



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5176

Introduced 2/1/2010, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 2305/2

from Ch. 111 1/2, par. 22

Amends the Department of Public Health Act. In a provision concerning Department powers, provides that the Department may levy a fine on any institution or entity that it licenses or regulates for failing to comply with a lawful order made by the Department or for otherwise violating an Act that the Department has the responsibility of administering. Makes other changes. Effective immediately.

LRB096 19102 ASK 34493 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Department of Public Health Act is amended
5 by changing Section 2 as follows:

6 (20 ILCS 2305/2) (from Ch. 111 1/2, par. 22)

7 Sec. 2. Powers.

8 (a) The State Department of Public Health has general
9 supervision of the interests of the health and lives of the
10 people of the State. It has supreme authority in matters of
11 quarantine and isolation, and may declare and enforce
12 quarantine and isolation when none exists, and may modify or
13 relax quarantine and isolation when it has been established.
14 The Department may adopt, promulgate, repeal, and amend rules
15 and regulations and make such sanitary investigations and
16 inspections as it may from time to time deem necessary for the
17 preservation and improvement of the public health, consistent
18 with law regulating the following:

19 (1) Transportation of the remains of deceased persons.

20 (2) Sanitary practices relating to drinking water made
21 accessible to the public for human consumption or for
22 lavatory or culinary purposes.

23 (3) Sanitary practices relating to rest room

1 facilities made accessible to the public or to persons
2 handling food served to the public.

3 (4) Sanitary practices relating to disposal of human
4 wastes in or from all buildings and places where people
5 live, work or assemble.

6 The provisions of the Illinois Administrative Procedure
7 Act are hereby expressly adopted and shall apply to all
8 administrative rules and procedures of the Department of Public
9 Health under this Act, except that Section 5-35 of the Illinois
10 Administrative Procedure Act relating to procedures for
11 rule-making does not apply to the adoption of any rule required
12 by federal law in connection with which the Department is
13 precluded by law from exercising any discretion.

14 All local boards of health, health authorities and
15 officers, police officers, sheriffs, and all other officers and
16 employees of the State ~~state~~ or any locality shall enforce the
17 rules and regulations so adopted and orders issued by the
18 Department pursuant to this Section.

19 The Department of Public Health shall conduct a public
20 information campaign to inform Hispanic women of the high
21 incidence of breast cancer and the importance of mammograms and
22 where to obtain a mammogram. This requirement may be satisfied
23 by translation into Spanish and distribution of the breast
24 cancer summaries required by Section 2310-345 of the Department
25 of Public Health Powers and Duties Law (20 ILCS 2310/2310-345).
26 The information provided by the Department of Public Health

1 shall include (i) a statement that mammography is the most
2 accurate method for making an early detection of breast cancer,
3 however, no diagnostic tool is 100% effective and (ii)
4 instructions for performing breast self-examination and a
5 statement that it is important to perform a breast
6 self-examination monthly.

7 The Department of Public Health shall investigate the
8 causes of dangerously contagious or infectious diseases,
9 especially when existing in epidemic form, and take means to
10 restrict and suppress the same, and whenever such disease
11 becomes, or threatens to become epidemic, in any locality and
12 the local board of health or local authorities neglect or
13 refuse to enforce efficient measures for its restriction or
14 suppression or to act with sufficient promptness or efficiency,
15 or whenever the local board of health or local authorities
16 neglect or refuse to promptly enforce efficient measures for
17 the restriction or suppression of dangerously contagious or
18 infectious diseases, the Department of Public Health may
19 enforce such measures as it deems necessary to protect the
20 public health, and all necessary expenses so incurred shall be
21 paid by the locality for which services are rendered.

22 (a-5) The Department of Public Health may levy a fine on
23 any institution or entity that it licenses or regulates for
24 failing to comply with a lawful order made by the Department or
25 for otherwise violating an Act that the Department has the
26 responsibility of administering.

