

2006

New Jersey

Smoke-Free Air Act  
Policy Survey

A Statewide Report

April 2007



Jon S. Corzine, Governor  
Fred M. Jacobs, M.D., J.D., Commissioner

## Acknowledgments

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### **The 2006 New Jersey Smoke-Free Air Act Policy Survey was completed by:**

Cristine Delnevo, PhD, MPH, Project Director  
Hila Feldman Berger, MPH  
Mary Hrywna, MPH  
Jennifer K. Chee-Chait, BA

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## Introduction

The New Jersey Department of Health and Senior Services has worked diligently over the years to increase knowledge about the dangers of secondhand smoke and build public support for smoke-free policies. One of the primary goals of its Comprehensive Tobacco Control Program is to decrease exposure to secondhand smoke. An important step to creating and implementing smoke-free policies is changing people's knowledge of and attitudes about secondhand smoke. In 2005, 74.3% of New Jersey adults supported smoke-free workplaces, representing a 24% increase since 2000 (1).

On April 15, 2006, the State of New Jersey became one of the first thirteen states in the nation to enact a comprehensive smoke-free workplace law to protect workers from secondhand smoke. The New Jersey Smoke-Free Air Act (NJSFAA) bans smoking in all public places, including those places at which a person provides a service or labor. Exclusions apply to private residences, casinos, cigar bars and retail establishments which make over 51% of their retail sales from tobacco products. Additionally, the law requires establishments to post "No Smoking" signage in prominent locations. Fines and penalties for non-compliance have been established for 1<sup>st</sup>, 2<sup>nd</sup> and subsequent offenses at \$250, \$500, and \$1,000, respectively.

Although compliance with the NJSFAA is the responsibility of the establishment owner, enforcement is delegated to local health departments. Employees or the public can file complaints directly with the health department located in the city or county of the violating workplace. Tracking the enforcement activities of local health departments will help assess compliance with New Jersey's smoke-free workplace law.

The Centers for Disease Control and Prevention (CDC) recommends three key outcome indicators specific to evaluating enforcement of smoke-free public policies including (2):

1. Number of compliance checks conducted by enforcement agencies
2. Number of enforcement agency responses to complaints regarding noncompliance with tobacco-free public policies
3. Number of warnings, citations, and fines issued for infractions of tobacco-free public policies

The University of Medicine and Dentistry of New Jersey (UMDNJ) – School of Public Health (SPH) developed the New Jersey Smoke-Free Air Act Policy Survey (NJSFAAPS) to provide baseline measures to monitor enforcement of the State's new law banning smoking in public places. The 2006 NJSFAAPS was completed by 92 local health departments between August and October 2006. The survey collected data based on CDC's suggested indicators described above. This report provides a summary of the key findings from this survey, offering the first data on enforcement of smoke-free public policies in New Jersey.

## Results

The jurisdiction of participating health departments included approximately 1,900 bars and over 23,000 restaurants. Forty percent of health departments reported having between 1-10 bars within their jurisdiction, while 34.4% reported having between 11-50 bars and 20.0% said they had more than 50 bars. Only 5.6% of health departments reported having no bars under their jurisdiction. Participating health departments were responsible for enforcement at approximately 22,233 restaurants, with an average of 264 restaurants for each health department. Information on the number of other indoor workplaces in the municipalities of these participating health departments was not readily available.

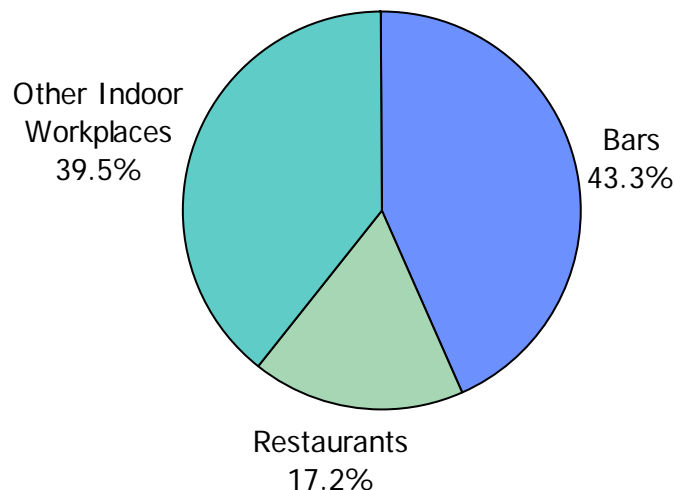
Four overall measures were used to assess compliance, including number of complaints, number of compliance checks, and number of warnings and citations.

