

HB2436



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2436

Introduced 2/15/2023, by Rep. Camille Y. Lilly

SYNOPSIS AS INTRODUCED:

410 ILCS 82/10

Amends the Smoke Free Illinois Act. Defines "electronic smoking device". Changes the definition of "retail tobacco store" to include references to "electronic smoking devices". Provides that "smoke" or "smoking" includes the use of an electronic smoking device.

LRB103 29399 CPF 55790 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 Section 10 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 smoking device" means any product containing
16 or delivering nicotine or any other substance intended for
17 human consumption that can be used by a person in any manner
18 for the purpose of inhaling vapor or aerosol from the product.
19 "Electronic smoking device" 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, electronic smoking
23 devices, cigarettes, pipes, and other smoking devices for
24 burning tobacco and related smoking accessories and in which
25 the sale of other products is merely incidental. "Retail
26 tobacco store" includes an enclosed workplace that

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

26 "Smoke" or "smoking" means the carrying, smoking, burning,

1 inhaling, or exhaling of any kind of lighted pipe, cigar,
2 cigarette, hookah, weed, herbs, or any other lighted smoking
3 equipment. "Smoke" or "smoking" includes the use of an
4 electronic smoking device. "Smoke" or "smoking" does not
5 include smoking that is associated with a native recognized
6 religious ceremony, ritual, or activity by American Indians
7 that is in accordance with the federal American Indian
8 Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

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

12 "Unit of local government" has the meaning ascribed to it
13 in Section 1 of Article VII of the Illinois Constitution of
14 1970.

15 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09;
16 96-797, eff. 1-1-10.)