

1 AN ACT concerning health.

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

4 Section 5. The Smoke Free Illinois Act is amended by
5 changing Sections 10, 15, 35, 40, 45, and 50 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
17 or a person who volunteers his or her services for a non-profit
18 entity.

19 "Employer" means a person, business, partnership,
20 association, or corporation, including a municipal
21 corporation, trust, or non-profit entity, that employs the
22 services of one or more individual persons.

23 "Enclosed area" means all space between a floor and a

1 ceiling that is enclosed or partially enclosed with (i) solid
2 walls or windows, exclusive of doorways, or (ii) solid walls
3 with partitions and no windows, exclusive of doorways, that
4 extend from the floor to the ceiling, including, without
5 limitation, lobbies and corridors.

6 "Enclosed or partially enclosed sports arena" means any
7 sports pavilion, stadium, gymnasium, health spa, boxing arena,
8 swimming pool, roller rink, ice rink, bowling alley, or other
9 similar place where members of the general public assemble to
10 engage in physical exercise or participate in athletic
11 competitions or recreational activities or to witness sports,
12 cultural, recreational, or other events.

13 "Gaming equipment or supplies" means gaming
14 equipment/supplies as defined in the Illinois Gaming Board
15 Rules of the Illinois Administrative Code.

16 "Gaming facility" means an establishment utilized
17 primarily for the purposes of gaming and where gaming equipment
18 or supplies are operated for the purposes of accruing business
19 revenue.

20 "Healthcare facility" means an office or institution
21 providing care or treatment of diseases, whether physical,
22 mental, or emotional, or other medical, physiological, or
23 psychological conditions, including, but not limited to,
24 hospitals, rehabilitation hospitals, weight control clinics,
25 nursing homes, homes for the aging or chronically ill,
26 laboratories, and offices of surgeons, chiropractors, physical

1 therapists, physicians, dentists, and all specialists within
2 these professions. "Healthcare facility" includes all waiting
3 rooms, hallways, private rooms, semiprivate rooms, and wards
4 within healthcare facilities.

5 "Place of employment" means any area under the control of a
6 public or private employer that employees are required to
7 enter, leave, or pass through during the course of employment,
8 including, but not limited to entrances and exits to places of
9 employment, including a minimum distance, as set forth in
10 Section 70 of this Act, of 15 feet from entrances, exits,
11 windows that open, and ventilation intakes that serve an
12 enclosed area where smoking is prohibited; offices and work
13 areas; restrooms; conference and classrooms; break rooms and
14 cafeterias; and other common areas. A private residence or
15 home-based business, unless used to provide licensed child
16 care, foster care, adult care, or other similar social service
17 care on the premises, is not a "place of employment", nor are
18 enclosed laboratories, not open to the public, in an accredited
19 university or government facility where the activity of smoking
20 is exclusively conducted for the purpose of medical or
21 scientific health-related research.

22 "Private club" means a not-for-profit association that (1)
23 has been in active and continuous existence for at least 3
24 years prior to the effective date of this amendatory Act of the
25 95th General Assembly, whether incorporated or not, (2) is the
26 owner, lessee, or occupant of a building or portion thereof

1 used exclusively for club purposes at all times, (3) is
2 operated solely for a recreational, fraternal, social,
3 patriotic, political, benevolent, or athletic purpose, but not
4 for pecuniary gain, and (4) only sells alcoholic beverages
5 incidental to its operation. For purposes of this definition,
6 "private club" means an organization that is managed by a board
7 of directors, executive committee, or similar body chosen by
8 the members at an annual meeting, has established bylaws, a
9 constitution, or both to govern its activities, and has been
10 granted an exemption from the payment of federal income tax as
11 a club under 26 U.S.C. 501.

12 "Private residence" means the part of a structure used as a
13 dwelling, including, without limitation: a private home,
14 townhouse, condominium, apartment, mobile home, vacation home,
15 cabin, or cottage. For the purposes of this definition, a
16 hotel, motel, inn, resort, lodge, bed and breakfast or other
17 similar public accommodation, hospital, nursing home, or
18 assisted living facility shall not be considered a private
19 residence.

