



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5524

Introduced 2/9/2010, by Rep. Karen A. Yarbrough

SYNOPSIS AS INTRODUCED:

410 ILCS 82/40

Amends the Smoke Free Illinois Act. In the provision concerning enforcement and complaints, provides that, notwithstanding any rule to the contrary, the enforcing agency shall be permitted to present evidence at a hearing to contest the imposition of a fine before the Department of Public Health without legal counsel. Effective immediately.

LRB096 18319 RPM 33694 b

1 AN ACT concerning public 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 40 as follows:

6 (410 ILCS 82/40)

7 Sec. 40. Enforcement; complaints.

8 (a) The Department, State-certified local public health
9 departments, and local law enforcement agencies shall enforce
10 the provisions of this Act through the issuance of citations
11 and may assess fines pursuant to Section 45 of this Act.

12 (a-2) The citations issued pursuant to this Act shall
13 conspicuously include the following:

14 (1) the name of the offense and its statutory
15 reference;

16 (2) the nature and elements of the violation;

17 (3) the date and location of the violation;

18 (4) the name of the enforcing agency;

19 (5) the name of the violator;

20 (6) the amount of the imposed fine and the location
21 where the violator can pay the fine without objection;

22 (7) the address and phone number of the enforcing
23 agency where the violator can request a hearing before the

1 Department to contest the imposition of the fine imposed by
2 the citation under the rules and procedures of the
3 Administrative Procedure Act;

4 (8) the time period in which to pay the fine or to
5 request a hearing to contest the imposition of the fine
6 imposed by the citation; and

7 (9) the verified signature of the person issuing the
8 citation.

9 (a-3) One copy of the citation shall be provided to the
10 violator, one copy shall be retained by the enforcing agency,
11 and one copy shall be provided to the entity otherwise
12 authorized by the enforcing agency to receive fines on their
13 behalf.

14 (b) Any person may register a complaint with the
15 Department, a State-certified local public health department,
16 or a local law enforcement agency for a violation of this Act.
17 The Department shall establish a telephone number that a person
18 may call to register a complaint under this subsection (b).

19 (c) The Department shall afford a violator the opportunity
20 to pay the fine without objection or to contest the citation in
21 accordance with the Illinois Administrative Procedure Act,
22 except that in case of a conflict between the Illinois
23 Administrative Procedure Act and this Act, the provisions of
24 this Act shall control.

25 (d) Upon receipt of a request for hearing to contest the
26 imposition of a fine imposed by a citation, the enforcing

1 agency shall immediately forward a copy of the citation and
2 notice of the request for hearing to the Department for
3 initiation of a hearing conducted in accordance with the
4 Illinois Administrative Procedure Act and the rules
5 established thereto by the Department applicable to contested
6 cases, except that in case of a conflict between the Illinois
7 Administrative Procedure Act and this Act, the provisions of
8 this Act shall control. Parties to the hearing shall be the
9 enforcing agency and the violator.

10 The Department shall notify the violator in writing of the
11 time, place, and location of the hearing. The hearing shall be
12 conducted at the nearest regional office of the Department, or
13 in a location contracted by the Department in the county where
14 the citation was issued. Notwithstanding any rule to the
15 contrary, the enforcing agency shall be permitted to present
16 evidence at the hearing before the Department without legal
17 counsel.

18 (e) Fines imposed under this Act may be collected in
19 accordance with all methods otherwise available to the
20 enforcing agency or the Department, except that there shall be
21 no collection efforts during the pendency of the hearing before
22 the Department.

23 (f) Rulemaking authority to implement this amendatory Act
24 of the 95th General Assembly, if any, is conditioned on the
25 rules being adopted in accordance with all provisions of the
26 Illinois Administrative Procedure Act and all rules and

1 procedures of the Joint Committee on Administrative Rules; any
2 purported rule not so adopted, for whatever reason, is
3 unauthorized.

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

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