

The Smoke-Free Ontario Act:

Workplace Compliance with the Law

The *Smoke-Free Ontario Act (SFOA)* came into force on 31 May 2006, and prohibits tobacco smoking in virtually all enclosed workplaces and public places. An enclosed workplace is defined as “(a) the inside of any place, building or structure or vehicle or conveyance or a part of any of them,

(i) that is covered by a roof,

(ii) that employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, and

(iii) that is not primarily a private dwelling, or

(b) a prescribed place.”ⁱ

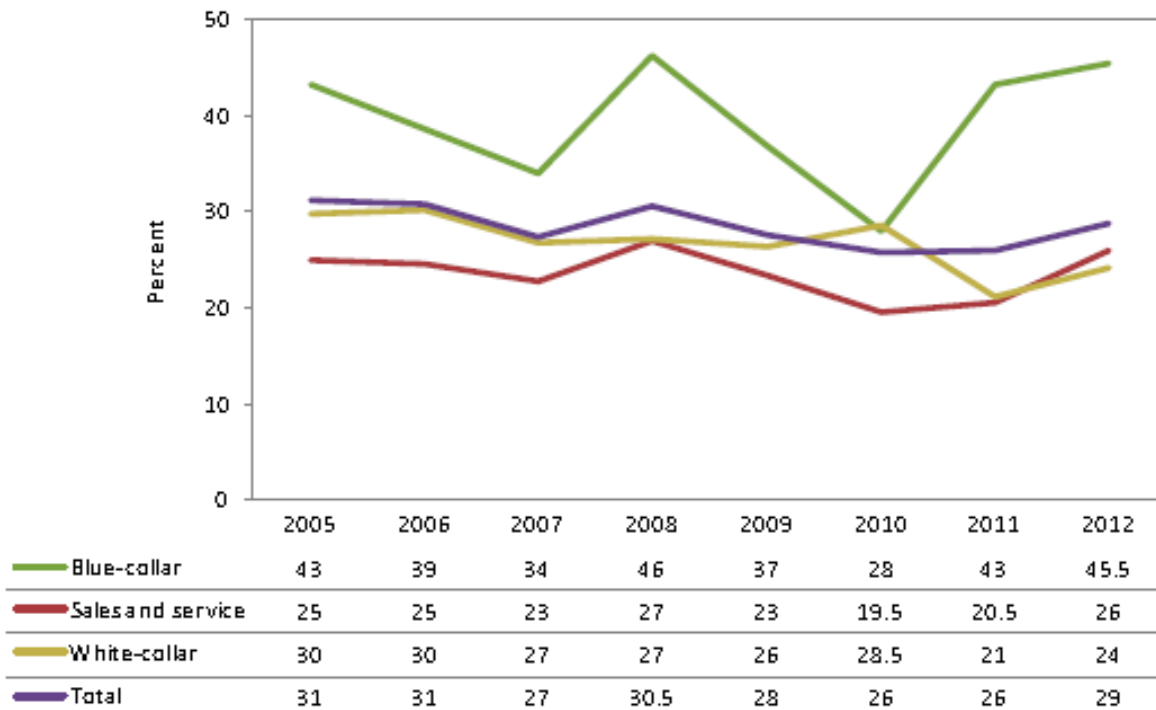
In addition, the *SFOA* also provides protection from secondhand smoke (SHS) in select outdoor environments such as on covered and partially-covered patios and within 9 m of hospitals and other health care facilities.

Workplace compliance

There is a difference between compliance and enforcement, although the two are linked. Compliance means voluntary co-operation. Given that smoke-free indoor environments have become a social norm in Ontario, and that people understand the need for protection from SHS, overall compliance with the *SFOA* is generally very good. However, for compliance to remain high, Ontarians need to have confidence in the system: to see that there are consequences (fines) for non-compliance. However, enforcement of smoke-free workplaces is primarily complaint-driven. Unfortunately, in some work environments where smoking rates are higher than average, and especially in smaller workplaces with few employees (where it would be hard to maintain anonymity), the likelihood of a local public health unit receiving a complaint is low.

Self-reported exposure to SHS in the workplace is a proxy measure for compliance, as Ministry of Health and Long-Term Care data on *SFOA* enforcement activities (inspections and charges) are not publicly available. Self-reported indoor and outdoor workplace exposure data from 2005 to 2012, stratified by occupation type, are shown in Figure 1. Data for 2012, the most recent year available, indicate 24% of white collar workers and 26% of workers in sales and service positions reporting workplace exposure in the last 30 days. Reported exposure among blue collar workers is significantly higher at 45.5%.ⁱⁱ

Figure 1: Workplace Exposure (Past 30 Days), By Occupation, Ages 15+, Ontario, 2005 to 2012 (OTRU, 2014)

