

August 17, 2012

To the Honorable Members of the
Illinois Senate,
97th General Assembly:

I would like to commend the sponsors for their hard work on Senate Bill 2945. This legislation amends the Right to Privacy in the Workplace Act to allow for-profit employers who provide medical or hospital treatment to those with cancer to refuse to hire, discharge, discipline and alter the pay, benefits and working conditions of any employee who uses tobacco products when not at work. As Governor, I am committed to working together to decrease the number of smokers and to make sure Illinois residents have fresh air to breathe while they are at work and in public places. Although this bill has been narrowly drawn to primarily apply to employees of a cancer treatment center, there are more extensive consequences which could have an impact on a citizen's right to privacy.

The issue of employees' rights to engage in certain off-duty activities and the competing authority of their employers to prohibit them from doing so has received significant attention from lawmakers and other policymakers around the country. In total, twenty-nine states and the District of Columbia have statutes that protect employees from adverse employment actions based on their off-duty activities. These statutes provide three different levels of protection: (1) use of tobacco only; (2) use of lawful products; and (3) any and all lawful activities. Since this bill has been transmitted to me, concerns have been raised that this legislation has far-reaching consequences beyond an employer's desire to keep employees healthy.

In addition, I am concerned about how this bill will be implemented in order to make sure it protects our health care employees. According to the sponsors of the bill, the provision will only apply to new employees hired after the effective date of the bill. This important stipulation was not written into the bill and cannot be enacted through regulation. In addition, the legislation does not address whether employees will have the right to appeal adverse employment decisions.

Finally, the bill does not address how employees will be tested for tobacco use. According to proponents, new employees may be tested for tobacco use by undergoing blood tests. Although proponents claim the blood test threshold cannot be reached through second-hand smoke, I remain concerned about how the tests will be administered.

For these reasons, I cannot affix my signature to Senate Bill 2945. I look forward to working with sponsors in the coming months to continue to encourage individuals to stop smoking and to make sure cancer treatment centers have the tools they need to treat patients.

Therefore pursuant to Article IV, Section 9(b) of the Illinois Constitution of 1970, I return Senate Bill 2945 with the foregoing objections, vetoed in its entirety.

Sincerely,

PAT QUINN
Governor