

1 AMENDMENT TO HOUSE BILL 909

2 AMENDMENT NO. _____. Amend House Bill 909 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Clean Indoor Air Act is amended
5 by changing Sections 2, 3, 4, 7, 8, and 9 and adding Sections
6 4.1, 4.2, 4.3, 4.4, 9.1, and 9.2 as follows:

7 (410 ILCS 80/2) (from Ch. 111 1/2, par. 8202)

8 Sec. 2. Findings and Intent. The General Assembly finds
9 that:

10 Numerous studies have found that tobacco smoke is a major
11 contributor to indoor air pollution, and that breathing
12 secondhand smoke (also known as environmental tobacco smoke)
13 is a cause of disease in healthy nonsmokers, including heart
14 disease, stroke, respiratory disease, and lung cancer. The
15 National Cancer Institute determined in 2000 (Monograph #10)
16 that secondhand smoke is responsible for the early deaths of
17 65,000 Americans annually.

18 The Public Health Service's National Toxicology Program
19 has listed secondhand smoke as a known carcinogen (U.S. DHHS,
20 2000, citing Cal. EPA, 1997).

21 Secondhand smoke is particularly hazardous to elderly
22 people, individuals with cardiovascular disease, and

1 individuals with impaired respiratory function, including
2 asthmatics and those with obstructive airway disease.
3 Children exposed to secondhand smoke have an increased risk
4 of asthma, respiratory infections, sudden infant death
5 syndrome, developmental abnormalities, and cancer.

6 The Americans With Disabilities Act of 1990, which
7 requires that disabled persons have access to public places
8 and workplaces, deems impaired respiratory function to be a
9 disability.

10 The U.S. Surgeon General has determined that the simple
11 separation of smokers and nonsmokers within the same air
12 space may reduce, but does not eliminate, the exposure of
13 nonsmokers to secondhand smoke. The Environmental Protection
14 Agency has determined that secondhand smoke cannot be reduced
15 to safe levels in businesses by high rates of ventilation.
16 Air cleaners, which are only capable of filtering the
17 particulate matter and odors in smoke, do not eliminate the
18 known toxins in secondhand smoke. ASHRAE (American Society of
19 Heating, Refrigerating and Air Conditioning Engineers) bases
20 its ventilation standards on totally smoke-free environments.
21 ASHRAE does this because it cannot determine a safe level of
22 exposure to environmental tobacco smoke or secondhand smoke
23 because it contains cancer-causing chemicals. It acknowledges
24 that technology does not exist that can remove chemicals from
25 the air that cause cancer.

26 A significant amount of secondhand smoke exposure occurs
27 in the workplace. Employees who work in smoke-filled
28 businesses suffer a 25% to 50% higher risk of heart attack
29 and higher rates of death from cardiovascular disease and
30 cancer, as well as increased acute respiratory disease and
31 measurable decrease in lung function.

32 Smoke-filled workplaces result in higher worker
33 absenteeism due to respiratory disease, lower productivity,
34 higher cleaning and maintenance costs, increased health

1 insurance rates, and increased liability claims for diseases
2 related to exposure to secondhand smoke.

3 Numerous economic analyses examining restaurant and hotel
4 receipts and controlling for economic variables have shown
5 either no difference or a positive economic impact after
6 enactment of laws requiring workplaces to be smoke-free.
7 Creation of smoke-free workplaces is sound economic policy
8 and provides the maximum level of employee health and safety.

9 Smoking is a potential cause of fires. Cigarette and
10 cigar burns and ash stains on merchandise and fixtures cause
11 economic damage to businesses.

12 Accordingly, the General Assembly finds and declares that
13 the purposes of this Act are (1) to protect the public health
14 and welfare by prohibiting smoking in public places and
15 places of employment; and (2) to guarantee the right of
16 nonsmokers to breathe smoke-free air, and to recognize that
17 the need to breathe smoke-free air has priority over the
18 desire to smoke. The--General--Assembly-finds-that-tobacco
19 smoke-is-annoying,-harmful-and-dangerous-to-human-beings--and
20 a-hazard-to-public-health.

21 (Source: P.A. 86-1018.)

22 (410 ILCS 80/3) (from Ch. 111 1/2, par. 8203)

23 Sec. 3. For the purposes of this Act, the following
24 terms have the meanings ascribed to them in this Section
25 unless different meanings are plainly indicated by the
26 context:

27 "Attached bar" means a bar area of a restaurant.

28 "Bar" means an establishment that is devoted to the
29 servicing of alcoholic beverages for consumption by guests on
30 the premises and in which the serving of food is only
31 incidental to the consumption of those beverages, including,
32 but not limited to, taverns, nightclubs, cocktail lounges,
33 and cabarets and for which food receipts are less than 50% of

1 total receipts.

