

# SB1561



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1561

Introduced 2/8/2023, by Sen. Julie A. Morrison

### SYNOPSIS AS INTRODUCED:

410 ILCS 82/10

Amends the Smoke Free Illinois Act. Includes the use of alternative nicotine products and electronic cigarettes in the definition of "smoke" or "smoking". Defines "electronic cigarette", "nicotine", and "tobacco product". Effective January 1, 2024.

LRB103 27713 CPF 54090 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" means:

16 (1) any device that employs a battery or other  
17 mechanism to heat a solution or substance to produce a  
18 vapor or aerosol intended for inhalation;

19 (2) any cartridge or container of a solution or  
20 substance intended to be used with or in the device or to  
21 refill the device; or

22 (3) any solution or substance, whether or not it  
23 contains nicotine intended for use in the device.

1 "Electronic cigarette" includes, but is not limited to, any  
2 electronic nicotine delivery system, electronic cigar,  
3 electronic cigarillo, electronic pipe, electronic hookah, vape  
4 pen, or similar product or device, and any components or parts  
5 that can be used to build the product or device. "Electronic  
6 cigarette" excludes cigarettes as defined in Section 1 of the  
7 Cigarette Tax Act and tobacco products as defined in Section  
8 10-5 of the Tobacco Products Tax Act of 1995; alternative  
9 nicotine products as defined in this Section; products  
10 approved by the United States Food and Drug Administration for  
11 sale as tobacco cessation products, as tobacco dependence  
12 products, or for other medical purposes, and marketed and sold  
13 solely for that approved purpose; asthma inhalers prescribed  
14 by a physician for that condition and marketed and sold solely  
15 for that approved purpose; and therapeutic products approved  
16 for use under the Compassionate Use of Medical Cannabis  
17 Program Act.

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

22 "Employer" means a person, business, partnership,  
23 association, or corporation, including a municipal  
24 corporation, trust, or non-profit entity, that employs the  
25 services of one or more individual persons.

26 "Enclosed area" means all space between a floor and a

1 ceiling that is enclosed or partially enclosed with (i) solid  
2 walls or windows, exclusive of doorways, or (ii) solid walls  
3 with partitions and no windows, exclusive of doorways, that  
4 extend from the floor to the ceiling, including, without  
5 limitation, lobbies and corridors.

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

13 "Gaming equipment or supplies" means gaming  
14 equipment/supplies as defined in the Illinois Gaming Board  
15 Rules of the Illinois Administrative Code.

16 "Gaming facility" means an establishment utilized  
17 primarily for the purposes of gaming and where gaming  
18 equipment or supplies are operated for the purposes of  
19 accruing business revenue.

20 "Healthcare facility" means an office or institution  
21 providing care or treatment of diseases, whether physical,  
22 mental, or emotional, or other medical, physiological, or  
23 psychological conditions, including, but not limited to,  
24 hospitals, rehabilitation hospitals, weight control clinics,  
25 nursing homes, homes for the aging or chronically ill,  
26 laboratories, and offices of surgeons, chiropractors, physical

1 therapists, physicians, dentists, and all specialists within  
2 these professions. "Healthcare facility" includes all waiting  
3 rooms, hallways, private rooms, semiprivate rooms, and wards  
4 within healthcare facilities.

5 "Nicotine" means any form of chemical nicotine, including  
6 any salt or complex, regardless of whether the chemical is  
7 naturally or synthetically derived.

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

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

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

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

1 assisted living facility shall not be considered a private  
2 residence.

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

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

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

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



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

18 "Smoke" or "smoking" means the carrying, smoking, burning,  
19 inhaling, or exhaling of any kind of lighted pipe, cigar,  
20 cigarette, hookah, weed, herbs, or any other lighted smoking  
21 equipment. "Smoke" or "smoking" includes the use of  
22 alternative nicotine products and electronic cigarettes, as  
23 defined in this Section. "Smoke" or "smoking" does not include  
24 smoking that is associated with a native recognized religious  
25 ceremony, ritual, or activity by American Indians that is in  
26 accordance with the federal American Indian Religious Freedom

1 Act, 42 U.S.C. 1996 and 1996a.

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

5 "Tobacco product" means any product containing or made  
6 from tobacco that is intended for human consumption, whether  
7 smoked, heated, chewed, absorbed, dissolved, inhaled, snorted,  
8 sniffed, or ingested by any other means, including, but not  
9 limited to, cigarettes, cigars, little cigars, chewing  
10 tobacco, pipe tobacco, snuff, snus, and any other smokeless  
11 tobacco product which contains tobacco that is finely cut,  
12 ground, powdered, or leaf and intended to be placed in the oral  
13 cavity. "Tobacco product" includes any component, part, and  
14 accessory of a tobacco product, whether or not sold  
15 separately. "Tobacco product" excludes electronic cigarettes;  
16 alternative nicotine products; and products that have been  
17 approved by the United States Food and Drug Administration for  
18 sale as tobacco cessation products, as tobacco dependence  
19 products, or for other medical purposes, marketed and sold  
20 solely for that approved purpose.

21 "Unit of local government" has the meaning ascribed to it  
22 in Section 1 of Article VII of the Illinois Constitution of  
23 1970.

24 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;  
25 96-797, eff. 1-1-10.)

26 Section 99. Effective date. This Act takes effect January

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1 1, 2024.