

Act No. 168
Public Acts of 2022
Approved by the Governor
July 21, 2022
Filed with the Secretary of State
July 21, 2022
EFFECTIVE DATE: July 21, 2022

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Rep. Brann

ENROLLED HOUSE BILL No. 6109

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 12606a (MCL 333.12606a), as added by 2009 PA 188.

The People of the State of Michigan enact:

Sec. 12606a. (1) A cigar bar in existence on May 1, 2010 that meets all of the requirements of this section is exempt from the smoking prohibition of section 12603 and may allow smoking on its premises. To qualify for the exemption under this section, the person that owns or operates a cigar bar shall file an affidavit with the department on or before the expiration of 30 days after May 1, 2010 and on January 31 of each year after May 1, 2010. The affidavit must be signed by the owner or operator of the cigar bar and must certify that the cigar bar was in existence on May 1, 2010 and that it meets all of the following requirements:

(a) In the 30-day period immediately preceding May 1, 2010, the cigar bar 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) For each calendar year after the calendar year in which the first affidavit is filed under this subsection, the cigar bar generates 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors.

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

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

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

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

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

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

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

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

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

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

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

(4) Except as otherwise provided in this subsection, a cigar bar or tobacco specialty retail store that does not meet the requirements of this section or violates this section is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that meets all of the requirements of this section other than filing the affidavit as required under subsection (1) or (2), retains its exemption and may continue to allow smoking during the period beginning on the date the affidavit is due and ending on the expiration of 21 days after that date. However, if the affidavit remains unfilled after the 21-day grace period, the cigar bar or tobacco specialty retail store is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that loses its exemption under this subsection is not exempt from the smoking prohibition of section 12603, shall immediately prohibit smoking on its premises, and may only again qualify for the exemption under this section by filing an affidavit and meeting all of the requirements of subsection (1) or (2), as applicable.

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

- (a) Senate Bill No. 576.
- (b) Senate Bill No. 577.
- (c) Senate Bill No. 720.
- (d) House Bill No. 6108.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives

Secretary of the Senate

Approved _____

Governor