



Rep. Camille Y. Lilly

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10300HB1540ham002

LRB103 25576 BMS 58819 a

1 AMENDMENT TO HOUSE BILL 1540

2 AMENDMENT NO. _____. Amend House Bill 1540 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 and 35 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" means any product containing or
16 delivering nicotine or any other substance intended for human

1 consumption that can be used by a person in any manner for the
2 purpose of inhaling vapor or aerosol from the product.
3 "Electronic cigarette" includes any such product, whether
4 manufactured, distributed, marketed, or sold as an
5 e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under
6 any other product name or descriptor.

7 "Employee" means a person who is employed by an employer
8 in consideration for direct or indirect monetary wages or
9 profits or a person who volunteers his or her services for a
10 non-profit entity.

11 "Employer" means a person, business, partnership,
12 association, or corporation, including a municipal
13 corporation, trust, or non-profit entity, that employs the
14 services of one or more individual persons.

15 "Enclosed area" means all space between a floor and a
16 ceiling that is enclosed or partially enclosed with (i) solid
17 walls or windows, exclusive of doorways, or (ii) solid walls
18 with partitions and no windows, exclusive of doorways, that
19 extend from the floor to the ceiling, including, without
20 limitation, lobbies and corridors.

21 "Enclosed or partially enclosed sports arena" means any
22 sports pavilion, stadium, gymnasium, health spa, boxing arena,
23 swimming pool, roller rink, ice rink, bowling alley, or other
24 similar place where members of the general public assemble to
25 engage in physical exercise or participate in athletic
26 competitions or recreational activities or to witness sports,

1 cultural, recreational, or other events.

2 "Gaming equipment or supplies" means gaming
3 equipment/supplies as defined in the Illinois Gaming Board
4 Rules of the Illinois Administrative Code.

5 "Gaming facility" means an establishment utilized
6 primarily for the purposes of gaming and where gaming
7 equipment or supplies are operated for the purposes of
8 accruing business revenue.

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

20 "Place of employment" means any area under the control of
21 a public or private employer that employees are required to
22 enter, leave, or pass through during the course of employment,
23 including, but not limited to entrances and exits to places of
24 employment, including a minimum distance, as set forth in
25 Section 70 of this Act, of 15 feet from entrances, exits,
26 windows that open, and ventilation intakes that serve an

1 enclosed area where smoking is prohibited; offices and work
2 areas; restrooms; conference and classrooms; break rooms and
3 cafeterias; and other common areas. A private residence or
4 home-based business, unless used to provide licensed child
5 care, foster care, adult care, or other similar social service
6 care on the premises, is not a "place of employment", nor are
7 enclosed laboratories, not open to the public, in an
8 accredited university or government facility where the
9 activity of smoking is exclusively conducted for the purpose
10 of medical or scientific health-related research. Rulemaking
11 authority to implement this amendatory Act of the 95th General
12 Assembly, if any, is conditioned on the rules being adopted in
13 accordance with all provisions of the Illinois Administrative
14 Procedure Act and all rules and procedures of the Joint
15 Committee on Administrative Rules; any purported rule not so
16 adopted, for whatever reason, is unauthorized.

17 "Private club" means a not-for-profit association that (1)
18 has been in active and continuous existence for at least 3
19 years prior to the effective date of this amendatory Act of the
20 95th General Assembly, whether incorporated or not, (2) is the
21 owner, lessee, or occupant of a building or portion thereof
22 used exclusively for club purposes at all times, (3) is
23 operated solely for a recreational, fraternal, social,
24 patriotic, political, benevolent, or athletic purpose, but not
25 for pecuniary gain, and (4) only sells alcoholic beverages
26 incidental to its operation. For purposes of this definition,

1 "private club" means an organization that is managed by a
2 board of directors, executive committee, or similar body
3 chosen by the members at an annual meeting, has established
4 bylaws, a constitution, or both to govern its activities, and
5 has been granted an exemption from the payment of federal
6 income tax as a club under 26 U.S.C. 501.

7 "Private residence" means the part of a structure used as
8 a dwelling, including, without limitation: a private home,
9 townhouse, condominium, apartment, mobile home, vacation home,
10 cabin, or cottage. For the purposes of this definition, a
11 hotel, motel, inn, resort, lodge, bed and breakfast or other
12 similar public accommodation, hospital, nursing home, or
13 assisted living facility shall not be considered a private
14 residence.

