

AN ACT concerning health.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

(410 ILCS 82/10)

Sec. 10. Definitions. In this Act:

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

"Department" means the Department of Public Health.

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

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

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

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

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

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

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

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

accruing business revenue.

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

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

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

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

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

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

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

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

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

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

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

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

cigarette, hookah, weed, herbs, or any other lighted smoking equipment. "Smoke" or "smoking" includes the use of an electronic cigarette. "Smoke" or "smoking" does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

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

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

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

(410 ILCS 82/35)

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

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

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

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

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

(3) (Blank).

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

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

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

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

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

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

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

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

(iv) involves the display of tobacco products.

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

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

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

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