



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 2707

2 AMENDMENT NO. _____. Amend Senate Bill 2707 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, 35, 40, 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

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

1 is exclusively conducted for the purpose of medical or
2 scientific health-related research.

3 "Private club" means a not-for-profit association that (1)
4 has been in active and continuous existence for at least 3
5 years prior to the effective date of this amendatory Act of the
6 95th General Assembly, whether incorporated or not, (2) is the
7 owner, lessee, or occupant of a building or portion thereof
8 used exclusively for club purposes at all times, (3) is
9 operated solely for a recreational, fraternal, social,
10 patriotic, political, benevolent, or athletic purpose, but not
11 for pecuniary gain, and (4) only sells alcoholic beverages
12 incidental to its operation. For purposes of this definition,
13 "private club" means an organization that is managed by a board
14 of directors, executive committee, or similar body chosen by
15 the members at an annual meeting, has established bylaws, a
16 constitution, or both to govern its activities, and has been
17 granted an exemption from the payment of federal income tax as
18 a club under 26 U.S.C. 501.

19 "Private residence" means the part of a structure used as a
20 dwelling, including, without limitation: a private home,
21 townhouse, condominium, apartment, mobile home, vacation home,
22 cabin, or cottage. For the purposes of this definition, a
23 hotel, motel, inn, resort, lodge, bed and breakfast or other
24 similar public accommodation, hospital, nursing home, or
25 assisted living facility shall not be considered a private
26 residence.

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

1 reception areas, and no less than 75% of the sleeping quarters
2 within a hotel, motel, resort, inn, lodge, bed and breakfast,
3 or other similar public accommodation that are rented to
4 guests, but excludes private residences.

5 "Restaurant" means (i) an eating establishment, including,
6 but not limited to, coffee shops, cafeterias, sandwich stands,
7 and private and public school cafeterias, that gives or offers
8 for sale food to the public, guests, or employees, and (ii) a
9 kitchen or catering facility in which food is prepared on the
10 premises for serving elsewhere. "Restaurant" includes a bar
11 area within the restaurant.

12 "Retail tobacco store" means a retail establishment that
13 derives more than 80% of its gross revenue from the sale of
14 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,
15 and other smoking devices for burning tobacco and related
16 smoking accessories and in which the sale of other products is
17 merely incidental. "Retail tobacco store" includes an enclosed
18 workplace that manufactures, imports, or distributes tobacco
19 or tobacco products, when, as a necessary and integral part of
20 the process of making, manufacturing, importing, or
21 distributing a tobacco product for the eventual retail sale of
22 that tobacco or tobacco product, tobacco is heated, burned, or
23 smoked, or a lighted tobacco product is tested, provided that
24 the involved business entity: (1) maintains a specially
25 designated area or areas within the workplace for the purpose
26 of the heating, burning, smoking, or lighting activities, and

1 does not create a facility that permits smoking throughout; (2)
2 satisfies the 80% requirement related to gross sales; and (3)
3 delivers tobacco products to consumers, retail establishments,
4 or other wholesale establishments as part of its business.

5 "Retail tobacco store" does not include a tobacco department or
6 section of a larger commercial establishment or any
7 establishment with any type of liquor, food, or restaurant
8 license.

9 "Smoke" or "smoking" means the carrying, smoking, burning,
10 inhaling, or exhaling of any kind of lighted pipe, cigar,
11 cigarette, hookah, weed, herbs, or any other lighted smoking
12 equipment.

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

16 "Unit of local government" has the meaning ascribed to it
17 in Section 1 of Article VII of the Illinois Constitution of
18 1970.

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

20 (410 ILCS 82/35)

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

23 (1) Private residences or dwelling places, except when
24 used as a child care, adult day care, or healthcare
25 facility or any other home-based business open to the

1 public.

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

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

23 (4) Hotel and motel sleeping rooms that are rented to
24 guests and are designated as smoking rooms, provided that
25 all smoking rooms on the same floor must be contiguous and
26 smoke from these rooms must not infiltrate into nonsmoking

1 rooms or other areas where smoking is prohibited. Not more
2 than 25% of the rooms rented to guests in a hotel or motel
3 may be designated as rooms where smoking is allowed. The
4 status of rooms as smoking or nonsmoking may not be
5 changed, except to permanently add additional nonsmoking
6 rooms.

7 (5) Enclosed laboratories that are excluded from the
8 definition of "place of employment" in Section 10 of this
9 Act.

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

11 (410 ILCS 82/40)

12 Sec. 40. Enforcement; complaints.

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

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

22 (c) The Department shall afford a violator the opportunity
23 to pay the fine without objection or to contest the citation in
24 accordance with the Illinois Administrative Procedure Act,
25 except that in case of a conflict between the Illinois

1 Administrative Procedure Act and this Act, the provisions of
2 this Act shall control.

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

4 (410 ILCS 82/50)

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

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