

**HB2794**



**94TH GENERAL ASSEMBLY**

**State of Illinois**

**2005 and 2006**

**HB2794**

Introduced 2/22/2005, by Rep. Tom Cross

**SYNOPSIS AS INTRODUCED:**

20 ILCS 2305/2

from Ch. 111 1/2, par. 22

Amends the Department of Public Health Act. Makes a technical change in a Section concerning the powers of the Department.

LRB094 06542 RSP 36632 b

**A BILL FOR**

1 AN ACT concerning State government.

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

4 Section 5. The Department of Public Health Act is amended  
5 by changing Section 2 as follows:

6 (20 ILCS 2305/2) (from Ch. 111 1/2, par. 22)

7 Sec. 2. Powers.

8 (a) The ~~The~~ State Department of Public Health has general  
9 supervision of the interests of the health and lives of the  
10 people of the State. It has supreme authority in matters of  
11 quarantine and isolation, and may declare and enforce  
12 quarantine and isolation when none exists, and may modify or  
13 relax quarantine and isolation when it has been established.  
14 The Department may adopt, promulgate, repeal and amend rules  
15 and regulations and make such sanitary investigations and  
16 inspections as it may from time to time deem necessary for the  
17 preservation and improvement of the public health, consistent  
18 with law regulating the following:

19 (1) Transportation of the remains of deceased persons.

20 (2) Sanitary practices relating to drinking water made  
21 accessible to the public for human consumption or for  
22 lavatory or culinary purposes.

23 (3) Sanitary practices relating to rest room  
24 facilities made accessible to the public or to persons  
25 handling food served to the public.

26 (4) Sanitary practices relating to disposal of human  
27 wastes in or from all buildings and places where people  
28 live, work or assemble.

29 The provisions of the Illinois Administrative Procedure  
30 Act are hereby expressly adopted and shall apply to all  
31 administrative rules and procedures of the Department of Public  
32 Health under this Act, except that Section 5-35 of the Illinois

1 Administrative Procedure Act relating to procedures for  
2 rule-making does not apply to the adoption of any rule required  
3 by federal law in connection with which the Department is  
4 precluded by law from exercising any discretion.

5 All local boards of health, health authorities and  
6 officers, police officers, sheriffs and all other officers and  
7 employees of the state or any locality shall enforce the rules  
8 and regulations so adopted and orders issued by the Department  
9 pursuant to this Section.

10 The Department of Public Health shall conduct a public  
11 information campaign to inform Hispanic women of the high  
12 incidence of breast cancer and the importance of mammograms and  
13 where to obtain a mammogram. This requirement may be satisfied  
14 by translation into Spanish and distribution of the breast  
15 cancer summaries required by Section 2310-345 of the Department  
16 of Public Health Powers and Duties Law (20 ILCS 2310/2310-345).  
17 The information provided by the Department of Public Health  
18 shall include (i) a statement that mammography is the most  
19 accurate method for making an early detection of breast cancer,  
20 however, no diagnostic tool is 100% effective and (ii)  
21 instructions for performing breast self-examination and a  
22 statement that it is important to perform a breast  
23 self-examination monthly.

24 The Department of Public Health shall investigate the  
25 causes of dangerously contagious or infectious diseases,  
26 especially when existing in epidemic form, and take means to  
27 restrict and suppress the same, and whenever such disease  
28 becomes, or threatens to become epidemic, in any locality and  
29 the local board of health or local authorities neglect or  
30 refuse to enforce efficient measures for its restriction or  
31 suppression or to act with sufficient promptness or efficiency,  
32 or whenever the local board of health or local authorities  
33 neglect or refuse to promptly enforce efficient measures for  
34 the restriction or suppression of dangerously contagious or  
35 infectious diseases, the Department of Public Health may  
36 enforce such measures as it deems necessary to protect the

1 public health, and all necessary expenses so incurred shall be  
2 paid by the locality for which services are rendered.

