

**ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009**  
**COMMITTEE STATEMENT**  
**LB355**

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**Hearing Date:** Monday February 09, 2009  
**Committee On:** General Affairs  
**Introducer:** Lautenbaugh  
**One Liner:** Authorize cigar bars under the Nebraska Liquor Control Act and provide duties for owners of cigar bars

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	5	Senators Karpisek, Coash, Friend, Price, Rogert
<b>Nay:</b>	3	Senators Cook, Dierks, Dubas
<b>Absent:</b>		
<b>Present Not Voting:</b>		

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**Proponents:**

Senator Scott Lautenbaugh  
Bradley Boyum  
John Larkin  
Curt Werner  
Bill Peters  
Jay Lerner  
Lee Polikov

**Representing:**

Introducer  
Self  
Jake's Cigars & Spirits  
Cigarros  
Cigar Association of America  
Self  
Self

**Opponents:**

Teresa Anderson  
Mark Welsch  
David Holmquist  
Bill Harvey  
Roger Welliver  
Jim Otto

**Representing:**

Central District Health Department  
GASP of Nebraska  
American Cancer Society  
Big Red Keno  
Self  
NE Restaurant Assn.

**Neutral:**

Lynn Rex  
Hobert Rupe

**Representing:**

League of NE Municipalities  
NE Liquor Control Commission

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**Summary of purpose and/or changes:**

Bill Summary

LB 355 amends Section 53-103 of the Nebraska Liquor Control Act by including a definition for cigar bars under subdivision (42) and adding a new Section 4 that excludes cigar bars from the Nebraska Clean Indoor Air Act or any similar city ordinances. This provision would become operable on June 1, 2009 and contains an emergency clause.

Details

Page 2, line 8 Adds a comma after "village."

Page 2, line 9 Adds a comma after "located."

Page 2, line 10 Adds a comma after "village."

Page 2, lines 16-19 Adds the language "If an applicant is the owner of a cigar bar as defined in Section 53-103 which allows smoking, the application, if other than an initial application, shall include proof of the cigar bar's annual gross profits."

Page 2, lines 22-23 Adds the language "and Section 4 of this act."

Page 11, lines 6-13 Adds the following definition: "(42) Cigar bar means a holder of a Class C liquor license which, in addition to selling alcohol, annually receives fifteen percent or more of its gross profits from the sale of cigars, cigarettes, and other tobacco products and tobacco-related products. Sec. 4 Nothing in the Nebraska Clean Indoor Air Act or any similar city ordinance that prohibits smoking in indoor areas shall apply to cigar bars as defined in section 53-103."

Page 11, line 14 Adds the language "This act becomes operative on June 1, 2009."

Page 11, lines 18-19 Adds an emergency clause that reads: "Since an emergency exists, this act takes effect when passed and approved according to law."

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**Explanation of amendments:**

AM 445 makes four main changes to LB 355. First, AM 445 replaces the previous Section 4 contained in LB 355 with a new Section 4 that prohibits counties from passing resolutions or cities from passing ordinances that prohibit smoking in cigar bars.

Second, the amendment adds cigar bars to the list of exemptions to the Nebraska Clean Indoor Air Act.

Third, the amendment also changes the measurement of sales from gross profit to gross revenue. The gross revenue measurement is preferred by the Liquor Control Commission because it is easier to calculate and is less susceptible to manipulation.

Finally, the amendment requires that proof of gross revenue be sent to the Nebraska Liquor Control Commission. This requirement makes it easier for the Liquor Control Commission to monitor compliance.

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Russ Karpisek, Chairperson