



Adopted in House Comm. on Mar 04, 2008

09500HB5868ham001

LRB095 20025 MJR 47487 a

1 AMENDMENT TO HOUSE BILL 5868

2 AMENDMENT NO. _____. Amend House Bill 5868 by replacing
3 everything after the enacting clause with the following:

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

1 a business or occupancy permit before January 1, 2008. The
2 retail tobacco store shall annually file with the
3 Department by January 31st an affidavit stating the
4 percentage of its gross income during the prior calendar
5 year that was derived from the sale of loose tobacco,
6 plants, or herbs and cigars, cigarettes, pipes, or other
7 smoking devices for smoking tobacco and related smoking
8 accessories. Any retail tobacco store that begins
9 operation after the effective date of this amendatory Act
10 may only qualify for an exemption if located in a
11 freestanding structure occupied solely by the business and
12 smoke from the business does not migrate into an enclosed
13 area where smoking is prohibited. Notwithstanding any
14 other rulemaking authority that may exist, neither the
15 Governor nor any agency or agency head under the
16 jurisdiction of the Governor has any authority to make or
17 promulgate rules to implement or enforce the provisions of
18 this amendatory Act of the 95th General Assembly. If,
19 however, the Governor believes that rules are necessary to
20 implement or enforce the provisions of this amendatory Act
21 of the 95th General Assembly, the Governor may suggest
22 rules to the General Assembly by filing them with the Clerk
23 of the House and the Secretary of the Senate and by
24 requesting that the General Assembly authorize such
25 rulemaking by law, enact those suggested rules into law, or
26 take any other appropriate action in the General Assembly's

1 discretion. Nothing contained in this amendatory Act of the
2 95th General Assembly shall be interpreted to grant
3 rulemaking authority under any other Illinois statute
4 where such authority is not otherwise explicitly given. For
5 the purposes of this amendatory Act of the 95th General
6 Assembly, "rules" is given the meaning contained in Section
7 1-70 of the Illinois Administrative Procedure Act, and
8 "agency" and "agency head" are given the meanings contained
9 in Sections 1-20 and 1-25 of the Illinois Administrative
10 Procedure Act to the extent that such definitions apply to
11 agencies or agency heads under the jurisdiction of the
12 Governor.

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

19 (4) Hotel and motel sleeping rooms that are rented to
20 guests and are designated as smoking rooms, provided that
21 all smoking rooms on the same floor must be contiguous and
22 smoke from these rooms must not infiltrate into nonsmoking
23 rooms or other areas where smoking is prohibited. Not more
24 than 25% of the rooms rented to guests in a hotel or motel
25 may be designated as rooms where smoking is allowed. The
26 status of rooms as smoking or nonsmoking may not be

1 changed, except to permanently add additional nonsmoking
2 rooms.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".