1 (b) Subject to the provisions of subsection (c), the
2 Department may order a person or group of persons to be
3 quarantined or isolated or may order a place to be closed and
4 made off limits to the public to prevent the probable spread of
5 a dangerously contagious or infectious disease, including
6 non-compliant tuberculosis patients, until such time as the
7 condition can be corrected or the danger to the public health
8 eliminated or reduced in such a manner that no substantial
9 danger to the public's health any longer exists. Orders for
10 isolation of a person or quarantine of a place to prevent the
11 probable spread of a sexually transmissible disease shall be
12 governed by the provisions of Section 7 of the Illinois
13 Sexually Transmissible Disease Control Act and not this
14 Section.

15 (c) Except as provided in this Section, no person or a
16 group of persons may be ordered to be quarantined or isolated
17 and no place may be ordered to be closed and made off limits to
18 the public except with the consent of the person or owner of
19 the place or upon the prior order of a court of competent
20 jurisdiction. The Department may, however, order a person or a
21 group of persons to be quarantined or isolated or may order a
22 place to be closed and made off limits to the public on an
23 immediate basis without prior consent or court order if, in the
24 reasonable judgment of the Department, immediate action is
25 required to protect the public from a dangerously contagious or
26 infectious disease. In the event of an immediate order issued

1 without prior consent or court order, the Department shall, as
2 soon as practical, within 48 hours after issuing the order,
3 obtain the consent of the person or owner or file a petition
4 requesting a court order authorizing the isolation or
5 quarantine or closure. When exigent circumstances exist that
6 cause the court system to be unavailable or that make it
7 impossible to obtain consent or file a petition within 48 hours
8 after issuance of an immediate order, the Department must
9 obtain consent or file a petition requesting a court order as
10 soon as reasonably possible. To obtain a court order, the
11 Department, by clear and convincing evidence, must prove that
12 the public's health and welfare are significantly endangered by
13 a person or group of persons that has, that is suspected of
14 having, that has been exposed to, or that is reasonably
15 believed to have been exposed to a dangerously contagious or
16 infectious disease including non-compliant tuberculosis
17 patients or by a place where there is a significant amount of
18 activity likely to spread a dangerously contagious or
19 infectious disease. The Department must also prove that all
20 other reasonable means of correcting the problem have been
21 exhausted and no less restrictive alternative exists. For
22 purposes of this subsection, in determining whether no less
23 restrictive alternative exists, the court shall consider
24 evidence showing that, under the circumstances presented by the
25 case in which an order is sought, quarantine or isolation is
26 the measure provided for in a rule of the Department or in

1 guidelines issued by the Centers for Disease Control and
2 Prevention or the World Health Organization. Persons who are or
3 are about to be ordered to be isolated or quarantined and
4 owners of places that are or are about to be closed and made
5 off limits to the public shall have the right to counsel. If a
6 person or owner is indigent, then the court shall appoint
7 counsel for that person or owner. Persons who are ordered to be
8 isolated or quarantined or who are owners of places that are
9 ordered to be closed and made off limits to the public, shall
10 be given a written notice of such order. The written notice
11 shall additionally include the following: (1) notice of the
12 right to counsel; (2) notice that if the person or owner is
13 indigent, then the court will appoint counsel for that person
14 or owner; (3) notice of the reason for the order for isolation,
15 quarantine, or closure; (4) notice of whether the order is an
16 immediate order, and if so, then the time frame for the
17 Department to seek consent or to file a petition requesting a
18 court order as set out in this subsection; and (5) notice of
19 the anticipated duration of the isolation, quarantine, or
20 closure.

