

Qualifications for a Cigar Bar Exemption to the Smoke-Free Air Law

Updated 4/29/10

- Cigar bars must already be in existence by May 1.
- Have 10% or more of gross annual income from cigar sales and from rental of an on-site humidor. (The 90% of sales may be from food/drinks from the restaurant and/or bar area of the business. If the sale from food and drinks exceeds 90% of the gross, the business would lose the cigar bar designation.)
- Owners must file an affidavit and be approved in order to continue to allow smoking.
- The Department may request further information from cigar bar applicant to verify it meets the requirements.
- If the affidavit isn't filed by 21 days after the due date, the cigar bar is not exempt and must prohibit smoking.
- If the cigar bar is part of a larger establishment, it must be physically separated from the area where smoking is prohibited, and the smoke may not infiltrate the smoke-free area. The cigar bar must be enclosed on all sides with a door, four walls, and/or windows that extend from floor to ceiling. See schematic below.
- No one under 18 years old is allowed admittance into the cigar bar.
- Cigars must retail for over \$1 per cigar.
- Smoking other tobacco products in the cigar bar is prohibited.
- You must contact the state or local jurisdiction's mechanical division for an evaluation of your ventilation systems to determine adequacy. In order to obtain a certificate of occupancy you will need to get the required permits and final inspections from all disciplines involved. See http://www.michigan.gov/documents/dleg/dleg_bcc_statewide_jurisdiction_list_241251_7.pdf

**STATE OF MICHIGAN
APPLICATION FOR CIGAR BAR EXEMPTION
FROM THE SMOKE FREE LAW**

INSTRUCTIONS

This form is to be used to apply for certification for the “cigar bar” exemption from the smoking prohibition of the Smoke Free Law. Exemptions are granted on a location by location basis. Therefore the Applicant must fill out an Affidavit for each cigar bar he or she owns or operates. Completion of this form does not guarantee that the establishment will be exempted. The establishment must receive written approval of the exemption.

DEFINITIONS

Following are definitions or partial definitions of word and terms used in this application, as defined by the Smoke Free Law, the Tobacco Products Tax Act, and the guidelines as developed by the Michigan Department of Community Health thereunder:

“Applicant” means an establishment or an establishment’s agent, and includes an applicant for a renewal certificate.

“Application” means an establishment’s affidavit to the department for a certificate, and includes any supporting materials.

“Cigar” means any roll of tobacco weighing 3 or more pounds per 1,000, which roll has a wrapper or cover consisting only of tobacco.

“Cigarette” means a roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, which roll has a wrapper or cover made of paper or any other material. Cigarette does not include cigars.

“Department” means the Michigan Department of Community Health.

“Establishment” means a place of business, commerce or other service-related activity that encompasses a single, contiguous physical location. “Establishment” does not refer solely to a subsection or partition of a business location (e.g. a subsection of a restaurant), but refers to the business establishment as a whole.

“Infiltration” means to enter, permeate, or pass through a substance or area by filtering or by insinuating gradually

“Humidor” means an enclosure or fixture that is stationary and used for the humidification of cigars that is on the premises of the establishment.

“Rental of On-Site Humidor” means rental of space in an establishment to individuals for purposes of personal cigar humidification.

“Smoking paraphernalia” means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.

PLEASE NOTE: Upon receipt of the Application for Exemption and supporting documents, additional information may be requested from Applicant to complete our review of the application.

Applicant will be notified in writing if request for exemption is granted or denied.

Applications must be filled out for each physical location where a cigar bar is housed. The initial application must be filed on or before June 1, 2010. If the initial application is accepted and the exemption is granted, you are **required** to file a renewal application after January 1 and prior to January 31 of each subsequent year of the initial application.

Applications must be **FILLED OUT COMPLETELY, SIGNED, AND NOTARIZED** in order to be accepted by the Department. All **INCOMPLETE APPLICATIONS** will be denied and returned for completion, causing a delay in our consideration of your request for exemption.

IF ALL REQUIRED INFORMATION IS NOT ATTACHED, THIS WILL RESULT IN DENIAL OF THE APPLICATION FOR EXEMPTION.

