Clean Indoor Air Act (CIAA)
Guidance for Application for Exception to Permit Smoking

This document provides guidance for an applicant requesting the exception of certain Cigar Bars, Drinking Establishments, or Tobacco Shops to permit smoking pursuant to the Pennsylvania Clean Indoor Air Act, PA 35 P.S. 230.1. The applicant must submit the completed application (separate document) to the Pennsylvania Department of Health (DOH) which will review the materials and establish a schedule for annual renewal requests. A Cigar Bar, Drinking Establishment, or Tobacco Shop must complete an Application for Exception form and obtain written approval by the Department of Health prior to permitting smoking in the establishment. The DOH will not process an incomplete application.

To be considered for exception, all Sales and Use Tax (SUT) reporting must be filed electronically through the Pennsylvania Department of Revenue E-tide system. All SUT information must be reported by location. Consolidated filings are not acceptable.

An Application for Exception must be filed for each location when you have multiple locations. Processing may take up to thirty (30) days.

Definitions used in the Application for Exception are located on pages 2 & 3 of this document.

After completing the Application for Exception, send the application and supporting documentation to:

Division of Tobacco Prevention and Control
Attention: Clean Indoor Air Act
Pennsylvania Department of Health
Room 1032 Health & Welfare Building
625 Forster Street
Harrisburg, PA 17120-0701
Fax: (717) 214-6690
Email: RA-CIAA@pa.gov

If you are uncertain about how or where to submit the application, or would like more information, email RA-CIAA@pa.gov or call (717) 783-6600. You can also learn more at http://www.portal.state.pa.us/portal/server.pt?open=514&objID=557793&mode=2

Definitions:

Cigar Bar

Type I:
The first type of smoking exception allows a Cigar Bar to permit smoking if the establishment meets the following requirements:

- has a valid restaurant liquor license, a malt or brewed beverage distributor's license or an eating place retail dispenser license.
- was, **prior to September 11, 2008**, physically connected by a door, passageway, or other opening and directly adjacent to a Tobacco Shop.
- has sales of tobacco and tobacco related products, including cigars, pipe tobacco and smoking accessories, are equal to or greater than fifty percent (50%) of the gross annual (previous twelve months) sales.

Type II:
The second type of smoking exception allows a Cigar Bar to permit smoking if the establishment meets the following requirements:

- has a valid restaurant liquor license, a malt or brewed beverage distributor's license or an eating place retail dispenser license.
- has total annual (previous twelve months) sales of tobacco products, including tobacco, accessories or cigar storage lockers or humidors of at least 15% of the combined gross sales of the establishment.

Drinking Establishments (Restaurant Liquor Licensees and Eating Place Retail Dispenser Licensees)

Type I:
The first type of smoking exception allows a Drinking Establishment to permit smoking if the establishment meets the following requirements:

- had, **prior to September 11, 2008**, a valid restaurant liquor license or an eating place retail dispenser license.
- has total annual (previous twelve months) sales of food sold for on-premise consumption of less than or equal to 20% of the combined gross sales.
- does not permit individuals under the age of 18 years of age in the establishment at any time or for any reason. This includes children of business owners or children accompanied by adults entering the establishment to pick up takeout food. The establishment posts signage at all entrances stating "No one under the age of 18 permitted".
- posts signage at all entrances stating smoking is permitted.

Type II:
The second type of smoking exception allows a Drinking Establishment to permit smoking if the establishment meets the following requirements:

- has a valid restaurant liquor license or an eating place retail dispenser license.
- the smoking area of the establishment was, **prior to September 11, 2008**, a physically connected or adjacent, enclosed area which is separate from the eating (non-smoking) area.
- the smoking area of the establishment had, **prior to September 11, 2008**, a separate air system and a separate outside entrance.
- does not permit individuals under the age of 18 years of age in the smoking exempt area at any time or for any reason. This includes children of business owners or children accompanied by adults entering the smoking area of the

establishment to pick up takeout food. The establishment posts signage at all entrances stating "No one under the age of 18 permitted".
- posts signage at all entrances to the smoking area stating "smoking is permitted.
- has sales of food consumed **in the smoking area** of the establishment must be less than or equal to twenty percent (20%) of the combined annual (previous twelve months) gross sales within the permitted smoking area.

Tobacco Shop
A Tobacco Shop is defined as a business establishment whose sales of tobacco and tobacco related products, including cigars, pipe tobacco and smoking accessories, are equal to or greater than fifty percent (50%) of the gross annual (calendar year) sales.

Business Name
Formal name used by companies to identify themselves and distinguish their businesses from others, such as corporate name, partnership name, etc.

Trade Name
The name by which people know your business such as a "doing business as" name or popular name.

Total Gross Sales
Total invoice value of sales, before deducting for customer discounts, allowances, or returns.

Annual Sales
- Projected Annual Sales (new businesses only) are sales figures from the date of application through the next twelve months.
- Actual Annual Sales (established businesses) are sales figures from the date of application through the previous twelve months.