20 "Public place" means that portion of any building or
21 vehicle used by and open to the public, regardless of whether
22 the building or vehicle is owned in whole or in part by private
23 persons or entities, the State of Illinois, or any other public
24 entity and regardless of whether a fee is charged for
25 admission, including a minimum distance, as set forth in
26 Section 70 of this Act, of 15 feet from entrances, exits,

1 windows that open, and ventilation intakes that serve an
2 enclosed area where smoking is prohibited. A "public place"
3 does not include a private residence unless the private
4 residence is used to provide licensed child care, foster care,
5 or other similar social service care on the premises. A "public
6 place" includes, but is not limited to, hospitals, restaurants,
7 retail stores, offices, commercial establishments, elevators,
8 indoor theaters, libraries, museums, concert halls, public
9 conveyances, educational facilities, nursing homes,
10 auditoriums, enclosed or partially enclosed sports arenas,
11 meeting rooms, schools, exhibition halls, convention
12 facilities, polling places, private clubs, gaming facilities,
13 all government owned vehicles and facilities, including
14 buildings and vehicles owned, leased, or operated by the State
15 or State subcontract, healthcare facilities or clinics,
16 enclosed shopping centers, retail service establishments,
17 financial institutions, educational facilities, ticket areas,
18 public hearing facilities, public restrooms, waiting areas,
19 lobbies, bars, taverns, bowling alleys, skating rinks,
20 reception areas, and no less than 75% of the sleeping quarters
21 within a hotel, motel, resort, inn, lodge, bed and breakfast,
22 or other similar public accommodation that are rented to
23 guests, but excludes private residences.

24 "Restaurant" means (i) an eating establishment, including,
25 but not limited to, coffee shops, cafeterias, sandwich stands,
26 and private and public school cafeterias, that gives or offers

1 for sale food to the public, guests, or employees, and (ii) a
2 kitchen or catering facility in which food is prepared on the
3 premises for serving elsewhere. "Restaurant" includes a bar
4 area within the restaurant.

5 "Retail tobacco store" means a retail establishment that
6 derives more than 80% of its gross revenue from the sale of
7 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,
8 and other smoking devices for burning tobacco and related
9 smoking accessories and in which the sale of other products is
10 merely incidental. "Retail tobacco store" includes an enclosed
11 workplace that manufactures, imports, or distributes tobacco
12 or tobacco products, when, as a necessary and integral part of
13 the process of making, manufacturing, importing, or
14 distributing a tobacco product for the eventual retail sale of
15 that tobacco or tobacco product, tobacco is heated, burned, or
16 smoked, or a lighted tobacco product is tested, provided that
17 the involved business entity: (1) maintains a specially
18 designated area or areas within the workplace for the purpose
19 of the heating, burning, smoking, or lighting activities, and
20 does not create a facility that permits smoking throughout; (2)
21 satisfies the 80% requirement related to gross sales; and (3)
22 delivers tobacco products to consumers, retail establishments,
23 or other wholesale establishments as part of its business.
24 "Retail tobacco store" does not include a tobacco department or
25 section of a larger commercial establishment or any
26 establishment with any type of liquor, food, or restaurant

1 license.

2 "Smoke" or "smoking" means the carrying, smoking, burning,
3 inhaling, or exhaling of any kind of lighted pipe, cigar,
4 cigarette, hookah, weed, herbs, or any other lighted smoking
5 equipment.

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

9 "Unit of local government" has the meaning ascribed to it
10 in Section 1 of Article VII of the Illinois Constitution of
11 1970.

12 (Source: P.A. 95-17, eff. 1-1-08.)

13 (410 ILCS 82/15)

14 Sec. 15. Smoking in public places, places of employment,
15 and governmental vehicles prohibited. No person shall smoke in
16 a public place or in any place of employment or within 15 feet
17 of any entrance to a public place or place of employment. No
18 person may smoke in any vehicle owned, leased, or operated by
19 the State or a political subdivision of the State. An owner
20 shall reasonably assure that smoking ~~Smoking~~ is prohibited in
21 indoor public places and workplaces unless specifically
22 exempted by Section 35 of this Act.

23 (Source: P.A. 95-17, eff. 1-1-08.)

24 (410 ILCS 82/35)

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

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

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

22 (3) Private and semi-private rooms in nursing homes and
23 long-term care facilities that are occupied by one or more
24 persons, all of whom are smokers and have requested in
25 writing to be placed or to remain in a room where smoking
26 is permitted and the smoke shall not infiltrate other areas

1 of the nursing home.

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

12 (5) Enclosed laboratories that are excluded from the
13 definition of "place of employment" in Section 10 of this
14 Act.

