



Sen. David Koehler

Filed: 5/21/2012

09700SB0842sam001

LRB097 04588 HEP 69842 a

1 AMENDMENT TO SENATE BILL 842

2 AMENDMENT NO. _____. Amend Senate Bill 842 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Smoke Free Illinois Act is amended by
5 changing Sections 10, 15, and 35 as follows:

6 (410 ILCS 82/10)

7 Sec. 10. Definitions. In this Act:

8 "Bar" means an establishment that is devoted to the serving
9 of alcoholic beverages for consumption by guests on the
10 premises and that derives no more than 10% of its gross revenue
11 from the sale of food consumed on the premises. "Bar" includes,
12 but is not limited to, taverns, nightclubs, cocktail lounges,
13 adult entertainment facilities, and cabarets.

14 "Department" means the Department of Public Health.

15 "Employee" means a person who is employed by an employer in
16 consideration for direct or indirect monetary wages or profits

1 or a person who volunteers his or her services for a non-profit
2 entity.

3 "Employer" means a person, business, partnership,
4 association, or corporation, including a municipal
5 corporation, trust, or non-profit entity, that employs the
6 services of one or more individual persons.

7 "Enclosed area" means all space between a floor and a
8 ceiling that is enclosed or partially enclosed with (i) solid
9 walls or windows, exclusive of doorways, or (ii) solid walls
10 with partitions and no windows, exclusive of doorways, that
11 extend from the floor to the ceiling, including, without
12 limitation, lobbies and corridors.

13 "Enclosed or partially enclosed sports arena" means any
14 sports pavilion, stadium, gymnasium, health spa, boxing arena,
15 swimming pool, roller rink, ice rink, bowling alley, or other
16 similar place where members of the general public assemble to
17 engage in physical exercise or participate in athletic
18 competitions or recreational activities or to witness sports,
19 cultural, recreational, or other events.

20 "Gaming equipment or supplies" means gaming
21 equipment/supplies as defined in the Illinois Gaming Board
22 Rules of the Illinois Administrative Code.

23 "Gaming facility" means an establishment utilized
24 primarily for the purposes of gaming and where gaming equipment
25 or supplies are operated for the purposes of accruing business
26 revenue.

1 "Healthcare facility" means an office or institution
2 providing care or treatment of diseases, whether physical,
3 mental, or emotional, or other medical, physiological, or
4 psychological conditions, including, but not limited to,
5 hospitals, rehabilitation hospitals, weight control clinics,
6 nursing homes, homes for the aging or chronically ill,
7 laboratories, and offices of surgeons, chiropractors, physical
8 therapists, physicians, dentists, and all specialists within
9 these professions. "Healthcare facility" includes all waiting
10 rooms, hallways, private rooms, semiprivate rooms, and wards
11 within healthcare facilities.

12 "Permeable" means permitting smoke to pass through.

13 "Place of employment" means any area under the control of a
14 public or private employer that employees are required to
15 enter, leave, or pass through during the course of employment,
16 including, but not limited to entrances and exits to places of
17 employment, including a minimum distance, as set forth in
18 Section 70 of this Act, of 15 feet from entrances, exits,
19 windows that open, and ventilation intakes that serve an
20 enclosed area where smoking is prohibited; offices and work
21 areas; restrooms; conference and classrooms; break rooms and
22 cafeterias; and other common areas. A private residence or
23 home-based business, unless used to provide licensed child
24 care, foster care, adult care, or other similar social service
25 care on the premises, is not a "place of employment", nor are
26 enclosed laboratories, not open to the public, in an accredited

1 university or government facility where the activity of smoking
2 is exclusively conducted for the purpose of medical or
3 scientific health-related research. Rulemaking authority to
4 implement this amendatory Act of the 95th General Assembly, if
5 any, is conditioned on the rules being adopted in accordance
6 with all provisions of the Illinois Administrative Procedure
7 Act and all rules and procedures of the Joint Committee on
8 Administrative Rules; any purported rule not so adopted, for
9 whatever reason, is unauthorized.

