



Rep. Ann M. Williams

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LRB101 10924 CPF 70541 a

1 AMENDMENT TO SENATE BILL 1864

2 AMENDMENT NO. _____. Amend Senate Bill 1864 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 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 "Electronic cigarette" means:

16 (1) any device that employs a battery or other

1 mechanism to heat a solution or substance to produce a
2 vapor or aerosol intended for inhalation;

3 (2) any cartridge or container of a solution or
4 substance intended to be used with or in the device or to
5 refill the device; or

6 (3) any solution or substance, whether or not it
7 contains nicotine intended for use in the device.

8 "Electronic cigarette" includes, but is not limited to, any
9 electronic nicotine delivery system, electronic cigar,
10 electronic cigarillo, electronic pipe, electronic hookah, vape
11 pen, or similar product or device, and any components or parts
12 that can be used to build the product or device. "Electronic
13 cigarette" excludes cigarettes as defined in Section 1 of the
14 Cigarette Tax Act and tobacco products as defined in Section
15 10-5 of the Tobacco Products Tax Act of 1995; alternative
16 nicotine products as defined in this Section; products approved
17 by the United States Food and Drug Administration for sale as
18 tobacco cessation products, as tobacco dependence products, or
19 for other medical purposes, and marketed and sold solely for
20 that approved purpose; asthma inhalers prescribed by a
21 physician for that condition and marketed and sold solely for
22 that approved purpose; and therapeutic products approved for
23 use under the Compassionate Use of Medical Cannabis Pilot
24 Program Act.

25 "Employee" means a person who is employed by an employer in
26 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 "Nicotine" means any form of chemical nicotine, including
13 any salt or complex, regardless of whether the chemical is
14 naturally or synthetically derived.

15 "Place of employment" means any area under the control of a
16 public or private employer that employees are required to
17 enter, leave, or pass through during the course of employment,
18 including, but not limited to entrances and exits to places of
19 employment, including a minimum distance, as set forth in
20 Section 70 of this Act, of 15 feet from entrances, exits,
21 windows that open, and ventilation intakes that serve an
22 enclosed area where smoking is prohibited; offices and work
23 areas; restrooms; conference and classrooms; break rooms and
24 cafeterias; and other common areas. A private residence or
25 home-based business, unless used to provide licensed child
26 care, foster care, adult care, or other similar social service

1 care on the premises, is not a "place of employment", nor are
2 enclosed laboratories, not open to the public, in an accredited
3 university or government facility where the activity of smoking
4 is exclusively conducted for the purpose of medical or
5 scientific health-related research. Rulemaking authority to
6 implement this amendatory Act of the 95th General Assembly, if
7 any, is conditioned on the rules being adopted in accordance
8 with all provisions of the Illinois Administrative Procedure
9 Act and all rules and procedures of the Joint Committee on
10 Administrative Rules; any purported rule not so adopted, for
11 whatever reason, is unauthorized.

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

1 a club under 26 U.S.C. 501.

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

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

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

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

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

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

24 "Smoke" or "smoking" means the carrying, smoking, burning,
25 inhaling, or exhaling of any kind of lighted pipe, cigar,
26 cigarette, hookah, weed, herbs, or any other lighted smoking

1 equipment. "Smoke" or "smoking" includes the use of alternative
2 nicotine products and electronic cigarettes, as defined in this
3 Section. "Smoke" or "smoking" does not include smoking that is
4 associated with a native recognized religious ceremony,
5 ritual, or activity by American Indians that is in accordance
6 with the federal American Indian Religious Freedom Act, 42
7 U.S.C. 1996 and 1996a.

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

11 "Tobacco product" means any product containing or made from
12 tobacco that is intended for human consumption, whether smoked,
13 heated, chewed, absorbed, dissolved, inhaled, snorted,
14 sniffed, or ingested by any other means, including, but not
15 limited to, cigarettes, cigars, little cigars, chewing
16 tobacco, pipe tobacco, snuff, snus, and any other smokeless
17 tobacco product which contains tobacco that is finely cut,
18 ground, powdered, or leaf and intended to be placed in the oral
19 cavity. "Tobacco product" includes any component, part, and
20 accessory of a tobacco product, whether or not sold separately.
21 "Tobacco product" excludes electronic cigarettes; alternative
22 nicotine products; and products that have been approved by the
23 United States Food and Drug Administration for sale as tobacco
24 cessation products, as tobacco dependence products, or for
25 other medical purposes, marketed and sold solely for that
26 approved purpose.

