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Senate Bill 466 (as enacted)  
Sponsor: Senator Kristen McDonald Rivet  
Committee: Regulatory Affairs

**PUBLIC ACT 318 of 2023**

Date Completed: 3-20-24

**RATIONALE**

As of May 1, 2010, smoking is not allowed in food service establishments like bars. To operate a cigar bar, an individual must either own a bar grandfathered into a smoking ban exemption or purchase an existing bar and assume the exemption associated with its license. According to testimony before the Senate Committee on Regulatory Affairs, the owner of a bar in Bay City was unable to file the annual affidavit necessary to maintain a smoking ban exemption during the bar's sale, causing the new owner to lose the establishment's exemption. The new owner cannot operate the bar as a cigar bar without the exemption, and so it was suggested that the bar be given a chance to refile the missed affidavit and reclaim its smoking ban exemption.

**CONTENT**

**The bill amended Part 126 (Smoking in Public Places) of the Public Health Code to allow a cigar bar that meets certain conditions and whose smoking ban exemption has lapsed to requalify for the exemption if the owner or operator of the bar files an affidavit certifying those conditions.**

The bill took effect December 14, 2023.

Generally, Part 126 prohibits smoking in public places, in places of employment, and in food service establishments. This prohibition took effect on May 1, 2010; however, cigar bars that were in existence on May 1, 2010, were grandfathered in and exempt from the prohibition so long as the owner of the cigar bar filed an affidavit with the Department of Health and Human Services (DHHS) before May 1, 2010, and refiles an affidavit annually on January 31.

Under the bill, for one calendar year only, a cigar bar qualifies for the smoking ban exemption if an affidavit, signed by the person that owns or operates the bar, is filed with the DHHS and certifies that all the following circumstances apply to the cigar bar:

- The cigar bar is in a city with a population of more than 32,000 and less than 34,000 that is located in a county with a population of more than 100,000 and less than 105,000.
- The cigar bar fails to file the required affidavit no earlier than 2023 for no less than one calendar year and no more than three calendar years.
- The cigar bar has not previously filed an affidavit under these requirements.

If a cigar bar qualifies for the exemption as provided by the bill, the cigar bar's annual affidavit filing requirements do not include the range of one to three years that it failed to file.

Among other requirements to maintain the grandfathered exemption, Part 126 requires a cigar bar to generate at least 10% of its gross annual income from the on-site sale of cigars and rental of on-site humidors, as reported in the annual affidavit. This requirement does not apply to a cigar bar that otherwise qualifies for the exemption as provided by the bill.

**FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.