

ASSEMBLY, No. 5736

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 17, 2021

Sponsored by:

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

SYNOPSIS

Clarifies prohibition on smoking of cannabis in public places.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning cannabis and amending P.L.2005, c.383.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

5

6 1. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
7 read as follows:

8 3. As used in this act:

9 "Bar" means a business establishment or any portion of a
10 nonprofit entity, which is devoted to the selling and serving of
11 alcoholic beverages for consumption by the public, guests, patrons
12 or members on the premises and in which the serving of food, if
13 served at all, is only incidental to the sale or consumption of such
14 beverages.

15 "Cannabis" means the same as that term is defined in section 3 of
16 P.L.2021, c.16 (C.24:6I-33).

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

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

35 "Electronic smoking device" means an electronic device that can
36 be used to deliver nicotine, cannabis, or other substances to the
37 person inhaling from the device, including, but not limited to, an
38 electronic cigarette, cigar, cigarillo, or pipe.

39 "Indoor public place" means a structurally enclosed place of
40 business, commerce or other service-related activity, whether
41 publicly or privately owned or operated on a for-profit or nonprofit
42 basis, which is generally accessible to the public, including, but not
43 limited to: a commercial or other office building; office or building
44 owned, leased or rented by the State or by a county or municipal
45 government; public and nonpublic elementary or secondary school

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 building; board of education building; theater or concert hall; public
2 library; museum or art gallery; bar; restaurant or other
3 establishment where the principal business is the sale of food for
4 consumption on the premises, including the bar area of the
5 establishment; garage or parking facility; any public conveyance
6 operated on land or water, or in the air, and passenger waiting
7 rooms and platform areas in any stations or terminals thereof; health
8 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
9 seq.); patient waiting room of the office of a health care provider
10 licensed pursuant to Title 45 of the Revised Statutes; child care
11 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.);
12 race track facility; facility used for the holding of sporting events;
13 ambulatory recreational facility; shopping mall or retail store; hotel,
14 motel or other lodging establishment; apartment building lobby or
15 other public area in an otherwise private building; or a passenger
16 elevator in a building other than a single-family dwelling.

17 "Person having control of an indoor public place or workplace"
18 means the owner or operator of a commercial or other office
19 building or other indoor public place from whom a workplace or
20 space within the building or indoor public place is leased.

21 "Person having control of a public park or beach" means the
22 person having supervisory authority over a public park or beach or
23 that person's designee, as applicable.

24 "Public park or beach" means a State park or forest, a county or
25 municipal park, or a State, county, or municipal beach, but does not
26 include any parking lot that is adjacent to, but outside of, the public
27 park or beach.

28 "Smoking" means the burning of, inhaling from, exhaling the
29 smoke from, or the possession of a lighted cigar, cigarette, pipe or
30 any other matter or substance which contains tobacco, cannabis, or
31 any other matter that can be smoked, or the inhaling or exhaling of
32 smoke or vapor from an electronic smoking device.

33 "State park or forest" means any State owned or leased land,
34 water or facility administered by the Department of Environmental
35 Protection, including, but not limited to, a park, forest, recreational
36 area, marina, historic site, burial site, or natural area, but not
37 including a wildlife management area or reservoir land.

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

42 "Workplace" means a structurally enclosed location or portion
43 thereof at which a person performs any type of service or labor.
44 (cf: P.L.2018, c.64, s.2)

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46 2. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to
47 read as follows:

