized by the council to further disseminate information about the Act.

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 year, the Smoke-Free Arizona Program has contact with county partners through county assessments and trainings to provide standard and consistent information to county health educators and county health inspectors. The Smoke-Free Arizona Program strives for consistent program education, compliance, and enforcement throughout the State through strengthening the relationships with these local and county partners.

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 tenth 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 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:

Filing 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.

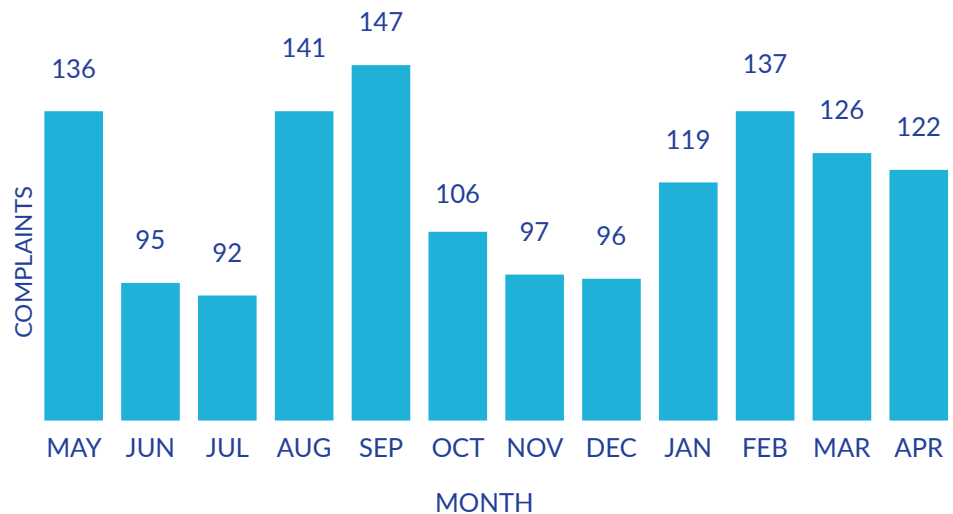
During the tenth year after the Act went into effect, between May 1, 2016 and April 30, 2017, a total of 1,418 complaints alleging violations of the Smoke-Free Arizona Act were filed statewide. The numbers of complaints filed this year resulted in a small decrease when compared to last year's total of 1,425 complaints, but an increase from the previous year's total of 1,278 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, 2016 and April 30, 2017.

FIGURE 5

Total Complaints filed Statewide from May 1, 2016 to April 30, 2017

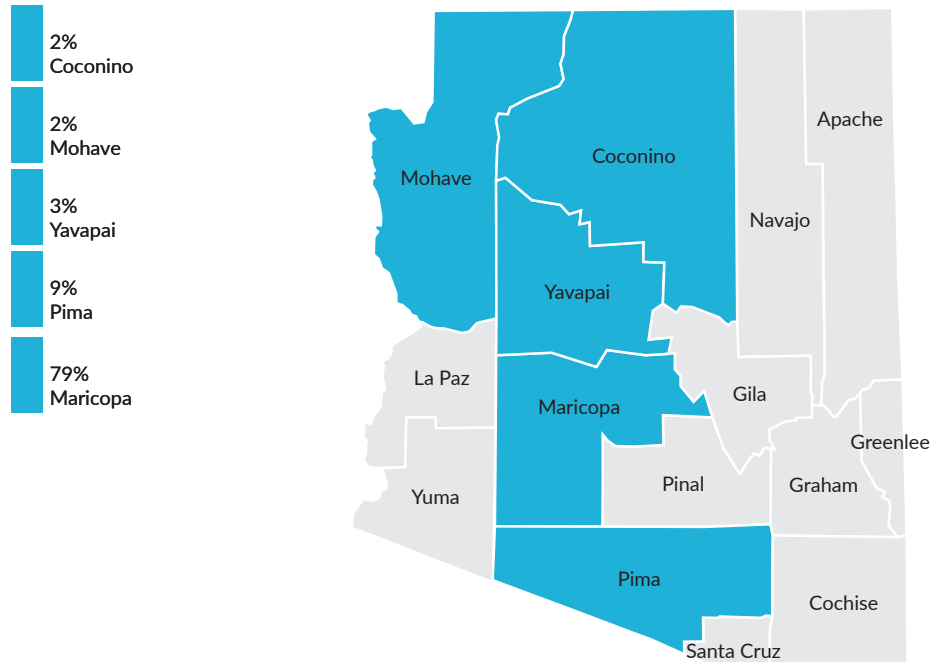


The counties that received the highest number of complaints are: Maricopa (75%), Yavapai (10%), Pima (7%), Mohave (2%), and Coconino (1.5%). Of the 1,425 complaints received, 1,363 complaints (96%) reporting violations of the Act were located in these five counties.