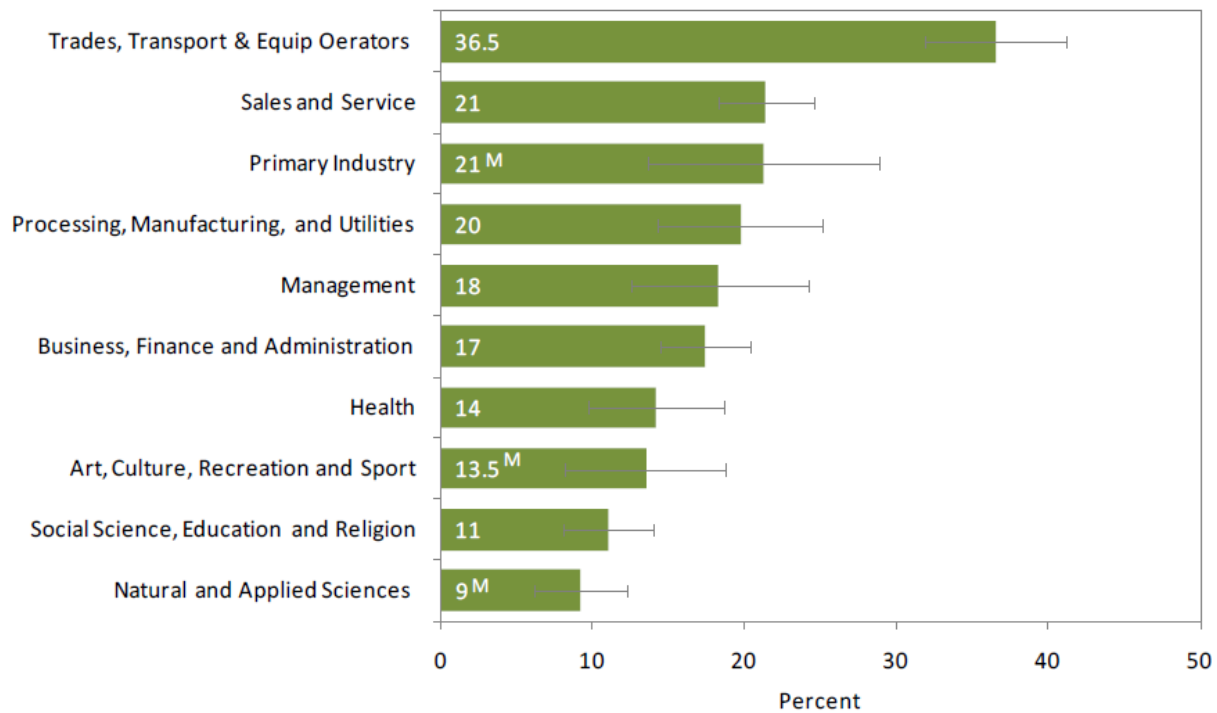


Source: CTUMS 2005–2012.

These reported exposures match what is known about occupation and smoking prevalence—smoking rates are higher among the trades and in sales and service jobs, and decrease with higher education and higher socio-economic status. For example, data for 2012, presented in Figure 2, show that the smoking rate in the trades was 36.5%, more than double that reported for business, finance and administration (17%).ⁱⁱⁱ

Unfortunately, Figure 2 appears to show no significant improvement in workplace exposure over the 7 year reporting period. How can this possibly be? Smoking rates are lower today than they were in 2005, the *SFOA* came into force in 2006, and many municipalities have passed bylaws with smoke-free provisions that exceed the *SFOA*. The answer is likely a combination of factors. One is an inherent problem with self-reporting: people don't always remember things as they actually were, or may even exaggerate or minimize responses to suit their own perceived needs. Another factor may be the constant evolution of social norms—in effect, the goal posts keep changing. As more environments have become smoke-free, public awareness and appreciation have increased and societal tolerance for exposure to SHS has decreased. What is/was deemed reportable is relative. For example, outdoor exposure around building entrances is an issue now, but may not have been as readily reported pre-*SFOA* when smoking was still permitted inside workplaces.

Figure 2: Current Smoking (Past 30 Days), by Occupation, Ages 15 to 75, Ontario, 2012 (OTRU, 2014)



Note: Vertical lines represent 95% confidence intervals. M = Interpret with caution: subject to moderate sampling variability.
Source: Canadian Community Health Survey 2012.

Smoking in work vehicles, including taxis, is a concern with respect to *SFOA* non-compliance. A study by the Ontario Tobacco Research Unit (OTRU) involving 42 taxis in Hamilton found that 60% of the vehicles had physical evidence of smoking; 90% of those vehicles chemically tested had very high levels of surface nicotine. Further, 66% of taxi passengers interviewed (n=60) felt that drivers smoking in their vehicles was a problem, and 61% agreed that passengers smoking in taxis was a problem.^{iv} This problem is not unique to Hamilton.

Construction sites pose another problem regarding non-compliance. The *Act* states that a workplace includes any building or structure that is covered by a roof. Therefore, although a building construction site is beyond the jurisdiction of the *SFOA* in its early stages, as soon as a roof is erected, smoking is prohibited inside.

