

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 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
9 serving of alcoholic beverages for consumption by guests on
10 the premises and that derives no more than 10% of its gross
11 revenue from the sale of food consumed on the premises. "Bar"
12 includes, but is not limited to, taverns, nightclubs, cocktail
13 lounges, adult entertainment facilities, and cabarets.

14 "Department" means the Department of Public Health.

15 "Electronic cigarette" means any product containing or
16 delivering nicotine or any other substance intended for human
17 consumption that can be used by a person in any manner for the
18 purpose of inhaling vapor or aerosol from the product.
19 "Electronic cigarette" includes any such product, whether
20 manufactured, distributed, marketed, or sold as an
21 e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under
22 any other product name or descriptor.

23 "Employee" means a person who is employed by an employer

1 in consideration for direct or indirect monetary wages or
2 profits or a person who volunteers his or her services for a
3 non-profit entity.

4 "Employer" means a person, business, partnership,
5 association, or corporation, including a municipal
6 corporation, trust, or non-profit entity, that employs the
7 services of one or more individual persons.

8 "Enclosed area" means all space between a floor and a
9 ceiling that is enclosed or partially enclosed with (i) solid
10 walls or windows, exclusive of doorways, or (ii) solid walls
11 with partitions and no windows, exclusive of doorways, that
12 extend from the floor to the ceiling, including, without
13 limitation, lobbies and corridors.

14 "Enclosed or partially enclosed sports arena" means any
15 sports pavilion, stadium, gymnasium, health spa, boxing arena,
16 swimming pool, roller rink, ice rink, bowling alley, or other
17 similar place where members of the general public assemble to
18 engage in physical exercise or participate in athletic
19 competitions or recreational activities or to witness sports,
20 cultural, recreational, or other events.

21 "Gaming equipment or supplies" means gaming
22 equipment/supplies as defined in the Illinois Gaming Board
23 Rules of the Illinois Administrative Code.

24 "Gaming facility" means an establishment utilized
25 primarily for the purposes of gaming and where gaming
26 equipment or supplies are operated for the purposes of

1 accruing business revenue.

2 "Healthcare facility" means an office or institution
3 providing care or treatment of diseases, whether physical,
4 mental, or emotional, or other medical, physiological, or
5 psychological conditions, including, but not limited to,
6 hospitals, rehabilitation hospitals, weight control clinics,
7 nursing homes, homes for the aging or chronically ill,
8 laboratories, and offices of surgeons, chiropractors, physical
9 therapists, physicians, dentists, and all specialists within
10 these professions. "Healthcare facility" includes all waiting
11 rooms, hallways, private rooms, semiprivate rooms, and wards
12 within healthcare facilities.

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

1 accredited university or government facility where the
2 activity of smoking is exclusively conducted for the purpose
3 of medical or scientific health-related research. Rulemaking
4 authority to implement this amendatory Act of the 95th General
5 Assembly, if any, is conditioned on the rules being adopted in
6 accordance with all provisions of the Illinois Administrative
7 Procedure Act and all rules and procedures of the Joint
8 Committee on Administrative Rules; any purported rule not so
9 adopted, for whatever reason, is unauthorized.

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

26 "Private residence" means the part of a structure used as

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

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

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

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

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

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

25 "Smoke" or "smoking" means the carrying, smoking, burning,
26 inhaling, or exhaling of any kind of lighted pipe, cigar,

1 cigarette, hookah, weed, herbs, or any other lighted smoking
2 equipment. "Smoke" or "smoking" includes the use of an
3 electronic cigarette. "Smoke" or "smoking" does not include
4 smoking that is associated with a native recognized religious
5 ceremony, ritual, or activity by American Indians that is in
6 accordance with the federal American Indian Religious Freedom
7 Act, 42 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
10 (now repealed).

11 "Unit of local government" has the meaning ascribed to it
12 in Section 1 of Article VII of the Illinois Constitution of
13 1970.

14 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
15 96-797, eff. 1-1-10.)