15 "Public place" means that portion of any building or
16 vehicle used by and open to the public, regardless of whether
17 the building or vehicle is owned in whole or in part by private
18 persons or entities, the State of Illinois, or any other
19 public entity and regardless of whether a fee is charged for
20 admission, including a minimum distance, as set forth in
21 Section 70 of this Act, of 15 feet from entrances, exits,
22 windows that open, and ventilation intakes that serve an
23 enclosed area where smoking is prohibited. A "public place"
24 does not include a private residence unless the private
25 residence is used to provide licensed child care, foster care,
26 or other similar social service care on the premises. A

1 "public place" includes, but is not limited to, hospitals,
2 restaurants, retail stores, offices, commercial
3 establishments, elevators, indoor theaters, libraries,
4 museums, concert halls, public conveyances, educational
5 facilities, nursing homes, auditoriums, enclosed or partially
6 enclosed sports arenas, meeting rooms, schools, exhibition
7 halls, convention facilities, polling places, private clubs,
8 gaming facilities, all government owned vehicles and
9 facilities, including buildings and vehicles owned, leased, or
10 operated by the State or State subcontract, healthcare
11 facilities or clinics, enclosed shopping centers, retail
12 service establishments, financial institutions, educational
13 facilities, ticket areas, public hearing facilities, public
14 restrooms, waiting areas, lobbies, bars, taverns, bowling
15 alleys, skating rinks, reception areas, and no less than 75%
16 of the sleeping quarters within a hotel, motel, resort, inn,
17 lodge, bed and breakfast, or other similar public
18 accommodation that are rented to guests, but excludes private
19 residences.

20 "Restaurant" means (i) an eating establishment, including,
21 but not limited to, coffee shops, cafeterias, sandwich stands,
22 and private and public school cafeterias, that gives or offers
23 for sale food to the public, guests, or employees, and (ii) a
24 kitchen or catering facility in which food is prepared on the
25 premises for serving elsewhere. "Restaurant" includes a bar
26 area within the restaurant.

1 "Retail tobacco store" means a retail establishment that
2 derives more than 80% of its gross revenue from the sale of
3 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,
4 and other smoking devices for burning tobacco and related
5 smoking accessories and in which the sale of other products is
6 merely incidental. "Retail tobacco store" includes an enclosed
7 workplace that manufactures, imports, or distributes tobacco,
8 electronic cigarettes, or tobacco products, when, as a
9 necessary and integral part of the process of making,
10 manufacturing, importing, or distributing a tobacco product or
11 electronic cigarette for the eventual retail sale of that
12 tobacco, electronic cigarette, or tobacco product, tobacco is
13 heated, burned, or smoked, or a lighted tobacco product is
14 tested, provided that the involved business entity: (1)
15 maintains a specially designated area or areas within the
16 workplace for the purpose of the heating, burning, smoking, or
17 lighting activities, and does not create a facility that
18 permits smoking throughout; (2) satisfies the 80% requirement
19 related to gross sales; and (3) delivers tobacco products or
20 electronic cigarettes to consumers, retail establishments, or
21 other wholesale establishments as part of its business.
22 "Retail tobacco store" does not include a tobacco or
23 electronic cigarette department or section of a larger
24 commercial establishment or any establishment with any type of
25 liquor, food, or restaurant license. Rulemaking authority to
26 implement this amendatory Act of the 95th General Assembly, if

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

6 "Smoke" or "smoking" means the carrying, smoking, burning,
7 inhaling, or exhaling of any kind of lighted pipe, cigar,
8 cigarette, hookah, weed, herbs, or any other lighted smoking
9 equipment. "Smoke" or "smoking" includes the use of an
10 electronic cigarette. "Smoke" or "smoking" does not include
11 smoking that is associated with a native recognized religious
12 ceremony, ritual, or activity by American Indians that is in
13 accordance with the federal American Indian Religious Freedom
14 Act, 42 U.S.C. 1996 and 1996a.