3 (b) Subject to the provisions of subsection (c), the  
4 Department may order a person or group of persons to be  
5 quarantined or isolated or may order a place to be closed and  
6 made off limits to the public to prevent the probable spread of  
7 a dangerously contagious or infectious disease, including  
8 non-compliant tuberculosis patients, until such time as the  
9 condition can be corrected or the danger to the public health  
10 eliminated or reduced in such a manner that no substantial  
11 danger to the public's health any longer exists. Orders for  
12 isolation of a person or quarantine of a place to prevent the  
13 probable spread of a sexually transmissible disease shall be  
14 governed by the provisions of Section 7 of the Illinois  
15 Sexually Transmissible Disease Control Act and not this  
16 Section.

17 (c) Except as provided in this Section, no person or a  
18 group of persons may be ordered to be quarantined or isolated  
19 and no place may be ordered to be closed and made off limits to  
20 the public except with the consent of the person or owner of  
21 the place or upon the prior order of a court of competent  
22 jurisdiction. The Department may, however, order a person or a  
23 group of persons to be quarantined or isolated or may order a  
24 place to be closed and made off limits to the public on an  
25 immediate basis without prior consent or court order if, in the  
26 reasonable judgment of the Department, immediate action is  
27 required to protect the public from a dangerously contagious or  
28 infectious disease. In the event of an immediate order issued  
29 without prior consent or court order, the Department shall, as  
30 soon as practical, within 48 hours after issuing the order,  
31 obtain the consent of the person or owner or file a petition  
32 requesting a court order authorizing the isolation or  
33 quarantine or closure. When exigent circumstances exist that  
34 cause the court system to be unavailable or that make it  
35 impossible to obtain consent or file a petition within 48 hours  
36 after issuance of an immediate order, the Department must

1 obtain consent or file a petition requesting a court order as  
2 soon as reasonably possible. To obtain a court order, the  
3 Department, by clear and convincing evidence, must prove that  
4 the public's health and welfare are significantly endangered by  
5 a person or group of persons that has, that is suspected of  
6 having, that has been exposed to, or that is reasonably  
7 believed to have been exposed to a dangerously contagious or  
8 infectious disease including non-compliant tuberculosis  
9 patients or by a place where there is a significant amount of  
10 activity likely to spread a dangerously contagious or  
11 infectious disease. The Department must also prove that all  
12 other reasonable means of correcting the problem have been  
13 exhausted and no less restrictive alternative exists. For  
14 purposes of this subsection, in determining whether no less  
15 restrictive alternative exists, the court shall consider  
16 evidence showing that, under the circumstances presented by the  
17 case in which an order is sought, quarantine or isolation is  
18 the measure provided for in a rule of the Department or in  
19 guidelines issued by the Centers for Disease Control and  
20 Prevention or the World Health Organization. Persons who are or  
21 are about to be ordered to be isolated or quarantined and  
22 owners of places that are or are about to be closed and made  
23 off limits to the public shall have the right to counsel. If a  
24 person or owner is indigent, the court shall appoint counsel  
25 for that person or owner. Persons who are ordered to be  
26 isolated or quarantined or who are owners of places that are  
27 ordered to be closed and made off limits to the public, shall  
28 be given a written notice of such order. The written notice  
29 shall additionally include the following: (1) notice of the  
30 right to counsel; (2) notice that if the person or owner is  
31 indigent, the court will appoint counsel for that person or  
32 owner; (3) notice of the reason for the order for isolation,  
33 quarantine, or closure; (4) notice of whether the order is an  
34 immediate order, and if so, the time frame for the Department  
35 to seek consent or to file a petition requesting a court order  
36 as set out in this subsection; and (5) notice of the

1 anticipated duration of the isolation, quarantine, or closure.

