

**APPENDIX A**  
**STATE OF NEW JERSEY**  
**APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE**  
**(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**  
**INSTRUCTIONS**

This form is to be used to apply for the exemption of certain cigar bars and cigar lounges from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq. Applicants must submit Section 1 and 2. Section 1 is to be completed by the applicant. Section 2 must be completed by a New Jersey licensed Certified Public Accountant. If the proposed exempt cigar bar or cigar lounge is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq., the applicant must also submit Section 3. Section 3 must be completed by New Jersey Registered Architect or a New Jersey Licensed Professional Engineer. The applicant must submit the completed forms to the local health agency with jurisdiction over the municipality in which the establishment is located. The local health agency will not process an incomplete application.

Following are definitions of words and terms used in Section 1 pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Backstream"** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**"Cigar bar"** means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Cigar lounge"** means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco product" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59a exempts from the provisions of the New Jersey Smoke-Free Air Act the following:

any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if: (1) in the preceding calendar year, the cigar bar or lounge generated 15% or more if its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004;

\* \* \*

STATE OF NEW JERSEY  
APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

SECTION 1  
Affidavit of Business Operator

1. This application is to register an establishment as a (check one):

Cigar Bar       Cigar Lounge

2. Business Name of Proposed Exempt Cigar Bar or Cigar Lounge (hereinafter referred to as the "Business"):

3. Trade Name of Business:

4. Street Address of Business:

City

State

Zip Code

5. Mailing Address of Business (if different from address provided in Question 4 above):

City

State

Zip Code

6. Telephone Number of Business:

7. This application is being made by the (select one):

Property Owner as Operator of the Business       Property Lessee as Operator of the Business

8. Name of Business Operator:

9. Street Address of Business Operator:

City

State

Zip Code

10. Mailing Address of Business Operator (if different from address provided in Question 9 above):

City

State

Zip Code

11. Telephone Number of Business Operator  
(for Routine Contact):

12. Telephone Number of Business Operator \*  
(for Emergency or After Business Hours Contact)

\*Cannot be the same as Telephone Number of Proposed Exempt Cigar Bar or Cigar Lounge.

APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE  
(Continued)

SECTION 1  
Affidavit of Business Operator

13. Name of Registered Agent for Business Operator (for Service of Process):

[Empty text box for Name of Registered Agent]

14. Mailing Address of Registered Agent for Business Operator:

[Empty text box for Mailing Address]

City	State	Zip Code
[Empty box]	[Empty box]	[Empty box]

15. In-Person Service Address of Registered Agent for Business Operator:

[Empty text box for In-Person Service Address]

City	State	Zip Code
[Empty box]	[Empty box]	[Empty box]

16. I, \_\_\_\_\_, am the \_\_\_\_\_ of the Business  
*(print name)* *(title)*

that is the Operator of the proposed exempt cigar bar or cigar lounge that is the subject of this application for registration.

17. Check one:

- I attach hereto true copies of the Operator's deed(s) to the premises at which the proposed exempt cigar bar or cigar lounge is located as of December 31, 2004 to the date of this application.
- Or-
- I attach hereto true copies of the Operator's lease(s) to the premises at which the proposed exempt cigar bar or cigar lounge is located as of December 31, 2004 to the date of this application.

18. I attach hereto true copies of the certificates of occupancy for the premises at which the proposed exempt cigar bar or cigar lounge is located as of December 31, 2004 to the date of this application.

19. In the calendar year ending December 31, 2004, and for each succeeding calendar year ending December 31 of the year preceding the date of this application, the proposed exempt cigar bar or cigar lounge generated 15 percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines.

20. The proposed exempt cigar bar or cigar lounge has not expanded its size since December 31, 2004.

21. The proposed exempt cigar bar or cigar lounge has not changed its location since December 31, 2004.

22. I am aware that the information contained in this application is subject to reporting to and auditing by the Division of Taxation of the New Jersey Department of the Treasury.

