



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4338

Introduced 12/30/2005, by Rep. Annazette Collins

SYNOPSIS AS INTRODUCED:

410 ILCS 80/1	from Ch. 111 1/2, par. 8201
410 ILCS 80/2	from Ch. 111 1/2, par. 8202
410 ILCS 80/3	from Ch. 111 1/2, par. 8203
410 ILCS 80/4	from Ch. 111 1/2, par. 8204
410 ILCS 80/5	from Ch. 111 1/2, par. 8205
410 ILCS 80/6	from Ch. 111 1/2, par. 8206
410 ILCS 80/7	from Ch. 111 1/2, par. 8207
410 ILCS 80/8	from Ch. 111 1/2, par. 8208
410 ILCS 80/9	from Ch. 111 1/2, par. 8209
410 ILCS 80/10	from Ch. 111 1/2, par. 8210
410 ILCS 80/11	from Ch. 111 1/2, par. 8211

Amends the Illinois Clean Indoor Air Act. Includes bars, taverns, and bowling alleys in the definition of "public place". Provides that no person shall smoke within 15 feet of any entrance to a public place. Provides that the proprietor of a restaurant, bar, or tavern (now, elected and appointed officials of the State of Illinois and of any unit of local government and of any school district, or their designee, having control over property of the State or of a unit of local government or of a school district which includes a public place, and the proprietor of a structure which includes a public place) may establish a smoking area on the premises until 2 years after the effective date of the amendatory Act, at which time the restaurant, bar, or tavern must otherwise comply with the Act. Provides that any public place may have a smoking area if it is equipped with devices to render the exposure to secondhand smoke in the area equivalent to exposure to secondhand smoke in the ambient outdoor air surrounding the public place and requires the Department of Public Health to adopt rules relating to this provision. Makes other changes.

LRB094 15766 LJB 50981 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning public health.

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

4 Section 5. The Illinois Clean Indoor Air Act is amended by
5 changing Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 as
6 follows:

7 (410 ILCS 80/1) (from Ch. 111 1/2, par. 8201)

8 Sec. 1. Short title. This Act shall be known and may be
9 cited as the "Illinois Clean Indoor Air Act".

10 (Source: P.A. 86-1018.)

11 (410 ILCS 80/2) (from Ch. 111 1/2, par. 8202)

12 Sec. 2. Legislative findings. The General Assembly finds
13 that tobacco smoke is harmful and dangerous to human beings and
14 a hazard to public health. Secondhand tobacco smoke causes at
15 least 65,000 deaths each year from heart disease and lung
16 cancer according to the National Cancer Institute. Secondhand
17 tobacco smoke causes sudden infant death syndrome,
18 low-birth-weight in infants, asthma and exacerbation of
19 asthma, bronchitis and pneumonia in children and adults.
20 Secondhand tobacco smoke is the third leading cause of
21 preventable death in the United States. Illinois workers
22 exposed to secondhand tobacco smoke are at increased risk of
23 premature death. An estimated 1,570 Illinois citizens die each
24 year from exposure to secondhand tobacco smoke.

25 (Source: P.A. 94-517, eff. 1-1-06.)

26 (410 ILCS 80/3) (from Ch. 111 1/2, par. 8203)

27 Sec. 3. Definitions. For the purposes of this Act, the
28 following terms have the meanings ascribed to them in this
29 Section unless different meanings are plainly indicated by the
30 context:

1 (a) "Department" means the Department of Public Health.

2 (b) "Proprietor" means any individual or his designated
3 agent who by virtue of his office, position, authority, or
4 duties has legal or administrative responsibility for the use
5 or operation of property.

6 (c) "Public Place" means any enclosed indoor area used by
7 the public or serving as a place of work including, but not
8 limited to, hospitals, restaurants, bars, taverns, bowling
9 alleys, retail stores, offices, commercial establishments,
10 elevators, indoor theaters, libraries, art museums, concert
11 halls, public conveyances, educational facilities, nursing
12 homes, auditoriums, arenas, and meeting rooms, but ~~excluding~~
13 ~~bowling establishments and excluding places whose primary~~
14 ~~business is the sale of alcoholic beverages for consumption on~~
15 ~~the premises and~~ excluding rooms rented for the purpose of
16 living quarters or sleeping or housekeeping accommodations
17 from a hotel, as defined in the Hotel Operators' Occupation Tax
18 Act, and private, enclosed offices occupied exclusively by
19 smokers, even though such offices may be visited by nonsmokers.

20 (d) "Smoking" means the act of inhaling the smoke from or
21 possessing a lighted cigarette, cigar, pipe, or any other form
22 of tobacco or similar substance used for smoking.

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

26 (f) "Unit of local government" has the meaning ascribed to
27 it in Section 1 of Article VII of the Illinois Constitution of
28 1970.

