

# SB2006



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2006

Introduced 2/7/2008, by Sen. John M. Sullivan

#### SYNOPSIS AS INTRODUCED:

410 ILCS 82/10  
410 ILCS 82/35

Amends the Smoke Free Illinois Act. Add a definition of "veterans home". Provides that smoking is allowed in private and semi-private rooms in nursing homes, veterans homes, and long-term care facilities (instead of only nursing homes and long-term care facilities) that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home. Provides that smoking in these rooms shall only be permitted for residents of the room. Effective immediately.

LRB095 18821 KBJ 44948 b

A BILL FOR

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 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  
17 or a person who volunteers his or her services for a non-profit  
18 entity.

19 "Employer" means a person, business, partnership,  
20 association, or corporation, including a municipal  
21 corporation, trust, or non-profit entity, that employs the  
22 services of one or more individual persons.

23 "Enclosed area" means all space between a floor and a

1 ceiling that is enclosed or partially enclosed with (i) solid  
2 walls or windows, exclusive of doorways, or (ii) solid walls  
3 with partitions and no windows, exclusive of doorways, that  
4 extend from the floor to the ceiling, including, without  
5 limitation, lobbies and corridors.

6 "Enclosed or partially enclosed sports arena" means any  
7 sports pavilion, stadium, gymnasium, health spa, boxing arena,  
8 swimming pool, roller rink, ice rink, bowling alley, or other  
9 similar place where members of the general public assemble to  
10 engage in physical exercise or participate in athletic  
11 competitions or recreational activities or to witness sports,  
12 cultural, recreational, or other events.

13 "Gaming equipment or supplies" means gaming  
14 equipment/supplies as defined in the Illinois Gaming Board  
15 Rules of the Illinois Administrative Code.

16 "Gaming facility" means an establishment utilized  
17 primarily for the purposes of gaming and where gaming equipment  
18 or supplies are operated for the purposes of accruing business  
19 revenue.

20 "Healthcare facility" means an office or institution  
21 providing care or treatment of diseases, whether physical,  
22 mental, or emotional, or other medical, physiological, or  
23 psychological conditions, including, but not limited to,  
24 hospitals, rehabilitation hospitals, weight control clinics,  
25 nursing homes, homes for the aging or chronically ill,  
26 laboratories, and offices of surgeons, chiropractors, physical

1 therapists, physicians, dentists, and all specialists within  
2 these professions. "Healthcare facility" includes all waiting  
3 rooms, hallways, private rooms, semiprivate rooms, and wards  
4 within healthcare facilities.

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

18 "Private club" means a not-for-profit association that (1)  
19 has been in active and continuous existence for at least 3  
20 years prior to the effective date of this amendatory Act of the  
21 95th General Assembly, whether incorporated or not, (2) is the  
22 owner, lessee, or occupant of a building or portion thereof  
23 used exclusively for club purposes at all times, (3) is  
24 operated solely for a recreational, fraternal, social,  
25 patriotic, political, benevolent, or athletic purpose, but not  
26 for pecuniary gain, and (4) only sells alcoholic beverages

1 incidental to its operation. For purposes of this definition,  
2 "private club" means an organization that is managed by a board  
3 of directors, executive committee, or similar body chosen by  
4 the members at an annual meeting, has established bylaws, a  
5 constitution, or both to govern its activities, and has been  
6 granted an exemption from the payment of federal income tax as  
7 a club under 26 U.S.C. 501.

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

16 "Public place" means that portion of any building or  
17 vehicle used by and open to the public, regardless of whether  
18 the building or vehicle is owned in whole or in part by private  
19 persons or entities, the State of Illinois, or any other public  
20 entity and regardless of whether a fee is charged for  
21 admission, including a minimum distance, as set forth in  
22 Section 70 of this Act, of 15 feet from entrances, exits,  
23 windows that open, and ventilation intakes that serve an  
24 enclosed area where smoking is prohibited. A "public place"  
25 does not include a private residence unless the private  
26 residence is used to provide licensed child care, foster care,

1 or other similar social service care on the premises. A "public  
2 place" includes, but is not limited to, hospitals, restaurants,  
3 retail stores, offices, commercial establishments, elevators,  
4 indoor theaters, libraries, museums, concert halls, public  
5 conveyances, educational facilities, nursing homes,  
6 auditoriums, enclosed or partially enclosed sports arenas,  
7 meeting rooms, schools, exhibition halls, convention  
8 facilities, polling places, private clubs, gaming facilities,  
9 all government owned vehicles and facilities, including  
10 buildings and vehicles owned, leased, or operated by the State  
11 or State subcontract, healthcare facilities or clinics,  
12 enclosed shopping centers, retail service establishments,  
13 financial institutions, educational facilities, ticket areas,  
14 public hearing facilities, public restrooms, waiting areas,  
15 lobbies, bars, taverns, bowling alleys, skating rinks,  
16 reception areas, and no less than 75% of the sleeping quarters  
17 within a hotel, motel, resort, inn, lodge, bed and breakfast,  
18 or other similar public accommodation that are rented to  
19 guests, but excludes private residences.

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

1 "Retail tobacco store" means a retail establishment that  
2 derives more than 80% of its gross revenue from the sale of  
3 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,  
4 and other smoking devices for burning tobacco and related  
5 smoking accessories and in which the sale of other products is  
6 merely incidental. "Retail tobacco store" does not include a  
7 tobacco department or section of a larger commercial  
8 establishment or any establishment with any type of liquor,  
9 food, or restaurant license.

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

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

17 "Unit of local government" has the meaning ascribed to it  
18 in Section 1 of Article VII of the Illinois Constitution of  
19 1970.

20 "Veterans home" has the same meaning ascribed to it in the  
21 Department of Veterans Affairs Act.

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

23 (410 ILCS 82/35)

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

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

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

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



1       room.

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

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

13           Section 99. Effective date. This Act takes effect upon  
14      becoming law.