- 1 5. The provisions of this act as they pertain to cannabis shall
2 not apply to a cannabis consumption area established pursuant to
3 section 28 of P.L.2019, c.158 (C.24:6I-21) or, subject to the
4 provisions of subsection c. of section 46 of P.L.2021, c.16
5 (C.2C:35-10A), to a private home or private residence; and the
6 provisions of this act as they pertain to tobacco shall not apply to:
- 7 a. any cigar bar or cigar lounge that, in the calendar year
8 ending December 31, 2004, generated 15 percent or more of its total
9 annual gross income from the on-site sale of tobacco products and
10 the rental of on-site humidors, not including any sales from vending
11 machines, and is registered with the local board of health in the
12 municipality in which the bar or lounge is located. The registration
13 shall remain in effect for one year and shall be renewable only if:
14 (1) in the preceding calendar year, the cigar bar or lounge generated
15 15 percent or more of its total annual gross income from the on-site
16 sale of tobacco products and the rental of on-site humidors, and (2)
17 the cigar bar or cigar lounge has not expanded its size or changed
18 its location since December 31, 2004;
- 19 b. any tobacco retail establishment, or any area the tobacco
20 retail establishment provides for the purposes of smoking;
- 21 c. any tobacco business when the testing of a cigar or pipe
22 tobacco by heating, burning or smoking is a necessary and integral
23 part of the process of making, manufacturing, importing, or
24 distributing cigars or pipe tobacco;
- 25 d. private homes, private residences and private automobiles;
- 26 e. the area within the perimeter of:
- 27 (1) any casino as defined in section 6 of P.L.1977, c.110
28 (C.5:12-6) approved by the Casino Control Commission that
29 contains at least 150 stand-alone slot machines, 10 table games, or
30 some combination thereof approved by the commission, which
31 machines and games are available to the public for wagering; and
32 (2) any casino simulcasting facility approved by the Casino
33 Control Commission pursuant to section 4 of P.L.1992, c.19
34 (C.5:12-194) that contains a simulcast counter and dedicated seating
35 for at least 50 simulcast patrons or a simulcast operation and at least
36 10 table games, which simulcast facilities and games are available
37 to the public for wagering;
- 38 f. research laboratories and other facilities that have been
39 approved by the Department of Health to permit smoking for the
40 purpose of medical research related to the health effects of smoking,
41 in an indoor facility that is separately ventilated for the purpose of
42 medical or scientific research that is conducted under physician
43 supervision and has been approved by an Investigational Review
44 Board (IRB), if the facility is used solely and exclusively for
45 clinical research activities;
- 46 g. a golf course;
- 47 h. an area of a municipal or county beach, not to exceed 15
48 percent of the total area of the beach, which is designated by the

1 municipality or county by ordinance or resolution as a smoking
2 area; and

3 i. any cigar bar or lounge previously registered with the local
4 board of health pursuant to subsection a. of this section that has, in
5 accordance with the requirements of this subsection, renewed that
6 registration following a period of lapse. A cigar bar or cigar lounge
7 registration which has lapsed may be renewed under this subsection
8 if: (1) no more than 10 years have elapsed since the date the
9 registration lapsed; (2) in the calendar year immediately preceding
10 the lapse, the cigar bar or lounge generated 15 percent or more of its
11 total annual gross income from the on-site sale of tobacco products
12 and the rental of on-site humidors; and (3) the cigar bar or lounge
13 has not expanded its size or changed its location since December
14 31, 2004. A registration renewed pursuant to this subsection shall
15 remain in effect for one year, and shall be renewable thereafter only
16 if it meets the requirements for renewal as set forth in this
17 subsection or subsection a. of this section.

18 (cf: P.L.2018, c.58, s.1)

19
20 3. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill clarifies that cannabis legally obtained pursuant to the
26 "New Jersey Cannabis Regulatory, Enforcement Assistance, and
27 Marketplace Modernization Act," P.L.2021, c.21 (C.24:6I-31 et al.)
28 may not be consumed by smoking in any place in which smoking is
29 prohibited under the "New Jersey Smoke-Free Air Act," P.L.2005,
30 c.383 (C.26:3D-55 et seq.).

31 The "New Jersey Smoke-Free Air Act" generally prohibits
32 smoking in any indoor public place, workplace, or public park or
33 beach, as well as in the outdoor pickup areas of airports that are not
34 owned or operated by a federal or military authority and on the
35 premises of all public and private elementary and secondary
36 schools.

37 The "New Jersey Smoke-Free Air Act" provides limited
38 exceptions to the smoking ban for certain cigar bars and lounges,
39 retail establishments, tobacco businesses, casinos, and research
40 laboratories, as well as for private homes and vehicles, and provides
41 additional exceptions for golf courses and designated areas of
42 county and municipal beaches.

43 This bill clarifies that these current exceptions will continue to
44 apply to the ban on smoking tobacco, but will not apply to cannabis,
45 which may not be consumed by smoking in any of these areas.

46 The bill further identifies a specific exception to the ban on
47 smoking cannabis in indoor public places for cannabis consumption
48 areas established pursuant to section 28 of P.L.2019, c.153

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1 (C.24:6I-21) and for private homes and residences, except as
2 otherwise provided under subsection c. of section 46 of P.L.2021,
3 c.16 (C.2C:35-10a), which identifies situations in which the owners
4 of multifamily dwellings and condominium associations may
5 restrict the indoor consumption of cannabis by smoking or vaping.
6 As provided in subsection c. of section 46 of P.L.2021, c.16
7 (C.2C:35-10a) and section 6 of P.L.2005, c.383 (C.26:5C-60),
8 hotels, motels, and other lodging establishments may permit
9 smoking in up to 20 percent of their rooms; this bill would not
10 affect the ability of hotels, motels, and other lodging establishments
11 to permit the smoking of either cannabis or tobacco products as
12 provided in those designated rooms.