



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB4012

Introduced 1/18/2012, by Rep. Anthony DeLuca

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-5-11 new  
235 ILCS 5/4-4  
410 ILCS 82/35

from Ch. 43, par. 112

Amends the Illinois Municipal Code to provide that the corporate authorities of each municipality may authorize by ordinance the local liquor control commission to issue smoking licenses to establishments eligible for a smoking license under the Liquor Control Act of 1934. Amends the Liquor Control Act of 1934. Provides that a local liquor control commission, if authorized by ordinance, shall have the power to issue a smoking license to certain eligible establishments. Provides that an eligible establishment must be able to document that 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; (ii) all employees have acknowledged receiving the disclosure; and (iii) it has an air filtration system that meets the size and use standards of the International Mechanical Code. Amends the Smoke Free Illinois Act to provide 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 and that an eligible establishment must post prominent signage notifying the public that the establishment has been designated as a smoking establishment. Effective immediately.

LRB097 15668 RPM 60810 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Illinois Municipal Code is amended by adding  
5 Section 11-5-11 as follows:

6 (65 ILCS 5/11-5-11 new)

7 Sec. 11-5-11. Smoking licenses. The corporate authorities  
8 of each municipality may authorize by ordinance the local  
9 liquor control commission to issue smoking licenses to  
10 establishments eligible for a smoking license under Section 4-4  
11 of the Liquor Control Act of 1934.

12 Section 10. The Liquor Control Act of 1934 is amended by  
13 changing Section 4-4 as follows:

14 (235 ILCS 5/4-4) (from Ch. 43, par. 112)

15 Sec. 4-4. Additional powers.

16 (a) Each local liquor control commissioner shall also have  
17 the following powers, functions, and duties with respect to  
18 licenses, other than licenses to manufacturers, importing  
19 distributors, distributors, foreign importers, non-resident  
20 dealers, non-beverage users, brokers, railroads, airplanes,  
21 and boats.

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

4           2. To enter or to authorize any law enforcing officer  
5 to enter at any time upon any premises licensed hereunder  
6 to determine whether any of the provisions of this Act or  
7 any rules or regulations adopted by him or by the State  
8 Commission have been or are being violated, and at such  
9 time to examine said premises of said licensee in  
10 connection therewith;

11           3. To notify the Secretary of State where a club  
12 incorporated under the General Not for Profit Corporation  
13 Act of 1986 or a foreign corporation functioning as a club  
14 in this State under a certificate of authority issued under  
15 that Act has violated this Act by selling or offering for  
16 sale at retail alcoholic liquors without a retailer's  
17 license;

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

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

26           6. If authorized by ordinance, to issue a smoking

1 license to the following eligible establishments:

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

5 (B) any venue where gambling operations are  
6 conducted pursuant to the Riverboat Gambling Act or the  
7 Illinois Horse Racing Act of 1975;

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

10 (D) any private club, as defined in Section 10 of  
11 the Smoke Free Illinois Act, provided that at least  
12 three-fifths of the private club's members have  
13 requested in writing that the private club designate  
14 areas for smoking; or

15 (E) any establishment hosting a convention or  
16 exposition for the specific purpose of exhibiting or  
17 selling cigars, pipes, tobacco, and related smoking  
18 devices or accessories.

19 An eligible establishment must be able to document that  
20 (i) it has disclosed to all employees that if a smoking  
21 license is granted to the establishment, smoking will be  
22 permitted on the premises; (ii) all employees have  
23 acknowledged receiving the disclosure; and (iii) it has an  
24 air filtration system that meets the size and use standards  
25 of the International Mechanical Code. If the eligible  
26 establishment has a liquor license, then it must be in

1       compliance with all of the terms of the liquor license in  
2       order to receive a license to allow smoking on the  
3       premises.

4       (b) Each local liquor commissioner also has the duty to  
5       notify the Secretary of State of any convictions or  
6       dispositions of court supervision for a violation of Section  
7       6-20 of this Act or a similar provision of a local ordinance.

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

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

12           Section 15. The Smoke Free Illinois Act is amended by  
13      changing Section 35 as follows:

14           (410 ILCS 82/35)

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

17           (1) Private residences or dwelling places, except when  
18      used as a child care, adult day care, or healthcare  
19      facility or any other home-based business open to the  
20      public.

21           (2) Retail tobacco stores as defined in Section 10 of  
22      this Act in operation prior to the effective date of this  
23      amendatory Act of the 95th General Assembly. The retail  
24      tobacco store shall annually file with the Department by

1 January 31st an affidavit stating the percentage of its  
2 gross income during the prior calendar year that was  
3 derived from the sale of loose tobacco, plants, or herbs  
4 and cigars, cigarettes, pipes, or other smoking devices for  
5 smoking tobacco and related smoking accessories. Any  
6 retail tobacco store that begins operation after the  
7 effective date of this amendatory Act may only qualify for  
8 an exemption if located in a freestanding structure  
9 occupied solely by the business and smoke from the business  
10 does not migrate into an enclosed area where smoking is  
11 prohibited.

12 (3) (Blank).

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

23 (5) Enclosed laboratories that are excluded from the  
24 definition of "place of employment" in Section 10 of this  
25 Act. Rulemaking authority to implement this amendatory Act  
26 of the 95th General Assembly, if any, is conditioned on the

1 rules being adopted in accordance with all provisions of  
2 the Illinois Administrative Procedure Act and all rules and  
3 procedures of the Joint Committee on Administrative Rules;  
4 any purported rule not so adopted, for whatever reason, is  
5 unauthorized.

6 (6) Common smoking rooms in long-term care facilities  
7 operated under the authority of the Illinois Department of  
8 Veterans' Affairs or licensed under the Nursing Home Care  
9 Act that are accessible only to residents who are smokers  
10 and have requested in writing to have access to the common  
11 smoking room where smoking is permitted and the smoke shall  
12 not infiltrate other areas of the long-term care facility.  
13 Rulemaking authority to implement this amendatory Act of  
14 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 (7) Any eligible establishment that has obtained a  
21 license to allow smoking on the premises from the local  
22 liquor control commission. An eligible establishment must  
23 post prominent signage notifying the public that the  
24 establishment has been designated as a smoking  
25 establishment.

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

1 96-1357, eff. 1-1-11.)

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