

HOUSE BILL No. 4651

April 30, 2013, Introduced by Reps. Singh, Schor and Cavanagh 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, 2012** 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 owns or operates a
6 cigar bar shall file an affidavit with the department on or before
7 ~~the expiration of 30 days after the effective date of this section~~
8 **MAY 31, 2010** and on January 31 of each **SUBSEQUENT** year. ~~after the~~
9 ~~effective date of this section.~~ The affidavit shall be signed by

1 the owner or operator of the cigar bar and shall certify that the
2 cigar bar was in existence on ~~the effective date of this section~~
3 **MAY 1, 2010** and that it meets all of the following requirements:

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

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

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

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

21 (e) The cigar bar prohibits entry to a person under the age of
22 18 during the time the cigar bar is open for business.

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

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

27 (2) A tobacco specialty retail store in existence on ~~the~~

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

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

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

24 (c) The tobacco specialty retail store is located on premises
25 that are physically separated from any areas of the same or
26 adjacent establishments in which smoking is prohibited under this
27 part or part 129 and where smoke does not infiltrate into those

1 nonsmoking areas. As used in this subdivision, "physically
2 separated" means an area that is enclosed on all sides by any
3 combination of solid walls, windows, or doors that extend from the
4 floor to ceiling.

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

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

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

1 from the smoking prohibition of section 12603, shall immediately
2 prohibit smoking on its premises, and may only again qualify for
3 the exemption under this section by filing an affidavit and meeting
4 all of the requirements of subsection (1) or (2), as applicable.

5 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
6 EXEMPTION GRANTED UNDER THIS SECTION TO A CIGAR BAR OR A TOBACCO
7 SPECIALTY RETAIL STORE IS NOT TRANSFERABLE TO ANY OTHER CIGAR BAR
8 OR TOBACCO SPECIALTY RETAIL STORE. UNLESS THE GOVERNING BODY OF THE
9 CITY, VILLAGE, OR TOWNSHIP TO WHICH THE CIGAR BAR OR TOBACCO
10 SPECIALTY RETAIL STORE RELOCATES APPROVES THE EXEMPTION TRANSFER,
11 AN EXEMPTION GRANTED TO A CIGAR BAR OR A TOBACCO SPECIALTY RETAIL
12 STORE DOES NOT APPLY AT ANY LOCATION OTHER THAN THE LOCATION OF THE
13 CIGAR BAR OR THE TOBACCO SPECIALTY RETAIL STORE ON THE DATE THE
14 EXEMPTION WAS ORIGINALLY GRANTED. THIS SUBSECTION DOES NOT
15 INVALIDATE THE TRANSFER OF AN EXEMPTION FOR A CIGAR BAR OR TOBACCO
16 SPECIALTY RETAIL STORE THAT THE DEPARTMENT OF COMMUNITY HEALTH
17 AUTHORIZED BEFORE SEPTEMBER 1, 2013.