

STATE OF MICHIGAN
APPLICATION FOR TOBACCO SPECIALTY RETAIL STORE EXEMPTION
FROM THE SMOKE FREE LAW
Updated 5/19/2010

INSTRUCTIONS

This form is to be used to apply for certification for the “tobacco specialty retail store” 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 tobacco specialty retail store 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

“Noncigarette smoking tobacco” means tobacco sold in loose or bulk form that is intended for consumption by smoking and includes roll-your-own cigarette tobacco.

“Smokeless tobacco” means snuff, chewing tobacco, and any other tobacco that is intended to be consumed by means other than smoking.

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

“Tobacco product” means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, and cigars.

“Tobacco specialty retail store” means an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

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.

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 Tobacco Specialty Retail Store 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 cigarettes, roll your own, and other 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

**STATE OF MICHIGAN
APPLICATION FOR TOBACCO SPECIALTY RETAIL STORE CERTIFICATION**

Applicant Information

1. Business Name of Proposed Tobacco Specialty Retail Store (hereinafter the "Establishment"):

2. Federal Employer Identification Number:

3. Street Address of Establishment Applying for Exemption:

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 cigarettes, roll your own, and other 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 75% or more of its total gross annual income from the on-site sale of tobacco products and smoking paraphernalia, not including sales from vending machines. _____
- b. The establishment 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 establishment prohibits entry to a person under the age of 18 during the time the establishment is open for business. _____

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. I understand that if food preparation, food service, or other related activities that would require a food service license, are found at the proposed exempt establishment, then the establishment will not be granted an exemption. _____ (please initial)

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 Authorized Representative

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