21 (d) The Department may order physical examinations and
22 tests and collect laboratory specimens as necessary for the
23 diagnosis or treatment of individuals in order to prevent the
24 probable spread of a dangerously contagious or infectious
25 disease. Physical examinations, tests, or collection of
26 laboratory specimens must not be such as are reasonably likely

1 to lead to serious harm to the affected individual. To prevent
2 the spread of a dangerously contagious or infectious disease,
3 the Department may, pursuant to the provisions of subsection
4 (c) of this Section, isolate or quarantine any person whose
5 refusal of physical examination or testing or collection of
6 laboratory specimens results in uncertainty regarding whether
7 he or she has been exposed to or is infected with a dangerously
8 contagious or infectious disease or otherwise poses a danger to
9 the public's health. An individual may refuse to consent to a
10 physical examination, test, or collection of laboratory
11 specimens. An individual shall be given a written notice that
12 shall include notice of the following: (i) that the individual
13 may refuse to consent to physical examination, test, or
14 collection of laboratory specimens; (ii) that if the individual
15 consents to physical examination, tests, or collection of
16 laboratory specimens, then the results of that examination,
17 test, or collection of laboratory specimens may subject the
18 individual to isolation or quarantine pursuant to the
19 provisions of subsection (c) of this Section; (iii) that if the
20 individual refuses to consent to physical examination, tests,
21 or collection of laboratory specimens and that refusal results
22 in uncertainty regarding whether he or she has been exposed to
23 or is infected with a dangerously contagious or infectious
24 disease or otherwise poses a danger to the public's health,
25 then the individual may be subject to isolation or quarantine
26 pursuant to the provisions of subsection (c) of this Section;

1 and (iv) that if the individual refuses to consent to physical
2 examinations, tests, or collection of laboratory specimens and
3 becomes subject to isolation and quarantine as provided in this
4 subsection (d), then he or she shall have the right to counsel
5 pursuant to the provisions of subsection (c) of this Section.
6 To the extent feasible without endangering the public's health,
7 the Department shall respect and accommodate the religious
8 beliefs of individuals in implementing this subsection.

9 (e) The Department may order the administration of
10 vaccines, medications, or other treatments to persons as
11 necessary in order to prevent the probable spread of a
12 dangerously contagious or infectious disease. A vaccine,
13 medication, or other treatment to be administered must not be
14 such as is reasonably likely to lead to serious harm to the
15 affected individual. To prevent the spread of a dangerously
16 contagious or infectious disease, the Department may, pursuant
17 to the provisions of subsection (c) of this Section, isolate or
18 quarantine persons who are unable or unwilling to receive
19 vaccines, medications, or other treatments pursuant to this
20 Section. An individual may refuse to receive vaccines,
21 medications, or other treatments. An individual shall be given
22 a written notice that shall include notice of the following:
23 (i) that the individual may refuse to consent to vaccines,
24 medications, or other treatments; (ii) that if the individual
25 refuses to receive vaccines, medications, or other treatments,
26 then the individual may be subject to isolation or quarantine

1 pursuant to the provisions of subsection (c) of this Section;
2 and (iii) that if the individual refuses to receive vaccines,
3 medications, or other treatments and becomes subject to
4 isolation or quarantine as provided in this subsection (e),
5 then he or she shall have the right to counsel pursuant to the
6 provisions of subsection (c) of this Section. To the extent
7 feasible without endangering the public's health, the
8 Department shall respect and accommodate the religious beliefs
9 of individuals in implementing this subsection.

10 (f) The Department may order observation and monitoring of
11 persons to prevent the probable spread of a dangerously
12 contagious or infectious disease. To prevent the spread of a
13 dangerously contagious or infectious disease, the Department
14 may, pursuant to the provisions of subsection (c) of this
15 Section, isolate or quarantine persons whose refusal to undergo
16 observation and monitoring results in uncertainty regarding
17 whether he or she has been exposed to or is infected with a
18 dangerously contagious or infectious disease or otherwise
19 poses a danger to the public's health. An individual may refuse
20 to undergo observation and monitoring. An individual shall be
21 given written notice that shall include notice of the
22 following: (i) that the individual may refuse to undergo
23 observation and monitoring; (ii) that if the individual
24 consents to observation and monitoring, then the results of
25 that observation and monitoring may subject the individual to
26 isolation or quarantine pursuant to the provisions of