2 "Business" means a sole proprietorship, partnership,
3 joint venture, corporation, or other business entity formed
4 for profit-making purposes, including retail establishments
5 where goods or services are sold, as well as professional
6 corporations and other entities where legal, medical, dental,
7 engineering, architectural, or other professional services
8 are delivered.

9 "Department" means the Department of Public Health.

10 "Employee" means a person who is employed by an employer
11 in consideration for direct or indirect monetary wages or
12 profit, and a person who volunteers his or her services for a
13 non-profit entity.

14 "Employer" means a person, business, partnership,
15 association, corporation, including a municipal corporation,
16 trust, or non-profit entity, that employs the services of one
17 or more individuals.

18 "Enclosed area" means all space between a floor and
19 ceiling that is enclosed on all sides by solid walls or
20 windows (exclusive of doorways) that extend from the floor to
21 the ceiling.

22 "Health care facility" means an office or institution
23 providing care or treatment of diseases, whether physical,
24 mental, or emotional, or other medical, physiological, or
25 psychological conditions, including, but not limited to,
26 hospitals, rehabilitation hospitals, or other clinics,
27 including weight control clinics, nursing homes, homes for
28 the aging or chronically ill, laboratories, and offices of
29 physical therapists, physicians, dentists, and all
30 specialists within these professions. "Health care facility"
31 includes all waiting rooms, hallways, private rooms,
32 semiprivate rooms, and wards within health care facilities.

33 "Place of employment" means an area under the control of
34 a public or private employer that employees normally frequent

1 during the course of employment, including, but not limited
2 to, work areas, employee lounges, restrooms, conference
3 rooms, meeting rooms, classrooms, employee cafeterias,
4 hallways, and vehicles. A private residence is not a "place
5 of employment" unless it is used as a child care, adult day
6 care, or health care facility.

7 "Private function" means a gathering of persons for the
8 purpose of deliberation, education, instruction,
9 entertainment, amusement, or dining, where membership or
10 specific invitation is a prerequisite to entry and where the
11 event is not intended to be open to the public.

12 "Public place" means an enclosed area to which the public
13 is invited or in which the public is permitted, including,
14 but not limited to, banks, educational facilities, government
15 buildings, health care facilities, laundromats, museums,
16 public transportation facilities, reception areas,
17 restaurants, retail food production and marketing
18 establishments, retail service establishments, retail stores,
19 shopping malls, sports arenas, theaters, and waiting rooms. A
20 private residence is not a "public place" unless it is used
21 as a child care, adult day care, or health care facility.

22 "Restaurant" means an eating establishment, including,
23 but not limited to, coffee shops, cafeterias, sandwich
24 stands, and private and public school cafeterias, that gives
25 or offers for sale food to the public, guests, or employees,
26 as well as a kitchen or catering facility in which food is
27 prepared on the premises for serving elsewhere. "Restaurant"
28 includes an attached bar.

29 "Retail tobacco store" means a retail store used
30 primarily for the sale of tobacco products and accessories
31 and in which the sale of other products is merely incidental
32 and where no one under 18 is permitted.

33 "Service line" means an indoor line in which one or more
34 persons are waiting for or receiving service of any kind,

1 whether or not the service involves the exchange of money.

2 "Shopping mall" means an enclosed public walkway or hall
3 area that serves to connect retail or professional
4 establishments.

5 "Smoking" means inhaling, exhaling, burning, or carrying
6 any lighted cigar, cigarette, pipe, weed, plant, or other
7 combustible substance in any manner or in any form.

8 "Sports arena" means a sports pavilion, stadium,
9 gymnasium, health spa, boxing arena, swimming pool, roller
10 and ice rink, or other similar place where members of the
11 general public assemble to engage in physical exercise,
12 participate in athletic competition, or witness sports or
13 other events; however, "sports arena" does not include a
14 bowling establishment.

15 (a)--"Department"--means the Department of Public Health.

16 (b)--"Proprietor"--means any individual or his designated
17 agent who by virtue of his office, position, authority, or
18 duties has legal or administrative responsibility for the use
19 or operation of property.

20 (c)--"Public Place"--means any enclosed indoor area used
21 by the public or serving as a place of work--including, but
22 not--limited--to,--hospitals,--restaurants,--retail--stores,
23 offices,--commercial--establishments,--elevators,--indoor
24 theaters,--libraries,--art--museums,--concert--halls,--public
25 conveyances,--educational--facilities,--nursing--homes,
26 auditoriums,--arenas,--and--meeting--rooms,--but--excluding--bowling
27 establishments--and--excluding--places--whose--primary--business--is
28 the--sale--of--alcoholic--beverages--for--consumption--on--the
29 premises--and--excluding--rooms--rented--for--the--purpose--of--living
30 quarters--or--sleeping--or--housekeeping--accommodations--from--a
31 hotel,--as--defined--in--the--Hotel--Operators'--Occupation--Tax--Act,
32 and--private,--enclosed--offices--occupied--exclusively--by
33 smokers,--even--though--such--offices--may--be--visited--by
34 nonsmokers.