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

18 "Unit of local government" has the meaning ascribed to it
19 in Section 1 of Article VII of the Illinois Constitution of
20 1970.

21 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
22 96-797, eff. 1-1-10.)

23 (410 ILCS 82/35)

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

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

5 (2) Retail tobacco stores as defined in Section 10 of
6 this Act in operation prior to the effective date of this
7 amendatory Act of the 95th General Assembly. The retail
8 tobacco store shall annually file with the Department by
9 January 31st an affidavit stating the percentage of its
10 gross income during the prior calendar year that was
11 derived from the sale of loose tobacco, plants, or herbs
12 and cigars, cigarettes, pipes, or other smoking devices
13 for smoking tobacco and related smoking accessories. Any
14 retail tobacco store that begins operation after the
15 effective date of this amendatory Act may only qualify for
16 an exemption if located in a freestanding structure
17 occupied solely by the business and smoke from the
18 business does not migrate into an enclosed area where
19 smoking is prohibited. A retail tobacco store that derives
20 at least 80% of its gross revenue from the sale of
21 electronic cigarettes and electronic cigarette equipment
22 and accessories in operation before the effective date of
23 this amendatory Act of the 103rd General Assembly
24 qualifies for this exemption for electronic cigarettes
25 only. A retail tobacco store claiming an exemption for
26 electronic cigarettes shall annually file with the

1 Department by January 31 an affidavit stating the
2 percentage of its gross income during the prior calendar
3 year that was derived from the sale of electronic
4 cigarettes. A retail tobacco store may, with authorization
5 or permission from a unit of local government, including a
6 home rule unit, or any non-home rule county within the
7 unincorporated territory of the county, allow the
8 on-premises consumption of cannabis in a specially
9 designated areas.

10 (3) (Blank).

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

21 (5) Enclosed laboratories that are excluded from the
22 definition of "place of employment" in Section 10 of this
23 Act. Rulemaking authority to implement this amendatory Act
24 of the 95th General Assembly, if any, is conditioned on
25 the rules being adopted in accordance with all provisions
26 of the Illinois Administrative Procedure Act and all rules

1 and procedures of the Joint Committee on Administrative
2 Rules; any purported rule not so adopted, for whatever
3 reason, is unauthorized.

4 (6) Common smoking rooms in long-term care facilities
5 operated under the authority of the Illinois Department of
6 Veterans' Affairs or licensed under the Nursing Home Care
7 Act that are accessible only to residents who are smokers
8 and have requested in writing to have access to the common
9 smoking room where smoking is permitted and the smoke
10 shall not infiltrate other areas of the long-term care
11 facility. Rulemaking authority to implement this
12 amendatory Act of the 95th General Assembly, if any, is
13 conditioned on the rules being adopted in accordance with
14 all provisions of the Illinois Administrative Procedure
15 Act and all rules and procedures of the Joint Committee on
16 Administrative Rules; any purported rule not so adopted,
17 for whatever reason, is unauthorized.

18 (7) A convention hall of the Donald E. Stephens
19 Convention Center where a meeting or trade show for
20 manufacturers and suppliers of tobacco and tobacco
21 products and accessories is being held, during the time
22 the meeting or trade show is occurring, if the meeting or
23 trade show:

24 (i) is a trade-only event and not open to the
25 public;

26 (ii) is limited to attendees and exhibitors that

1 are 21 years of age or older;

2 (iii) is being produced or organized by a business
3 relating to tobacco or a professional association for
4 convenience stores; and

5 (iv) involves the display of tobacco products.

6 Smoking is not allowed in any public area outside of
7 the hall designated for the meeting or trade show.

8 This paragraph (7) is inoperative on and after October
9 1, 2015.

10 (8) A dispensing organization, as defined in the
11 Cannabis Regulation and Tax Act, authorized or permitted
12 by a unit local government to allow on-site consumption of
13 cannabis, if the establishment: (1) maintains a specially
14 designated area or areas for the purpose of heating,
15 burning, smoking, or lighting cannabis; (2) is limited to
16 individuals 21 or older; and (3) maintains a locked door
17 or barrier to any specially designated areas for the
18 purpose of heating, burning, smoking or lighting cannabis.

19 (Source: P.A. 101-593, eff. 12-4-19.)".