23. Check one:

- The proposed exempt cigar bar or cigar lounge is a freestanding establishment that is not located in whole or in part within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6. *(If this option is selected, the applicant needs to submit only Section 2, in addition to Section 1.)*
- The proposed exempt cigar bar or cigar lounge is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. *(If this option is selected, applicant needs to submit both Sections 2 and 3, in addition to Section 1.)*

APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE  
(Continued)

**SECTION 1**  
**Affidavit of Business Operator**

24. Signature of Authorized Representative  
*(For Corporations, Signature of Chairman of the Board, President or Vice-President)*  
*(For Limited Partnerships, Signature of General Partner)*

[Empty signature box]

25. Date

[Empty date box]

26. Title of Authorized Representative

[Empty title box]

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Notary Public of the State of New Jersey**

MY COMMISSION EXPIRES: \_\_\_\_\_.

By \_\_\_\_\_

**STATE OF NEW JERSEY**  
**APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 2**

**Affidavit of New Jersey Licensed Certified Public Accountant in Support of Application for Registration of Exempt Cigar Bar or Cigar Lounge pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

**INSTRUCTIONS FOR SECTION 2**

This form is to be submitted with the applicant's affidavit (Section 1) in support of an application for the exemption of certain cigar bars and cigar lounges from the New Jersey Smoke-Free Air Act pursuant to N.J.S.A. 26:3D-55 et seq.

Following are definitions of words and terms used in this Part pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Cigar bar"** means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Cigar lounge"** means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco products" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59 exempts from the provisions of the New Jersey Smoke-Free Air Act the following (italicized words are defined above):

"any *cigar bar* or *cigar lounge* that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of *tobacco products* and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if:

- (1) in the preceding calendar year, the *cigar bar* or *lounge* generated 15% or more if its total annual gross income from the on-site sale of *tobacco products* and the rental of on-site humidors, and
- (2) the *cigar bar* or *cigar lounge* has not expanded its size or changed its location since December 31, 2004"

STATE OF NEW JERSEY  
APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

SECTION 2

Affidavit of New Jersey Licensed Certified Public Accountant in Support of Application for Registration of Exempt Cigar Bar or Cigar Lounge pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6

1. This application is to register an establishment as a (check one):

Cigar Bar     Cigar Lounge

2. Business Name of Proposed Exempt Cigar Bar or Cigar Lounge:

3. I am a New Jersey licensed certified public accountant.

4. In the calendar year ending December 31, 2004, and for each succeeding calendar year ending December 31 of the year preceding the date of this application, the proposed exempt *cigar bar* or *cigar lounge* generated 15 percent or more of its total annual gross income from the *on-site* sale of *tobacco products* and the rental of on-site humidors, not including any sales from vending machines. (See definitions of italicized terms in Instructions.)

5. I am aware that the information contained in this affidavit is subject to reporting to and auditing by the Division of Taxation of the New Jersey Department of the Treasury.

6. Name of Certified Public Accountant

7. Title

8. Signature

9. Date

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Notary Public of the State of New Jersey**

MY COMMISSION EXPIRES: \_\_\_\_\_

By \_\_\_\_\_

**STATE OF NEW JERSEY**  
**APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 3**

**Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of Application for Registration of Exempt Cigar Bar or Cigar Lounge pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

**INSTRUCTIONS FOR SECTION 3**

This form is to be submitted with the applicant's affidavit (Section 1) in support of an application for the exemption of certain cigar bars and cigar lounges from the New Jersey Smoke-Free Air Act pursuant to N.J.S.A. 26:3D-55 et seq., if the proposed exempt cigar bar or cigar lounge is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. This form must be completed by a New Jersey Registered Architect or a New Jersey Licensed Professional Engineer.