### Complaints

Persons calling in or sending written complaints to local health departments about non-compliance with the smoking ban were recorded as complaints. Complaints did not include general inquiries regarding the law.

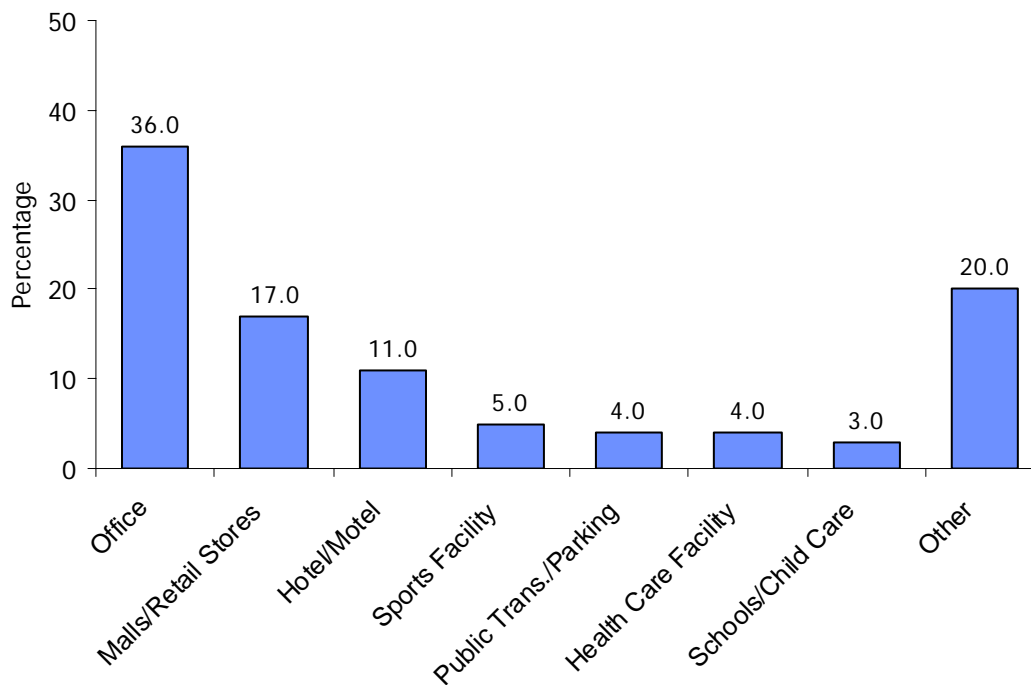
During the period of April 15, 2006 to October 27, 2006, the total number of smoking-related complaints received throughout the state was 261. As shown in Figure 1, the highest number of complaints was related to smoking in bars (43.3%) followed by other indoor workplaces (39.5%). The fewest number of complaints was related to violations in restaurants (17.2%). The range of complaints per health department was 0-15 for bars and other indoor workplaces and 0-11 for restaurants. Overall, 82.8% of health departments that received smoking-related complaints responded to them. For each workplace type, response rates remained around the average for all locations with 93.8% in bars, 95.5% in restaurants and 65.0% in other indoor workplaces.

**Figure 1. Percent of complaints received, by workplace type (n=261)**



For smoking-related complaints in other indoor workplaces (not restaurants or bars), respondents were requested to describe the establishment type (e.g. office, health care facility, and parking). Figure 2 depicts that the majority of the complaints received were from offices (36.0%), followed by malls/retail stores (17.0%) and hotel/motels (11.0%).

