ASSEMBLY, No. 5713

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 29, 2026

Sponsored by:
Assemblyman KENYATTA STEWART
District 35 (Bergen and Passaic)

SYNOPSIS

Permits establishment of hookah lounges under certain conditions; establishes municipal application deadlines.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning indoor smoking, amending P.L.2005, c.383, and supplementing Title 26 of the Revised Statutes.

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

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

3. As used in this act:

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

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

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

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

<u>"Hookah" means a water pipe through which smoke from tobacco or another substance is drawn through water and into a hose for inhalation.</u>

<u>"Hookah lounge" means a restaurant, operating on premises for which a plenary retail consumption license has been issued pursuant to R.S.33:1-12, at which the use of a hookah is permitted pursuant to subsection j. of section 5 of P.L.2005, c.383 (C.26:3D-59).</u>

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 <u>thus</u> is new matter.

"Indoor public place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

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

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

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

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

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

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

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

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

5. The provisions of this act shall not apply to:

a. any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15 percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if: (1) in the preceding calendar year, the cigar bar or lounge generated 15 percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004;

b. any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking;

c. any tobacco business when the testing of a cigar or pipe tobacco by heating, burning or smoking is a necessary and integral part of the process of making, manufacturing, importing, or distributing cigars or pipe tobacco;

d. private homes, private residences and private automobiles;

e. the area within the perimeter of:

(1) any casino as defined in section 6 of P.L.1977, c.110 (C.5:12-6) approved by the Casino Control Commission that contains at least 150 stand-alone slot machines, 10 table games, or some combination thereof approved by the commission, which machines and games are available to the public for wagering; and

(2) any casino simulcasting facility approved by the Casino Control Commission pursuant to section 4 of P.L.1992, c.19 (C.5:12-194) that contains a simulcast counter and dedicated seating for at least 50 simulcast patrons or a simulcast operation and at least 10 table games, which simulcast facilities and games are available to the public for wagering;

f. research laboratories and other facilities that have been approved by the Department of Health to permit smoking for the purpose of medical research related to the health effects of smoking, in an indoor facility that is separately ventilated for the purpose of medical or scientific research that is conducted under physician supervision and has been approved by an Investigational Review Board (IRB), if the facility is used solely and exclusively for clinical research activities;

g. a golf course;

h. an area of a municipal or county beach, not to exceed 15 percent of the total area of the beach, which is designated by the municipality or county by ordinance or resolution as a smoking area; and

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

j. a hookah lounge registered with the local board of health pursuant to this subsection and section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), provided that the lounge meets the requirements of this subsection. A lounge may be initially registered for one year on the basis of its compliance with the applicable requirements other than the gross-income requirement. For renewal following its first full calendar year of operation, and for each renewal thereafter, the lounge shall demonstrate that, in the preceding full calendar year, at least 20 percent but not more than 45 percent of its total annual gross income was generated from the on-site sale of hookah products. The lounge shall not expand the size of its designated smoking area or change its location after initial registration unless it obtains a new registration meeting the requirements of this subsection and section 3 of P.L. , c. (C.) (pending before the Legislature as this bill). A registration shall remain in effect for one year and may be renewed only if the lounge continues to satisfy the requirements of this subsection.

For purposes of this subsection, "on-site sale of hookah products" means the sale of tobacco products and other products designed or intended to be smoked using a hookah, the sale of hookahs and hookah parts and accessories, and the rental of hookahs for use on the premises, but does not include sales from vending machines. A lounge located within another establishment shall be physically separated from every nonsmoking area by solid walls or windows, a ceiling, and a solid door, and shall be equipped with a ventilation and exhaust system designed and maintained in accordance with standards established by the Department of Health by regulation and applicable building and mechanical codes. Air

from the smoking area shall not be recirculated to any nonsmoking area, and smoke shall not backstream into a nonsmoking area. No person under 21 years of age shall be permitted to enter the designated smoking area or use a hookah on the premises. The exception established by this subsection shall not authorize the smoking or consumption of cannabis or the use of a controlled dangerous substance in violation of law.