1 "Unit of local government" has the meaning ascribed to it
2 in Section 1 of Article VII of the Illinois Constitution of
3 1970.

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

6 (410 ILCS 82/35)

7 Sec. 35. Exemptions.

8 (a) Notwithstanding any other provision of this Act,
9 smoking is allowed in the following areas:

10 (1) Private residences or dwelling places, except when
11 used as a child care, adult day care, or healthcare
12 facility or any other home-based business open to the
13 public.

14 (2) Retail tobacco stores as defined in Section 10 of
15 this Act in operation prior to the effective date of this
16 amendatory Act of the 95th General Assembly. The retail
17 tobacco store shall annually file with the Department by
18 January 31st an affidavit stating the percentage of its
19 gross income during the prior calendar year that was
20 derived from the sale of loose tobacco, plants, or herbs
21 and cigars, cigarettes, pipes, or other smoking devices for
22 smoking tobacco and related smoking accessories. Any
23 retail tobacco store that begins operation after the
24 effective date of this amendatory Act may only qualify for
25 an exemption if located in a freestanding structure

1 occupied solely by the business and smoke from the business
2 does not migrate into an enclosed area where smoking is
3 prohibited. A retail tobacco store may, with authorization
4 or permission from a unit of local government, including a
5 home rule unit, or any non-home rule county within the
6 unincorporated territory of the county, allow the
7 on-premises consumption of cannabis in a specially
8 designated areas.

9 (3) (Blank).

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

20 (5) Enclosed laboratories that are excluded from the
21 definition of "place of employment" in Section 10 of this
22 Act. Rulemaking authority to implement this amendatory Act
23 of the 95th General Assembly, if any, is conditioned on the
24 rules being adopted in accordance with all provisions of
25 the Illinois Administrative Procedure Act and all rules and
26 procedures of the Joint Committee on Administrative Rules;

1 any purported rule not so adopted, for whatever reason, is
2 unauthorized.

3 (6) Common smoking rooms in long-term care facilities
4 operated under the authority of the Illinois Department of
5 Veterans' Affairs or licensed under the Nursing Home Care
6 Act that are accessible only to residents who are smokers
7 and have requested in writing to have access to the common
8 smoking room where smoking is permitted and the smoke shall
9 not infiltrate other areas of the long-term care facility.

10 Rulemaking authority to implement this amendatory Act of
11 the 95th General Assembly, if any, is conditioned on the
12 rules being adopted in accordance with all provisions of
13 the Illinois Administrative Procedure Act and all rules and
14 procedures of the Joint Committee on Administrative Rules;
15 any purported rule not so adopted, for whatever reason, is
16 unauthorized.

17 (7) A convention hall of the Donald E. Stephens
18 Convention Center where a meeting or trade show for
19 manufacturers and suppliers of tobacco and tobacco
20 products and accessories is being held, during the time the
21 meeting or trade show is occurring, if the meeting or trade
22 show:

23 (i) is a trade-only event and not open to the
24 public;

25 (ii) is limited to attendees and exhibitors that
26 are 21 years of age or older;

1 (iii) is being produced or organized by a business
2 relating to tobacco or a professional association for
3 convenience stores; and

4 (iv) involves the display of tobacco products.

5 Smoking is not allowed in any public area outside of
6 the hall designated for the meeting or trade show.

7 This paragraph (7) is inoperative on and after October
8 1, 2015.

9 (8) A dispensing organization, as defined in the
10 Cannabis Regulation and Tax Act, authorized or permitted by
11 a unit local government to allow on-site consumption of
12 cannabis, if the establishment: (1) maintains a specially
13 designated area or areas for the purpose of heating,
14 burning, smoking, or lighting cannabis; (2) is limited to
15 individuals 21 or older; and (3) maintains a locked door or
16 barrier to any specially designated areas for the purpose
17 of heating, burning, smoking or lighting cannabis.

18 (b) Notwithstanding any other provision of this Act, the
19 use of an electronic cigarette is allowed in a retail tobacco
20 store.

21 (Source: P.A. 101-593, eff. 12-4-19.)".