

HOUSE BILL NO. 5555

March 12, 2024, Introduced by Reps. Farhat, Slagh, Scott, Wilson, Dievendorf, Edwards, Neeley, Harris, Bezotte, Beeler and Filler 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 amended by 2023 PA
318.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12606a. (1) A cigar bar in existence on May 1, 2010 that
2 meets the requirements of this section is exempt from the smoking
3 prohibition of section 12603 and may allow smoking on its premises.
4 Except as ~~otherwise~~ provided in subsection (3), to qualify for the
5 exemption under this section, the person that owns or operates a

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

7 (a) In the 30-day period immediately preceding May 1, 2010,
8 the cigar bar generated 10% or more of its total gross annual
9 income from the on-site sale of cigars and the rental of on-site
10 humidors.

11 (b) Except as ~~otherwise~~ provided in this subdivision, the
12 cigar bar generates 10% or more of its total gross annual income
13 from the on-site sale of cigars and the rental of on-site humidors
14 for each calendar year after the calendar year in which the first
15 affidavit is filed under this subsection. If the cigar bar has
16 qualified for the exemption under this section pursuant to
17 subsection (2), the requirement under this subdivision does not
18 include the 3 calendar years immediately preceding the calendar
19 year in which the affidavit under subsection (2) was filed.

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

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

29 (e) The cigar bar prohibits entry to an individual who is less

1 than 21 years of age during the time the cigar bar is open for
2 business.

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

5 (g) The cigar bar prohibits the smoking of all other tobacco
6 products.

7 (2) For 1 calendar year only, a cigar bar qualifies for the
8 exemption under this section if an affidavit, signed by the person
9 that owns or operates the cigar bar, is filed with the department
10 and certifies that all of the following circumstances apply to the
11 cigar bar:

12 (a) The cigar bar is located in a city with a population of
13 more than 32,000 and less than 34,000 that is located in a county
14 with a population of more than 100,000 and less than 105,000.

15 (b) Not earlier than 2023, the cigar bar failed to file an
16 affidavit under subsection (1) for not less than 1 calendar year
17 and not more than 3 calendar years.

18 (c) The cigar bar has not previously filed an affidavit under
19 this subsection.

20 (3) If a cigar bar has qualified for the exemption under this
21 section pursuant to subsection (2), the cigar bar's affidavit
22 filing requirement under subsection (1) does not include the range
23 of calendar years described in subsection (2)(b), as applicable to
24 the cigar bar.

25 (4) A tobacco specialty retail store in existence on May 1,
26 2010 that meets the requirements of this section is exempt from the
27 smoking prohibition of section 12603 and may allow smoking on its
28 premises. To qualify for the exemption under this section, the
29 person that owns or operates a tobacco specialty retail store must

1 file an affidavit with the department on or before the expiration
2 of 30 days after May 1, 2010 and on January 31 of each year after
3 May 1, 2010. The affidavit must be signed by the owner or operator
4 of the tobacco specialty retail store and must certify that the
5 tobacco specialty retail store was in existence on May 1, 2010 and
6 that it meets all of the following requirements:

7 (a) In the 30-day period immediately preceding May 1, 2010,
8 the tobacco specialty retail store generated 75% or more of its
9 total gross annual income from the on-site sale of tobacco products
10 and smoking paraphernalia.

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

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

24 (d) The tobacco specialty retail store prohibits entry to an
25 individual who is less than 21 years of age during the time the
26 tobacco specialty retail store is open for business.

27 **(e) For each calendar year after the calendar year in which**
28 **the first affidavit is filed under subsection (5), the tobacco**
29 **specialty retail store has not been exempt from the smoking**

1 prohibition of section 12603 as a hookah lounge.

2 (5) A hookah lounge that meets the requirements of this
 3 section is exempt from the smoking prohibition of section 12603 as
 4 a hookah lounge, is not exempt from the smoking prohibition of
 5 section 12603 as a tobacco specialty retail store, and may allow
 6 smoking on its premises. To qualify for the exemption under this
 7 section, not later than the thirtieth day immediately after the
 8 effective date of the amendatory act that added this sentence and
 9 on January 31 of each subsequent calendar year, the person that
 10 owns or operates a hookah lounge must file an affidavit with the
 11 department. The affidavit must be signed by the owner or operator
 12 of the hookah lounge and must certify that the hookah lounge meets
 13 all of the following requirements:

14 (a) On the effective date of the amendatory act that added
 15 this sentence, the hookah lounge was a tobacco specialty retail
 16 store exempt from the smoking prohibition of section 12603.

17 (b) The hookah lounge is located on premises that are
 18 physically separated from any areas of the same or adjacent
 19 establishment in which smoking is prohibited under this part or
 20 part 129 and where smoke does not infiltrate into those nonsmoking
 21 areas.

22 (c) The hookah lounge prohibits entry to an individual who is
 23 less than 21 years of age during the time the hookah lounge is open
 24 for business.

25 (6) ~~(5)~~—The department may request additional information from
 26 a cigar bar, ~~or~~ tobacco specialty retail store, **or hookah lounge** to
 27 verify that the cigar bar, ~~or~~ tobacco specialty retail store, **or**
 28 **hookah lounge** meets the requirements of this section. A cigar bar,
 29 ~~or~~ tobacco specialty retail store, **or hookah lounge** shall comply

1 with requests from the department under this section.

2 (7) ~~(6)~~ Except as ~~otherwise~~ provided in this subsection, a
 3 cigar bar, ~~or~~ tobacco specialty retail store, **or hookah lounge** that
 4 does not meet the requirements of this section or violates this
 5 section is not exempt from the smoking prohibition of section 12603
 6 and shall immediately prohibit smoking on its premises. A cigar
 7 bar, ~~or~~ tobacco specialty retail store, **or hookah lounge** that meets
 8 the requirements of this section, other than filing the affidavit
 9 as required under subsection (1), ~~or~~ (4), **or (5)**, retains its
 10 exemption and may continue to allow smoking during the period
 11 beginning on the date the affidavit is due and ending on the
 12 expiration of 21 days after that date. However, if the affidavit
 13 remains unfiled after the 21-day grace period, the cigar bar, ~~or~~
 14 tobacco specialty retail store, **or hookah lounge** is not exempt from
 15 the smoking prohibition of section 12603 and shall immediately
 16 prohibit smoking on its premises. A cigar bar, ~~or~~ tobacco specialty
 17 retail store, **or hookah lounge** that loses its exemption under this
 18 subsection is not exempt from the smoking prohibition of section
 19 12603, shall immediately prohibit smoking on its premises, and may
 20 only again qualify for the exemption under this section by filing
 21 an affidavit and meeting the requirements of subsection (1), (2),
 22 ~~or~~ (4), **or (5)**, as applicable.

23 (8) **This section does not prohibit a cigar bar or hookah**
 24 **lounge that meets the requirements of this section from obtaining 1**
 25 **or more of the following:**

- 26 (a) **A liquor license.**
- 27 (b) **A food license.**
- 28 (c) **A restaurant license.**

29 Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No. _____ or House Bill No. 5554 (request no.
- 2 05543'24) of the 102nd Legislature is enacted into law.