The top five counties that received the highest percentage of complaints between May 1, 2016 and April 30, 2017 are shown in the map below.

FIGURE 6

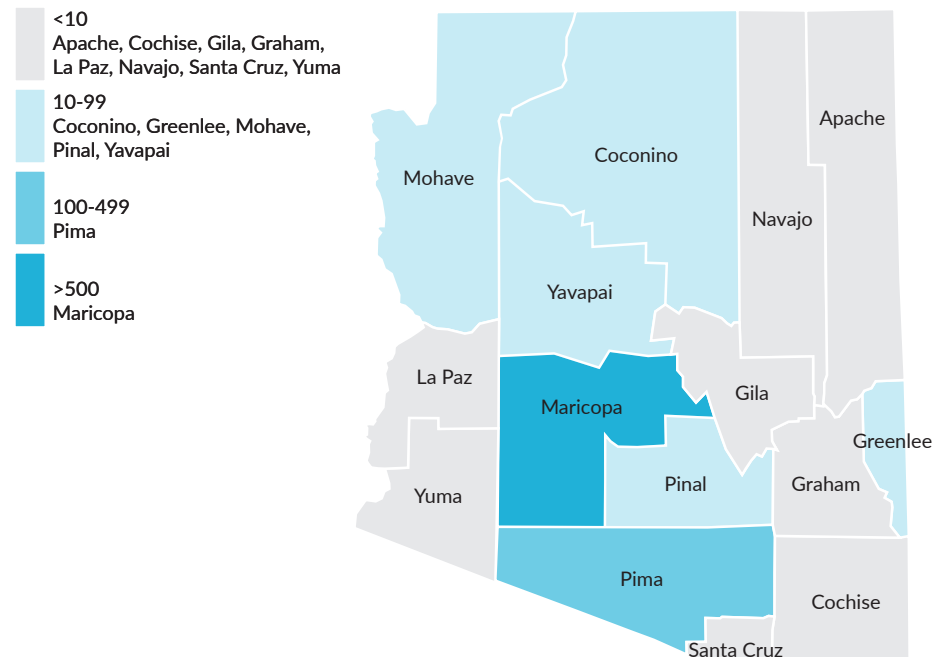
Top Five Counties with the Highest Percentage of Complaints between May 1, 2016 and April 30, 2017



The number of complaints received for each county between May 1, 2016 and April 30, 2017 is shown in the map below.

FIGURE 7

Number of Complaints for each County between May 1, 2016 and April 30, 2017

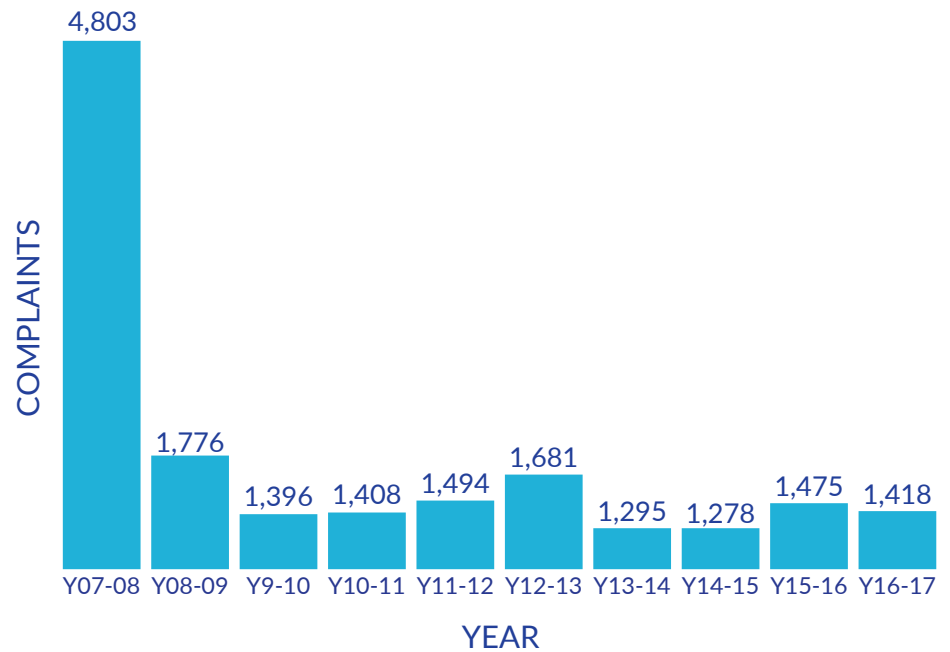


With the exception of year 1, May 1, 2007 – April 30, 2008, which showed 4,803 complaints filed yearly, complaint numbers have been consistent since May 1, 2008, averaging 1,486 complaints per year. Efforts to educate business owners and to incorporate compliance checks into routine food safety inspections 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.

