



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3460

Introduced 2/17/2023, by Rep. Brad Stephens

#### SYNOPSIS AS INTRODUCED:

410 ILCS 82/5  
410 ILCS 82/10  
410 ILCS 82/15

Amends the Smoke Free Illinois Act. Finds that the act of consuming tobacco products by means of vaporization devices, or vaping, when carried out in public spaces, is intrusive and a potential danger to public health, especially in times of aerosol-borne infectious diseases. Defines "alternative nicotine product", "electronic cigarette", and "tobacco product". Provides that no person shall smoke tobacco products, electronic cigarettes, or alternative nicotine products in a public place, a place of employment, or a governmental vehicle.

LRB103 29971 CPF 56390 b

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 5, 10, and 15 as follows:

6 (410 ILCS 82/5)

7 Sec. 5. Findings. The General Assembly finds that tobacco  
8 smoke is a harmful and dangerous carcinogen to human beings  
9 and a hazard to public health. Secondhand tobacco smoke causes  
10 at least 65,000 deaths each year from heart disease and lung  
11 cancer according to the National Cancer Institute. Secondhand  
12 tobacco smoke causes heart disease, stroke, cancer, sudden  
13 infant death syndrome, low-birth-weight in infants, asthma and  
14 exacerbation of asthma, bronchitis and pneumonia in children  
15 and adults. Secondhand tobacco smoke is the third leading  
16 cause of preventable death in the United States. Illinois  
17 workers exposed to secondhand tobacco smoke are at increased  
18 risk of premature death. An estimated 2,900 Illinois citizens  
19 die each year from exposure to secondhand tobacco smoke.

20 The General Assembly also finds that the United States  
21 Surgeon General's 2006 report has determined that there is no  
22 risk-free level of exposure to secondhand smoke; the  
23 scientific evidence that secondhand smoke causes serious

1 diseases, including lung cancer, heart disease, and  
2 respiratory illnesses such as bronchitis and asthma, is  
3 massive and conclusive; separating smokers from nonsmokers,  
4 cleaning the air, and ventilating buildings cannot eliminate  
5 secondhand smoke exposure; smoke-free workplace policies are  
6 effective in reducing secondhand smoke exposure; and  
7 smoke-free workplace policies do not have an adverse economic  
8 impact on the hospitality industry.

9 The General Assembly also finds that the Environmental  
10 Protection Agency has determined that secondhand smoke cannot  
11 be reduced to safe levels in businesses by high rates of  
12 ventilation. Air cleaners, which are capable only of filtering  
13 the particulate matter and odors in smoke, do not eliminate  
14 the known toxins in secondhand smoke. The American Society of  
15 Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)  
16 bases its ventilation standards on totally smoke-free  
17 environments because it cannot determine a safe level of  
18 exposure to secondhand smoke, which contains cancer-causing  
19 chemicals, and ASHRAE acknowledges that technology does not  
20 exist that can remove chemicals that cause cancer from the  
21 air. A June 30, 2005 ASHRAE position document on secondhand  
22 smoke concludes that, at present, the only means of  
23 eliminating health risks associated with indoor exposure is to  
24 eliminate all smoking activity indoors.

25 The General Assembly also finds that the act of consuming  
26 tobacco products by means of vaporization devices, or vaping,

1 when carried out in public spaces, is intrusive and a  
2 potential danger to public health, especially in times of  
3 aerosol-borne infectious diseases.

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

5 (410 ILCS 82/10)

6 Sec. 10. Definitions. In this Act:

7 "Alternative nicotine product" has the meaning provided in  
8 Section 1 of the Prevention of Tobacco Use by Persons under 21  
9 Years of Age and Sale and Distribution of Tobacco Products  
10 Act.

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

17 "Department" means the Department of Public Health.

18 "Electronic cigarette" has the meaning provided in Section  
19 1 of the Prevention of Tobacco Use by Persons under 21 Years of  
20 Age and Sale and Distribution of Tobacco Products Act.

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

25 "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, cigarettes, pipes,  
19 and other smoking devices for burning tobacco and related  
20 smoking accessories and in which the sale of other products is  
21 merely incidental. "Retail tobacco store" includes an enclosed  
22 workplace that manufactures, imports, or distributes tobacco  
23 or tobacco products, when, as a necessary and integral part of  
24 the process of making, manufacturing, importing, or  
25 distributing a tobacco product for the eventual retail sale of  
26 that tobacco or tobacco product, tobacco is heated, burned, or

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

19 "Smoke" or "smoking" means the carrying, smoking, burning,  
20 inhaling, or exhaling of any kind of lighted pipe, cigar,  
21 cigarette, hookah, weed, herbs, or any other lighted smoking  
22 equipment. "Smoke" or "smoking" does not include smoking that  
23 is associated with a native recognized religious ceremony,  
24 ritual, or activity by American Indians that is in accordance  
25 with the federal American Indian Religious Freedom Act, 42  
26 U.S.C. 1996 and 1996a.

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

4 "Tobacco product" has the meaning provided in Section 1 of  
5 the Prevention of Tobacco Use by Persons under 21 Years of Age  
6 and Sale and Distribution of Tobacco Products Act.

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

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

12 (410 ILCS 82/15)

13 Sec. 15. Smoking in public places, places of employment,  
14 and governmental vehicles prohibited. No person shall smoke in  
15 a public place or in any place of employment or within 15 feet  
16 of any entrance to a public place or place of employment. No  
17 person may smoke in any vehicle owned, leased, or operated by  
18 the State or a political subdivision of the State. An owner  
19 shall reasonably assure that smoking is prohibited in indoor  
20 public places and workplaces unless specifically exempted by  
21 Section 35 of this Act. This Section further applies to  
22 smoking tobacco products, electronic cigarettes, and  
23 alternative nicotine products in public places, a place of  
24 employment, and a governmental vehicle.

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