**Figure 2. Percent of smoking-related complaints received about other indoor workplaces, by type of workplace**

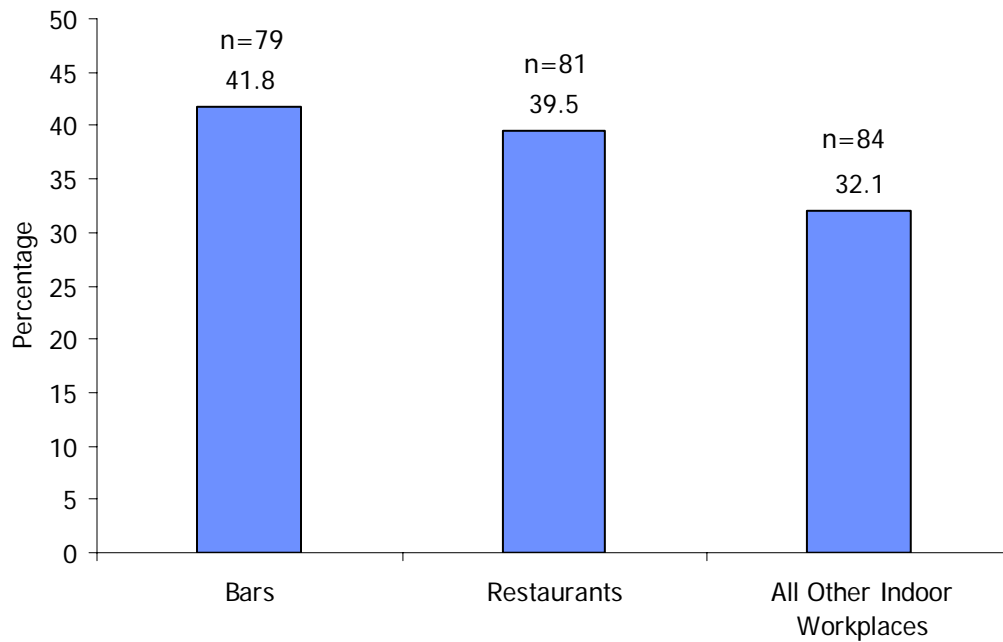


### Compliance Checks

Compliance checks were defined as any instance in which an employee of a local health department inspected a bar, a restaurant or other indoor workplace for compliance with the regulations of the New Jersey Smoke-Free Air Act. Compliance checks were either conducted specifically in reference to the NJSFAA or in conjunction with regular food inspections.

A total of 280 compliance checks specific to the NJSFAA were conducted in bars, 1,186 in restaurants and 269 in all other indoor workplaces. In the months following the enactment of the NJSFAA, 41.8% of responding health departments conducted 1 or more compliance checks in bars, 39.5% conducted compliance checks in restaurants, and less than one-third (32.1%) reported conducting compliance checks in all other indoor workplaces (see Figure 3).

**Figure 3. Percent of health departments conducting NJSFAA compliance checks, by type of workplace**



In addition to checking for compliance during inspections specific to the New Jersey Smoke-Free Air Act, health departments can assess compliance during routine Chapter 12 food inspections. The health departments that reported conducting compliance checks often or very often concurrent with Chapter 12 food inspections were defined as having integrated Smoke-Free Air Act compliance checks with Chapter 12 inspections. Only 46.3% and 50.6% of health departments reported conducting integrated compliance checks in bars and restaurants, respectively. Since other indoor workplaces may or may not have routine Chapter 12 inspections, this information was not collected for other indoor workplaces such as offices, retail stores, etc.

