

STATE OF NEW MEXICO
APPLICATION FOR CIGAR BAR CERTIFICATION
(Pursuant to NMSA 1978, § 24-16-1 et seq., and 7.37.2.1 NMAC et seq.)

INSTRUCTIONS

This form is to be used to apply for certification for the “cigar bar” exemption from the smoking prohibition of the Dee Johnson Clean Indoor Air Act, NMSA 1978, § 24-16-1 et seq.

Following are definitions or partial definitions of word and terms used in this application, as defined by the Dee Johnson Clean Indoor Air Act and rules promulgated thereunder:

“**Applicant**” means an establishment or an establishment’s agent, and includes an applicant for a renewal certificate.

“**Application**” means an establishment’s application to the department for a certificate, and includes any supporting materials.

“**Bar**” means an establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises, in which the serving of food in the establishment is only incidental to the consumption of those beverages.

“**Cigar**” means a roll of tobacco that is wrapped in a substance containing tobacco, and that is intended for smoking, and does not include cigarettes.

“**Cigar bar**” means an establishment that:

- (1) is a bar;
- (2) is engaged in the business of selling cigars for consumption by patrons on the premises;
- (3) generated at least ten percent of its total annual sales in the year 2007 from the sale of cigars, not including sales from vending machines; and
- (4) generates ten percent or more of its total annual gross revenue or at least ten thousand dollars (\$10,000) in annual sales from the sale of cigars, not including sales from vending machines.

“**Cigarette**” means (1) any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco; or (2) a bidi or kretek.

“**Department**” means the New Mexico Department of Health.

“**Establishment**” means a business enterprise that encompasses a single, contiguous physical location. “Establishment” does not refer solely to a subsection or partition of a business location (e.g., a subsection of a restaurant), but refers to the business establishment as a whole.

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Applicant Information

1. Business Name of Proposed Cigar Bar (hereinafter the "Establishment"):

2. Street Address of Establishment:

City:

State:

Zip Code:

3. Mailing Address of Establishment (*if different from street address given above*):

City:

State:

Zip Code:

4. Telephone Number of Establishment:

5. Name of Owner of Establishment:

6. Mailing Address of Owner of Establishment:

City:

State:

Zip Code:

7. Telephone Number of Owner of Establishment:

8. Name of Registered Agent (for service of process):

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9. Mailing Address of Registered Agent:

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City:

State:

Zip Code:

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NM

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10. I attach hereto:

- a) A copy of the liquor license for the establishment;
- b) Copies of sales receipts and invoices, together with a cover document (developed in accordance with generally accepted accounting principles) that identifies the qualifying individual sales, to evidence that the establishment generated at least ten percent of its total annual sales in the year 2007 from the sale of cigars, not including sales from vending machines;
- c) Copies of sales receipts and invoices, together with a cover document (developed in accordance with generally accepted accounting principles) that identifies the qualifying individual sales, to evidence that the establishment generated ten percent or more of its gross revenue or at least ten thousand dollars (\$10,000.00) in sales from the sale of cigars in the twelve months prior to the date of this application's submission, not including sales from vending machines.

11. I also attach hereto an application fee of three-hundred dollars (\$300.00) in the form of a check made payable to "NM Department of Health".

12. I understand that the information contained in the application and the materials submitted in support thereof are subject to audit by the Department, and that the Department may determine to deny the application if it deems the application materials insufficient to establish the applicant's status as a cigar bar under the Dee Johnson Clean Indoor Air Act and applicable rules.

13. I understand that the information contained in the application and the materials submitted in support thereof may be subject to verification through the New Mexico Taxation and Revenue Department.

14. I understand that the Department of Health shall have forty-five (45) days from the date that it receives the application to determine whether to grant or deny it, and that if the Department deems the documentation submitted in the support of the application to be insufficient, it may either deny the application or request additional information or documentation.

15. I understand that, should the Department request additional information or documentation in support of the application, the 45-day application review period shall be tolled and shall not resume until the last of the additional materials are received by the Department; and that upon the Department's receipt of any additional materials in support of the application (whether or not those materials were requested by the Department), twenty (20) days shall be added to the application review period.

16. I understand that any changes to the information provided in the application shall be submitted in writing to the Department at the address below, and that, should the establishment

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change its name either before or after becoming certificated, written notification shall be submitted to the Department of Health within thirty (30) days of said change.

17. I understand that, should the application be accepted, the applicant's certificate will remain in effect for twelve (12) months from the date of its issuance and that any subsequent application for renewal of the certificate shall be submitted to the Department, complete with all required documentation and applicable fees, within that same twelve month period.

18. I understand that the materials submitted in support of the application will (upon receipt) become the property of the Department of Health and that those materials will not be returned.

19. I understand that the information contained in the application and all materials submitted in support thereof are subject to the Inspection of Public Records Act, NMSA § 14-2-1 et seq., and are therefore subject to public inspection.

20. I certify that all of the materials submitted or to be submitted in support of the application, and all of the information contained therein, is true and correct.

21. I understand that knowingly submitting false information in support of the application constitutes fraud and may result in criminal and civil penalties under applicable laws.

22. Signature of Authorized Representative Completing Form:
(For Corporations, Signature of Chairman of the Board, President or Vice President)
(For Limited Partnerships, Signature of General Partner)

Printed Name:

Title:

Date:

This application, including all attached materials, may be submitted to the Department of Health by mailing it via certified U.S. postal mail, return receipt requested, to the following address:

**Program Manager,
Cigar Bar Certification
NM Department of Health
5301 Central Ave. NE, Suite 800
Albuquerque, NM 87108**

All inquiries concerning pending applications should be addressed in writing to the same address.

If the establishment's application is approved, the certificate will be mailed via certified U.S. mail to the address of the owner of the establishment that is identified on this form.