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Health Commissioner Column

OHIO SMOKE-FREE WORKPLACE LAW WORKING

HAMILTON COUNTY, OHIO – Over the past three-plus years in which the Ohio Smoke-Free Workplace Law has been in effect, many people have asked me if the law is working. I am pleased to report that, in fact, the law is working quite well!

The dangers of smoking and exposure to second-hand smoke are well known. My purpose here is not to recite the litany of dangers to health from smoking. Suffice to say that the U.S. Surgeon General has determined that second-hand smoke is a health hazard and that there is no safe level for exposure.

Let's quickly review some of the history. November, 2006 found nearly 60 percent of voters statewide approving legislation banning smoking in workplaces and public venues. Nearly 70 percent of residents of the four-county area comprising Greater Cincinnati approved of the measure.

The good news is the vast majority of establishments are voluntarily complying with the law. Complaints have dropped some 65 percent since the law took effect in 2007 through year-end 2010 and are trending down similarly this year. Of the nearly 2,100 facilities licensed by Hamilton County Public Health, only three percent have been found in violation.

The not-so-good news is that there remain a small handful of area establishments still thumbing their noses at the law under the guise of "freedom and liberty." I'm all for freedom and liberty and that's what I like most about this law – it gives workers the freedom and liberty to avoid the well-documented health effects of smoking and second-hand smoke.

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It's important to remember that bars, restaurants, sports stadiums and offices are not only public venues, but also workplaces for thousands. So, while it may present a slight inconvenience for smokers having to step outside to indulge their habit, the avoidance of hazardous second-hand smoke in the workplace is of tremendous benefit to workers and others.

The small minority of establishments not in compliance often cite their inability to enforce the law. I can certainly understand a proprietor not wanting to alienate customers through enforcement. I would point out that these establishments already enforce many laws as a matter of course. For instance, it is common knowledge that alcohol and tobacco products may not be sold to those under the age requirements for purchasing such products. Establishment owners enforce these requirements every day without issue.

It is also important to understand that the law is entirely complaint driven. Witnessed violations are reported to the Ohio Department of Health; the local health district receives the complaint from the state and then investigates violation reports. If an inspector is in the field and witnesses a violation, the first choice is always to educate the business owner about the law and provide compliance assistance.

However, for repeated violations, there is a fine system in place. The first infraction incurs a letter; second is a \$100 fine; third - \$500; fourth -- \$1,000; fifth and subsequent violations are \$2,500. It has recently come to my attention that a local establishment was denied renewal of a liquor permit because of repeated violations of the law. To my knowledge, this is the first such action in the state since the law took effect.

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The intent of the Smoke-Free Workplace law is not to handcuff business but to provide a safe environment for all employees and customers. The business owner that was denied renewal has taken to the court of public opinion to air what he perceives as unfair, burdensome regulation. I would ask you to consider the entire story – that is, given the fine structure outlined above, does the accumulation of \$55,000-plus in fines represent burdensome regulation or a blatant disregard for the law?

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Tim Ingram is the Health Commissioner for Hamilton County. Hamilton County Public Health works to assure the 450,000 citizens living outside the cities of Cincinnati, Norwood, Sharonville and Springdale are safe from disease, injury and contamination.