10 "Private club" means a not-for-profit association that (1)
11 has been in active and continuous existence for at least 3
12 years prior to the effective date of this amendatory Act of the
13 95th General Assembly, whether incorporated or not, (2) is the
14 owner, lessee, or occupant of a building or portion thereof
15 used exclusively for club purposes at all times, (3) is
16 operated solely for a recreational, fraternal, social,
17 patriotic, political, benevolent, or athletic purpose, but not
18 for pecuniary gain, and (4) only sells alcoholic beverages
19 incidental to its operation. For purposes of this definition,
20 "private club" means an organization that is managed by a board
21 of directors, executive committee, or similar body chosen by
22 the members at an annual meeting, has established bylaws, a
23 constitution, or both to govern its activities, and has been
24 granted an exemption from the payment of federal income tax as
25 a club under 26 U.S.C. 501.

26 "Private residence" means the part of a structure used as a

1 dwelling, including, without limitation: a private home,
2 townhouse, condominium, apartment, mobile home, vacation home,
3 cabin, or cottage. For the purposes of this definition, a
4 hotel, motel, inn, resort, lodge, bed and breakfast or other
5 similar public accommodation, hospital, nursing home, or
6 assisted living facility shall not be considered a private
7 residence.

8 "Public place" means that portion of any building or
9 vehicle used by and open to the public, regardless of whether
10 the building or vehicle is owned in whole or in part by private
11 persons or entities, the State of Illinois, or any other public
12 entity and regardless of whether a fee is charged for
13 admission, including a minimum distance, as set forth in
14 Section 70 of this Act, of 15 feet from entrances, exits,
15 windows that open, and ventilation intakes that serve an
16 enclosed area where smoking is prohibited. A "public place"
17 does not include a private residence unless the private
18 residence is used to provide licensed child care, foster care,
19 or other similar social service care on the premises. A "public
20 place" includes, but is not limited to, hospitals, restaurants,
21 retail stores, offices, commercial establishments, elevators,
22 indoor theaters, libraries, museums, concert halls, public
23 conveyances, educational facilities, nursing homes,
24 auditoriums, enclosed or partially enclosed sports arenas,
25 meeting rooms, schools, exhibition halls, convention
26 facilities, polling places, private clubs, gaming facilities,

1 all government owned vehicles and facilities, including
2 buildings and vehicles owned, leased, or operated by the State
3 or State subcontract, healthcare facilities or clinics,
4 enclosed shopping centers, retail service establishments,
5 financial institutions, educational facilities, ticket areas,
6 public hearing facilities, public restrooms, waiting areas,
7 lobbies, bars, taverns, bowling alleys, skating rinks,
8 reception areas, and no less than 75% of the sleeping quarters
9 within a hotel, motel, resort, inn, lodge, bed and breakfast,
10 or other similar public accommodation that are rented to
11 guests, but excludes private residences.

12 "Restaurant" means (i) an eating establishment, including,
13 but not limited to, coffee shops, cafeterias, sandwich stands,
14 and private and public school cafeterias, that gives or offers
15 for sale food to the public, guests, or employees, and (ii) a
16 kitchen or catering facility in which food is prepared on the
17 premises for serving elsewhere. "Restaurant" includes a bar
18 area within the restaurant.

19 "Retail tobacco store" means a retail establishment that
20 derives more than 80% of its gross revenue from the sale of
21 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,
22 and other smoking devices for burning tobacco and related
23 smoking accessories and in which the sale of other products is
24 merely incidental. "Retail tobacco store" includes an enclosed
25 workplace that manufactures, imports, or distributes tobacco
26 or tobacco products, when, as a necessary and integral part of