Following are definitions of words and terms used in this Part pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Backstream"** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**"Cigar bar"** means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Cigar lounge"** means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco product" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59 exempts from the provisions of the New Jersey Smoke-Free Air Act the following (italicized words are defined above):

APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE  
(Continued)

**SECTION 3**

**Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of  
Application for Registration of Exempt Cigar Bar or Cigar Lounge pursuant to N.J.S.A. 26:3D-55 et seq.  
and N.J.A.C. 8:6**

"any *cigar bar* or *cigar lounge* that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of *tobacco products* and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if:

- (1) in the preceding calendar year, the *cigar bar* or *lounge* generated 15% or more if its total annual gross income from the on-site sale of *tobacco products* and the rental of on-site humidors, and
- (2) the *cigar bar* or *cigar lounge* has not expanded its size or changed its location since December 31, 2004"

STATE OF NEW JERSEY
APPLICATION FOR REGISTRATION OF EXEMPT CIGAR BAR OR CIGAR LOUNGE
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

SECTION 3

Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of
Application for Registration of Exempt Cigar Bar or Cigar Lounge pursuant to N.J.S.A. 26:3D-55 et seq.
and N.J.A.C. 8:6

1. This application is to register an establishment as a (check one):

Form with checkboxes for Cigar Bar and Cigar Lounge.

2. Business Name of Proposed Exempt Cigar Bar or Cigar Lounge:

Empty text box for business name.

3. I am (check applicable statement):

- Checkboxes for A New Jersey Registered Architect and A New Jersey Licensed Professional Engineer.

4. The proposed exempt cigar bar or cigar lounge is enclosed from the nonsmoking establishment in
which it is located by: (See definitions of italicized terms in Instructions.)

- Options a, b, and c: solid walls or windows; a ceiling; and a solid door.

5. The ventilation system of the proposed exempt cigar bar or cigar lounge is separately exhausted from
the nonsmoking areas of the establishment so that air from the proposed smoking area would not be
recirculated to the nonsmoking areas and smoke would not be backstreamed into the nonsmoking
areas. (See definitions of italicized terms in Instructions.)

6. Name of Individual Completing Form

Text box for name of individual completing form.

7. Title

Text box for title.

8. Signature

Text box for signature.

9. Date

Text box for date.

3. Signature of Certified Public Accountant

Text box for signature of CPA.

4. Date

Text box for date.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public of the State of New Jersey

MY COMMISSION EXPIRES: \_\_\_\_\_

By \_\_\_\_\_

**APPENDIX B**  
**STATE OF NEW JERSEY**  
**APPLICATION FOR RENEWAL OF REGISTRATION**  
**OF EXEMPT CIGAR BAR OR CIGAR LOUNGE**  
**(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**

**INSTRUCTIONS**

This form is to be used to renew the registration of a cigar bar or a cigar lounge that has been registered with the local board of health as exempt from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq. Applicants must submit Sections 1 and 2. Section 1 is to be completed by the applicant. Section 2 must be completed by a New Jersey licensed Certified Public Accountant. If the proposed exempt cigar bar or cigar lounge is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq., the applicant must also submit Section 3. Section 3 must be completed by a New Jersey Registered Architect or a New Jersey Licensed Professional Engineer. The applicant must submit the completed forms to the local health agency with jurisdiction over the municipality in which the establishment is located. The local health agency will not process an incomplete application.

Following are definitions of words and terms used in Section 1 pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**“Backstream”** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**“Cigar bar”** means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**“Cigar lounge”** means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**“Establishment”** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**“Tobacco product”** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines “tobacco product” at N.J.S.A. 54:40B-2 as follows:

**“Tobacco product”** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the “Cigarette Tax Act,” P.L.1948, c.65 (C.54:40A-1 et seq.);

The “Cigarette Tax Act,” N.J.S.A. 54:40A-1 et seq., defines “cigarette” at N.J.S.A. 54:40A-2 as follows:

**“Cigarette”** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A “single cigarette” is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59a exempts from the provisions of the New Jersey Smoke-Free Air Act the following:

any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not

**APPENDIX C**  
**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
**(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**

**INSTRUCTIONS**

This form is to be used to apply for the exemption of certain tobacco retail establishments from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq. Applicants must submit Sections 1 and 2. Section 1 is to be completed by the applicant. Section 2 must be completed by a New Jersey licensed Certified Public Accountant. If the proposed exempt tobacco retail establishment is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq., the applicant must also submit Section 3. Section 3 must be completed by New Jersey Registered Architect or a New Jersey Licensed Professional Engineer. The applicant must submit the completed forms to the local health agency with jurisdiction over the municipality in which the establishment is located. The local health agency will not process an incomplete application.