29 (Source: P.A. 92-651, eff. 7-11-02.)

30 (410 ILCS 80/4) (from Ch. 111 1/2, par. 8204)

31 Sec. 4. Smoking in public places prohibited; exceptions. No
32 person shall smoke in a public place or within 15 feet of any
33 entrance to a public place except in that portion of a public
34 place which may be established and posted under Section 5 as a
35 smoking area. This prohibition does not apply in cases in which

1 an entire room or hall is used for a private social function
2 and seating arrangements are under the control of the sponsor
3 of the function and not of the proprietor or person in charge
4 of the place. Furthermore, this prohibition shall not apply to
5 factories, warehouses and similar places of work not usually
6 frequented by the general public.

7 (Source: P.A. 86-1018.)

8 (410 ILCS 80/5) (from Ch. 111 1/2, par. 8205)

9 Sec. 5. Smoking areas.

10 (a) The proprietor of a restaurant, bar, or tavern elected
11 and appointed officials of the State of Illinois and of any
12 unit of local government and of any school district, or their
13 designee, having control over property of the State or of a
14 unit of local government or of a school district which includes
15 a public place, and the proprietor of a structure which
16 includes a public place may establish an area on the premises
17 as a smoking area where smoking shall be permitted, unless
18 otherwise prohibited by law or ordinance, until 2 years after
19 the effective date of this amendatory Act of the 94th General
20 Assembly, at which time the restaurant, bar, or tavern shall
21 comply with subsection (b) of this Section or Section 4 of this
22 Act. When establishing an area as a smoking area, a person
23 establishing such area shall utilize existing physical
24 barriers, ventilation systems, and other physical elements of
25 the premises to minimize the intrusion of smoke into areas
26 where smoking is not permitted. When a public place is a single
27 room or enclosure, a person establishing such area may satisfy
28 the purposes and provisions of this Act by establishing a
29 reasonable portion of the room or enclosure as a smoking area.

30 (b) Any public place subject to this Act whose owner or
31 operator can demonstrate to the Department that a smoking area
32 has been equipped with air filtration or purification devices
33 or similar technologies that render the exposure to secondhand
34 smoke in the area equivalent to exposure to secondhand smoke in
35 the ambient outdoor air surrounding the public place shall be

1 exempt from the prohibition of Section 4 of this Act. The
2 Department shall adopt rules specifying the types of
3 technologies that satisfy the requirements of this subsection
4 (b).

5 (Source: P.A. 86-1018.)

6 (410 ILCS 80/6) (from Ch. 111 1/2, par. 8206)

7 Sec. 6. Enforcement. The State or unit of local government
8 or school district official or their designee or a proprietor
9 and his agents in control of a place which includes a public
10 place shall make reasonable efforts to prevent smoking in the
11 public place outside established smoking areas by posting
12 appropriate signs or contacting a law enforcement officer, or
13 other appropriate means.

14 (Source: P.A. 86-1018.)

15 (410 ILCS 80/7) (from Ch. 111 1/2, par. 8207)

16 Sec. 7. Violations. A person, corporation, partnership,
17 association or other entity, who violates Section 4 of this Act
18 is guilty of a petty offense.

19 (Source: P.A. 86-1018.)

20 (410 ILCS 80/8) (from Ch. 111 1/2, par. 8208)

21 Sec. 8. Injunctions. The Department, a local board of
22 health, or any individual personally affected by repeated
23 violations may institute, in a circuit court, an action to
24 enjoin violations of this Act.

25 (Source: P.A. 86-1018.)

26 (410 ILCS 80/9) (from Ch. 111 1/2, par. 8209)

27 Sec. 9. Discrimination prohibited. No individual may be
28 discriminated against in any manner because of the exercise of
29 any rights afforded by this Act.

30 (Source: P.A. 86-1018.)

31 (410 ILCS 80/10) (from Ch. 111 1/2, par. 8210)

1 Sec. 10. Severability. If any provision, clause or
2 paragraph of this Act shall be held invalid by a court of
3 competent jurisdiction, such validity shall not affect the
4 other provisions of this Act.

5 (Source: P.A. 86-1018.)

6 (410 ILCS 80/11) (from Ch. 111 1/2, par. 8211)

7 Sec. 11. Home rule. ~~Home rule.~~

8 (a) Except as provided in subsection (b), a home rule unit
9 of local government or any municipality in this State may
10 regulate smoking in public places, but that regulation must be
11 no less restrictive than this Act. This subsection (a) is a
12 limitation on the concurrent exercise of home rule power under
13 subsection (i) of Section 6 of Article VII of the Illinois
14 Constitution.

15 (b) Any home rule unit that has passed an ordinance
16 concerning the regulation of smoking prior to October 1, 1989
17 is exempt from the requirements of subsection (a).

18 (Source: P.A. 94-517, eff. 1-1-06.)