

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 35 as follows:

6 (410 ILCS 82/35)

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

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

13 (2) Retail tobacco stores as defined in Section 10 of  
14 this Act in operation prior to the effective date of this  
15 amendatory Act of the 95th General Assembly. This exemption  
16 shall also apply to a retail tobacco store that applied for  
17 a business or occupancy permit before January 1, 2008. The  
18 retail tobacco store shall annually file with the  
19 Department by January 31st an affidavit stating the  
20 percentage of its gross income during the prior calendar  
21 year that was derived from the sale of loose tobacco,  
22 plants, or herbs and cigars, cigarettes, pipes, or other  
23 smoking devices for smoking tobacco and related smoking

1 accessories. Any retail tobacco store that begins  
2 operation after the effective date of this amendatory Act  
3 may only qualify for an exemption if located in a  
4 freestanding structure occupied solely by the business and  
5 smoke from the business does not migrate into an enclosed  
6 area where smoking is prohibited. Notwithstanding any  
7 other rulemaking authority that may exist, neither the  
8 Governor nor any agency or agency head under the  
9 jurisdiction of the Governor has any authority to make or  
10 promulgate rules to implement or enforce the provisions of  
11 this amendatory Act of the 95th General Assembly. If,  
12 however, the Governor believes that rules are necessary to  
13 implement or enforce the provisions of this amendatory Act  
14 of the 95th General Assembly, the Governor may suggest  
15 rules to the General Assembly by filing them with the Clerk  
16 of the House and the Secretary of the Senate and by  
17 requesting that the General Assembly authorize such  
18 rulemaking by law, enact those suggested rules into law, or  
19 take any other appropriate action in the General Assembly's  
20 discretion. Nothing contained in this amendatory Act of the  
21 95th General Assembly shall be interpreted to grant  
22 rulemaking authority under any other Illinois statute  
23 where such authority is not otherwise explicitly given. For  
24 the purposes of this amendatory Act of the 95th General  
25 Assembly, "rules" is given the meaning contained in Section  
26 1-70 of the Illinois Administrative Procedure Act, and

1       "agency" and "agency head" are given the meanings contained  
2       in Sections 1-20 and 1-25 of the Illinois Administrative  
3       Procedure Act to the extent that such definitions apply to  
4       agencies or agency heads under the jurisdiction of the  
5       Governor.

6           (3) Private and semi-private rooms in nursing homes and  
7       long-term care facilities that are occupied by one or more  
8       persons, all of whom are smokers and have requested in  
9       writing to be placed or to remain in a room where smoking  
10      is permitted and the smoke shall not infiltrate other areas  
11      of the nursing home.

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

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

23           Section 99. Effective date. This Act takes effect upon  
24      becoming law.