

## **Pennsylvania Clean Indoor Air Act**

### **Overview for Pennsylvania Liquor Control Board License Applicants**

Pennsylvania's Clean Indoor Air Act (CIAA) became effective on September 11, 2008. This legislation named the Department of Health (DOH) the lead agency for implementation and prohibits smoking in a public place or workplace.

#### **Exceptions**

The CIAA has numerous exceptions, five of which require approval by the DOH. These include: Drinking Establishment Type I (DEI), Drinking Establishment Type II (DEII), Cigar Bar Type I (CBI), Cigar Bar Type II (CBII) and Tobacco Shops.

#### **Establishment Definitions and Exception Criteria**

##### **DEI and DEII Exceptions**

The term "drinking establishment" does not include a nightclub, which is defined as a public hall or hall for which admission is generally charged and which is primarily or predominately devoted to dancing or to shows or cabarets as opposed to a facility that is primarily a bar, tavern, or dining facility. The CIAA defines a nightclub as a public place and as a place of employment that must be smoke free.

A DEI exception allows the drinking establishment to apply for an exception before, on or after September 11, 2008, if the drinking establishment meets the following requirements:

- The establishment has a valid restaurant liquor license or an eating place retail dispenser license.
- The establishment has total annual (calendar year) sales of food sold for on-premises consumption of less than or equal to 20% of the combined gross sales.
- The establishment 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 take-out food. The establishment posts signage at all entrances stating "No one under the age of 18 permitted".
- The establishment posts signage at all entrances stating smoking is permitted.

A DEII exception allows a drinking establishment to apply for an exception if on September 11, 2008 (the effective date of the CIAA) the drinking establishment had an enclosed bar area within its bar-restaurant that meets the following requirements:

- The establishment has a valid restaurant liquor license or an eating place retail dispenser license.
- The bar area is a physically connected or adjacent enclosed area which is separate from the eating area.
- The bar area has a separate air system and a separate outside entrance.
- The establishment does not permit individuals under the age of 18 years of age in the enclosed bar area at any time or for any reason. This includes children of business owners or children accompanied by adults entering the enclosed bar area to pick up take-out food. The establishment posts signage at all entrances to the enclosed bar area stating "No one under the age of 18 permitted".
- The establishment posts signage at all entrances to the enclosed bar area stating "smoking is permitted".
- The sales of food consumed in the enclosed bar area where smoking is permitted must be less than or equal to twenty percent (20%) of the combined annual (calendar year) gross sales within the permitted smoking area.

### CBI and CBII Exceptions

A CBI exception allows a cigar bar to apply for an exception if, on September 11, 2008, the effective date of the CIAA, the establishment meets the following requirements:

- The establishment has a valid restaurant liquor license or an eating place retail dispenser license.
- The establishment is physically connected by a door, passageway or other opening and directly adjacent to a 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.

A CBII exception allows a cigar bar to apply for an exception before, on or after September 11, 2008, the effective date of the CIAA, if the establishment meets the following requirements:

- The establishment has a valid restaurant liquor license or an eating place retail dispenser license.
- The establishment has total annual 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.

### Applying for Exceptions

Establishments may apply for an exception by submitting a completed application to the DOH online or by mail, email or fax. Application forms can be found on the DOH's CIAA webpage. Applications are approved for one year and renewed annually.

### Exception Renewals

For exceptions to be renewed, the DOH conducts an internal review of information for each exception on an annual basis by completing the following steps:

For DE exception holders, this internal review includes one or more of the following steps:

1. Verifying active liquor license status with the Pennsylvania Liquor Control Board (PLCB), and
2. Verifying with the Department of Revenue (DOR) that the percentage of food sales for your entire establishment (*for DE II* holders), the smoking area is at or below 20%.

For CB exception holders, this internal review includes one or more of the following steps:

- 1) Verifying active liquor license status with the PLCB, and
- 2) Verifying with the DOR that the percentage of tobacco and tobacco-related products are at least 15% of the combined gross annual sales of the establishment (*for CBII* holders).

If exception holders fail to meet any of the above criteria or miss the deadline to submit Sales and Use Tax (SUT) information to the DOH, their exception will be revoked, or "renewal denied."

### Person to Person and Place to Place Transfers of Liquor Licenses

CIAA exceptions do not transfer to new owners of liquor licenses or to new locations of businesses. If a liquor license is transferred to a new owner, the previous owner is sent a revocation letter stating the exception is no longer valid and DOH sends the new owner a letter and CIAA application stating they must reapply for an exception. If a business relocates, the owner is sent a revocation letter and asked to reapply for an exception at the new location.

### DOH CIAA Contact Information

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