

# HB5997



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5997

Introduced 2/10/2010, by Rep. Karen A. Yarbrough

#### SYNOPSIS AS INTRODUCED:

410 ILCS 82/35

Amends the Smoke Free Illinois Act. Preempts home rule powers with regard to regulating smoking in facilities licensed under the Illinois Nursing Home Care Act. Effective immediately.

LRB096 18372 RPM 33749 b

HOME RULE NOTE  
ACT MAY APPLY

A BILL FOR

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 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. The retail  
16 tobacco store shall annually file with the Department by  
17 January 31st an affidavit stating the percentage of its  
18 gross income during the prior calendar year that was  
19 derived from the sale of loose tobacco, plants, or herbs  
20 and cigars, cigarettes, pipes, or other smoking devices for  
21 smoking tobacco and related smoking accessories. Any  
22 retail tobacco store that begins operation after the  
23 effective date of this amendatory Act may only qualify for

1 an exemption if located in a freestanding structure  
2 occupied solely by the business and smoke from the business  
3 does not migrate into an enclosed area where smoking is  
4 prohibited.

5 (3) Private and semi-private rooms in nursing homes and  
6 long-term care facilities that are occupied by one or more  
7 persons, all of whom are smokers and have requested in  
8 writing to be placed or to remain in a room where smoking  
9 is permitted and the smoke shall not infiltrate other areas  
10 of the nursing home. No local, municipal, or county  
11 ordinance or law shall supersede this item (3) in allowing  
12 facilities licensed under the Illinois Nursing Home Care  
13 Act to designate smoking areas that comply with the  
14 national Fire Safety Protection Act and the federal Life  
15 Safety Code. Notwithstanding Section 65 of this Act, a home  
16 rule unit may not regulate smoking in facilities licensed  
17 under the Illinois Nursing Home Care Act. This item (3) is  
18 a denial and limitation of home rule powers and functions  
19 under subsection (h) of Section 6 of Article VII of the  
20 Illinois Constitution.

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

1           may be designated as rooms where smoking is allowed. The  
2           status of rooms as smoking or nonsmoking may not be  
3           changed, except to permanently add additional nonsmoking  
4           rooms.

5           (5) Enclosed laboratories that are excluded from the  
6           definition of "place of employment" in Section 10 of this  
7           Act. Rulemaking authority to implement this amendatory Act  
8           of the 95th General Assembly, if any, is conditioned on the  
9           rules being adopted in accordance with all provisions of  
10          the Illinois Administrative Procedure Act and all rules and  
11          procedures of the Joint Committee on Administrative Rules;  
12          any purported rule not so adopted, for whatever reason, is  
13          unauthorized.

14          (6) Common smoking rooms in long-term care facilities  
15          operated under the authority of the Illinois Department of  
16          Veterans' Affairs that are accessible only to residents who  
17          are smokers and have requested in writing to have access to  
18          the common smoking room where smoking is permitted and the  
19          smoke shall not infiltrate other areas of the long-term  
20          care facility. Rulemaking authority to implement this  
21          amendatory Act of the 95th General Assembly, if any, is  
22          conditioned on the rules being adopted in accordance with  
23          all provisions of the Illinois Administrative Procedure  
24          Act and all rules and procedures of the Joint Committee on  
25          Administrative Rules; any purported rule not so adopted,  
26          for whatever reason, is unauthorized.

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

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.