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HOUSE BILL 168

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Kathleen Cates and Jason C. Harper and Eleanor Chavez  
and Tara Jaramillo

AN ACT

RELATING TO HEALTH; ELIMINATING RACINOS FROM SMOKING-PERMITTED  
AREAS ALLOWED IN THE DEE JOHNSON CLEAN INDOOR AIR ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-16-12 NMSA 1978 (being Laws 2007,  
Chapter 20, Section 4, as amended) is amended to read:

"24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any  
other provision of the Dee Johnson Clean Indoor Air Act,  
smoking-permitted areas include the following:

A. a private residence, unless it is used  
commercially to provide child care, adult care or health care  
or any combination of those activities;

B. a retail tobacco store; provided that, for a  
retail tobacco store established on or after ~~[the effective  
date of this 2019 act]~~ June 14, 2019, the store shall be

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1 located in a standalone building;

2 C. a cigar bar; provided that, for a cigar bar  
3 established on or after June 14, 2019, the bar shall be located  
4 in a standalone building;

5 D. the facilities of a tobacco manufacturing  
6 company licensed by the United States to manufacture tobacco  
7 products that are operated by the company in its own name and  
8 that are used exclusively by the company in its business of  
9 manufacturing, marketing or distributing its tobacco products;  
10 provided that secondhand smoke does not infiltrate other indoor  
11 workplaces or other indoor public places where smoking is  
12 otherwise prohibited under the Dee Johnson Clean Indoor Air  
13 Act;

14 E. a state-licensed gaming facility, casino or  
15 bingo parlor, except a racetrack licensed by the state racing  
16 commission with a gaming operator's license issued by the  
17 gaming control board;

18 F. designated outdoor smoking areas;

19 G. private clubs;

20 H. hotel and motel rooms that are rented to guests  
21 and are designated as smoking-permitted rooms; provided that  
22 not more than ten percent of rooms rented to guests in a hotel  
23 or motel may be so designated;

24 I. a site that is being used in connection with the  
25 practice of cultural or ceremonial activities by Native

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1 Americans and that is in accordance with the federal American  
2 Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a;

3 J. a theatrical stage or a motion picture or  
4 television production set when it is necessary for performers  
5 to smoke as part of the production; and

6 K. an indoor or outdoor cannabis consumption area  
7 pursuant to the Cannabis Regulation Act."