



Ohio Administrative Code

Rule 3701-52-05 Exemption of retail tobacco stores.

Effective: July 16, 2018

(A) For the purpose of this rule, the exemption year is from April first of the year in which the affidavit is submitted, to March thirty-first of the following year. The affidavits approved by the director for use in requesting an exemption under this rule are set forth as follows:

(1) Appendix A - Existing retail tobacco stores requesting exemption; and

(2) Appendix B - New retail tobacco stores requesting exemption.

(B) Retail tobacco stores as defined in section 3794.01 of the Revised Code and in operation prior to December 7, 2006, may be exempt from regulation under Chapter 3794. of the Revised Code and this chapter provided that each retail tobacco store claiming the exemption meets the following:

(1) The retail tobacco store shall annually file with the Ohio department of health an affidavit stating the percentage of its gross revenue during the prior calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related accessories;

(2) Upon request of the Ohio department of health, the retail tobacco store shall provide additional information to assist the department in the determination of whether the exemption is properly applicable to a retail tobacco store; and

(3) The affidavit for each exemption year, shall be postmarked by January thirty-first of the year in which the affidavit is submitted and shall be mailed to the following address:

"ATTN: Smoke-Free Workplace Program

Ohio Department of Health

246 North High Street



Columbus, OH 43215"

(C) Retail tobacco stores that begin operation after December 7, 2006, or any existing retail tobacco store that relocates to another location after December 7, 2006, may only be exempt from regulation under Chapter 3794. of the Revised Code and this chapter provided that each retail tobacco store claiming the exemption meets the requirements set forth in paragraphs (B)(1) to (B)(3) of this rule and the following:

(1) The retail tobacco store shall be located in a freestanding structure occupied solely by the retail tobacco store; and

(2) Smoke from the retail tobacco store shall not migrate into any enclosed area where smoking is prohibited under the provisions of Chapter 3794. of the Revised Code.

(D) Within sixty days after receiving an affidavit and, if requested, any additional information, the Ohio department of health shall provide each retail tobacco store that meets the requirements of this rule with written documentation that the retail tobacco store is exempt from regulation under Chapter 3794. of the Revised Code.