

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1440**

Introduced by

Representatives D. Ruby, Dockter, Headland, Kasper, Marschall, Porter, Rohr, M. Ruby, Wolff
Senators Paulson, Weston, Wobbema

1 A BILL for an Act to amend and reenact subdivision d of subsection 3 of section 23-12-10 of the
2 North Dakota Century Code, relating to cigar lounges.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subdivision d of subsection 3 of section 23-12-10 of the North
5 Dakota Century Code is amended and reenacted as follows:

6 d. ~~A cigar lounge, which has a valid certificate issued by the tax commissioner~~
7 ~~under this subdivision; has a humidor on the premises; is enclosed by solid walls~~
8 ~~or windows, a ceiling, and a solid door; and is equipped with a ventilation system~~
9 ~~by which exhausted air is not recirculated to nonsmoking areas and smoke is not~~
10 ~~backstreamed into nonsmoking areas. A cigar lounge meeting the requirements~~
11 ~~of this subdivision may permit that permits the smoking of cigars and pipe tobacco~~
12 ~~purchased on the premises, but may not permit the smoking of any other product~~
13 ~~on the premises.~~

14 (1) An applicant for a certificate to operate a cigar lounge shall report to the tax
15 commissioner, on a form prescribed by the commissioner, that the premises
16 in which the cigar lounge will be operated has a humidor; is enclosed by
17 solid walls or windows, a ceiling, and a solid door; and is equipped with a
18 ventilation system by which exhausted air is not recirculated to nonsmoking
19 areas and smoke is not backstreamed into nonsmoking areas. The
20 commissioner may not require an applicant to report information regarding
21 income from the sale of cigars and pipe tobacco in an initial application.
22 Upon receipt of a report asserting compliance with this paragraph, the

1 commissioner shall issue the applicant a certificate to operate a cigar
2 lounge.

3 (2) A cigar lounge asserting the lounge meets the requirements of this-
4 ~~subdivision~~paragraph 1 shall report to the tax commissioner before
5 February first of each year following a full calendar year of operation, on a
6 form prescribed by the commissioner, the revenue from the previous
7 calendar year generated from the sale of cigars and pipe tobacco as a
8 percentage of annual gross income from receipts or sales. Upon receipt of a
9 report asserting ~~compliance with the annual gross income requirements of~~
10 ~~this subdivision~~the cigar lounge generates fifteen percent or more of the
11 business's annual gross income from receipts or sales from the sale of
12 cigars and pipe tobacco, the commissioner shall ~~issue~~renew the annual
13 certificate. The commissioner is not required to confirm the accuracy of
14 information reported but may not ~~issue~~renew a certificate absent supporting
15 documentation from the lounge.

16 (3) Information reported to the commissioner under this subdivision is subject to
17 the confidentiality provisions of section 57-39.2-23.

18 (2)(4) For purposes of this subdivision:

19 (a) "Cigar" means an individual roll of tobacco which has a wrapper or
20 cover of whole leaf tobacco; does not contain filler other than tobacco
21 filler; does not contain binder other than tobacco binder; does not
22 contain additives other than water; does not contain a filter, tip, or
23 nontobacco mouthpiece; weighs at least six pounds per thousand
24 count; and is made by hand, except to allow for the use of a manually
25 operated machine to assist in bunching, rolling, and binding.

26 (b) "Cigar lounge" means a business dedicated, in whole or in part, to the
27 smoking of cigars ~~which generates fifteen percent or more of the~~
28 ~~business's annual gross income from the sale of cigars~~and pipe
29 tobacco, which has a valid certificate issued by the tax commissioner.

30 (c) "Pipe tobacco" has the meaning provided in section 57-36-01.