***SFOA*: “Back to Basics”**

In June 2010, 4 years after the *SFOA* came into force, health units across northeastern Ontario launched a “Back to Basics” campaign to reinforce the message that all Ontarians have the right to a smoke-free enclosed workplace. The campaign also served to remind people of the resources available through their local public health unit related to smoking prevention and cessation.

Did you know?

Everyone has a role in keeping your workplace smoke-free.

How are you and your workplace doing?

If you want to know, check all that apply to your workplace environment.

1. No smoking signs are posted at all entrances, exits, in all bathrooms, lunchrooms, and other common areas.
2. Ashtrays and butt boxes have been removed from the workplace.
3. All workplace vehicles are smoke-free at all times.
4. Everyone – the employer, employees, customers, and the public – in this workplace is aware that smoking is not allowed.
5. You have received training about the importance and expectation of a smoke-free workplace.
6. You know where help is available to quit smoking and where anyone can get information.

All 6 ✓ - Great job! Keep up the good work. If you are missing any of these components, give us a call so that we can help you.

For more information, contact your local public health unit. We are here to provide confidential help.



"Back to Basics" rack card, courtesy of the Northeast Tobacco Control Area Network.

Anecdotally, complaints about smoking in the workplace increased during the length of the campaign, and evidence suggests that sustained public education could improve compliance.

It is now 8 years post-*SFOA* implementation. A province-wide public education campaign with the same message could help to boost compliance and improve SHS protection in the workplace. Given that compliance is likely lower in workplaces where smoking is a social norm, using a risk-based approach would both help to focus the message as well as contain costs. Workplaces including garages, factories, warehouses, and vehicles, including taxis, could be targeted.

Workplaces not covered under *SFOA*:

Despite the comprehensiveness of the *SFOA*, there remain workplaces in Ontario where smoking is permitted, including:

- Uncovered restaurant and bar patios
- Workplace building entrances
- Construction sites
- Hotel rooms and other temporary guest accommodations (although many have voluntarily become smoke-free)
- Multi-unit residential buildings where tenants receive care services, such as retirement homes.

The reality is that many workers remain exposed to SHS in the workplace. Bylaws are helping to fill these gaps in certain municipalities, although such smoke-free provisions are considered leading edge. For example, in Ontario, only Huron County prohibits smoking in all hotel rooms and other temporary guest accommodations.^v No bylaw in Ontario prohibits smoking at

construction sites, and smoke-free buffer zones around building entrances are mostly limited to municipal buildings. There are a few exceptions, Toronto (9 m) and Kingston (3 m) being notable; however, these bylaws pertain to public buildings which do not necessarily include all workplaces.^{vi} Public education is needed to raise awareness that no-smoking policies in workplaces that also double as people's homes, such as retirement residences, are legal, enforceable and non-discriminatory. This particular type of multi-unit dwelling should be a priority for public health initiatives: senior citizens who live in retirement residences often have chronic health conditions made worse by exposure to SHS.

Conclusion

The way forward towards more smoke-free workplaces in Ontario could be achieved with a combination of activities and measures. A province-wide campaign and/or regional public education campaigns, similar to "Back to Basics" but targeting certain workplaces, could help to boost compliance in problematic environments such as taxis or various blue collar environments. Amendments to the *SFOA* to include all patios, and eventually hotels, unenclosed construction sites, and all workplace entrances will further entrench smoke-free work environments. This will no doubt continue to be preceded by the passage of more leading edge municipal bylaws, helping to lay the foundation for future comprehensive provincial protection. In the meantime, public education campaigns and smoke-free policy work that targets housing sector stakeholders will continue to play a key role in the changing social norms of smoking and tobacco use in Ontario.

ⁱ Smoke-Free Ontario Act, S.O. 1994, c. 10 http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_94t10_e.htm#BK0.

ⁱⁱ Ontario Tobacco Research Unit. Smoke-Free Ontario Strategy Monitoring Report Executive Summary. Evaluation Update January 2014. http://otru.org/wp-content/uploads/2014/02/OTRU_SMR2013_execsum.pdf.

ⁱⁱⁱ Ontario Tobacco Research Unit. Smoke-Free Ontario Strategy Monitoring Report. Toronto: Ontario Tobacco Research Unit, Special Report, January 2014. <http://otru.org/wp-content/uploads/2014/02/OTRU-SMR-2013.pdf>.

^{iv} Kirst M, McCloy C, Haji F et al. Smoking in Taxis: A Problem-Solving/Community Engagement Approach to Risk-based Enforcement. Ontario Tobacco Research Unit. 2012. <https://www.ptcc-cfc.on.ca/common/pages/UserFile.aspx?fileId=248433>.

^v Non-Smokers' Rights Association. *A Case Study: Huron County's Leading Edge Bylaw*. March 2013. http://www.nsra-adnf.ca/cms/file/files/Huron_County_Bylaw_Case_Study_2013.pdf.

^{vi} Non-Smokers' Rights Association. *Smoke-Free Laws Database*. <http://www.nsra-adnf.ca/cms/smoke-free-laws-database.html>.