Pennsylvania Clean Indoor Air Act

2008 Annual Legislative Report

Background
Senate Bill 246, Pennsylvania's Clean Indoor Air Act (CIAA), was passed on June 10, 2008 and signed into law by Governor Rendell on June 13, 2008. The CIAA became effective on September 11, 2008, and named the Department of Health (DOH) as the lead agency for implementation of the CIAA. Eliminating exposure to secondhand smoke and promoting cessation are two evidence-based strategies cited by the U.S. Centers for Disease Control and Prevention (CDC) that can contribute to a reduction in disease, disability and death related to tobacco use and secondhand smoke exposure. Many reports and studies consistently document reductions in tobacco use following the implementation of smoke-free laws and policies.

Coordination of Resources
The DOH held planning meetings throughout July and August with the following agencies to coordinate implementation and enforcement of the CIAA and to create an efficient application and reporting process for DOH to review exception requests for drinking establishments, cigar bars and tobacco shops:

- Department of Aging
- Department of Agriculture
- Department of General Services
- Department of Public Welfare
- Department of Revenue
- Office of Administration, Bureau of Labor Relations
- Office of General Counsel
- Pennsylvania Gaming Control Board
- Pennsylvania State Police
- Pennsylvania Liquor Control Board
- Bureau of Liquor Code Enforcement

The DOH eight regional Primary Contractors are responsible for providing tobacco use prevention and cessation services throughout the Commonwealth, including services relating to the implementation of the CIAA. All Primary Contractors have received training in the implementation of the CIAA and in the provision of technical assistance to affected establishments, and are assisting the DOH in the verification of exception requests.

Implementation and Education
The DOH developed a plan to implement the CIAA in cooperation with the Pennsylvania Alliance to Control Tobacco. The implementation plan focused on providing information and implementation tools to all businesses affected by the CIAA. The Business Toolkit explained the law, provided guidance on talking to the public and employees and on the placement of signage, and provided local contacts for additional technical assistance. Over 10,000 toolkits were distributed across the Commonwealth. A toll free helpline (1-877-835-9535) was activated on June 13, 2008, to accept complaints and to respond to requests for information. The DOH also developed the web site www.health.state.pa.us/tobacco and posted the following resources:

- Frequently asked questions
- Guidance for public places and workplaces
- Exception request formats
- Specific guidance related to private clubs
- Reports of violations
- Business toolkit

Outreach
Governor's Office of Communications
The Governor's press office issued a press release on June 13 announcing the signing of Senate Bill 246 establishing the Clean Indoor Air Act. Establishments then had a 90-day phase-in period to allow for necessary changes to come in to compliance with the new law.

Department of Health
Bureau of Health Promotion and Risk Reduction
In coordination with the PA Tavern Association, information and technical assistance was provided at conferences conducted in Harrisburg, Chambersburg and York. DOH also participated in a web-based seminar training for the PA Tavern Association and the PA Restaurant Association. The DOH collaborated with state headquarters of the American Legion and the Veterans of Foreign Wars to educate private clubs and presented information at the September statewide meeting of the American Legion Commanders from each of their 38 regions.

Office of Legislative Affairs
The Department of Health's Legislative Director communicated with senators, members of the House of Representatives and executive directors of Senate House Standing Committees on Aug. 1 and 25, Sept. 9 and Oct. 17, keeping them updated on the implementation process. The DOH Legislative Director continues to inform the Legislature of implementation and enforcement issues as they arise.

Office of Communications
The Department of Health's Communications Office fielded over 100 calls from June through November from various media outlets throughout the Commonwealth including television, newspapers and radio. In addition, the press office issued press releases updating the public on Clean Indoor Air, as well as announcing its implementation. Those releases were issued Aug. 25, Sept. 2 and Sept. 10.

The Department of Health's press office also worked with the following agencies in order to communicate effectively with Commonwealth businesses and citizens on this new legislation:

Department of Revenue – The Department of Revenue included an article about the Clean Indoor Air Act in its September Pennsylvania Tax Update. This e-newsletter reaches approximately 18,000 subscribers, which includes tax preparers and taxpayers who sign up to receive the newsletter.

Department of General Services – The Department of General Services distributed information about the Clean Indoor Air Act to a list of procurement stakeholders. This email distribution occurred on October 21st and went to approximately 15,000 individuals.

