

# HOUSE BILL NO. 6109

May 18, 2022, Introduced by Rep. Brann and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 12606a (MCL 333.12606a), as added by 2009 PA  
188.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 12606a. (1) A cigar bar in existence on ~~the effective~~  
2 ~~date of this section~~ **May 1, 2010** that meets all of the requirements  
3 of this section is exempt from the smoking prohibition of section  
4 12603 and may allow smoking on its premises. To qualify for the  
5 exemption under this section, the person ~~who~~ **that** owns or operates

1 a cigar bar shall file an affidavit with the department on or  
2 before the expiration of 30 days after ~~the effective date of this~~  
3 ~~section~~ **May 1, 2010** and on January 31 of each year after ~~the~~  
4 ~~effective date of this section.~~ **May 1, 2010**. The affidavit shall  
5 **must** be signed by the owner or operator of the cigar bar and ~~shall~~  
6 **must** certify that the cigar bar was in existence on ~~the effective~~  
7 ~~date of this section~~ **May 1, 2010** and that it meets all of the  
8 following requirements:

9 (a) In the 30-day period immediately preceding ~~the effective~~  
10 ~~date of this section,~~ **May 1, 2010**, the cigar bar generated 10% or  
11 more of its total gross annual income from the on-site sale of  
12 cigars and the rental of on-site humidors.

13 (b) For each calendar year after the calendar year in which  
14 the first affidavit is filed under this subsection, the cigar bar  
15 generates 10% or more of its total gross annual income from the on-  
16 site sale of cigars and the rental of on-site humidors.

17 (c) The cigar bar is located on premises that are physically  
18 separated from any areas of the same or adjacent establishment in  
19 which smoking is prohibited under this part or part 129 and where  
20 smoke does not infiltrate into those nonsmoking areas. As used in  
21 this subdivision, "physically separated" means an area that is  
22 enclosed on all sides by any combination of solid walls, windows,  
23 or doors that extend from the floor to ceiling.

24 (d) The cigar bar has installed on its premises an on-site  
25 humidor.

26 (e) The cigar bar prohibits entry to a person under the age of  
27 ~~18-21~~ during the time the cigar bar is open for business.

28 (f) The cigar bar allows only the smoking of cigars on the  
29 premises that retail for over \$1.00 per cigar.

1 (g) The cigar bar prohibits the smoking of all other tobacco  
2 products.

3 (2) A tobacco specialty retail store in existence on ~~the~~  
4 ~~effective date of this section~~ **May 1, 2010** that meets all of the  
5 requirements of this section is exempt from the smoking prohibition  
6 of section 12603 and may allow smoking on its premises. To qualify  
7 for the exemption under this section, the person who owns or  
8 operates a tobacco specialty retail store shall file an affidavit  
9 with the department on or before the expiration of 30 days after  
10 ~~the effective date of this section~~ **May 1, 2010** and on January 31 of  
11 each year after ~~the effective date of this section~~. **May 1, 2010**.  
12 The affidavit ~~shall~~ **must** be signed by the owner or operator of the  
13 tobacco specialty retail store and ~~shall~~ **must** certify that the  
14 tobacco specialty retail store was in existence on ~~the effective~~  
15 ~~date of this section~~ **May 1, 2010** and that it meets all of the  
16 following requirements:

17 (a) In the 30-day period immediately preceding ~~the filing of~~  
18 ~~the effective date of this section~~, **May 1, 2010**, the tobacco  
19 specialty retail store generated 75% or more of its total gross  
20 annual income from the on-site sale of tobacco products and smoking  
21 paraphernalia.

22 (b) For each calendar year after the calendar year in which  
23 the first affidavit is filed under this subsection, the tobacco  
24 specialty retail store generated 75% or more of its total gross  
25 annual income from the on-site sale of tobacco products and smoking  
26 paraphernalia.

27 (c) The tobacco specialty retail store is located on premises  
28 that are physically separated from any areas of the same or  
29 adjacent establishments in which smoking is prohibited under this

1 part or part 129 and where smoke does not infiltrate into those  
2 nonsmoking areas. As used in this subdivision, "physically  
3 separated" means an area that is enclosed on all sides by any  
4 combination of solid walls, windows, or doors that extend from the  
5 floor to ceiling.

6 (d) The tobacco specialty retail store prohibits entry to a  
7 person under the age of ~~18~~21 during the time the tobacco specialty  
8 retail store is open for business.

9 (3) The department may request additional information from a  
10 cigar bar or tobacco specialty retail store to verify that the  
11 cigar bar or tobacco specialty retail store meets the requirements  
12 of this section. A cigar bar or tobacco specialty retail store  
13 shall comply with requests from the department under this section.

14 (4) Except as otherwise provided in this subsection, a cigar  
15 bar or tobacco specialty retail store that does not meet the  
16 requirements of this section or violates this section is not exempt  
17 from the smoking prohibition of section 12603 and shall immediately  
18 prohibit smoking on its premises. A cigar bar or tobacco specialty  
19 retail store that meets all of the requirements of this section  
20 other than filing the affidavit as required under subsection (1) or  
21 (2), retains its exemption and may continue to allow smoking during  
22 the period beginning on the date the affidavit is due and ending on  
23 the expiration of 21 days after that date. However, if the  
24 affidavit remains unfiled after the 21-day grace period, the cigar  
25 bar or tobacco specialty retail store is not exempt from the  
26 smoking prohibition of section 12603 and shall immediately prohibit  
27 smoking on its premises. A cigar bar or tobacco specialty retail  
28 store that loses its exemption under this subsection is not exempt  
29 from the smoking prohibition of section 12603, shall immediately

1 prohibit smoking on its premises, and may only again qualify for  
2 the exemption under this section by filing an affidavit and meeting  
3 all of the requirements of subsection (1) or (2), as applicable.

4 Enacting section 1. This amendatory act does not take effect  
5 unless all of the following bills of the 101st Legislature are  
6 enacted into law:

7 (a) Senate Bill No. 576.

8 (b) Senate Bill No. 577.

9 (c) Senate Bill No. 720.

10 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 6108 (request no.  
11 06272'22).