



Environmental Health Committee

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LRB095 17072 MJR 48213 a

1 AMENDMENT TO HOUSE BILL 4310

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4310 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Smoke Free Illinois Act is amended by  
5 changing Sections 10, 35, 40, and 50 as follows:

6 (410 ILCS 82/10)

7 Sec. 10. Definitions. In this Act:

8 "Bar" means an establishment that is devoted to the serving  
9 of alcoholic beverages for consumption by guests on the  
10 premises and that derives no more than 10% of its gross revenue  
11 from the sale of food consumed on the premises. "Bar" includes,  
12 but is not limited to, taverns, nightclubs, cocktail lounges,  
13 adult entertainment facilities, and cabarets.

14 "Department" means the Department of Public Health.

15 "Employee" means a person who is employed by an employer in  
16 consideration for direct or indirect monetary wages or profits

1 or a person who volunteers his or her services for a non-profit  
2 entity.

3 "Employer" means a person, business, partnership,  
4 association, or corporation, including a municipal  
5 corporation, trust, or non-profit entity, that employs the  
6 services of one or more individual persons.

7 "Enclosed area" means all space between a floor and a  
8 ceiling that is enclosed or partially enclosed with (i) solid  
9 walls or windows, exclusive of doorways, or (ii) solid walls  
10 with partitions and no windows, exclusive of doorways, that  
11 extend from the floor to the ceiling, including, without  
12 limitation, lobbies and corridors.

13 "Enclosed or partially enclosed sports arena" means any  
14 sports pavilion, stadium, gymnasium, health spa, boxing arena,  
15 swimming pool, roller rink, ice rink, bowling alley, or other  
16 similar place where members of the general public assemble to  
17 engage in physical exercise or participate in athletic  
18 competitions or recreational activities or to witness sports,  
19 cultural, recreational, or other events.

20 "Gaming equipment or supplies" means gaming  
21 equipment/supplies as defined in the Illinois Gaming Board  
22 Rules of the Illinois Administrative Code.

23 "Gaming facility" means an establishment utilized  
24 primarily for the purposes of gaming and where gaming equipment  
25 or supplies are operated for the purposes of accruing business  
26 revenue.

1 "Healthcare facility" means an office or institution  
2 providing care or treatment of diseases, whether physical,  
3 mental, or emotional, or other medical, physiological, or  
4 psychological conditions, including, but not limited to,  
5 hospitals, rehabilitation hospitals, weight control clinics,  
6 nursing homes, homes for the aging or chronically ill,  
7 laboratories, and offices of surgeons, chiropractors, physical  
8 therapists, physicians, dentists, and all specialists within  
9 these professions. "Healthcare facility" includes all waiting  
10 rooms, hallways, private rooms, semiprivate rooms, and wards  
11 within healthcare facilities.

12 "Place of employment" means any area under the control of a  
13 public or private employer that employees are required to  
14 enter, leave, or pass through during the course of employment,  
15 including, but not limited to entrances and exits to places of  
16 employment, including a minimum distance, as set forth in  
17 Section 70 of this Act, of 15 feet from entrances, exits,  
18 windows that open, and ventilation intakes that serve an  
19 enclosed area where smoking is prohibited; offices and work  
20 areas; restrooms; conference and classrooms; break rooms and  
21 cafeterias; and other common areas. A private residence or  
22 home-based business, unless used to provide licensed child  
23 care, foster care, adult care, or other similar social service  
24 care on the premises, is not a "place of employment", nor are  
25 enclosed laboratories, not open to the public, in an accredited  
26 university or government facility where the activity of smoking

1 is exclusively conducted for the purpose of medical or  
2 scientific health-related research.

3 "Private club" means a not-for-profit association that (1)  
4 has been in active and continuous existence for at least 3  
5 years prior to the effective date of this amendatory Act of the  
6 95th General Assembly, whether incorporated or not, (2) is the  
7 owner, lessee, or occupant of a building or portion thereof  
8 used exclusively for club purposes at all times, (3) is  
9 operated solely for a recreational, fraternal, social,  
10 patriotic, political, benevolent, or athletic purpose, but not  
11 for pecuniary gain, and (4) only sells alcoholic beverages  
12 incidental to its operation. For purposes of this definition,  
13 "private club" means an organization that is managed by a board  
14 of directors, executive committee, or similar body chosen by  
15 the members at an annual meeting, has established bylaws, a  
16 constitution, or both to govern its activities, and has been  
17 granted an exemption from the payment of federal income tax as  
18 a club under 26 U.S.C. 501.