PLEASE NOTE: You must notify the Department of any change(s) in the information you submit.

Completed applications must be sent to and received on or before June 1, 2010:

**Michigan Department of Community Health
Tobacco Section – Affidavit Review
PO Box 30195
Lansing, MI 48913**

CHECKLIST

- Completed application for Cigar Bar Exemption
- Copies of the Operator's deed(s) or lease(s) to the premises at which the proposed exempt establishment is located as of May 1, 2010
- Copy of the Tobacco Products Tax License for the establishment. If your establishment does not have a Tobacco Products Tax License, you must provide valid proof that all state excise taxes on tobacco products have been paid.
- Copy of the current certificates of occupancy for the premises at which the proposed exempt establishment is located as of April 1, 2010 to the date of this application

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Applicant Information

1. Business Name of Proposed Cigar Bar (hereinafter the "Establishment"):

2. Federal Employer Identification Number:

3. Street Address of Establishment Applying for Exemption (separate application must be submitted for each location):

City:

State:

Zip Code:

4. Telephone Number of Establishment:

5. Name of Owner of Establishment:

6. Mailing Address of Establishment (if different from address provided in Question 2 above):

City:

State:

Zip Code:

7. This application is being made by the (select one):

Owner of the Establishment

Operator of the Establishment

8. Name of Establishment Operator:

9. Street Address of Establishment Operator

City:

State:

Zip Code:

10. Mailing Address of Establishment Operator (if different from address provided in Question 9 above):

City

State:

Zip Code:

11. Telephone Number of Est. Operator:

11b. Email Address of Est. Operator

12. Check one:

- I attach hereto copies of the Owner's or Operator's deed(s) to the premises at which the proposed exempt establishment is located as of May 1, 2010 to the date of this application.

-OR-

- I attach hereto copies of the Owner's or Operator's lease(s) to the premises at which the proposed exempt establishment is located as of May 1, 2010 to the date of this application.

13. I attach hereto the following supporting documentation:

Copy of the Tobacco Products Tax License for the establishment. If your establishment

- does not have a Tobacco Products Tax License, you must provide valid proof that all state excise taxes on tobacco products have been paid.

a. I verify that this license was acquired prior to April 1, 2010 _____. (Please initial)

- Copies of the current certificates of occupancy for the premises at which the proposed exempt establishment is located as of April 1, 2010 to the date of this application.

14. I attest that the proposed exempt establishment meets the following requirements (please initial):

- a. In the 30-day period immediately preceding May 1, 2010, the establishment generated 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors. _____
- b. The cigar bar is located on premises that are physically separated from any areas of the same or adjacent establishment in which smoking is prohibited under the Smoke Free Air law and where smoke does not infiltrate into those nonsmoking areas. For purposes of this Affidavit and under the Smoke Free Air law, I understand that "physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from floor to ceiling. _____
- c. The cigar bar has installed on its premises an on-site humidor. _____

- d. The cigar bar prohibits entry to a person under the age of 18 during the time the establishment is open for business. _____
 - e. The cigar bar allows only the smoking of cigars on the premises that retail for over \$1.00 per cigar. _____
 - f. The cigar bar prohibits the smoking of all other tobacco products. _____
15. I understand that in order to qualify for this exemption, I must file an affidavit with the department on or before June 1, 2010 and after January 1 but before January 31 of each subsequent year.
16. The primary purpose of the cigar bar is the smoking of cigars and the sale of cigars.
17. I am aware that the information contained in this application is subject to reporting to and auditing by the State of Michigan Department of the Treasury, the Michigan Department of Community Health, or both.
18. I swear this affidavit is true and understand that a person who makes a false statement in an affidavit under MCL 333.12611 is guilty of perjury under section 423 of the Michigan penal code, 1931 PA, MCL 750.423 and is subject to the penalties as set forth in this statute.

19. Signature of Owner or Operator

20. Date

State of _____

County of _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public of the State Of Michigan

MY COMMISSION EXPIRES: _____.

By _____
Notary Signature

For Office Use Only:

Application Received: _____ Application Reviewed On: _____ By: _____

Compliance

Non-Compliance (Action Needed)