Office of Administration – The Office of Administration included a message in its newsletter about the Clean Indoor Air Act. The newsletter, emailed out to all Commonwealth employees under the Governor's jurisdiction (70,000 employees), was sent October 23rd.

Department of Insurance – The Department of Insurance included a message in its newsletter about the Clean Indoor Air Act. The newsletter was distributed the last week of November and reaches approximately 1,000 individuals.

Department of Agriculture – The Department of Agriculture distributed information about the Clean Indoor Air Act electronically in October to approximately 18,600 establishments or 60 percent of the restaurants it inspects.

Department of Labor and Industry – The Department of Labor and Industry mailed Clean Indoor Air Act information and resources to 250,000 Pennsylvania businesses.

Department of State – The Department of State is in the process of notifying the nearly one million licensees of the 27 professional licensing boards through the professional board newsletters and other communications channels.

Exceptions

The CIAA has numerous exceptions, five of which require review and approval by DOH. Exceptions include two types of drinking establishments (referred to in the CIAA as Type I drinking establishments and Type II drinking establishments), two types of cigar bars (referred to in the CIAA as Type I cigar bars and Type II cigar bars) and tobacco shops. The DOH received a total of 3,224 applications for exceptions – 2,290 are Type I drinking establishments (bar only) and 663 are Type II drinking establishments (bar/restaurant). The remaining 271 are an assortment of cigar bars, tobacco shops and incomplete applications.

Approvals and notification have been issued to 1,727 Type I drinking establishments, and are listed by county on the DOH web site. Because of the specific site requirements for the 663 bar/restaurants that have requested an exception, DOH determined that on-site inspections must be completed prior to final approval. These on-site reviews will be conducted by the DOH and its regional Primary Contractors.

The CIAA also provides for a number of exceptions including up to 50 percent of gaming floors of casinos and up to 25 percent of hotel and motel rooms; designated quarters within full service truck stops; tobacco manufacturer cigar exhibitions, non-profit fund raisers (which feature tobacco products) and private clubs, including fire, ambulance and rescue companies. These exceptions are part of the CIAA and do not require review and approval by the DOH.

Enforcement Process

The CIAA provides that the investigation and enforcement of complaints received by the DOH shall be the responsibility of the Commonwealth agencies that license the alleged violator. DOH has coordinated implementation, enforcement and reporting protocols with all of the state agencies involved in the administration of the CIAA. If there is not a state licensing agency with jurisdiction over the potential violator, the complaint is handled by the DOH.

Upon receipt of a first complaint, the DOH will notify the establishment of the complaint, with a copy of the DOH notification of alleged violation letter sent to the appropriate state licensing agency and the

DOH regional Primary Contractor. The Primary Contractor will provide additional education and resources as a follow-up to the letter.

Since September 11th, DOH has accepted complaints through web site electronic submission, through the toll free helpline and by mail. Our enforcement process begins with a cross check of liquor licensees and telephone contact to the business owner or the person filing the complaint, or both. If the complaint appears valid, a notification letter is sent by DOH to the public place or workplace, providing notice of the alleged violation, education on requirements of the law and regional primary contractor contact information. In the case of continued complaints regarding non compliance with the CIAA, the enforcement process will proceed with a referral to the agency responsible for licensure or regulation of that establishment.

In addition to the DOH, there are two primary agencies involved in enforcement. The Bureau of Liquor Code Enforcement (BLCE) handles complaints filed against drinking establishments, cigar bars, bar/restaurants, bar/private clubs and bar/bowling alleys. The Pennsylvania Gaming Control Board (PGCB) has responsibility relating to the investigation and enforcement of complaints against licensed casinos.

Of the 1,187 complaints received by the Department during this report period:

- 286 complaints in Allegheny County have been referred to the Allegheny County regional primary contractor to ascertain exception status and to provide technical assistance;
- 585 complaints were received on a total of 328 establishments;
  - Of the 328 establishments:
    - 88 establishments have been referred to BLCE as they are drinking establishments that did not apply for an exception;
    - 135 establishments are drinking establishments that have applied and been approved for an exception.
    - 105 complaints received on establishments that do not have liquor licenses. Most of these will receive warning letters; a very small number are not valid complaints (i.e. smoking in an apartment that may waft into another persons' apartment);
- 316 complaints were received on a total of 52 bingo halls. We have resolved those through referrals to primary contractors who provided technical assistance; however, 18 are still being checked to confirm compliance.