16 (410 ILCS 82/35)

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

19 (1) Private residences or dwelling places, except when
20 used as a child care, adult day care, or healthcare
21 facility or any other home-based business open to the
22 public.

23 (2) Retail tobacco stores as defined in Section 10 of
24 this Act in operation prior to the effective date of this
25 amendatory Act of the 95th General Assembly. The retail

1 tobacco store shall annually file with the Department by
2 January 31st an affidavit stating the percentage of its
3 gross income during the prior calendar year that was
4 derived from the sale of loose tobacco, plants, or herbs
5 and cigars, cigarettes, pipes, or other smoking devices
6 for smoking tobacco and related smoking accessories. Any
7 retail tobacco store that begins operation after the
8 effective date of this amendatory Act may only qualify for
9 an exemption if located in a freestanding structure
10 occupied solely by the business and smoke from the
11 business does not migrate into an enclosed area where
12 smoking is prohibited. A retail tobacco store that derives
13 at least 80% of its gross revenue from the sale of
14 electronic cigarettes and electronic cigarette equipment
15 and accessories in operation before the effective date of
16 this amendatory Act of the 103rd General Assembly
17 qualifies for this exemption for electronic cigarettes
18 only. A retail tobacco store claiming an exemption for
19 electronic cigarettes shall annually file with the
20 Department by January 31 an affidavit stating the
21 percentage of its gross income during the prior calendar
22 year that was derived from the sale of electronic
23 cigarettes. A retail tobacco store may, with authorization
24 or permission from a unit of local government, including a
25 home rule unit, or any non-home rule county within the
26 unincorporated territory of the county, allow the

1 on-premises consumption of cannabis in a specially
2 designated areas.

3 (3) (Blank).

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

14 (5) Enclosed laboratories that are excluded from the
15 definition of "place of employment" in Section 10 of this
16 Act. Rulemaking authority to implement this amendatory Act
17 of the 95th General Assembly, if any, is conditioned on
18 the rules being adopted in accordance with all provisions
19 of the Illinois Administrative Procedure Act and all rules
20 and procedures of the Joint Committee on Administrative
21 Rules; any purported rule not so adopted, for whatever
22 reason, is unauthorized.

23 (6) Common smoking rooms in long-term care facilities
24 operated under the authority of the Illinois Department of
25 Veterans' Affairs or licensed under the Nursing Home Care
26 Act that are accessible only to residents who are smokers

1 and have requested in writing to have access to the common
2 smoking room where smoking is permitted and the smoke
3 shall not infiltrate other areas of the long-term care
4 facility. Rulemaking authority to implement this
5 amendatory Act of the 95th General Assembly, if any, is
6 conditioned on the rules being adopted in accordance with
7 all provisions of the Illinois Administrative Procedure
8 Act and all rules and procedures of the Joint Committee on
9 Administrative Rules; any purported rule not so adopted,
10 for whatever reason, is unauthorized.

11 (7) A convention hall of the Donald E. Stephens
12 Convention Center where a meeting or trade show for
13 manufacturers and suppliers of tobacco and tobacco
14 products and accessories is being held, during the time
15 the meeting or trade show is occurring, if the meeting or
16 trade show:

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

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

21 (iii) is being produced or organized by a business
22 relating to tobacco or a professional association for
23 convenience stores; and

24 (iv) involves the display of tobacco products.

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

1 This paragraph (7) is inoperative on and after October
2 1, 2015.

3 (8) A dispensing organization, as defined in the
4 Cannabis Regulation and Tax Act, authorized or permitted
5 by a unit local government to allow on-site consumption of
6 cannabis, if the establishment: (1) maintains a specially
7 designated area or areas for the purpose of heating,
8 burning, smoking, or lighting cannabis; (2) is limited to
9 individuals 21 or older; and (3) maintains a locked door
10 or barrier to any specially designated areas for the
11 purpose of heating, burning, smoking or lighting cannabis.
12 (Source: P.A. 101-593, eff. 12-4-19.)