

[First Reprint]

ASSEMBLY, No. 4102

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 4, 2018

Sponsored by:

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District 37 (Bergen)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Senator LORETTA WEINBERG

District 37 (Bergen)

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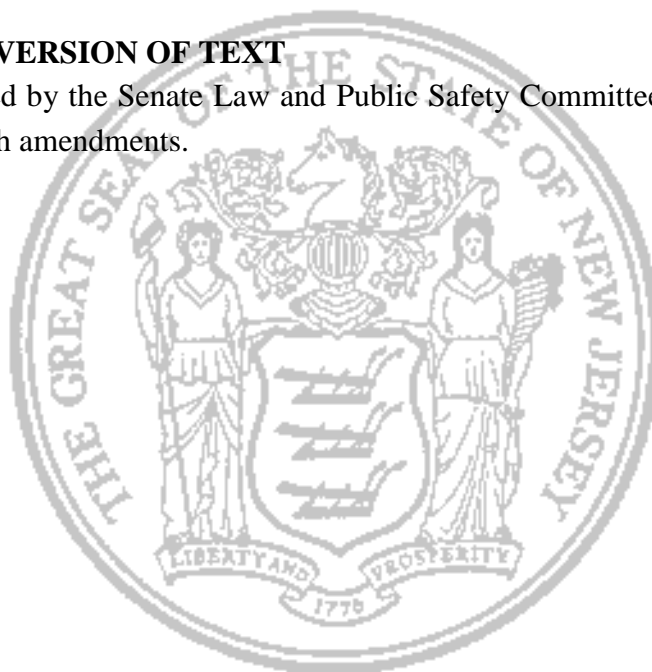
Assemblyman Houghtaling

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on September 17, 2018, with amendments.



(Sponsorship Updated As Of: 9/28/2018)

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:

5

6 ¹**[**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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted September 17, 2018.

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

20 (cf: P.L.2017, c.271, s.1)]¹

21

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

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

25 a. any cigar bar or cigar lounge that, in the calendar year
26 ending December 31, 2004, generated **【15%】** 15 percent or more of
27 its total annual gross income from the on-site sale of tobacco
28 products and the rental of on-site humidors, not including any sales
29 from vending machines, and is registered with the local board of
30 health in the municipality in which the bar or lounge is located.
31 The registration shall remain in effect for one year and shall be
32 renewable only if: (1) in the preceding calendar year, the cigar bar
33 or lounge generated **【15%】** 15 percent or more of its total annual
34 gross income from the on-site sale of tobacco products and the
35 rental of on-site humidors, and (2) the cigar bar or cigar lounge has
36 not expanded its size or changed its location since December 31,
37 2004;

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

40 c. any tobacco business when the testing of a cigar or pipe
41 tobacco by heating, burning or smoking is a necessary and integral
42 part of the process of making, manufacturing, importing, or
43 distributing cigars or pipe tobacco;

44 d. private homes, private residences and private automobiles;

45 e. the area within the perimeter of:

46 (1) any casino as defined in section 6 of P.L.1977, c.110
47 (C.5:12-6) approved by the Casino Control Commission that
48 contains at least 150 stand-alone slot machines, 10 table games, or

1 some combination thereof approved by the commission, which
2 machines and games are available to the public for wagering; and

3 (2) any casino simulcasting facility approved by the Casino
4 Control Commission pursuant to section 4 of P.L.1992, c.19
5 (C.5:12-194) that contains a simulcast counter and dedicated seating
6 for at least 50 simulcast patrons or a simulcast operation and at least
7 10 table games, which simulcast facilities and games are available
8 to the public for wagering;

9 f. research laboratories and other facilities that have been
10 approved by the Department of Health to permit smoking for the
11 purpose of medical research related to the health effects of smoking,
12 in an indoor facility that is separately ventilated for the purpose of
13 medical or scientific research that is conducted under physician
14 supervision and has been approved by an Investigational Review
15 Board (IRB), if the facility is used solely and exclusively for
16 clinical research activities;

17 g. a golf course; **[and]**

18 h. an area of a municipal or county beach, not to exceed 15
19 percent of the total area of the beach, which is designated by the
20 municipality or county by ordinance or resolution as a smoking
21 area; and

22 i. any cigar bar or lounge previously registered with the local
23 board of health pursuant to subsection a. of this section that has, in
24 accordance with the requirements of this subsection, renewed that
25 registration following a period of lapse. A cigar bar or cigar lounge
26 registration which has lapsed may be renewed under this subsection
27 if: (1) no more than 10 years have elapsed since the date the
28 registration lapsed; (2) in the calendar year immediately preceding
29 the lapse, the cigar bar or lounge generated 15 percent or more of its
30 total annual gross income from the on-site sale of tobacco products
31 and the rental of on-site humidors; and (3) the cigar bar or lounge
32 has not expanded its size or changed its location since December
33 31, 2004. A registration renewed pursuant to this subsection shall
34 remain in effect for one year, and shall be renewable thereafter only
35 if it meets the requirements for renewal as set forth in this
36 subsection or subsection a. of this section.¹

37 (cf: P.L.2018, c.64, s.4)

38

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

43

44 3. This act shall take effect immediately.