Following are definitions of words and terms used in Section 1 pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Backstream"** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Incidental"** means minor and occasional.

1. The sale of food or beverages for on-site consumption is not an incidental sale of other products.

**"Tobacco retail establishment"** means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco product" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59a exempts from the provisions of the New Jersey Smoke-Free Air Act the following:

any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking.

\* \* \*

STATE OF NEW JERSEY
NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

Section 1

Affidavit of Business Operator in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6

This is to notify the appropriate local health agency that the establishment identified herein claims exemption from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq., pursuant to N.J.S.A. 26:3D-57 and 59, for the calendar year indicated, as a tobacco retail establishment:

1. Name of Local Health Agency (County or Municipality)
2. Calendar Year
20\_\_

2. Business Name of Proposed Exempt Tobacco Retail Establishment (hereinafter referred to as the "Business"):

3. Trade Name of Business:

4. Street Address of Business:

City State Zip Code

5. Mailing Address of Business (if different from the address provided in Question 4 above):

City State Zip Code

6. Telephone Number of Business:

7. This application is being made by the (select one):
Property Owner as Operator of the Business
Property Lessee as Operator of the Business

8. Name of Business Operator:

9. Street Address of Business Operator:

City State Zip Code

10. Mailing Address of Business Operator (if different from the address provided in Question 9 above):

City State Zip Code

11. Telephone Number of Business Operator (for Routine Contact):

12. Telephone Number of Business Operator\* (for Emergency or After Business Hours Contact)

\*Cannot be the same as Telephone Number of Proposed Exempt Tobacco Retail Establishment.

NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT (Continued)

SECTION 1

Affidavit of Business Operator in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6

13. Name of Registered Agent for Business Operator (for Service of Process):

[Empty text box for Name of Registered Agent]

14. Mailing Address of Registered Agent for Business Operator:

[Empty text box for Mailing Address]

City

State

Zip Code

[Empty text box for City]

[Empty text box for State]

[Empty text box for Zip Code]

15. In-Person Service Address of Registered Agent for Business Operator:

[Empty text box for In-Person Service Address]

City

State

Zip Code

[Empty text box for City]

[Empty text box for State]

[Empty text box for Zip Code]

16. I, \_\_\_\_\_, am the \_\_\_\_\_ of the Business that is the subject of this notice.

(print name)

(indicate Owner or Operator)

17. In the calendar year ending December 31 of the year preceding the date of this application, the Business generated 51 percent or more of its total annual gross income from the on-site sale of tobacco products and accessories, and sales of other products at the Business were incidental to the sale of tobacco products. (See definitions of italicized items above.)

18. I am aware that the information contained in this application is subject to reporting to and auditing by the Division of Taxation of the New Jersey Department of the Treasury.

19. Check one:

- Two checkbox options regarding business location and reporting requirements.

20. Signature of Authorized Representative (For Corporations, Signature of Chairman of the Board, President or Vice-President) (For Limited Partnerships, Signature of General Partner)

[Empty text box for Signature]

21. Date

[Empty text box for Date]

22. Title of Authorized Representative

[Empty text box for Title]

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public of the State of New Jersey

MY COMMISSION EXPIRES: \_\_\_\_\_

By \_\_\_\_\_

**STATE OF NEW JERSEY  
NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**

**SECTION 3**

**Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

**INSTRUCTIONS FOR SECTION 3**

This form is to be submitted with the applicant's affidavit (Section 1) in support of an application for a notice of claim of exemption of a tobacco retail establishment from the New Jersey Smoke-Free Air Act pursuant to N.J.S.A. 26:3D-55 et seq., if the tobacco retail establishment is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. This form must be completed by a New Jersey Registered Architect or a New Jersey Licensed Professional Engineer.