(cf: P.L.2018, c.158)

3. (New section) a. A person seeking to register, or renew the registration of, a hookah lounge pursuant to subsection j. of section 5 of P.L.2005, c.383 (C.26:3D-59) shall submit an application to the municipality in which the lounge is or will be located for the registration required under that subsection and any municipal license or permit required for its operation. The municipality shall coordinate the review of the application by its local board of health and any municipal department, board, agency, or officer having jurisdiction over a required municipal approval. An application shall not be deemed complete unless it includes all information and documentation required by applicable State law and municipal ordinance, including evidence of compliance with applicable fire, building, and mechanical codes and the ventilation requirements established pursuant to subsection j. of section 5 of P.L.2005, c.383 (C.26:3D-59).

b. Within 10 business days after receipt of an application, the municipality shall determine whether the application is complete. If the application is incomplete, the municipality shall provide written notice identifying each outstanding requirement and the information or document needed to satisfy it. The municipality shall determine whether a resubmitted application is complete within 10 business days after its receipt. An application shall be deemed complete for purposes of the processing deadlines in this section if the municipality fails to provide a timely written notice of incompleteness; a determination of completeness shall not establish that the applicant satisfies any substantive requirement for registration, licensure, or a permit.

c. Within 30 calendar days after an application is determined or deemed complete, the municipality shall approve or deny the application in writing. The 30-day period shall apply to the municipal process as a whole and shall not be tolled or extended because the application is under review by a municipal department, board, agency, or officer. A denial shall identify each specific requirement not satisfied, state the reason the municipality determined that the requirement was not satisfied, and describe any process available under existing local procedures to correct the deficiency or appeal the decision.

d. If the municipality fails to issue a decision within the 30-day period prescribed by subsection c. of this section, an application

shall be deemed approved only if the applicant has satisfied every requirement for the registration, license, or permit under applicable State law and municipal ordinance. Within five business days after an application is deemed approved, the municipality shall issue the registration and each municipal license or permit for which all applicable requirements have been satisfied. A deemed approval under this subsection shall not exempt a hookah lounge from any requirement of subsection j. of section 5 of P.L.2005, c.383 (C.26:3D-59), confer the exception established by that subsection on a nonqualifying lounge, or waive any other approval required by State law.

e. Nothing in this section shall be construed to limit the authority of a municipality to establish, administer, enforce, suspend, or revoke a license or permit for a hookah lounge pursuant to applicable law or municipal ordinance, provided that the municipality complies with the application processing deadlines established by this section. Nothing in this section shall limit the authority of a local board of health to enforce the "New Jersey Smoke-Free Air Act," P.L.2005, c.383 (C.26:3D-55 et seq.).

4. (New section) a. A hookah lounge registered pursuant to subsection j. of section 5 of P.L.2005, c.383 (C.26:3D-59) that permits a person under 21 years of age to enter its designated smoking area or to use a hookah on its premises, or permits the consumption of a controlled dangerous substance on its premises in violation of chapter 35 of Title 2C of the New Jersey Statutes, shall be liable for a civil penalty of $250 for a first offense, $500 for a second offense, and $1,000 for a third or subsequent offense.

b. A penalty imposed pursuant to this section shall be collected in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), before the municipal court having jurisdiction. An official authorized to enforce State or local health codes or a law enforcement officer having jurisdiction may issue a summons for a violation of this section. A penalty recovered pursuant to this section shall be recovered by and in the name of the State by the local health agency and paid to the municipality in which the violation occurred for its general use.

c. A penalty imposed pursuant to this section shall be in addition to any other civil or criminal penalty authorized by law.

5. (New section) The Commissioner of Health shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement this act, including technical standards for the design, installation, operation, inspection, and maintenance of the ventilation and exhaust systems required for a hookah lounge located within another establishment.

6. This act shall take effect on the first day of the seventh month next following enactment, except that the Commissioner of Health may take any anticipatory administrative action necessary to implement this act.

STATEMENT

This bill establishes an exception to the "New Jersey Smoke-Free Air Act" for qualifying hookah lounges, including designated areas within restaurants and other establishments. It updates the 2015 proposal to the current text of the act, including its existing exemptions and definitions.

A hookah lounge may receive an initial one-year registration before it has a full year of gross-income data. For renewal, it must show that at least 20 percent and not more than 45 percent of its total gross income in the preceding full calendar year came from on-site hookah-product sales and rentals. A smoking area located within another establishment must be physically separated from nonsmoking areas and have ventilation and exhaust meeting Department of Health standards and applicable codes. Persons under 21 may not enter the smoking area or use a hookah on the premises. The exception does not permit unlawful drug use or cannabis consumption.

A municipality must determine application completeness within 10 business days and issue a final decision within 30 calendar days after an application is complete. A denial must specify unmet requirements, reasons, and existing correction or appeal procedures. An application is deemed approved after an untimely decision only when all substantive requirements have been met; the municipality then has five business days to issue the applicable registration, license, or permit. The bill preserves municipal licensing and enforcement authority. It also establishes civil penalties for specified violations and directs the Commissioner of Health to adopt ventilation standards.