2 (d) The Department may order physical examinations and  
3 tests and collect laboratory specimens as necessary for the  
4 diagnosis or treatment of individuals in order to prevent the  
5 probable spread of a dangerously contagious or infectious  
6 disease. Physical examinations, tests, or collection of  
7 laboratory specimens must not be such as are reasonably likely  
8 to lead to serious harm to the affected individual. To prevent  
9 the spread of a dangerously contagious or infectious disease,  
10 the Department may, pursuant to the provisions of subsection  
11 (c) of this Section, isolate or quarantine any person whose  
12 refusal of physical examination or testing or collection of  
13 laboratory specimens results in uncertainty regarding whether  
14 he or she has been exposed to or is infected with a dangerously  
15 contagious or infectious disease or otherwise poses a danger to  
16 the public's health. An individual may refuse to consent to a  
17 physical examination, test, or collection of laboratory  
18 specimens. An individual shall be given a written notice that  
19 shall include notice of the following: (i) that the individual  
20 may refuse to consent to physical examination, test, or  
21 collection of laboratory specimens; (ii) that if the individual  
22 consents to physical examination, tests, or collection of  
23 laboratory specimens, the results of that examination, test, or  
24 collection of laboratory specimens may subject the individual  
25 to isolation or quarantine pursuant to the provisions of  
26 subsection (c) of this Section; (iii) that if the individual  
27 refuses to consent to physical examination, tests, or  
28 collection of laboratory specimens and that refusal results in  
29 uncertainty regarding whether he or she has been exposed to or  
30 is infected with a dangerously contagious or infectious disease  
31 or otherwise poses a danger to the public's health, the  
32 individual may be subject to isolation or quarantine pursuant  
33 to the provisions of subsection (c) of this Section; and (iv)  
34 that if the individual refuses to consent to physical  
35 examinations, tests, or collection of laboratory specimens and  
36 becomes subject to isolation and quarantine as provided in this

1 subsection (d), he or she shall have the right to counsel  
2 pursuant to the provisions of subsection (c) of this Section.  
3 To the extent feasible without endangering the public's health,  
4 the Department shall respect and accommodate the religious  
5 beliefs of individuals in implementing this subsection.

6 (e) The Department may order the administration of  
7 vaccines, medications, or other treatments to persons as  
8 necessary in order to prevent the probable spread of a  
9 dangerously contagious or infectious disease. A vaccine,  
10 medication, or other treatment to be administered must not be  
11 such as is reasonably likely to lead to serious harm to the  
12 affected individual. To prevent the spread of a dangerously  
13 contagious or infectious disease, the Department may, pursuant  
14 to the provisions of subsection (c) of this Section, isolate or  
15 quarantine persons who are unable or unwilling to receive  
16 vaccines, medications, or other treatments pursuant to this  
17 Section. An individual may refuse to receive vaccines,  
18 medications, or other treatments. An individual shall be given  
19 a written notice that shall include notice of the following:  
20 (i) that the individual may refuse to consent to vaccines,  
21 medications, or other treatments; (ii) that if the individual  
22 refuses to receive vaccines, medications, or other treatments,  
23 the individual may be subject to isolation or quarantine  
24 pursuant to the provisions of subsection (c) of this Section;  
25 and (iii) that if the individual refuses to receive vaccines,  
26 medications, or other treatments and becomes subject to  
27 isolation or quarantine as provided in this subsection (e), he  
28 or she shall have the right to counsel pursuant to the  
29 provisions of subsection (c) of this Section. To the extent  
30 feasible without endangering the public's health, the  
31 Department shall respect and accommodate the religious beliefs  
32 of individuals in implementing this subsection.

33 (f) The Department may order observation and monitoring of  
34 persons to prevent the probable spread of a dangerously  
35 contagious or infectious disease. To prevent the spread of a  
36 dangerously contagious or infectious disease, the Department