### Warnings and Citations

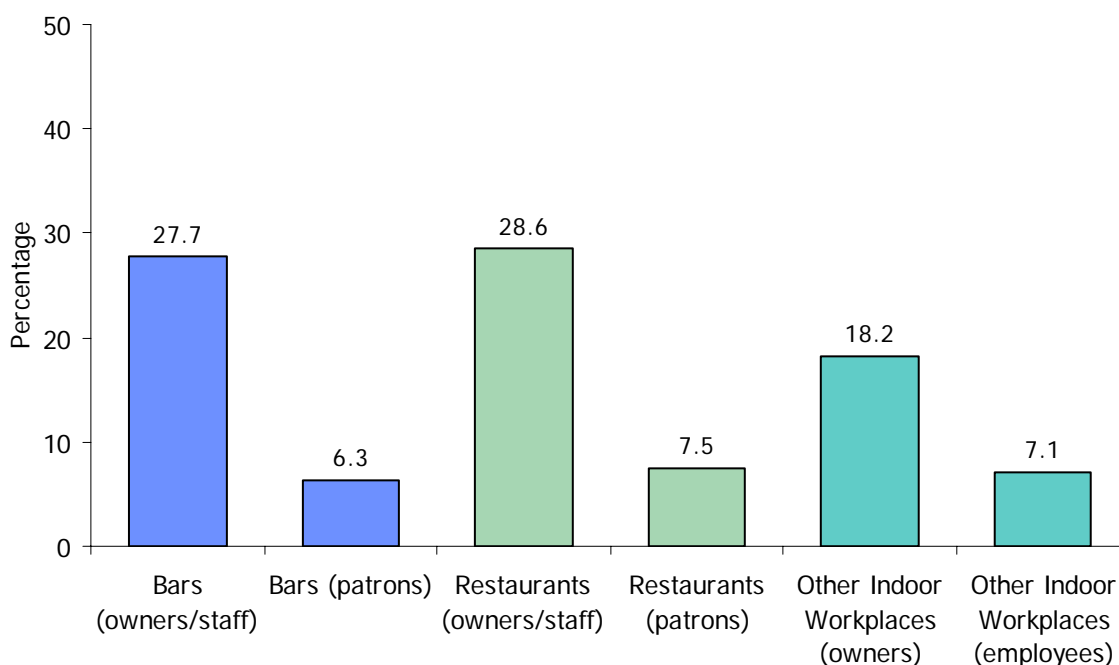
Warnings or citations are issued based upon evidence of non-compliance with the act, which includes smoking in public places, allowing smoking at an establishment or not displaying the appropriate signage. Warnings issued by local health departments included any official notation of non-compliance given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

Most health departments reported never or rarely issuing warnings to bars (88%), restaurants (91.7%) or other indoor workplaces (88.7%). A total of 31 citations were issued by 3 health departments and the vast majority were issued to bars (83.9%). Fewer citations (9.7%) were issued to restaurants and other indoor workplaces (6.5%).

### Signage & Educating Owners or Patrons

Respondents were asked to report how often they requested owners to use the official “No Smoking” signage and more than a third indicated that they never requested use of signs in bars (42.2%), restaurants (35.7%) or all other indoor workplace (51.2%). Health departments were asked how often they educated owners, patrons or employees about the NJSFAA. Respondents who reported often or very often were defined as having provided education or information regarding the NJSFAA. As shown in Figure 4, health departments were more likely to report providing information or education to a bar (27.7%) or restaurant (28.6%) compared to other indoor workplaces (18.2%).

**Figure 4. Percent of health departments reporting educating or informing owner, patrons or employees on the NJ Smoke-Free Air act, by establishment type**



