

# ASSEMBLY, No. 1024

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Provides that cigar bars and lounges may renew lapsed registration to permit indoor smoking under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning cigar bars and lounges and amending P.L.2005,  
2 c.383.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to  
8 read as follows:

9 5. The provisions of this act shall not apply to:

10 a. any cigar bar or cigar lounge that, in the calendar year  
11 ending December 31, 2004, generated 15% or more of its total  
12 annual gross income from the on-site sale of tobacco products and  
13 the rental of on-site humidors, not including any sales from vending  
14 machines, and is registered with the local board of health in the  
15 municipality in which the bar or lounge is located. The registration  
16 shall remain in effect for one year and shall be renewable only if:  
17 (1) in the preceding calendar year, the cigar bar or lounge generated  
18 15% or more if its total annual gross income from the on-site sale of  
19 tobacco products and the rental of on-site humidors, and (2) the  
20 cigar bar or cigar lounge has not expanded its size or changed its  
21 location since December 31, 2004;

22 b. any tobacco retail establishment, or any area the tobacco  
23 retail establishment provides for the purposes of smoking;

24 c. any tobacco business when the testing of a cigar or pipe  
25 tobacco by heating, burning, or smoking is a necessary and integral  
26 part of the process of making, manufacturing, importing, or  
27 distributing cigars or pipe tobacco;

28 d. private homes, private residences and private automobiles;  
29 **[and]**

30 e. the area within the perimeter of:

31 (1) any casino as defined in section 6 of P.L.1977, c.110  
32 (C.5:12-6) approved by the Casino Control Commission that  
33 contains at least 150 stand-alone slot machines, 10 table games, or  
34 some combination thereof approved by the commission, which  
35 machines and games are available to the public for wagering; and

36 (2) any casino simulcasting facility approved by the Casino  
37 Control Commission pursuant to section 4 of P.L.1992, c.19  
38 (C.5:12-194) that contains a simulcast counter and dedicated seating  
39 for at least 50 simulcast patrons or a simulcast operation and at least  
40 10 table games, which simulcast facilities and games are available  
41 to the public for wagering; and

42 f. any cigar bar or lounge previously registered with the local  
43 board of health pursuant to subsection a. of this section that has,  
44 pursuant to this subsection, renewed that registration following a  
45 period of lapse. A lapsed registration may be renewed only if: (1)

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 no more than five years have elapsed since the date the registration  
2 lapsed, (2) in the calendar year immediately preceding the lapse, the  
3 cigar bar or lounge generated 15% or more of its total annual gross  
4 income from the on-site sale of tobacco products and the rental of  
5 on-site humidors, and (3) the cigar bar or lounge has not expanded  
6 its size or changed its location since December 31, 2004. A  
7 registration renewed pursuant to this subsection shall remain in  
8 effect for one year, and shall be renewable thereafter only if it  
9 meets the requirements for renewal as set forth in this subsection or  
10 subsection a. of this section.

11 (cf: P.L.2005, c.383, s.5)

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13 2. The Commissioner of Human Services shall, pursuant to the  
14 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), adopt such rules and regulations as may be necessary to  
16 implement the provisions of this act.

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18 3. This act shall take effect immediately.

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#### STATEMENT

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23 This bill revises the “New Jersey Smoke-Free Air Act” to permit  
24 cigar bars and lounges with a lapsed exemption from the prohibition  
25 against indoor smoking to renew that exemption under certain  
26 circumstances.

27 The “New Jersey Smoke-Free Air Act” prohibits indoor smoking  
28 in public places; however, it provides certain enumerated  
29 exceptions from the prohibition for certain facilities, including cigar  
30 bars and lounges. To qualify for the exception, the cigar bar or  
31 lounge is required to meet certain structural and ventilation  
32 requirements; in the calendar year ending December 31, 2004, and  
33 each year thereafter, have generated 15% or more of its total annual  
34 gross income from the sale of tobacco products and the rental of on-  
35 site humidors; and not have expanded or changed size since  
36 December 31, 2004. The cigar bar or lounge is additionally  
37 required to register with the local board of health; this registration  
38 lasts for one year and may be renewed only if the cigar bar or  
39 lounge continues to meet the gross revenue requirement and the  
40 requirement that it not have expanded or changed locations.

41 The bill provides that, if a cigar bar or lounge’s exception has  
42 lapsed, the cigar bar or lounge will be permitted to renew the  
43 exception provided that: (1) no more than five years have elapsed  
44 since the date of the lapse; (2) the cigar bar or lounge still qualified  
45 for the exception at the time of the lapse; and (3) the cigar bar or  
46 lounge currently meets the requirements for the exception. A  
47 renewal under the bill will remain in effect for one year, and may  
48 only be renewed thereafter if the cigar bar or lounge continues to

**A1024 JOHNSON, DEANGELO**

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1 meet the requirements for the exception or meets the requirements  
2 to renew a lapsed exception.

3 It is the sponsor's intent to permit establishments that previously  
4 held a cigar bar or lounge exception from the indoor smoking ban,  
5 but had the exception lapse following a period of temporary closure,  
6 to be able to reestablish the exception upon reopening.