



Environmental Health Committee

Filed: 2/20/2008

09500HB4104ham001

LRB095 12274 RAS 46692 a

1 AMENDMENT TO HOUSE BILL 4104

2 AMENDMENT NO. _____. Amend House Bill 4104 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Smoke Free Illinois Act is amended by
5 changing Section 35 as follows:

6 (410 ILCS 82/35)

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

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

13 (2) Retail tobacco stores as defined in Section 10 of
14 this Act in operation prior to the effective date of this
15 amendatory Act of the 95th General Assembly. The retail
16 tobacco store shall annually file with the Department by

1 January 31st an affidavit stating the percentage of its
2 gross income during the prior calendar year that was
3 derived from the sale of loose tobacco, plants, or herbs
4 and cigars, cigarettes, pipes, or other smoking devices for
5 smoking tobacco and related smoking accessories. Any
6 retail tobacco store that begins operation after the
7 effective date of this amendatory Act may only qualify for
8 an exemption if located in a freestanding structure
9 occupied solely by the business and smoke from the business
10 does not migrate into an enclosed area where smoking is
11 prohibited.

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

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

1 rooms.

2 (5) Private clubs, as defined in Section 10 of this
3 Act, provided at least three-fifths of its members have
4 requested in writing that the private club designate areas
5 for smoking. Notwithstanding any other rulemaking
6 authority that may exist, neither the Governor nor any
7 agency or agency head under the jurisdiction of the
8 Governor has any authority to make or promulgate rules to
9 implement or enforce the provision of this amendatory Act
10 of the 95th General Assembly. If, however, the Governor
11 believes that rules are necessary to implement or enforce
12 the provision of this amendatory Act of the 95th General
13 Assembly, the Governor may suggest rules to the General
14 Assembly by filing them with the Clerk of the House and the
15 Secretary of the Senate and by requesting that the General
16 Assembly authorize such rulemaking by law, enact those
17 suggested rules into law, or take any other appropriate
18 action in the General Assembly's discretion. Nothing
19 contained in this amendatory Act of the 95th General
20 Assembly shall be interpreted to grant rulemaking
21 authority under any other Illinois statute where such
22 authority is not otherwise explicitly given. For the
23 purposes of this paragraph, "rules" is given the meaning
24 contained in Section 1-70 of the Illinois Administrative
25 Procedure Act, and "agency" and "agency head" are given the
26 meanings contained in Sections 1-20 and 1-25 of the

1 Illinois Administrative Procedure Act to the extent that
2 such definitions apply to agencies or agency heads under
3 the jurisdiction of the Governor.

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