19 "Private residence" means the part of a structure used as a  
20 dwelling, including, without limitation: a private home,  
21 townhouse, condominium, apartment, mobile home, vacation home,  
22 cabin, or cottage. For the purposes of this definition, a  
23 hotel, motel, inn, resort, lodge, bed and breakfast or other  
24 similar public accommodation, hospital, nursing home, or  
25 assisted living facility shall not be considered a private  
26 residence.

1 "Public place" means that portion of any building or  
2 vehicle used by and open to the public, regardless of whether  
3 the building or vehicle is owned in whole or in part by private  
4 persons or entities, the State of Illinois, or any other public  
5 entity and regardless of whether a fee is charged for  
6 admission, including a minimum distance, as set forth in  
7 Section 70 of this Act, of 15 feet from entrances, exits,  
8 windows that open, and ventilation intakes that serve an  
9 enclosed area where smoking is prohibited. A "public place"  
10 does not include a private residence unless the private  
11 residence is used to provide licensed child care, foster care,  
12 or other similar social service care on the premises. A "public  
13 place" includes, but is not limited to, hospitals, restaurants,  
14 retail stores, offices, commercial establishments, elevators,  
15 indoor theaters, libraries, museums, concert halls, public  
16 conveyances, educational facilities, nursing homes,  
17 auditoriums, enclosed or partially enclosed sports arenas,  
18 meeting rooms, schools, exhibition halls, convention  
19 facilities, polling places, private clubs, gaming facilities,  
20 all government owned vehicles and facilities, including  
21 buildings and vehicles owned, leased, or operated by the State  
22 or State subcontract, healthcare facilities or clinics,  
23 enclosed shopping centers, retail service establishments,  
24 financial institutions, educational facilities, ticket areas,  
25 public hearing facilities, public restrooms, waiting areas,  
26 lobbies, bars, taverns, bowling alleys, skating rinks,

1 reception areas, and no less than 75% of the sleeping quarters  
2 within a hotel, motel, resort, inn, lodge, bed and breakfast,  
3 or other similar public accommodation that are rented to  
4 guests, but excludes private residences.

5 "Restaurant" means (i) an eating establishment, including,  
6 but not limited to, coffee shops, cafeterias, sandwich stands,  
7 and private and public school cafeterias, that gives or offers  
8 for sale food to the public, guests, or employees, and (ii) a  
9 kitchen or catering facility in which food is prepared on the  
10 premises for serving elsewhere. "Restaurant" includes a bar  
11 area within the restaurant.

12 "Retail tobacco store" means a retail establishment that  
13 derives more than 80% of its gross revenue from the sale of  
14 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,  
15 and other smoking devices for burning tobacco and related  
16 smoking accessories and in which the sale of other products is  
17 merely incidental. "Retail tobacco store" does not include a  
18 tobacco department or section of a larger commercial  
19 establishment or any establishment with any type of liquor,  
20 food, or restaurant license.

21 "Smoke" or "smoking" means the carrying, smoking, burning,  
22 inhaling, or exhaling of any kind of lighted pipe, cigar,  
23 cigarette, hookah, weed, herbs, or any other lighted smoking  
24 equipment.

25 "State agency" has the meaning formerly ascribed to it in  
26 subsection (a) of Section 3 of the Illinois Purchasing Act (now

1 repealed).

2 "Unit of local government" has the meaning ascribed to it  
3 in Section 1 of Article VII of the Illinois Constitution of  
4 1970.

5 (Source: P.A. 95-17, eff. 1-1-08.)

6 (410 ILCS 82/35)

7 Sec. 35. Exemptions. Notwithstanding any other provision  
8 of this Act, smoking is allowed in the following areas:

9 (1) Private residences or dwelling places, except when  
10 used as a child care, adult day care, or healthcare  
11 facility or any other home-based business open to the  
12 public.