1 the process of making, manufacturing, importing, or
2 distributing a tobacco product for the eventual retail sale of
3 that tobacco or tobacco product, tobacco is heated, burned, or
4 smoked, or a lighted tobacco product is tested, provided that
5 the involved business entity: (1) maintains a specially
6 designated area or areas within the workplace for the purpose
7 of the heating, burning, smoking, or lighting activities, and
8 does not create a facility that permits smoking throughout; (2)
9 satisfies the 80% requirement related to gross sales; and (3)
10 delivers tobacco products to consumers, retail establishments,
11 or other wholesale establishments as part of its business.
12 "Retail tobacco store" does not include a tobacco department or
13 section of a larger commercial establishment or any
14 establishment with any type of liquor, food, or restaurant
15 license. Rulemaking authority to implement this amendatory Act
16 of the 95th General Assembly, if any, is conditioned on the
17 rules being adopted in accordance with all provisions of the
18 Illinois Administrative Procedure Act and all rules and
19 procedures of the Joint Committee on Administrative Rules; any
20 purported rule not so adopted, for whatever reason, is
21 unauthorized.

22 "Smoke" or "smoking" means the carrying, smoking, burning,
23 inhaling, or exhaling of any kind of lighted pipe, cigar,
24 cigarette, hookah, weed, herbs, or any other lighted smoking
25 equipment. "Smoke" or "smoking" does not include smoking that
26 is associated with a native recognized religious ceremony,

1 ritual, or activity by American Indians that is in accordance
2 with the federal American Indian Religious Freedom Act, 42
3 U.S.C. 1996 and 1996a.

4 "State agency" has the meaning formerly ascribed to it in
5 subsection (a) of Section 3 of the Illinois Purchasing Act (now
6 repealed).

7 "Unit of local government" has the meaning ascribed to it
8 in Section 1 of Article VII of the Illinois Constitution of
9 1970.

10 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09; 96-797,
11 eff. 1-1-10.)

12 (410 ILCS 82/15)

13 Sec. 15. Smoking in public places, places of employment,
14 and governmental vehicles prohibited. No person shall smoke in
15 a public place or in any place of employment or within 15 feet
16 of any entrance to a public place or place of employment. No
17 person may smoke in any vehicle owned, leased, or operated by
18 the State or a political subdivision of the State. An owner
19 shall reasonably assure that smoking is prohibited in enclosed
20 ~~indoor~~ public places and workplaces unless specifically
21 exempted by Section 35 of this Act. The Department shall adopt
22 rules necessary for the administration of this Section within
23 12 months after the effective date of this amendatory Act of
24 the 97th General Assembly.

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

1 (410 ILCS 82/35)

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

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

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

23 (3) (Blank).

24 (4) Hotel and motel sleeping rooms that are rented to
25 guests and are designated as smoking rooms, provided that

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

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

18 (6) Common smoking rooms in long-term care facilities
19 operated under the authority of the Illinois Department of
20 Veterans' Affairs or licensed under the Nursing Home Care
21 Act that are accessible only to residents who are smokers
22 and have requested in writing to have access to the common
23 smoking room where smoking is permitted and the smoke shall
24 not infiltrate other areas of the long-term care facility.
25 Rulemaking authority to implement this amendatory Act of
26 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 (7) An outdoor patio controlled by the proprietor of a
7 place of employment or public space that is designated by
8 the proprietor as an area where smoking is permitted, if
9 the area is 15 feet or more from entrances, exits, windows
10 that open, and ventilation intakes that serve an enclosed
11 area where smoking is prohibited. The outdoor patio shall
12 have at least one side that contains a majority of open
13 space or permeable material, unless the outdoor patio has
14 either no overhead covering or an overhead covering that
15 consists of permeable material or a combination of open
16 space and permeable material. An area where smoking is
17 permitted on a rooftop must satisfy the requirements for an
18 outdoor patio contained in this subsection (7). An outdoor
19 patio where smoking is permitted shall be situated so that
20 patrons of the indoor public place or indoor place of
21 employment need not enter an outdoor patio area where
22 smoking is permitted in order to gain access to the indoor
23 area. Nothing in this exemption shall limit the authority
24 under Section 30 to designate all or part of an outdoor
25 patio as a non-smoking area. An employee shall not be
26 required, as a condition of employment, to enter an outdoor

1 patio where smoking is permitted. The Department shall
2 adopt rules necessary for the administration of this
3 subsection (7) within 12 months after the effective date of
4 this amendatory Act of the 97th General Assembly.

5 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
6 96-1357, eff. 1-1-11.)".