1 may, pursuant to the provisions of subsection (c) of this  
2 Section, isolate or quarantine persons whose refusal to undergo  
3 observation and monitoring results in uncertainty regarding  
4 whether he or she has been exposed to or is infected with a  
5 dangerously contagious or infectious disease or otherwise  
6 poses a danger to the public's health. An individual may refuse  
7 to undergo observation and monitoring. An individual shall be  
8 given written notice that shall include notice of the  
9 following: (i) that the individual may refuse to undergo  
10 observation and monitoring; (ii) that if the individual  
11 consents to observation and monitoring, the results of that  
12 observation and monitoring may subject the individual to  
13 isolation or quarantine pursuant to the provisions of  
14 subsection (c) of this Section; (iii) that if the individual  
15 refuses to undergo observation and monitoring and that refusal  
16 results in uncertainty regarding whether he or she has been  
17 exposed to or is infected with a dangerously contagious or  
18 infectious disease or otherwise poses a danger to the public's  
19 health, the individual may be subject to isolation or  
20 quarantine pursuant to the provisions of subsection (c) of this  
21 Section; and (iv) that if the individual refuses to undergo  
22 observation and monitoring and becomes subject to isolation or  
23 quarantine as provided in this subsection (f), he or she shall  
24 have the right to counsel pursuant to the provisions of  
25 subsection (c) of this Section.

26 (g) To prevent the spread of a dangerously contagious or  
27 infectious disease among humans, the Department may examine,  
28 test, disinfect, seize, or destroy animals or other related  
29 property believed to be sources of infection. An owner of such  
30 animal or other related property shall be given written notice  
31 regarding such examination, testing, disinfection, seizure, or  
32 destruction. When the Department determines that any animal or  
33 related property is infected with or has been exposed to a  
34 dangerously contagious or infectious disease, it may agree with  
35 the owner upon the value of the animal or of any related  
36 property that it may be found necessary to destroy, and in case



1 such an agreement cannot be made, the animals or related  
2 property shall be appraised by 3 competent and disinterested  
3 appraisers, one to be selected by the Department, one by the  
4 claimant, and one by the 2 appraisers thus selected. The  
5 appraisers shall subscribe to an oath made in writing to fairly  
6 value the animals or related property in accordance with the  
7 requirements of this Act. The oath, together with the valuation  
8 fixed by the appraisers, shall be filed with the Department and  
9 preserved by it. Upon the appraisal being made, the owner or  
10 the Department shall immediately destroy the animals by "humane  
11 euthanasia" as that term is defined in Section 2.09 of the  
12 Humane Care for Animals Act. Dogs and cats, however, shall be  
13 euthanized pursuant to the provisions of the Humane Euthanasia  
14 in Animal Shelters Act. The owner or the Department shall  
15 additionally, dispose of the carcasses, and disinfect, change,  
16 or destroy the premises occupied by the animals, in accordance  
17 with rules prescribed by the Department governing such  
18 destruction and disinfection. Upon his or her failure so to do  
19 or to cooperate with the Department, the Department shall cause  
20 the animals or related property to be destroyed and disposed of  
21 in the same manner, and thereupon the owner shall forfeit all  
22 right to receive any compensation for the destruction of the  
23 animals or related property. All final administrative  
24 decisions of the Department hereunder shall be subject to  
25 judicial review pursuant to the provisions of the  
26 Administrative Review Law, and all amendments and  
27 modifications thereof, and the rules adopted pursuant thereto.  
28 The term "administrative decision" is defined as in Section  
29 3-101 of the Code of Civil Procedure.

30 (h) To prevent the spread of a dangerously contagious or  
31 infectious disease, the Department, local boards of health, and  
32 local public health authorities shall have emergency access to  
33 medical or health information or records or data upon the  
34 condition that the Department, local boards of health, and  
35 local public health authorities shall protect the privacy and  
36 confidentiality of any medical or health information or records

