



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1310

Introduced 2/9/2011, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

235 ILCS 5/4-4
410 ILCS 82/35

from Ch. 43, par. 112

Amends the Liquor Control Act of 1934. Provides that the local liquor control commissions have the power to issue a smoking license to certain eligible establishments. Provides that an eligible establishment must be able to document that (i) it has disclosed to all employees that if a smoking license is granted to the establishment, smoking will be permitted on the premises and (ii) all employees have acknowledged receiving the disclosure. Provides that if the eligible establishment has a liquor license, it must be in compliance with all of the terms of the liquor license in order to receive a license to allow smoking on the premises. Amends the Smoke Free Illinois Act. Provides that smoking is allowed in any eligible establishment that has obtained a license to allow smoking on the premises from the local liquor control commission. Provides that an eligible establishment must post prominent signage notifying the public that the establishment has been designated as a smoking establishment. Effective immediately.

LRB097 07237 ASK 47345 b

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by
5 changing Section 4-4 as follows:

6 (235 ILCS 5/4-4) (from Ch. 43, par. 112)

7 Sec. 4-4. Additional powers.

8 (a) Each local liquor control commissioner shall also have
9 the following powers, functions and duties with respect to
10 licenses, other than licenses to manufacturers, importing
11 distributors, distributors, foreign importers, non-resident
12 dealers, non-beverage users, brokers, railroads, airplanes and
13 boats.

14 1. To grant and or suspend for not more than thirty
15 days or revoke for cause all local licenses issued to
16 persons for premises within his jurisdiction;

17 2. To enter or to authorize any law enforcing officer
18 to enter at any time upon any premises licensed hereunder
19 to determine whether any of the provisions of this Act or
20 any rules or regulations adopted by him or by the State
21 Commission have been or are being violated, and at such
22 time to examine said premises of said licensee in
23 connection therewith;

1 3. To notify the Secretary of State where a club
2 incorporated under the General Not for Profit Corporation
3 Act of 1986 or a foreign corporation functioning as a club
4 in this State under a certificate of authority issued under
5 that Act has violated this Act by selling or offering for
6 sale at retail alcoholic liquors without a retailer's
7 license;

8 4. To receive complaint from any citizen within his
9 jurisdiction that any of the provisions of this Act, or any
10 rules or regulations adopted pursuant hereto, have been or
11 are being violated and to act upon such complaints in the
12 manner hereinafter provided;

13 5. To receive local license fees and pay the same
14 forthwith to the city, village, town or county treasurer as
15 the case may be.

16 6. To issue a smoking license to the following eligible
17 establishments:

18 (A) any bar that can provide written documentation
19 that less than 10% of its total revenue comes from the
20 sale of food;

21 (B) any venue where gambling operations are
22 conducted pursuant to the Riverboat Gambling Act or the
23 Illinois Horse Racing Act of 1975;

24 (C) any venue for adult entertainment where a
25 person must be at least 18 years old to enter;

26 (D) any private club, as defined in Section 10 of

1 the Smoke Free Illinois Act, provided that at least
2 three-fifths of the private club's members have
3 requested in writing that the private club designate
4 areas for smoking; or

5 (E) any establishment hosting a convention or
6 exposition for the specific purpose of exhibiting or
7 selling cigars, pipes, tobacco, and related smoking
8 devices or accessories.

9 An eligible establishment must be able to document that
10 (i) it has disclosed to all employees that if a smoking
11 license is granted to the establishment, smoking will be
12 permitted on the premises and (ii) all employees have
13 acknowledged receiving the disclosure. If the eligible
14 establishment has a liquor license, it must be in
15 compliance with all of the terms of the liquor license in
16 order to receive a license to allow smoking on the
17 premises.

18 (b) Each local liquor commissioner also has the duty to
19 notify the Secretary of State of any convictions or
20 dispositions of court supervision for a violation of Section
21 6-20 of this Act or a similar provision of a local ordinance.

22 (c) In counties and municipalities, the local liquor
23 control commissioners shall also have the power to levy fines
24 in accordance with Section 7-5 of this Act.

25 (Source: P.A. 95-166, eff. 1-1-08.)

1 Section 10. The Smoke Free Illinois Act is amended by
2 changing Section 35 as follows:

3 (410 ILCS 82/35)

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

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

10 (2) Retail tobacco stores as defined in Section 10 of
11 this Act in operation prior to the effective date of this
12 amendatory Act of the 95th General Assembly. The retail
13 tobacco store shall annually file with the Department by
14 January 31st an affidavit stating the percentage of its
15 gross income during the prior calendar year that was
16 derived from the sale of loose tobacco, plants, or herbs
17 and cigars, cigarettes, pipes, or other smoking devices for
18 smoking tobacco and related smoking accessories. Any
19 retail tobacco store that begins operation after the
20 effective date of this amendatory Act may only qualify for
21 an exemption if located in a freestanding structure
22 occupied solely by the business and smoke from the business
23 does not migrate into an enclosed area where smoking is
24 prohibited.

25 (3) (Blank).

1 (4) Hotel and motel sleeping rooms that are rented to
2 guests and are designated as smoking rooms, provided that
3 all smoking rooms on the same floor must be contiguous and
4 smoke from these rooms must not infiltrate into nonsmoking
5 rooms or other areas where smoking is prohibited. Not more
6 than 25% of the rooms rented to guests in a hotel or motel
7 may be designated as rooms where smoking is allowed. The
8 status of rooms as smoking or nonsmoking may not be
9 changed, except to permanently add additional nonsmoking
10 rooms.

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

20 (6) Common smoking rooms in long-term care facilities
21 operated under the authority of the Illinois Department of
22 Veterans' Affairs or licensed under the Nursing Home Care
23 Act that are accessible only to residents who are smokers
24 and have requested in writing to have access to the common
25 smoking room where smoking is permitted and the smoke shall
26 not infiltrate other areas of the long-term care facility.

1 Rulemaking authority to implement this amendatory Act of
2 the 95th General Assembly, if any, is conditioned on the
3 rules being adopted in accordance with all provisions of
4 the Illinois Administrative Procedure Act and all rules and
5 procedures of the Joint Committee on Administrative Rules;
6 any purported rule not so adopted, for whatever reason, is
7 unauthorized.

8 (7) Any eligible establishment that has obtained a
9 license to allow smoking on the premises from the local
10 liquor control commission. An eligible establishment must
11 post prominent signage notifying the public that the
12 establishment has been designated as a smoking
13 establishment.

14 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
15 96-1357, eff. 1-1-11.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.