FIGURE 8

Comparison of Complaints filed Statewide between May 1, 2007 and April 30, 2017



4.3 INVESTIGATION

Complaints alleging violations of the Smoke-Free Arizona Act are investigated by the individual county's health department in fourteen of the fifteen counties. For Santa Cruz County, Arizona Department of Health representatives from the Smoke-Free Arizona Program conduct the complaint investigations (See figure 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. From May 1, 2016 to April 30, 2017, 1,529 complaint inspections have been conducted statewide. (See figure 6). 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.

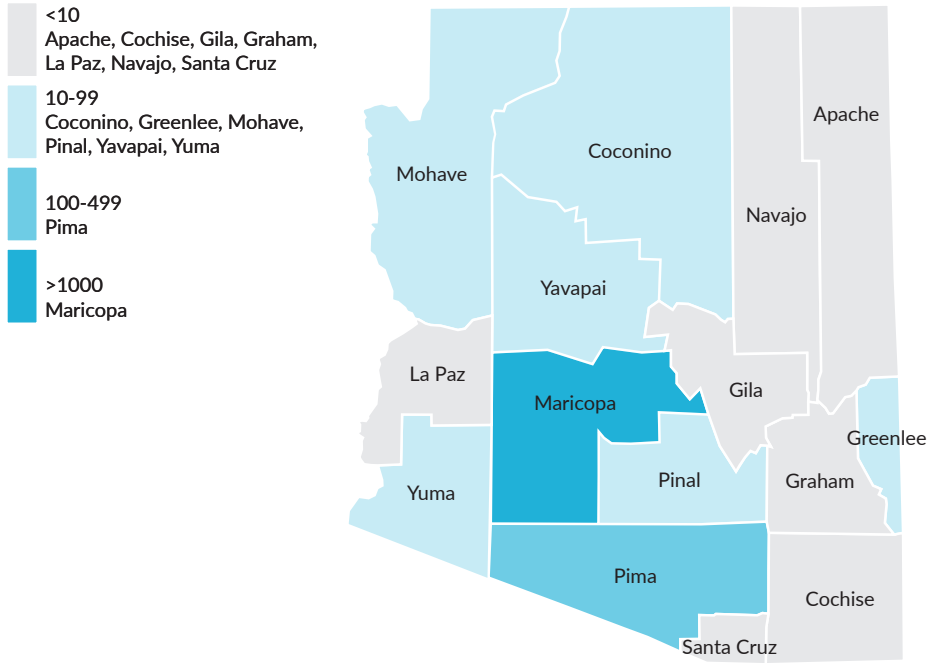
A very effective approach while conducting complaint investigations is to perform a joint inspection. Occasionally, the county health departments request assistance during difficult inspections. Difficult inspections might involve indoor smoking, designated smoking areas, and areas that may not meet the exemption criteria

requirements such as outdoor patios or retail tobacco stores. When confronted with the evidence of violations, some proprietors can be inflexible to the request to perform the necessary corrective actions. The ADHS Smoke-Free Arizona Program takes this opportunity to partner with the county health departments to approach challenging situations or proprietors and to help these businesses come into compliance with the Act through joint inspections.

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 business name, address, or cross streets.

FIGURE 9

Number of Inspections for each County between May 1, 2016 and April 30, 2017



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 Figure 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.

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 and 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. A NOV details violations that have been observed and documented during complaint investigations. A total of three NOVs were issued statewide between May 1, 2016 and April 30, 2017, two of which were issued by the Coconino County Public Health Services District and one which was issued by the Mohave County Environmental Health Department. One NOV was issued to a proprietor that was permitting smoking inside the enclosed common areas of the establishment. Evidence of smoking was found inside by the inspector and an NOV was issued. As a result of education provided by the Mohave County Environmental Health Department, the proprietor that was issued this NOV corrected the violations observed and did not face any civil money penalties. The second and third NOVs were issued to a proprietor that allowed employees to smoke too close to all entrances into a public building. The inspector witnessed the evidence of smoking within 20 feet of the entrances during the course of two inspections. The Coconino County Smoke-Free Arizona Program issued \$100 in civil money penalties. Through the continued efforts of the Coconino County Smoke-Free Arizona Program health educator and inspector, the proprietor that was issued these NOVs corrected the violations observed and set a smoke-free campus policy for their facility.

A total of three NOVs were issued statewide between May 1, 2016 and April 2017, two of which were issued by the Coconino County Public Health Services District and one was issued by the Mohave County Environmental Health Department.

Between May 1, 2016 and April 30, 2017, ADHS did not hold any enforcement proceedings, therefore, did not reach any settlement agreements. In addition, there were no administrative hearings held. No new cases were brought before the Superior Court for injunctive relief this year.