1 or data obtained pursuant to this Section in accordance with  
2 federal and State law. Additionally, any such medical or health  
3 information or records or data shall be exempt from inspection  
4 and copying under the Freedom of Information Act. Other than a  
5 hearing for the purpose of this Act, any information, records,  
6 reports, statements, notes, memoranda, or other data in the  
7 possession of the Department, local boards of health, or local  
8 public health authorities shall not be admissible as evidence,  
9 nor discoverable in any action of any kind in any court or  
10 before any tribunal, board, agency, or person. The access to or  
11 disclosure of any of this information or data by the  
12 Department, a local board of health, or a local public  
13 authority shall not waive or have any effect upon its  
14 non-discoverability or non-admissibility. Any person,  
15 facility, institution, or agency that provides emergency  
16 access to health information and data under this subsection  
17 shall have immunity from any civil or criminal liability, or  
18 any other type of liability that might otherwise result by  
19 reason of these actions except in the event of willful and  
20 wanton misconduct. The privileged quality of communication  
21 between any professional person or any facility shall not  
22 constitute grounds for failure to provide emergency access.  
23 Nothing in this subsection shall prohibit the sharing of  
24 information as authorized in Section 2.1 of this Act. The  
25 disclosure of any of this information, records, reports,  
26 statements, notes, memoranda, or other data obtained in any  
27 activity under this Act, except that necessary for the purposes  
28 of this Act, is unlawful, and any person convicted of violating  
29 this provision is guilty of a Class A misdemeanor.

30 (i) (A) The Department, in order to prevent and control  
31 disease, injury, or disability among citizens of the State  
32 of Illinois, may develop and implement, in consultation  
33 with local public health authorities, a Statewide system  
34 for syndromic data collection through the access to  
35 interoperable networks, information exchanges, and  
36 databases. The Department may also develop a system for the

1 reporting of comprehensive, integrated data to identify  
2 and address unusual occurrences of disease symptoms and  
3 other medical complexes affecting the public's health.

4 (B) The Department may enter into contracts or  
5 agreements with individuals, corporations, hospitals,  
6 universities, not-for-profit corporations, governmental  
7 entities, or other organizations, whereby those  
8 individuals or entities agree to provide assistance in the  
9 compilation of the syndromic data collection and reporting  
10 system.

11 (C) The Department shall not release any syndromic data  
12 or information obtained pursuant to this subsection to any  
13 individuals or entities for purposes other than the  
14 protection of the public health. All access to data by the  
15 Department, reports made to the Department, the identity of  
16 or facts that would tend to lead to the identity of the  
17 individual who is the subject of the report, and the  
18 identity of or facts that would tend to lead to the  
19 identity of the author of the report shall be strictly  
20 confidential, are not subject to inspection or  
21 dissemination, and shall be used only for public health  
22 purposes by the Department, local public health  
23 authorities, or the Centers for Disease Control and  
24 Prevention. Entities or individuals submitting reports or  
25 providing access to the Department shall not be held liable  
26 for the release of information or confidential data to the  
27 Department in accordance with this subsection.

28 (D) Nothing in this subsection prohibits the sharing of  
29 information as authorized in Section 2.1 of this Act.

30 (j) This Section shall be considered supplemental to the  
31 existing authority and powers of the Department and shall not  
32 be construed to restrain or restrict the Department in  
33 protecting the public health under any other provisions of the  
34 law.

35 (k) Any person who knowingly or maliciously disseminates  
36 any false information or report concerning the existence of any

1 dangerously contagious or infectious disease in connection  
2 with the Department's power of quarantine, isolation and  
3 closure or refuses to comply with a quarantine, isolation or  
4 closure order is guilty of a Class A misdemeanor.

5 (1) The Department of Public Health may establish and  
6 maintain a chemical and bacteriologic laboratory for the  
7 examination of water and wastes, and for the diagnosis of  
8 diphtheria, typhoid fever, tuberculosis, malarial fever and  
9 such other diseases as it deems necessary for the protection of  
10 the public health.

11 As used in this Act, "locality" means any governmental  
12 agency which exercises power pertaining to public health in an  
13 area less than the State.

14 The terms "sanitary investigations and inspections" and  
15 "sanitary practices" as used in this Act shall not include or  
16 apply to "Public Water Supplies" or "Sewage Works" as defined  
17 in the Environmental Protection Act. The Department may adopt  
18 rules that are reasonable and necessary to implement and  
19 effectuate this amendatory Act of the 93rd General Assembly.

20 (Source: P.A. 93-829, eff. 7-28-04.)