



**Adopted in House Comm. on Mar 04, 2008**

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LRB095 14351 RAS 47000 a

1 AMENDMENT TO HOUSE BILL 4184

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4184 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Liquor Control Act of 1934 is amended by  
5 changing Section 4-4 as follows:

6 (235 ILCS 5/4-4) (from Ch. 43, par. 112)

7 Sec. 4-4. Each local liquor control commissioner shall also  
8 have the following powers, functions and duties with respect to  
9 licenses, other than licenses to manufacturers, importing  
10 distributors, distributors, foreign importers, non-resident  
11 dealers, non-beverage users, brokers, railroads, airplanes and  
12 boats.

13 1. To grant and or suspend for not more than thirty  
14 days or revoke for cause all local licenses issued to  
15 persons for premises within his jurisdiction;

16 2. To enter or to authorize any law enforcing officer

1 to enter at any time upon any premises licensed hereunder  
2 to determine whether any of the provisions of this Act or  
3 any rules or regulations adopted by him or by the State  
4 Commission have been or are being violated, and at such  
5 time to examine said premises of said licensee in  
6 connection therewith;

7 3. To notify the Secretary of State where a club  
8 incorporated under the General Not for Profit Corporation  
9 Act of 1986 or a foreign corporation functioning as a club  
10 in this State under a certificate of authority issued under  
11 that Act has violated this Act by selling or offering for  
12 sale at retail alcoholic liquors without a retailer's  
13 license;

14 4. To receive complaint from any citizen within his  
15 jurisdiction that any of the provisions of this Act, or any  
16 rules or regulations adopted pursuant hereto, have been or  
17 are being violated and to act upon such complaints in the  
18 manner hereinafter provided;

19 5. To receive local license fees and pay the same  
20 forthwith to the city, village, town or county treasurer as  
21 the case may be.

22 6. To issue a smoking license to the following eligible  
23 establishments:

24 (A) any bar that can provide written documentation  
25 that less than 10% of its total revenue comes from the  
26 sale of food;

1           (B) any venue where gambling operations are  
2           conducted pursuant to the Riverboat Gambling Act or the  
3           Illinois Horse Racing Act of 1975;

4           (C) any venue for adult entertainment where a  
5           person must be at least 18 years old to enter;

6           (D) any private club, as defined in Section 10 of  
7           the Smoke Free Illinois Act, provided that at least  
8           three-fifths of the private club's members have  
9           requested in writing that the private club designate  
10          areas for smoking; or

11          (E) any establishment hosting a convention or  
12          exposition for the specific purpose of exhibiting or  
13          selling cigars, pipes, tobacco, and related smoking  
14          devices or accessories.

15          An eligible establishment must be able to document that (i)  
16          it has disclosed to all employees that if a smoking license is  
17          granted to the establishment, smoking will be permitted on the  
18          premises and (ii) all employees have acknowledged receiving the  
19          disclosure. If the eligible establishment has a liquor license,  
20          it must be in compliance with all of the terms of the liquor  
21          license in order to receive a license to allow smoking on the  
22          premises.

23          Each local liquor commissioner also has the duty to notify  
24          the Secretary of State of any convictions or dispositions of  
25          court supervision for a violation of Section 6-20 of this Act  
26          or a similar provision of a local ordinance.

1           In counties and municipalities, the local liquor control  
2 commissioners shall also have the power to levy fines in  
3 accordance with Section 7-5 of this Act.

4           (Source: P.A. 95-166, eff. 1-1-08.)

5           Section 10. The Smoke Free Illinois Act is amended by  
6 changing Section 35 as follows:

7           (410 ILCS 82/35)

8           Sec. 35. Exemptions. Notwithstanding any other provision  
9 of this Act, 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

1 an exemption if located in a freestanding structure  
2 occupied solely by the business and smoke from the business  
3 does not migrate into an enclosed area where smoking is  
4 prohibited.

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

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

21 (5) Any eligible establishment that has obtained a  
22 license to allow smoking on the premises from the local  
23 liquor control commission. An eligible establishment must  
24 post prominent signage notifying the public that the  
25 establishment has been designated as a smoking  
26 establishment. Notwithstanding any other rulemaking

1 authority that may exist, neither the Governor nor any  
2 agency or agency head under the jurisdiction of the  
3 Governor has any authority to make or promulgate rules to  
4 implement or enforce the provisions of this amendatory Act  
5 of the 95th General Assembly. If, however, the Governor  
6 believes that rules are necessary to implement or enforce  
7 the provisions of this amendatory Act of the 95th General  
8 Assembly, the Governor may suggest rules to the General  
9 Assembly by filing them with the Clerk of the House and the  
10 Secretary of the Senate and by requesting that the General  
11 Assembly authorize such rulemaking by law, enact those  
12 suggested rules into law, or take any other appropriate  
13 action in the General Assembly's discretion. Nothing  
14 contained in this amendatory Act of the 95th General  
15 Assembly shall be interpreted to grant rulemaking  
16 authority under any other Illinois statute where such  
17 authority is not otherwise explicitly given. For the  
18 purposes of this amendatory Act of the 95th General  
19 Assembly, "rules" is given the meaning contained in Section  
20 1-70 of the Illinois Administrative Procedure Act, and  
21 "agency" and "agency head" are given the meanings contained  
22 in Sections 1-20 and 1-25 of the Illinois Administrative  
23 Procedure Act to the extent that such definitions apply to  
24 agencies or agency heads under the jurisdiction of the  
25 Governor.

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

1           Section 99. Effective date. This Act takes effect January  
2    1, 2009.".