

ASSEMBLY, No. 4102

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 4, 2018

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblyman Houghtaling

SYNOPSIS

Allows cigar bars and lounges to renew lapsed exemption from ban on indoor smoking under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2018)

1 AN ACT concerning indoor smoking and amending P.L.2005, c.383.

2

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

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

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

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

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

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

41 f. research laboratories and other facilities that have been
42 approved by the Department of Health to permit smoking for the
43 purpose of medical research related to the health effects of smoking,
44 in an indoor facility that is separately ventilated for the purpose of
45 medical or scientific research that is conducted under physician

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 supervision and has been approved by an Investigational Review
2 Board (IRB), if the facility is used solely and exclusively for
3 clinical research activities; and
4 g. any cigar bar or lounge previously registered with the local
5 board of health pursuant to subsection a. of this section that has, in
6 accordance with the requirements of this subsection, renewed that
7 registration following a period of lapse. A cigar bar or cigar lounge
8 registration which has lapsed may be renewed under this subsection
9 if: (1) no more than 10 years have elapsed since the date the
10 registration lapsed; (2) in the calendar year immediately preceding
11 the lapse, the cigar bar or lounge generated 15 percent or more of its
12 total annual gross income from the on-site sale of tobacco products
13 and the rental of on-site humidors; and (3) the cigar bar or lounge
14 has not expanded its size or changed its location since December
15 31, 2004. A registration renewed pursuant to this subsection shall
16 remain in effect for one year, and shall be renewable thereafter only
17 if it meets the requirements for renewal as set forth in this
18 subsection or subsection a. of this section.

19 (cf: P.L.2017, c.271, s.1)

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21 2. The Commissioner of Health, pursuant to the
22 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
23 seq.), shall adopt such rules and regulations as shall be necessary to
24 implement the provisions of this act.

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26 3. This act shall take effect immediately.

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STATEMENT

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

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

A4102 JOHNSON, DEANGELO

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1 The bill provides that, if a cigar bar or lounge's exemption has
2 lapsed, the cigar bar or lounge will be permitted to renew the
3 exemption, provided that: (1) no more than 10 years have elapsed
4 since the date of the lapse; (2) the cigar bar or lounge still qualified
5 for the exemption at the time of the lapse; and (3) the cigar bar or
6 lounge currently meets the requirements for the exemption. A
7 renewal under the bill will remain in effect for one year, and may
8 only be renewed thereafter if the cigar bar or lounge continues to
9 meet the requirements for the exemption or meets the requirements
10 to renew a lapsed exemption.