Following are definitions of words and terms used in this Part pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Backstream"** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Incidental"** means minor and occasional.

1. The sale of food or beverages for on-site consumption is not an incidental sale of other products.

**"Tobacco retail establishment"** means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco product" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59 exempts from the provisions of the New Jersey Smoke-Free Air Act the following (italicized words are defined above):

any *tobacco retail establishment*, or any area the *tobacco retail establishment* provides for the purposes of smoking.

STATE OF NEW JERSEY
NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

SECTION 3

Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6

1. Name of Local Health Agency (County or Municipality)

[Empty text box for Local Health Agency name]

2. Calendar Year

20\_\_

2. Business Name of Proposed Exempt Tobacco Retail Establishment (hereinafter referred to as the "Business"):

[Empty text box for Business Name]

3. Trade Name of Business:

[Empty text box for Trade Name]

4. I am (check applicable statement):

- A New Jersey Registered Architect.
A New Jersey Licensed Professional Engineer.

5. The tobacco retail establishment is enclosed from the nonsmoking establishment in which it is located by: (See definitions of italicized terms in Instructions.)

- a. solid walls or windows;
b. a ceiling; and
c. a solid door.

6. The ventilation system of the tobacco retail establishment is separately exhausted from the nonsmoking areas of the establishment so that air from the proposed smoking area would not be recirculated to the nonsmoking areas and smoke would not be backstreamed into the nonsmoking areas. (See definitions of italicized terms in Instructions.)

7. Name of Individual Completing Form

[Empty text box for Name]

8. Title

[Empty text box for Title]

9. Signature

[Empty text box for Signature]

10. Date

[Empty text box for Date]

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Notary Public of the State of New Jersey

MY COMMISSION EXPIRES: \_\_\_\_\_

By \_\_\_\_\_

APPENDIX D

**NO  
SMOKING**



**VIOLATORS ARE SUBJECT TO FINE.**

**New Jersey Smoke-Free Air Act  
N.J.S.A. 26:3D-55**

APPENDIX G

# PERMITIDO FUMAR



**New Jersey Smoke-Free Air Act  
N.J.S.A. 26:3D-55**

## APPENDIX H

*State of New Jersey***DEPARTMENT OF HEALTH AND SENIOR SERVICES**PO BOX 360  
TRENTON, N.J. 08625-0360[www.nj.gov/health](http://www.nj.gov/health)JON S. CORZINE  
*Governor*FRED M. JACOBS, M.D., J.D.  
*Commissioner*

April 15, 2006

NOTICE

On April 15, 2006, the "New Jersey Smoke-Free Air Act" (Act), N.J.S.A. 26:3D-55 et seq., took effect. The Act prohibits smoking in an indoor public place or workplace. The Act also prohibits smoking any building or on the grounds of a public or nonpublic elementary or secondary school, regardless of whether the area is indoors or outdoors.

The Act and the Smoke-Free Air Rules of the Department of Health and Senior Services at N.J.A.C. 8:6 implementing the Act require this establishment to direct a person smoking in violation of the Act to stop smoking. The rules further require this establishment to remove from the premises any person who continues to smoke in violation of the Act after having been directed to stop smoking, and to enlist the assistance of local law enforcement or peace officers, if necessary, to assist in the removal.

Persons who violate the Act are subject to a complaint being filed against them and being summoned to appear in the municipal court of this jurisdiction. Persons found to be in violation of the Act are subject to fines and penalties established by the Act of \$250 for a first offense, \$500 for a second offense, and \$1,000 for each subsequent offense.

Fred M. Jacobs, M.D., J.D., Commissioner  
New Jersey Department of Health and Senior Services