1 (d) -- "Smoking" -- means -- the act of inhaling the smoke from
2 or possessing a lighted cigarette, cigar, pipe, or any other
3 form of tobacco or similar substance used for smoking.

4 (e) "State agencies agency" has the meaning formerly
5 ascribed to it in subsection (a) of Section 1-7 3 of the
6 Illinois State Auditing Purchasing Act (now repealed).

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

10 (Source: P.A. 92-651, eff. 7-11-02.)

11 (410 ILCS 80/4) (from Ch. 111 1/2, par. 8204)

12 Sec. 4. Prohibition of smoking in public places.

13 (a) Except as otherwise provided in this Act, smoking is
14 prohibited in all enclosed public places including, but not
15 limited to, the following places:

16 (1) Aquariums, galleries, libraries, and museums.

17 (2) Areas available to and customarily use by the
18 general public in businesses and non-profit entities
19 patronized by the public, including but not limited to,
20 professional offices, banks, laundromats, hotels, and
21 motels.

22 (3) Convention facilities.

23 (4) Elevators.

24 (5) Facilities primarily used for exhibiting a
25 motion picture, stage, drama, lecture, musical recital,
26 or other similar performance.

27 (6) Health care facilities.

28 (7) Licensed child care and adult day care
29 facilities.

30 (8) Lobbies, hallways, and other common areas in
31 apartment buildings, condominiums, trailer parks,
32 retirement facilities, nursing homes, and other
33 multiple-unit residential facilities.

1 (9) Polling places.

2 (10) Public transportation facilities under the
3 authority of government agencies, including buses,
4 trains, taxicabs, and limousines, and ticket, boarding,
5 and waiting areas of public transit stations.

6 (11) Restaurants, including attached bars.

7 (12) Restrooms, lobbies, reception areas, hallways,
8 and other common-use areas.

9 (13) Retail stores.

10 (14) Rooms, chambers, and places of meeting or
11 public assembly, including school buildings, under the
12 control of the State, a State agency, a unit of local
13 government, or a school district when a public meeting is
14 in progress, to the extent the place is subject to the
15 jurisdiction of the State.

16 (15) Service lines.

17 (16) Shopping malls.

18 (17) Sports arenas, including enclosed places in
19 outdoor arenas.

20 (18) Grocery stores.

21 (19) Public meetings.

22 (20) All enclosed facilities, including but not
23 limited to buildings and vehicles, that are owned,
24 leased, or operated by the State, a State agency, a unit
25 of local government, or a school district.

26 (21) Public and private schools.

27 (22) Other educational and vocational institutions.

28 (b) The following areas are exempt from the provisions
29 of this Act:

30 (1) Bars other than attached bars.

31 (2) Private residences, except when used as a
32 licensed child care, adult day care, or health care
33 facility.

34 (3) Hotel and motel rooms that are rented to guests

1 and are designated as smoking rooms; however, not more
2 than 25% of rooms rented to guests in a hotel or motel
3 may be so designated.

4 (4) Retail tobacco stores, if smoke from these
5 places does not infiltrate into areas where smoking is
6 prohibited under this Act.

7 (5) Outdoor areas of places of employment, except
8 those covered by the provisions of Section 4.2.

9 (6) Bingo facilities when a bingo game is in
10 progress.

11 (7) Gaming facilities.

12 (8) Bowling establishments.

13 (9) Billiard or pool halls.

14 ~~No person shall smoke in a public place except in that~~
15 ~~portion of a public place which may be established and posted~~
16 ~~under Section 5 as a smoking area. This prohibition does not~~
17 ~~apply in cases in which an entire room or hall is used for a~~
18 ~~private social function and seating arrangements are under~~
19 ~~the control of the sponsor of the function and not of the~~
20 ~~proprietor or person in charge of the place. Furthermore,~~
21 ~~this prohibition shall not apply to factories, warehouses and~~
22 ~~similar places of work not usually frequented by the general~~
23 ~~public.~~

24 (Source: P.A. 86-1018.)

25 (410 ILCS 80/4.1 new)

26 Sec. 4.1. Prohibition of smoking in places of
27 employment. Smoking is prohibited in all enclosed facilities
28 within places of employment without exception, including
29 common work areas, auditoriums, classrooms, conference and
30 meeting rooms, private offices, elevators, hallways, medical
31 facilities, cafeterias, employee lounges, stairs, restrooms,
32 vehicles, and all other enclosed facilities. This prohibition
33 on smoking shall be communicated to all existing employees

1 within 60 days after the effective date of this amendatory
2 Act of the 93rd General Assembly and to all prospective
3 employees upon their application for employment.

