

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 3341**

By Delegates Maynor, Howell, Phillips, Lucas, Clark,  
Linville, Bridges, Crouse, Householder, Gearheart,  
and Willis

[Originating in the Committee on the Judiciary;

Reported February 15, 2023]



1 A BILL to amend the Code of West Virginia, as amended, by adding thereto a new section,  
2 designated §16-9A-11, relating to permitting cigar bars and cigar lounges to operate in  
3 West Virginia resorts; and providing for guidelines for resort cigar bars and lounges.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.**

**§16-9A-11. Cigar lounges permitted in resorts; definitions; guidelines.**

1 (a) Definitions. – The following definitions apply for purposes of this section:

2 (1) "Cigar bar" or "cigar lounge" means an indoor area designated specifically for the  
3 smoking of tobacco products purchased on the premises or elsewhere.

4 (2) "Resort area" means an area that:

5 (A) Has a permanent population of less than 2,000 people, according to the most recent  
6 federal census;

7 (B) Derives the major portion of its economic well-being from businesses catering to the  
8 recreational and personal needs of persons traveling to or through the area;

9 (C) Contains overnight guestroom accommodation; and

10 (D) Does not include real property primarily used for manufacturing, milling, converting,  
11 producing, processing, or fabricating materials, generating electricity, or the extraction of process  
12 of minerals; or is

13 (E) (i) a licensed gaming facility on the property of an existing historic resort hotel, pursuant  
14 to the provisions of §29-25-1, et. seq. of this Code, or

15 (ii) a facility of an entity authorized to operate racetrack video lottery machines, pursuant to  
16 the provisions of §29-22A-1, et. seq. of this Code.

17 (b) Applicability – A cigar lounge may have emissions produced by smoking if the cigar  
18 lounge meets all of the following:

19 (1) Deemed a tourism "resort" as defined in subsection (a) of this section.

20 (2) Equipped with a ventilation system which is exhausted so that air from the smoking  
21 area is not recirculated or back streamed into an area accessible to the public, unless the air is  
22 filtered to remove toxins before it reenters the public area. An outside exhaust vent from the  
23 ventilation system must be as unobtrusive as possible.

24 (3) Not share indoor common space with another business unless the space for the cigar  
25 lounge is all of the following:

26 (A) Enclosed by solid walls or windows, a ceiling, and a solid door that remain closed other  
27 than for ingress and egress.

28 (B) Equipped with a ventilation system so that air from the smoking area is not recirculated  
29 to the nonsmoking areas and smoke is not back streamed into the nonsmoking areas.

30 (4) A cigar lounge shall prohibit anyone under the age of 21 from entering and shall display  
31 a sign at all entrances stating that no one under the age of 21 is allowed in the cigar lounge. A  
32 cigar lounge must use an age verification system approved by the local board of health for the  
33 purpose of verifying that all persons entering are 21 years of age or older.

NOTE: The purpose of this bill is to permit cigar lounges in West Virginia resorts, and to provide for guidelines for resort cigar lounges to operate.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.