### Perceived compliance and barriers

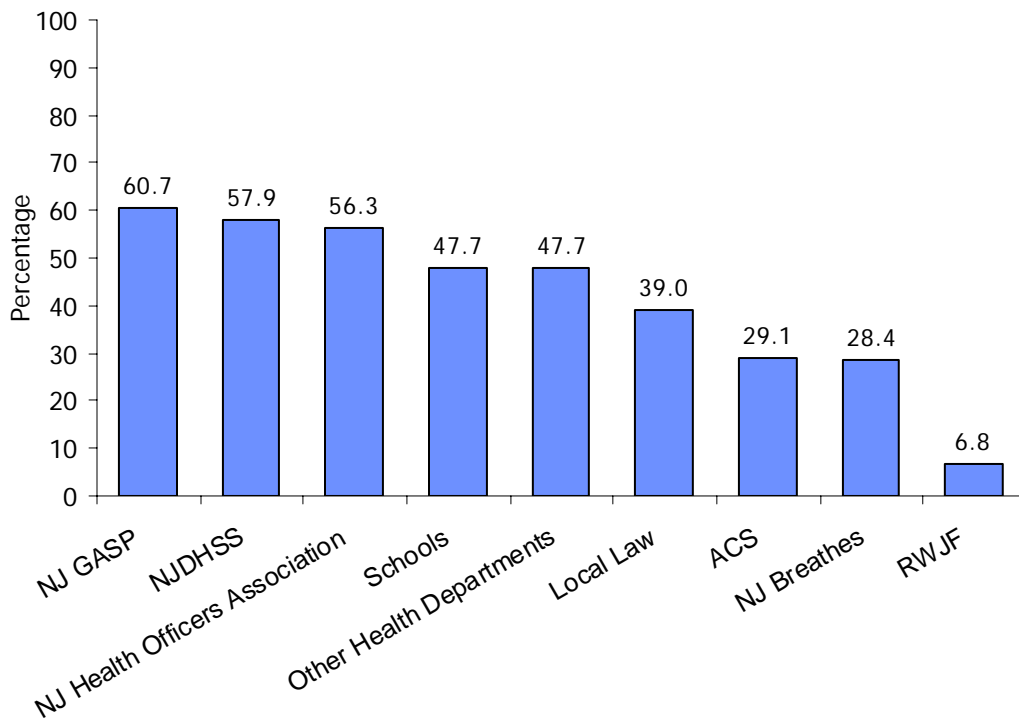
Overall, health departments believed that compliance was high in restaurants and bars. The majority of health officers felt compliance was going very well in restaurants (90.5%; n=74) compared to 76.4% (n=72) who felt compliance was going very well in bars and 58.5% (n=65) of respondents who believed compliance was going very well in all other indoor workplaces.

There were no major barriers to compliance with the NJSFAA identified by the respondents. Specifically, no one reported lack of enforcement activities, signage (English or Spanish), awareness, or media coverage as barriers to compliance.

### Collaboration

Respondents were asked which groups or organizations collaborated with them to educate the public on the New Jersey Smoke-Free Air Act and assist with enforcement. The majority of health departments reported working with New Jersey Group Against Smoking Pollution (NJ GASP) (60.7%), the NJ Department of Health and Senior Services (57.9%) or the New Jersey Health Officers Association (56.3%) (see Figure 5). Other organizations included schools (47.7%), other local health departments (47.7%), local law enforcement (39.0%), American Cancer Society (29.1%), NJ Breathes (28.4%), and the Robert Wood Johnson Foundation (6.8%). The survey instrument did not ask respondents to specify examples of collaboration or degree of collaboration.

**Figure 5. Percent of health departments reporting collaboration with other organization sometimes, often or very often, by type of organization (n=86)**



## Conclusions and Recommendations

The results of this study provide baseline data on compliance and enforcement of the NJSFAA at bars, restaurants and other indoor workplaces. Based on data collected from local health officers, restaurants had the fewest complaints and citations as compared to bars and other indoor workplaces.

It is important to note that while there were only 31 citations issued from all the responding health departments, health departments were encouraged to focus on education and to refrain from issuing citations, at least during the first year of enactment. Furthermore, the guidelines and rules for the NJSFAA (P.L. 2005, c.383) are not final or official until publication in the New Jersey Register. As of April 2007, the final guidelines had not been published. Since these guidelines will provide health departments with specific guidance on implementation of the NJSFAA, it will become important to reassess health department enforcement after the guidelines have been adopted.

### Compliance Checks

The New Jersey Department of Health and Senior Services and local government should encourage regular compliance checks for the NJSFAA. Although the overall results did not show a large amount of complaints originating in workplaces, this does not guarantee compliance. For example, among the 92 responding health departments, 280 compliance checks were conducted in bars. However, some health departments reported having between 1,500-2,500 bars under their jurisdiction. The low number of compliance checks may be partially due to the nighttime operating hours of bars that make conducting compliance checks difficult. In addition, this survey was conducted only a few months post enactment of the law. Health departments should be encouraged to conduct compliance checks in conjunction with Chapter 12 food inspections. At the time of the survey, only about half of health departments had integrated NJSFAA compliance checks into these routine inspections at bars and restaurants.

