

HB0201



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0201

Introduced 1/22/2021, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

410 ILCS 82/10

Amends the Smoke Free Illinois Act. Includes the use of electronic cigarettes in the definition of "smoke" or "smoking". Changes the definition of "retail tobacco store" to include references to electronic cigarettes. Defines "electronic cigarette".

LRB102 09994 CPF 15312 b

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 Section 10 as follows:

6 (410 ILCS 82/10)

7 Sec. 10. Definitions. In this Act:

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

14 "Department" means the Department of Public Health.

15 "Electronic cigarette" has the same meaning as provided in
16 subsection (a-9) of Section 1 of the Prevention of Tobacco Use
17 by Persons under 21 Years of Age and Sale and Distribution of
18 Tobacco Products Act.

19 "Employee" means a person who is employed by an employer
20 in consideration for direct or indirect monetary wages or
21 profits or a person who volunteers his or her services for a
22 non-profit entity.

23 "Employer" means a person, business, partnership,

1 association, or corporation, including a municipal
2 corporation, trust, or non-profit entity, that employs the
3 services of one or more individual persons.

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

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

17 "Gaming equipment or supplies" means gaming
18 equipment/supplies as defined in the Illinois Gaming Board
19 Rules of the Illinois Administrative Code.

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

24 "Healthcare facility" means an office or institution
25 providing care or treatment of diseases, whether physical,
26 mental, or emotional, or other medical, physiological, or

1 psychological conditions, including, but not limited to,
2 hospitals, rehabilitation hospitals, weight control clinics,
3 nursing homes, homes for the aging or chronically ill,
4 laboratories, and offices of surgeons, chiropractors, physical
5 therapists, physicians, dentists, and all specialists within
6 these professions. "Healthcare facility" includes all waiting
7 rooms, hallways, private rooms, semiprivate rooms, and wards
8 within healthcare facilities.

9 "Place of employment" means any area under the control of
10 a public or private employer that employees are required to
11 enter, leave, or pass through during the course of employment,
12 including, but not limited to entrances and exits to places of
13 employment, including a minimum distance, as set forth in
14 Section 70 of this Act, of 15 feet from entrances, exits,
15 windows that open, and ventilation intakes that serve an
16 enclosed area where smoking is prohibited; offices and work
17 areas; restrooms; conference and classrooms; break rooms and
18 cafeterias; and other common areas. A private residence or
19 home-based business, unless used to provide licensed child
20 care, foster care, adult care, or other similar social service
21 care on the premises, is not a "place of employment", nor are
22 enclosed laboratories, not open to the public, in an
23 accredited university or government facility where the
24 activity of smoking is exclusively conducted for the purpose
25 of medical or scientific health-related research. Rulemaking
26 authority to implement this amendatory Act of the 95th General

1 Assembly, if any, is conditioned on the rules being adopted in
2 accordance with all provisions of the Illinois Administrative
3 Procedure Act and all rules and procedures of the Joint
4 Committee on Administrative Rules; any purported rule not so
5 adopted, for whatever reason, is unauthorized.

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

22 "Private residence" means the part of a structure used as
23 a dwelling, including, without limitation: a private home,
24 townhouse, condominium, apartment, mobile home, vacation home,
25 cabin, or cottage. For the purposes of this definition, a
26 hotel, motel, inn, resort, lodge, bed and breakfast or other

1 similar public accommodation, hospital, nursing home, or
2 assisted living facility shall not be considered a private
3 residence.

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

1 service establishments, financial institutions, educational
2 facilities, ticket areas, public hearing facilities, public
3 restrooms, waiting areas, lobbies, bars, taverns, bowling
4 alleys, skating rinks, reception areas, and no less than 75%
5 of the sleeping quarters within a hotel, motel, resort, inn,
6 lodge, bed and breakfast, or other similar public
7 accommodation that are rented to guests, but excludes private
8 residences.

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

16 "Retail tobacco store" means a retail establishment that
17 derives more than 80% of its gross revenue from the sale of
18 loose tobacco, plants, or herbs and cigars, electronic
19 cigarettes, cigarettes, pipes, and other smoking devices for
20 burning tobacco and related smoking accessories and in which
21 the sale of other products is merely incidental. "Retail
22 tobacco store" includes an enclosed workplace that
23 manufactures, imports, or distributes tobacco, electronic
24 cigarettes, or tobacco products, when, as a necessary and
25 integral part of the process of making, manufacturing,
26 importing, or distributing a tobacco product or electronic

1 cigarette for the eventual retail sale of that tobacco,
2 electronic cigarette, or tobacco product, tobacco is heated,
3 burned, or smoked, or a lighted tobacco product is tested,
4 provided that the involved business entity: (1) maintains a
5 specially designated area or areas within the workplace for
6 the purpose of the heating, burning, smoking, or lighting
7 activities, and does not create a facility that permits
8 smoking throughout; (2) satisfies the 80% requirement related
9 to gross sales; and (3) delivers tobacco products or
10 electronic cigarettes to consumers, retail establishments, or
11 other wholesale establishments as part of its business.
12 "Retail tobacco store" does not include a tobacco or
13 electronic cigarette department or section of a larger
14 commercial establishment or any establishment with any type of
15 liquor, food, or restaurant license. Rulemaking authority to
16 implement this amendatory Act of the 95th General Assembly, if
17 any, is conditioned on the rules being adopted in accordance
18 with all provisions of the Illinois Administrative Procedure
19 Act and all rules and procedures of the Joint Committee on
20 Administrative Rules; any purported rule not so adopted, for
21 whatever reason, is unauthorized.

22 "Smoke" or "smoking" means the carrying, smoking, burning,
23 inhaling, or exhaling of any kind of lighted pipe, cigar,
24 cigarette, hookah, weed, herbs, or any other lighted smoking
25 equipment. "Smoke" or "smoking" includes the use of an
26 electronic cigarette. "Smoke" or "smoking" does not include

1 smoking that is associated with a native recognized religious
2 ceremony, ritual, or activity by American Indians that is in
3 accordance with the federal American Indian Religious Freedom
4 Act, 42 U.S.C. 1996 and 1996a.

5 "State agency" has the meaning formerly ascribed to it in
6 subsection (a) of Section 3 of the Illinois Purchasing Act
7 (now repealed).

8 "Unit of local government" has the meaning ascribed to it
9 in Section 1 of Article VII of the Illinois Constitution of
10 1970.

11 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
12 96-797, eff. 1-1-10.)