13 (2) Retail tobacco stores as defined in Section 10 of  
14 this Act in operation prior to the effective date of this  
15 amendatory Act of the 95th General Assembly. The retail  
16 tobacco store shall annually file with the Department by  
17 January 31st an affidavit stating the percentage of its  
18 gross income during the prior calendar year that was  
19 derived from the sale of loose tobacco, plants, or herbs  
20 and cigars, cigarettes, pipes, or other smoking devices for  
21 smoking tobacco and related smoking accessories. Any  
22 retail tobacco store that begins operation after the  
23 effective date of this amendatory Act may only qualify for  
24 an exemption if located in a freestanding structure  
25 occupied solely by the business and smoke from the business

1 does not migrate into an enclosed area where smoking is  
2 prohibited.

3 (3) Private and semi-private rooms in nursing homes and  
4 long-term care facilities that are occupied by one or more  
5 persons, all of whom are smokers and have requested in  
6 writing to be placed or to remain in a room where smoking  
7 is permitted and the smoke shall not infiltrate other areas  
8 of the nursing home.

9 (4) Hotel and motel sleeping rooms that are rented to  
10 guests and are designated as smoking rooms, provided that  
11 all smoking rooms on the same floor must be contiguous and  
12 smoke from these rooms must not infiltrate into nonsmoking  
13 rooms or other areas where smoking is prohibited. Not more  
14 than 25% of the rooms rented to guests in a hotel or motel  
15 may be designated as rooms where smoking is allowed. The  
16 status of rooms as smoking or nonsmoking may not be  
17 changed, except to permanently add additional nonsmoking  
18 rooms.

19 (5) Enclosed laboratories that are excluded from the  
20 definition of "place of employment" in Section 10 of this  
21 Act. Notwithstanding any other rulemaking authority that  
22 may exist, neither the Governor nor any agency or agency  
23 head under the jurisdiction of the Governor has any  
24 authority to make or promulgate rules to implement or  
25 enforce the provisions of this amendatory Act of the 95th  
26 General Assembly. If, however, the Governor believes that



1 rules are necessary to implement or enforce the provisions  
2 of this amendatory Act of the 95th General Assembly, the  
3 Governor may suggest rules to the General Assembly by  
4 filing them with the Clerk of the House and the Secretary  
5 of the Senate and by requesting that the General Assembly  
6 authorize such rulemaking by law, enact those suggested  
7 rules into law, or take any other appropriate action in the  
8 General Assembly's discretion. Nothing contained in this  
9 amendatory Act of the 95th General Assembly shall be  
10 interpreted to grant rulemaking authority under any other  
11 Illinois statute where such authority is not otherwise  
12 explicitly given. For the purposes of this amendatory Act  
13 of the 95th General Assembly, "rules" is given the meaning  
14 contained in Section 1-70 of the Illinois Administrative  
15 Procedure Act, and "agency" and "agency head" are given the  
16 meanings contained in Sections 1-20 and 1-25 of the  
17 Illinois Administrative Procedure Act to the extent that  
18 such definitions apply to agencies or agency heads under  
19 the jurisdiction of the Governor.

20 (Source: P.A. 95-17, eff. 1-1-08.)

21 (410 ILCS 82/40)

22 Sec. 40. Enforcement; complaints.

23 (a) The Department, State-certified local public health  
24 departments, and local law enforcement agencies shall enforce  
25 the provisions of this Act through the issuance of citations

1 and may assess fines pursuant to Section 45 of this Act.

2 (b) Any person may register a complaint with the  
3 Department, a State-certified local public health department,  
4 or a local law enforcement agency for a violation of this Act.  
5 The Department shall establish a telephone number that a person  
6 may call to register a complaint under this subsection (b).

7 (c) The Department shall afford a violator the opportunity  
8 to pay the fine without objection or to contest the citation in  
9 accordance with the Illinois Administrative Procedure Act,  
10 except that in case of a conflict between the Illinois  
11 Administrative Procedure Act and this Act, the provisions of  
12 this Act shall control.

13 (Source: P.A. 95-17, eff. 1-1-08.)

14 (410 ILCS 82/50)

15 Sec. 50. Injunctions. In addition to any other sanction or  
16 remedy, the ~~The~~ Department, a State-certified local public  
17 health department, local law enforcement agency, or any  
18 individual personally affected by repeated violations may  
19 institute, in a circuit court, an action to enjoin violations  
20 of this Act.

21 (Source: P.A. 95-17, eff. 1-1-08.)".