



# Ending Louisville's Ban on Cigar Bars

## Introduction

Louisville, like many other jurisdictions across the country has worked to create smoke free workplaces in the last few decades. In response to concerns about second-hand smoke, lawmakers quickly enacted "smoke free ordinances," which unfortunately were applied broadly - not to targeted industries. This has resulted in an overly burdensome regulatory structure that restricts businesses like cigar bars and hookah lounges. Louisville exempts a select few industries from its smoke free ordinance, but that exemption does not extend to cigar bars. As Louisville looks to emerge from the pandemic with a more vibrant downtown and tourism scene, it is critical that city council members implement business friendly ordinances - including, among other policies, a proper regulatory structure which allows cigar bars.

## Understanding the Issue

In 2008, Louisville passed its first "Smoke Free Ordinance."<sup>1</sup> In 2017, Metro Council amended the ordinance to regulate e-cigarettes and hookah products. While the ordinance and the amendments that followed were implemented with a focus on preventing second hand smoke inhalation, in practice, the regulations are too broad. **Compared to other states and metro areas, it is clear that Louisville is over-regulating the tobacco industry and hindering safe and legitimate businesses.** The most obvious of these businesses is cigar bars. The only exemption within the tobacco industry is for "tobacco business", which are "[f]acilities that are owned or leased by tobacco manufacturers or wholesalers for the promotion, testing, research and/or development of tobacco products...[A] tobacco manufacturer or wholesaler [is] an establishment that generates 75% or more of its total annual gross revenues from the sale of tobacco products."

Louisville, then, must carve out an exemption for "cigar bars" These entities exist to sell mainly tobacco products which could be smoked on the premises.

## Key Points

- ▶ Enacting pro-business policies in Louisville will be critical to the city's success post-COVID
- ▶ Amending the city's Smoke Free Ordinance to allow for cigar bars is a common sense reform that has happened in many states in the last decade
- ▶ Cigar bars can operate safely through proper regulation around ventilation and air quality
- ▶ By properly defining "cigar bars," the city can make sure it does not remove the integrity of the indoor smoking ban

Not having a cigar bar industry puts Louisville at a distinct disadvantage both in the region and among similarly sized cities. Residents of Louisville can easily cross over the Ohio River into Southern Indiana and enjoy cigar bars. It is not uncommon to see advertisements for the Kentucky Derby that feature both cigars and bourbon, unfortunately, there is no indoor location within Louisville to enjoy these two things and horse racing all together.

As Louisville, and small businesses across America look to rebound post-COVID, governments should work to free industries up from unnecessary regulations. In order to fully embrace its identity as a tourist hub, Louisville should welcome the idea of cigar bars. **According to IBIS World, in the United States, cigar bars are a \$1 billion market, employing nearly 5,000 people across the country.**<sup>2</sup>

## Continued

This global market can connect shop owners in Louisville with cigar makers in the Dominican Republic. A recent report from the Louisville Downtown Partnership showed that downtown Louisville *lost* more businesses than it gained in 2020. While the pandemic, and subsequent government ordered shutdowns, almost certainly played a role in business closures and openings, this trend predates COVID—businesses closures been growing in Louisville for the last 3 years. **Closings have rapidly increased, with 18 in 2018, 22 in 2019, and 38 in 2020. At the same time, openings of new business have declined from 40 in 2018, to 38 in 2019, and only 27 in 2020.**<sup>3</sup>

## Amend Don't Remove

This policy primer does not aim to discuss the legitimacy or total economic impact of smoking bans. There is a large, and often debated, body of literature on the impact of smoking bans on the hospitality industry as a whole. It should, however, serve as guidance for Louisville Metro Council to enact an amendment to its existing ordinances to provide an exception for cigar bars—not to remove the entire smoke free ordinance. These proposed reforms are not meant to challenge the smoking ban in its entirety, but rather to carve out an exemption that should have long existed. It is critical that these reforms are targeted to provide for a robust cigar bar industry.

Amending this ordinance, as the Council did in 2017, shows a recognition that the city is able to adapt to better cater to its needs, without negatively impacting public health.

## Legislative Recommendations

In order to properly exempt cigar bars from the smoke free ordinance, the definition of a cigar bar must be clear. Building off of similar legislation in states like Tennessee, New Hampshire, South Carolina and Washington can help Louisville create the most effective ordinance. Notably, in 2015, then Indiana Governor Mike Pence signed a law<sup>4</sup> that amended the states Clean Indoor Act to allow for cigar bars. This legislation saw strong bi-partisan support gaining both Democrat and Republican sponsors.

In addition, to maintain health and safety standards we recommended that the Louisville Metro Council set licensing requirements to hold these establishments accountable. These licensing provisions should be similar to the process already in place for hookah lounges.

The cigar bar exemption should contain the following provisions:

*Definitions:* A cigar bars must generate at least 50% of its revenue from cigars and cigar related products; humidors, cigar cutters, cigar cases, lighters and ashtrays. Loose tobacco sales would be included in calculations.

A cigar bar must have a humidor on the premises.

A cigar bar must not allow anyone under 21 on the premises, and it must be physically separated from any establishment that does not allow smoking or does allow anyone under the age of 21.

*Licensing priorities include:*

All applicants for employment at these establishments must sign a notice explaining the potential health effects.

Cigar bars can be licensed to serve food and alcohol, but the consumption of any beverage or food item not sold by the licensee should be banned.

Cigar bars must have proper ventilation and maintain high air quality standards.

Cigar bars must ban smoking of all other tobacco products on the premises (i.e. cigarettes and vapes).

# Conclusion

By decreasing the regulatory burden on Louisville's cigar industry, the city's leaders can successfully spur new businesses while maintaining health and safety standards.

**This is a small business issue, which will provide a spark to the city's economy coming out of the pandemic.**

Louisville allows cigarette smoking in public places and has a proper exemption for hookah lounges, yet it ignores the cigar industry. It is past time that our city leaders correct this mistake.

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