



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2514

Introduced 2/6/2018, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

410 ILCS 82/40
410 ILCS 82/45
410 ILCS 82/50

Amends the Smoke Free Illinois Act. Changes references from "fine" to "civil penalty" throughout the Act and makes corresponding changes. Provides that law enforcement agencies (rather than local law enforcement agencies) shall enforce the provisions of the Act through the issuance of citations and may assess specified civil penalties (rather than fines). Makes related changes in provisions concerning complaints and injunctions. Provides that funds designated for the Department of State Police or Department of Natural Resources by provisions concerning the distribution of civil penalty moneys shall be deposited by the respective Department into a specified fund.

LRB100 15071 MJP 29914 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Smoke Free Illinois Act is amended by
5 changing Sections 40, 45, and 50 as follows:

6 (410 ILCS 82/40)

7 Sec. 40. Enforcement; complaints.

8 (a) The Department, State-certified local public health
9 departments, and ~~local~~ law enforcement agencies shall enforce
10 the provisions of this Act through the issuance of citations
11 and may assess civil penalties ~~finer~~ pursuant to Section 45 of
12 this Act.

13 (a-2) The citations issued pursuant to this Act shall
14 conspicuously include the following:

15 (1) the name of the offense and its statutory
16 reference;

17 (2) the nature and elements of the violation;

18 (3) the date and location of the violation;

19 (4) the name of the enforcing agency;

20 (5) the name of the violator;

21 (6) the amount of the imposed civil penalty ~~fine~~ and
22 the location where the violator can pay the civil penalty
23 ~~fine~~ without objection;

1 (7) the address and phone number of the enforcing
2 agency where the violator can request a hearing before the
3 Department to contest the imposition of the civil penalty
4 ~~fine~~ imposed by the citation under the rules and procedures
5 of the Administrative Procedure Act;

6 (8) the time period in which to pay the civil penalty
7 ~~fine~~ or to request a hearing to contest the imposition of
8 the civil penalty ~~fine~~ imposed by the citation; and

9 (9) the verified signature of the person issuing the
10 citation.

11 (a-3) One copy of the citation shall be provided to the
12 violator, one copy shall be retained by the enforcing agency,
13 and one copy shall be provided to the entity otherwise
14 authorized by the enforcing agency to receive civil penalties
15 ~~finer~~ on their behalf.

16 (b) Any person may register a complaint with the
17 Department, a State-certified local public health department,
18 or a ~~local~~ law enforcement agency for a violation of this Act.
19 The Department shall establish a telephone number that a person
20 may call to register a complaint under this subsection (b).

21 (c) The Department shall afford a violator the opportunity
22 to pay the civil penalty ~~fine~~ without objection or to contest
23 the citation in accordance with the Illinois Administrative
24 Procedure Act, except that in case of a conflict between the
25 Illinois Administrative Procedure Act and this Act, the
26 provisions of this Act shall control.

1 (d) Upon receipt of a request for hearing to contest the
2 imposition of a civil penalty ~~fine~~ imposed by a citation, the
3 enforcing agency shall immediately forward a copy of the
4 citation and notice of the request for hearing to the
5 Department for initiation of a hearing conducted in accordance
6 with the Illinois Administrative Procedure Act and the rules
7 established thereto by the Department applicable to contested
8 cases, except that in case of a conflict between the Illinois
9 Administrative Procedure Act and this Act, the provisions of
10 this Act shall control. Parties to the hearing shall be the
11 enforcing agency and the violator.

12 The Department shall notify the violator in writing of the
13 time, place, and location of the hearing. The hearing shall be
14 conducted at the nearest regional office of the Department, or
15 in a location contracted by the Department in the county where
16 the citation was issued.

17 (e) Civil penalties ~~Fines~~ imposed under this Act may be
18 collected in accordance with all methods otherwise available to
19 the enforcing agency or the Department, except that there shall
20 be no collection efforts during the pendency of the hearing
21 before the Department.

22 (f) Rulemaking authority to implement this amendatory Act
23 of the 95th General Assembly, if any, is conditioned on the
24 rules being adopted in accordance with all provisions of the
25 Illinois Administrative Procedure Act and all rules and
26 procedures of the Joint Committee on Administrative Rules; any

1 purported rule not so adopted, for whatever reason, is
2 unauthorized.

3 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09.)

4 (410 ILCS 82/45)

5 Sec. 45. Violations.

6 (a) A person, corporation, partnership, association or
7 other entity who violates Section 15 or 20 of this Act shall be
8 liable for a civil penalty ~~fined~~ pursuant to this Section. Each
9 day that a violation occurs is a separate violation.

10 (b) A person who smokes in an area where smoking is
11 prohibited under Section 15 of this Act shall be liable for a
12 civil penalty ~~fined~~ in an amount that is \$100 for a first
13 offense and \$250 for each subsequent offense. A person who
14 owns, operates, or otherwise controls a public place or place
15 of employment that violates Section 15 or 20 of this Act shall
16 be liable for a civil penalty of ~~fined~~ (i) \$250 for the first
17 violation, (ii) \$500 for the second violation within one year
18 after the first violation, and (iii) \$2,500 for each additional
19 violation within one year after the first violation.

20 (c) A civil penalty ~~fine~~ imposed under this Section shall
21 be allocated as follows:

22 (1) one-half of the civil penalty ~~fine~~ shall be
23 distributed to the Department; and

24 (2) one-half of the civil penalty ~~fine~~ shall be
25 distributed to the enforcing agency.

1 With respect to funds designated for the Department of
2 State Police under this subsection, the Department of State
3 Police shall deposit the moneys into the State Police
4 Operations Assistance Fund. With respect to funds designated
5 for the Department of Natural Resources under this subsection,
6 the Department of Natural Resources shall deposit the moneys
7 into the Conservation Police Operations Assistance Fund.

8 (d) Rulemaking authority to implement this amendatory Act
9 of the 95th General Assembly, if any, is conditioned on the
10 rules being adopted in accordance with all provisions of the
11 Illinois Administrative Procedure Act and all rules and
12 procedures of the Joint Committee on Administrative Rules; any
13 purported rule not so adopted, for whatever reason, is
14 unauthorized.

15 (Source: P.A. 98-1023, eff. 8-22-14.)

16 (410 ILCS 82/50)

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

22 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09.)