Although compliance and enforcement at restaurants and bars are essential to protecting the public from secondhand smoke, enforcement at other indoor workplaces is equally important. The results of this survey revealed that most health departments received the majority of complaints from bars and other indoor workplaces including offices, retail stores, and hotels. Furthermore, more health officers reported a lack of perceived compliance in bars and other indoor workplaces when compared to perceived compliance in restaurants. The overall low number of complaints may suggest that patrons or employees who witness a violation first bring the matter to the attention of the business or building management before filing a complaint with the local health department. New Jersey residents and workers should be educated about how to report violations of the NJSFAA.

Lastly, steps should be taken to ensure that health departments have the resources (e.g., funding, staff, etc.) to enforce the law in all types of establishments. Prior to enactment of the NJSFAA, the New Jersey Department of Health and Senior Services together with the Robert Wood Johnson Foundation distributed educational materials to roughly 350,000 businesses in the State. Although there are several hundred thousand businesses in New Jersey, health departments conducted a total of only 1,735 compliance checks in these types of establishments since enactment of the law on April 15, 2006. Health departments may benefit from receiving additional resources to conduct compliance checks. Collaboration with other tobacco control organizations or community groups should also be considered to assist in helping businesses become compliant smoke-free workplaces. In addition, private citizens should be encouraged to cooperate with the new law and report violations to their local health departments.

### Future assessments of CDC Indicators

Repeated surveys of local Health Departments and their involvement in enforcing the NJSFAA is necessary to determine the ongoing level of compliance. Surveys conducted at a later date will also allow enough time to determine whether citations and fines are issued in greater or lesser numbers. However, additional indicators cannot be addressed by looking at the local health departments' experiences alone. CDC recommends that data be collected by direct observations of public places to determine compliance with smoke-free policies. To date, no observational study has been designed or conducted in New Jersey to systematically assess compliance in public establishments. Since regular compliance checks cannot be solely executed by local health departments, it would be advantageous to enlist other parties to assess compliance and work in collaboration with the local health departments.

## Technical Notes

### Instrument

Local health Departments in New Jersey were surveyed using the web-based 2006 New Jersey Smoke-Free Air Act Policy Survey (NJSFAAPS) instrument. During summer 2006, four months post enactment of the law, an email was sent to health departments in New Jersey requesting the participation of Health Officers (HO) in a survey regarding enforcement of the law. Respondents used an html link with a unique User ID and password that ensured the confidentiality of responses. Health Officers were asked to respond representing the cumulative experience of their Health Department since April 15, 2006. The NJSFAAPS collected information on three types of workplace locations: bars, restaurants and all other indoor workplaces. For each type of workplace location, health officers were asked to provide information about perceived compliance, compliance checks, complaints received, responses to complaints, warnings issued and citations issued. Additionally, information was collected about how complaints were recorded, perceived barriers to compliance, and collaboration with other New Jersey stakeholders in tobacco control.

### Sample

The sample included all health departments in New Jersey that collect complaints regarding violations of the New Jersey Smoke-Free Air Act in their respective jurisdiction(s). A list of 118 health departments was retrieved on August 1, 2006 from the Office of Public Health Infrastructure's Directory of Local Health Departments (<http://www.state.nj.us/health/lh/directory/lhdselectcounty.htm>). Four health departments were deemed ineligible because these departments refer all incoming complaints to other health departments and do not handle air pollution or tobacco enforcement in any form.

Email addresses for all Health Officers in New Jersey were obtained through the website of the New Jersey Department of Health and Senior Services. The first survey was completed on August 9, 2006 and the last survey on October 27, 2006. Therefore, each health department's survey responses reflect only those experiences from April 15, 2006 through survey completion. Of the 114 eligible health departments, 92 responded to the survey, yielding an overall response rate of 80.7%. Responding health departments cover enforcement at 506 municipalities, representing 89.4% of municipalities in New Jersey.

The 22 non-responding health departments cover enforcement at 60 municipalities, representing 10.6% of municipalities (n=566) in New Jersey, and included municipalities from nine different counties. The non-responding health departments also included two of the six major cities in New Jersey.

### Analysis

SPSS (v.14) statistical software was used to generate frequencies.

## References

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Prepared by:



Prepared for:



<http://www.state.nj.us/health/>

For more information please contact the Evaluation Unit at 609-292-9194