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Not enforcing the ban

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Some counties opt out of enforcing statewide indoor smoking ban

July 26, 2008 8:11 PM

Rachelle Pavelko

Since the Ohio Indoor Smoking Ban went into effect in May 2007, it has been the responsibility of county health departments to enforce it. Only five of the nine local counties are; the other four have passed the task back to the Ohio Health Department.

Auglaize, Hardin, Logan and Mercer counties have opted out of the process. Ohio Health Department spokeswoman Sara Morman said 23 of Ohio's 88 counties have done so.

"Some local health departments have cited the complexity of the enforcement process, but the majority cite the cost" Morman said.

Shane Lotts, a registered sanitarian, said officials at the with the Hardin County Health Department realized early that enforcing the smoking ban wasn't going to be financially possible.

"The state was giving us a very small subsidy, since it's based upon our county population, and we realized that we didn't have enough money to handle it for more than a month," Lotts said. "We were getting 10 or 11 complaints a week, and it was just too much."

Lotts said the state changed the requirements for how fines were to be handled. In the past, Hardin County had the ability to send information about repeat violators straight to Franklin County. Recently, however, the state asked Lotts and his department to have a court reporter, arbitrator and a member from the board of health on hand to view the penalties of the business violating the ban.

"That would have cost us lots and lots of money to get all of those people involved," Lotts said. "We turned it over Jan. 1 of this year. We just don't have that kind of revenue."

Morman said county health departments can opt out of enforcing the smoking ban by providing 30 days notice in writing to the Ohio Health Department.

Dale Palmer, an administrator at the Mercer County Health Department, said the small staff wasn't able to keep up with the demands of enforcing the ban.

"A lot of the violations occur after normal business hours," Palmer said, "and it's something that the state health department thrust upon us that really is a nightmare for county health departments."

The situation in Hancock County differs greatly, and officials there still are enforcing the smoking ban on their own accord.

"At this point, we have sufficient staff and funding," said Tom Davis, a compliance officer with the Hancock County Health Department. "We had a grant from the Tobacco Foundation originally, and tomorrow we have a conference call with the OHD to discuss what possibilities we have for grant application."

Morman said any changes health departments are seeing might be from both businesses and enforcement agents becoming more familiar to the process.

"In the beginning, it was a little rough while people got used to the idea," Davis said. "I think smokers now just shrug their shoulders and go outside."

Regardless of whether the county is still enforcing the ban, officials from Mercer, Hardin and Hancock all agreed that the smoking ban has been effective - especially in restaurants.

"Most of the complaints are coming from fraternal organizations and bars," Palmer said. "Restaurants have done very well in adhering to the rule."

Davis said the Hancock County Health Department hasn't received a complaint since April 30.

"I have yet to hear someone say, 'Gee it's killed my business,' " Davis said. "Actually, I've talked to tavern owners who have said the exact opposite, that they are getting customers they have never seen before. Statewide, I think we've had resounding success."

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