During this report period, the Department focused on statewide and local education opportunities in partnership with the Pennsylvania Restaurant Association, the Pennsylvania Tavern Association, and the Commanders of the Pennsylvania Veterans of Foreign Wars and the American Legion. Primary contractors have worked steadily with local establishments to provide education and business toolkits to promote compliance with the CIAA. One example of our success in this area is the 209 complaints on 52 bingo halls. With the assistance of local primary contractors, we have resolved most of these situations favorably, without needing to resort to fiscal penalties for enforcement.

The Department of Public Welfare has notified DOH of licensing action it has taken against a personal care home. This facility was found to have multiple deficiencies, including smoking in a prohibited area. DOH and DPW will be working in the coming months to formalize the reporting mechanism for the facilities that it regulates.

DOH Administration

Within the Division of Tobacco Prevention and Control, seven DOH staff are assigned to plan and implement the following activities:

- Review, respond and refer complaints;
- Review and/or approve exception requests;
- Provide technical assistance to the general public, affected establishments and primary contractors and recommend approval; and
- Coordinate with other state agencies in the development of policies and procedures for the implementation and enforcement of CIAA.

During the CIAA implementation, the same DOH staff maintained existing operations with other state and regional contractors.

The DOH remains committed to reducing tobacco use by adults and preventing youth from starting to smoke. Additional information may be obtained at the Tobacco Prevention and Control Program webpage at www.health.state.pa.us/tobacco.

Number of Complaints Reported to the Department of Health
September 11, 2008 - November 30, 2008

County	9/30	10/3	10/14	10/21	10/28	11/4	11/11	11/18	11/30	Total
Adams	1					1			1	3
Allegheny	130	13	28	12	15	10	39	20	19	286
Armstrong	2		1					4		7
Beaver	9	2	4	1	1	2	1	2	2	24
Bedford	1						3			4
Berks	20	3	6			1	4	7	4	45
Blair	2					1	1			4
Bradford	1		1				1			3
Bucks	16	3	6	2	1		1	1		30
Butler	19		1	3				8	2	33
Cambria	2	1	1		1		2	1		8
Cameron										0
Carbon	3		2	1					2	8
Centre	4	1	2							7
Chester	2	2	3	1	2	1	1	2		14
Clarion		1					2		1	4
Clearfield	1		3		1	1	1		2	9
Clinton			1							1
Columbia		1				1	1	2	7	12
Crawford	3	2			1	1	1	1		9
Cumberland	12	2	5	4	1	1	4			29
Dauphin	15	3	5	12	4	1	1	3	5	49
Delaware	2	2	2	1		1	1	1		10
Elk			1		1					2
Erie	21	3	7	8	3	2	2	9	3	58
Fayette	27	7	1	4	2	1	2	5	1	50
Forest				1						1
Franklin	1	1	2	1			1		1	7
Fulton										0
Greene							1	1		2
Huntingdon										0
Indiana	1					1		1	1	4
Jefferson	1					1		1		3
Juniata					1					1
Lackawanna	9	2	5		2		3	4		25
Lancaster	19	2	1	1		1	3	2	3	32
Lawrence	1	1	1	1			2	2		8
Lebanon	1							1		2
Lehigh	7	5	2	1		1		1	2	19
Luzerne	26	2	9	4	1	4	1		1	48
Lycoming	3	1	1	1	1	1				8
McKean	1									1
Mercer	6	8		6	9	1	3	2	3	38
Mifflin	1									1
Monroe	8	1	1	1		2	2	3		18
Montgomery	23	7		7			1	2	1	41
Montour										0
Northampton	4		2				1		3	10
Northumberland	4	1	1							6
Perry	4								1	5
Philadelphia										0

Number of Complaints Reported to the Department of Health
September 11, 2008 - November 30, 2008

County	9/30	10/3	10/14	10/21	10/28	11/4	11/11	11/18	11/30	Total
Pike	3									3
Potter	3									3
Schuylkill	6		4	1		1	1	2	2	17
Snyder		2		2	1	1		1	1	8
Somerset	5	1				1		1	2	10
Sullivan										0
Susquehanna	3								2	5
Tioga										0
Union										0
Venango	4					1	3	3	1	12
Warren	1		1							2
Washington	7	3	3	2	3	2	3	2	1	26
Wayne	5		1							6
Westmoreland	30	4	15	6	1	3	13	4	4	80
Wyoming	2	1			3	1				7
York	11		1		1	1	1		4	19
Total by Date	493	88	130	84	56	48	107	99	82	
										1187