15 (Source: P.A. 95-17, eff. 1-1-08.)

16 (410 ILCS 82/40)

17 Sec. 40. Enforcement; complaints.

18 (a) The Department, State-certified local public health
19 departments, and local law enforcement agencies shall enforce
20 the provisions of this Act through the issuance of citations
21 and may assess fines pursuant to Section 45 of this Act.

22 (a-2) The citations issued pursuant to this Act shall
23 conspicuously include the following:

24 (1) the name of the offense and its statutory
25 reference;

- 1 (2) the nature and elements of the violation;
2 (3) the date and location of the violation;
3 (4) the name of the enforcing agency;
4 (5) the name of the violator;
5 (6) the amount of the imposed fine and the location
6 where the violator can pay the fine without objection;
7 (7) the address and phone number of the enforcing
8 agency where the violator can request a hearing before the
9 Department to contest the imposition of the citation under
10 the rules and procedures of the Administrative Procedure
11 Act;
12 (8) the time period in which to pay the fine or to
13 request a hearing to contest the imposition of the
14 citation; and
15 (9) the verified signature of the person issuing the
16 citation.

17 (a-3) One copy of the citation shall be provided to the
18 violator, one copy shall be retained by the enforcing agency,
19 and one copy shall be provided to the entity otherwise
20 authorized by the enforcing agency to receive fines on their
21 behalf.

22 (b) Any person may register a complaint with the
23 Department, a State-certified local public health department,
24 or a local law enforcement agency for a violation of this Act.
25 The Department shall establish a telephone number that a person
26 may call to register a complaint under this subsection (b).

1 (c) The Department shall afford a violator the opportunity
2 to pay the fine without objection or to contest the citation in
3 accordance with the Illinois Administrative Procedure Act,
4 except that in case of a conflict between the Illinois
5 Administrative Procedure Act and this Act, the provisions of
6 this Act shall control.

7 (d) Upon receipt of a request for hearing to contest the
8 imposition of a citation, the enforcing agency shall
9 immediately forward a copy of the citation and notice of the
10 request for hearing to the Department for initiation of a
11 hearing conducted in accordance with the Illinois
12 Administrative Procedure Act and the rules established thereto
13 by the Department applicable to contested cases, except that in
14 case of a conflict between the Illinois Administrative
15 Procedure Act and this Act, the provisions of this Act shall
16 control. Parties to the hearing shall be the enforcing agency
17 and the violator.

18 The Department shall notify the violator in writing of the
19 time, place, and location of the hearing. The hearing shall be
20 conducted at the nearest regional office of the Department, or
21 in a location contracted by the Department in the county where
22 the citation was issued.

23 (e) Fines imposed under this Act may be collected in
24 accordance with all methods otherwise available to the
25 enforcing agency or the Department, except that there shall be
26 no collection efforts during the pendency of the hearing before

1 the Department.

2 (Source: P.A. 95-17, eff. 1-1-08.)

3 (410 ILCS 82/45)

4 Sec. 45. Violations.

5 (a) A person, corporation, partnership, association or
6 other entity who violates Section 15 of this Act shall be fined
7 pursuant to this Section. Each day that a violation occurs is a
8 separate violation.

9 (b) A person who smokes in an area where smoking is
10 prohibited under Section 15 of this Act shall be fined in an
11 amount that is ~~not less than~~ \$100 for a first offense and not
12 more than \$250 for a second or subsequent offense. A person who
13 owns, operates, or otherwise controls a public place or place
14 of employment that violates Section 15 of this Act shall be
15 fined (i) not less than \$250 for the first violation, (ii) not
16 less than \$500 for the second violation within one year after
17 the first violation, and (iii) not less than \$2,500 for each
18 additional violation within one year after the first violation.

19 (c) A fine imposed under this Section shall be allocated as
20 follows:

21 (1) one-half of the fine shall be distributed to the
22 Department; and

23 (2) one-half of the fine shall be distributed to the
24 enforcing agency.

25 (Source: P.A. 95-17, eff. 1-1-08.)

1 (410 ILCS 82/50)

2 Sec. 50. Injunctions. In addition to any other sanction or
3 remedy, the ~~The~~ Department, a State-certified local public
4 health department, local law enforcement agency, or any
5 individual personally affected by repeated violations may
6 institute, in a circuit court, an action to enjoin violations
7 of this Act.

8 (Source: P.A. 95-17, eff. 1-1-08.)