



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4184

by Rep. Harry R. Ramey, Jr.

SYNOPSIS AS INTRODUCED:

235 ILCS 5/4-4
410 ILCS 82/35

from Ch. 43, par. 112

Amends the Liquor Control Act of 1934 and the Smoke Free Illinois Act to exempt certain eligible establishments that have obtained a license to allow smoking on the premises from the local liquor control commission. Provides that local liquor control commissions have the power to issue a smoking license to eligible establishments as defined in the Smoke Free Illinois Act. Provides that an eligible establishment must be able to document that (i) it has disclosed to all employees that if a smoking license is granted to the establishment, smoking will be permitted on the premises and (ii) all employees have acknowledged receiving the disclosure. Also provides that an eligible establishment must post prominent signage notifying the public that the establishment has been designated as a smoking establishment and that if the eligible establishment has a liquor license, it must be in compliance with all of the terms of the liquor license in order to receive a license to allow smoking on the premises. Effective January 1, 2009.

LRB095 14351 KBJ 40251 b

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 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
17 to enter at any time upon any premises licensed hereunder
18 to determine whether any of the provisions of this Act or
19 any rules or regulations adopted by him or by the State
20 Commission have been or are being violated, and at such
21 time to examine said premises of said licensee in
22 connection therewith;

23 3. To notify the Secretary of State where a club

1 incorporated under the General Not for Profit Corporation
2 Act of 1986 or a foreign corporation functioning as a club
3 in this State under a certificate of authority issued under
4 that Act has violated this Act by selling or offering for
5 sale at retail alcoholic liquors without a retailer's
6 license;

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

12 5. To receive local license fees and pay the same
13 forthwith to the city, village, town or county treasurer as
14 the case may be; -

15 6. To issue a smoking license to eligible
16 establishments as defined in the Smoke Free Illinois Act.

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

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

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

25 Section 10. The Smoke Free Illinois Act is amended by

1 changing Section 35 as follows:

2 (410 ILCS 82/35)

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

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

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

24 (3) Private and semi-private rooms in nursing homes and
25 long-term care facilities that are occupied by one or more

1 persons, all of whom are smokers and have requested in
2 writing to be placed or to remain in a room where smoking
3 is permitted and the smoke shall not infiltrate other areas
4 of the nursing home.

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

15 (5) That portion of a riverboat where gambling
16 operations are conducted pursuant to the Riverboat
17 Gambling Act. The exemption under this item (5) applies to
18 each individual riverboat for 5 years after the effective
19 date of this amendatory Act of the 95th General Assembly or
20 until the state, other than Illinois, closest in proximity
21 to that individual riverboat, as determined by the Illinois
22 Gaming Board, bans smoking by law in similar facilities,
23 whichever occurs first.

24 (6) Any eligible establishment that has obtained a
25 license to allow smoking on the premises from the local
26 liquor control commission. An eligible establishment

1 includes all of the following:

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

5 (B) any venue where gambling operations are
6 conducted pursuant to the Riverboat Gambling Act or the
7 Illinois Horse Racing Act of 1975;

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

10 (D) a private club that can provide documentation
11 that three-fifths of its active members approve of
12 smoking on the club's premises; or

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

17 An eligible establishment must be able to document that
18 (i) it has disclosed to all employees that if a smoking
19 license is granted to the establishment, smoking will be
20 permitted on the premises and (ii) all employees have
21 acknowledged receiving the disclosure.

22 An eligible establishment must post prominent signage
23 notifying the public that the establishment has been
24 designated as a smoking establishment. If the eligible
25 establishment has a liquor license, it must be in
26 compliance with all of the terms of the liquor license in

1 order to receive a license to allow smoking on the
2 premises.

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

4 Section 99. Effective date. This Act takes effect January
5 1, 2009.