4 (410 ILCS 80/4.2 new)

5 Sec. 4.2. Reasonable Distance. Smoking is prohibited
6 within a reasonable distance of 25 feet outside an enclosed
7 area where smoking is prohibited, to ensure that tobacco
8 smoke does not enter the area through entrances, windows, or
9 ventilation systems or by other means.

10 (410 ILCS 80/4.3 new)

11 Sec. 4.3. Declaration of establishment as nonsmoking.
12 Notwithstanding any other provision of this Act, an owner,
13 operator, manager, or other person in control of an
14 establishment, facility, or outdoor area may declare that
15 entire establishment, facility, or outdoor area as a
16 nonsmoking place. Smoking is prohibited in any place in which
17 a sign conforming to the requirements of Section 4.4 is
18 posted.

19 (410 ILCS 80/4.4 new)

20 Sec. 4.4. Posting of signs; removal of ashtrays.

21 (a) "No Smoking" signs or the international "No Smoking"
22 symbol (consisting of a pictorial representation of a burning
23 cigarette enclosed in a red circle with a red bar across it)
24 shall be clearly and conspicuously posted in every public
25 place and place of employment where smoking is prohibited by
26 this Act. The signs shall be posted by the owner, operator,
27 manager, or other person in control of that place.

28 (b) Every public place and place of employment where
29 smoking is prohibited by this Act shall have posted at every
30 entrance a conspicuous sign clearly stating that smoking is
31 prohibited.

1 (c) The owner, operator, manager, or other person having
2 control of the area shall remove all ashtrays and other
3 smoking paraphernalia from any area where smoking is
4 prohibited by this Act.

5 (410 ILCS 80/7) (from Ch. 111 1/2, par. 8207)

6 Sec. 7. Violations; penalties.

7 (a) A person who smokes in an area where smoking is
8 prohibited by this Act is guilty of a petty offense
9 punishable by a fine not exceeding \$100.

10 (b) A person who owns, manages, operates, or otherwise
11 controls a public place or place of employment and who fails
12 to comply with this Act is guilty of:

13 (1) A petty offense punishable by a fine not
14 exceeding \$100 for a first violation.

15 (2) A petty offense punishable by a fine not
16 exceeding \$500 for a second violation within one year.

17 (3) A business offense punishable by a fine not
18 exceeding \$2500 for each additional violation within one
19 year.

20 (c) Each day on which a violation of this Act occurs
21 shall be considered a separate and distinct violation. A
22 person,--corporation,--partnership,--association--or--other
23 entity,--who--violates--Section--4--of--this--Act--is--guilty--of--a
24 petty--offense.

25 (Source: P.A. 86-1018.)

26 (410 ILCS 80/8) (from Ch. 111 1/2, par. 8208)

27 Sec. 8. Enforcement.

28 (a) The Department, a local board of health, or any
29 individual personally affected by repeated violations may
30 institute, in a circuit court, an action to enjoin violations
31 of this Act.

32 (b) Notice of the provisions of this Act shall be given

1 by every unit of local government to all persons who apply to
2 the unit of local government for a business license.

3 (c) An owner, manager, operator, or employee of an
4 establishment regulated by this Act shall inform persons
5 violating this Act of the appropriate provisions of this Act.

6 (Source: P.A. 86-1018.)

7 (410 ILCS 80/9) (from Ch. 111 1/2, par. 8209)

8 Sec. 9. Nonretaliation. No person or employer may
9 discharge, refuse to hire, or in any manner retaliate against
10 an employee, applicant for employment, or customer because
11 that employee, applicant, or customer exercises any rights
12 afforded by this Act or reports or attempts to prosecute a
13 violation of this Act. No--individual--may--be--discriminated
14 against--in--any-manner-because-of-the-exercise-of-any-rights
15 afforded-by-this-Act.

16 (Source: P.A. 86-1018.)

17 (410 ILCS 80/9.1 new)

18 Sec. 9.1. Other applicable laws. This Act may not be
19 interpreted or construed to permit smoking where it is
20 otherwise restricted by other applicable laws.

21 (410 ILCS 80/9.2 new)

22 Sec. 9.2. Public Education. The Department shall engage
23 in a continuing program to explain and clarify the purposes
24 and requirements of this Act to citizens affected by it and
25 to guide owners, operators, and managers in their compliance
26 with it.

27 (410 ILCS 80/5 rep.)

28 (410 ILCS 80/6 rep.)

29 Section 10. The Illinois Clean Indoor Air Act is amended
30 by repealing Sections 5 and 6.

1 Section 99. Effective date. This Act takes effect on
2 January 1, 2004.".