6.0

PROTECTING THE HEALTH OF ARIZONANS

6.1

STATE OF TOBACCO CONTROL REPORT CARD: SMOKE-FREE ARIZONA SCORES A GRADE A



SMOKEFREE AIR

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. This year the advisory committee recommended two additional categories for the 2017 report: 1) Bars and 2) Casinos / Gaming Establishments.

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. This year, once again and for the tenth consecutive year, Arizona was one of 25 states to earn a grade “A” in The American Lung Association State of Tobacco Control 2017 report, for maintaining a strong and comprehensive enforcement program of the Smoke-Free Arizona Act.

The ADHS 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, made great strides toward achieving its mission to empower Arizona communities to live smoke-free. Outreach efforts to connect with and inform multi-family property managers and owners about the advantages of adopting smoke-free policies yielded strong results. In 2016, 129 properties across statewide had completely adopted smoke-free policies. In addition, another 225 properties were in the process of becoming smoke-free.

6.2

EMPOWER PACK

Empower Pack kits included 500 Smoke-Free Arizona “No Smoking” signs and 1000 educational brochures to be sent to childcare centers in Arizona.

Over the years, 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:

Facilities should encourage physical activities as part of their curriculum by scheduling at least 60 minutes of planned activity (which can be broken up into shorter time periods) per day. Encourage “sun safe” physical activities.

Limit kids' screen time to under one hour a day.

Avoid more than 60 minutes of sedentary activity at a time, except while the child is sleeping.

Offer water at least 4 times during the day.

Serve 1% low fat or fat-free milk for all children over two years of age.

Serve only 100% percent fruit juice (with no added sugars), and limit kids to 4 ounces per day.

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.

If able, participate in the USDA Child and Adult Care Food Program.

Facilities and homes should be totally (24-hour) smoke-free campuses.

All families should receive education and referrals regarding tobacco prevention cessation and second hand-smoke at least four times per year.

The Smoke-Free Arizona Program provided one “No Smoking” 4 x 6 sticker sign per Empower Pack kit. This year 500 signs were provided and 1,000 of the General brochures, 500 in English and 500 in Spanish, were provided for 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

HOUSING AND URBAN DEVELOPMENT (HUD) RULE – U.S. PUBLIC HOUSING TO GO SMOKE-FREE



In December 2016, the Department of Housing and Urban Development published a final rule instituting smoke-free public housing. This rule requires that each public housing agency (PHA), more than 3,100 across the country, implements a smoke-free policy in public housing which they administer. The smoke-free policies should be documented requiring resident engagement and public meetings. The ruling prohibits smoking tobacco products such as cigarettes, cigars, pipes, and hookah (water pipes) in all public housing living units, indoor common areas in said housing, and in the administrative office buildings. Smoking is also prohibited within 25 feet from the public housing and administrative office buildings. Among some of the benefits of this HUD rule is looking to improve the indoor air quality and health of the occupants of public housing as well as PHA staff; reducing the risk of fires, and lowering overall maintenance costs.

This HUD ruling will eliminate secondhand smoke (SHS) exposure by impacting more than 2 million residents in 940,000 public housing units of which 500,000 are occupied by senior citizens; an estimated 760,000 children live in these housing complexes as well. In order to protect all public housing citizens from exposure to SHS, PHAs cannot “grandfather” certain smoking tenants by exempting them from this rule. All residents are expected to comply with the rule once it becomes effective. To ensure all individuals are being protected from SHS, this rule allows for further restrictions such as a buffer zone around playgrounds, smoking in designated outdoor areas only, and implementing a smoke-free campus policy if the complex chooses to do so.

Public Housing Agencies have 18 months to comply with all the requirements of the rule. These agencies are being encouraged to begin the implementation process and activities as early as possible so appropriate actions can be spread out over the allotted time period. HUD will also encourage residents to utilize smoking cessation resources such as 1-800-QUIT-NOW. This toll-free number reroutes callers to a local cessation program that can help them quit tobacco products in their own community. HUD acknowledges the importance of assisting willing residents to connect with smoking cessation resources especially services provided at no cost due to the health impact that usually affects underserved communities living in public housing. The final rule does not cover housing units in mixed finance developments, privately owned, federally subsidized multifamily housing (e.g. project-based Section 8 housing), and Electronic Nicotine Delivery Systems (ENDS) including electronic cigarettes. HUD encourages PHAs to exercise their discretion about prohibiting ENDS in their individual smoke-free policies. This long-awaited rule will have a great impact on the health of some of the most vulnerable populations in public housing.

7.0

CONCLUSION

The tenth 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 tenth 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 methods previously mentioned.

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 1,418 complaints were filed between May 1, 2016, and April 30, 2017. 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 tenth 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.”

FOR QUESTIONS REGARDING
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