

P.L. 2018, CHAPTER 158, *approved December 17, 2018*
Assembly, No. 4102 (*First Reprint*)

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]**

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 f. research laboratories and other facilities that have been
2 approved by the Department of Health to permit smoking for the
3 purpose of medical research related to the health effects of smoking,
4 in an indoor facility that is separately ventilated for the purpose of
5 medical or scientific research that is conducted under physician
6 supervision and has been approved by an Investigational Review
7 Board (IRB), if the facility is used solely and exclusively for
8 clinical research activities; and

9 g. any cigar bar or lounge previously registered with the local
10 board of health pursuant to subsection a. of this section that has, in
11 accordance with the requirements of this subsection, renewed that
12 registration following a period of lapse. A cigar bar or cigar lounge
13 registration which has lapsed may be renewed under this subsection
14 if: (1) no more than 10 years have elapsed since the date the
15 registration lapsed; (2) in the calendar year immediately preceding
16 the lapse, the cigar bar or lounge generated 15 percent or more of its
17 total annual gross income from the on-site sale of tobacco products
18 and the rental of on-site humidors; and (3) the cigar bar or lounge
19 has not expanded its size or changed its location since December
20 31, 2004. A registration renewed pursuant to this subsection shall
21 remain in effect for one year, and shall be renewable thereafter only
22 if it meets the requirements for renewal as set forth in this
23 subsection or subsection a. of this section.

24 (cf: P.L.2017, c.271, s.1)]¹

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

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

29 a. any cigar bar or cigar lounge that, in the calendar year
30 ending December 31, 2004, generated **[15%]** 15 percent or more of
31 its total annual gross income from the on-site sale of tobacco
32 products and the rental of on-site humidors, not including any sales
33 from vending machines, and is registered with the local board of
34 health in the municipality in which the bar or lounge is located.
35 The registration shall remain in effect for one year and shall be
36 renewable only if: (1) in the preceding calendar year, the cigar bar
37 or lounge generated **[15%]** 15 percent or more of its total annual
38 gross income from the on-site sale of tobacco products and the
39 rental of on-site humidors, and (2) the cigar bar or cigar lounge has
40 not expanded its size or changed its location since December 31,
41 2004;

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

44 c. any tobacco business when the testing of a cigar or pipe
45 tobacco by heating, burning or smoking is a necessary and integral
46 part of the process of making, manufacturing, importing, or
47 distributing cigars or pipe tobacco;

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

- 1 e. the area within the perimeter of:
- 2 (1) any casino as defined in section 6 of P.L.1977, c.110
3 (C.5:12-6) approved by the Casino Control Commission that
4 contains at least 150 stand-alone slot machines, 10 table games, or
5 some combination thereof approved by the commission, which
6 machines and games are available to the public for wagering; and
7 (2) any casino simulcasting facility approved by the Casino
8 Control Commission pursuant to section 4 of P.L.1992, c.19
9 (C.5:12-194) that contains a simulcast counter and dedicated seating
10 for at least 50 simulcast patrons or a simulcast operation and at least
11 10 table games, which simulcast facilities and games are available
12 to the public for wagering;
- 13 f. research laboratories and other facilities that have been
14 approved by the Department of Health to permit smoking for the
15 purpose of medical research related to the health effects of smoking,
16 in an indoor facility that is separately ventilated for the purpose of
17 medical or scientific research that is conducted under physician
18 supervision and has been approved by an Investigational Review
19 Board (IRB), if the facility is used solely and exclusively for
20 clinical research activities;
- 21 g. a golf course; **[and]**
- 22 h. an area of a municipal or county beach, not to exceed 15
23 percent of the total area of the beach, which is designated by the
24 municipality or county by ordinance or resolution as a smoking
25 area; and
- 26 i. any cigar bar or lounge previously registered with the local
27 board of health pursuant to subsection a. of this section that has, in
28 accordance with the requirements of this subsection, renewed that
29 registration following a period of lapse. A cigar bar or cigar lounge
30 registration which has lapsed may be renewed under this subsection
31 if: (1) no more than 10 years have elapsed since the date the
32 registration lapsed; (2) in the calendar year immediately preceding
33 the lapse, the cigar bar or lounge generated 15 percent or more of its
34 total annual gross income from the on-site sale of tobacco products
35 and the rental of on-site humidors; and (3) the cigar bar or lounge
36 has not expanded its size or changed its location since December
37 31, 2004. A registration renewed pursuant to this subsection shall
38 remain in effect for one year, and shall be renewable thereafter only
39 if it meets the requirements for renewal as set forth in this
40 subsection or subsection a. of this section.¹
- 41 (cf: P.L.2018, c.64, s.4)
- 42
- 43 2. The Commissioner of Health, pursuant to the
44 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
45 seq.), shall adopt such rules and regulations as shall be necessary to
46 implement the provisions of this act.
- 47
- 48 3. This act shall take effect immediately.

A4102 [1R]

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