1 subsection (c) of this Section; (iii) that if the individual
2 refuses to undergo observation and monitoring and that refusal
3 results in uncertainty regarding whether he or she has been
4 exposed to or is infected with a dangerously contagious or
5 infectious disease or otherwise poses a danger to the public's
6 health, then the individual may be subject to isolation or
7 quarantine pursuant to the provisions of subsection (c) of this
8 Section; and (iv) that if the individual refuses to undergo
9 observation and monitoring and becomes subject to isolation or
10 quarantine as provided in this subsection (f), then he or she
11 shall have the right to counsel pursuant to the provisions of
12 subsection (c) of this Section.

13 (g) To prevent the spread of a dangerously contagious or
14 infectious disease among humans, the Department may examine,
15 test, disinfect, seize, or destroy animals or other related
16 property believed to be sources of infection. An owner of such
17 animal or other related property shall be given written notice
18 regarding such examination, testing, disinfection, seizure, or
19 destruction. When the Department determines that any animal or
20 related property is infected with or has been exposed to a
21 dangerously contagious or infectious disease, it may agree with
22 the owner upon the value of the animal or of any related
23 property that it may be found necessary to destroy, and in case
24 such an agreement cannot be made, the animals or related
25 property shall be appraised by 3 competent and disinterested
26 appraisers, one to be selected by the Department, one by the

1 claimant, and one by the 2 appraisers thus selected. The
2 appraisers shall subscribe to an oath made in writing to fairly
3 value the animals or related property in accordance with the
4 requirements of this Act. The oath, together with the valuation
5 fixed by the appraisers, shall be filed with the Department and
6 preserved by it. Upon the appraisal being made, the owner or
7 the Department shall immediately destroy the animals by "humane
8 euthanasia" as that term is defined in Section 2.09 of the
9 Humane Care for Animals Act. Dogs and cats, however, shall be
10 euthanized pursuant to the provisions of the Humane Euthanasia
11 in Animal Shelters Act. The owner or the Department shall
12 additionally, dispose of the carcasses, and disinfect, change,
13 or destroy the premises occupied by the animals, in accordance
14 with rules prescribed by the Department governing such
15 destruction and disinfection. Upon his or her failure so to do
16 or to cooperate with the Department, the Department shall cause
17 the animals or related property to be destroyed and disposed of
18 in the same manner, and thereupon the owner shall forfeit all
19 right to receive any compensation for the destruction of the
20 animals or related property. All final administrative
21 decisions of the Department hereunder shall be subject to
22 judicial review pursuant to the provisions of the
23 Administrative Review Law, and all amendments and
24 modifications thereof, and the rules adopted pursuant thereto.
25 The term "administrative decision" is defined as in Section
26 3-101 of the Code of Civil Procedure.

1 (h) To prevent the spread of a dangerously contagious or
2 infectious disease, the Department, local boards of health, and
3 local public health authorities shall have emergency access to
4 medical or health information or records or data upon the
5 condition that the Department, local boards of health, and
6 local public health authorities shall protect the privacy and
7 confidentiality of any medical or health information or records
8 or data obtained pursuant to this Section in accordance with
9 federal and State law. Additionally, any such medical or health
10 information or records or data shall be exempt from inspection
11 and copying under the Freedom of Information Act. Other than a
12 hearing for the purpose of this Act, any information, records,
13 reports, statements, notes, memoranda, or other data in the
14 possession of the Department, local boards of health, or local
15 public health authorities shall not be admissible as evidence,
16 nor discoverable in any action of any kind in any court or
17 before any tribunal, board, agency, or person. The access to or
18 disclosure of any of this information or data by the
19 Department, a local board of health, or a local public
20 authority shall not waive or have any effect upon its
21 non-discoverability or non-admissibility. Any person,
22 facility, institution, or agency that provides emergency
23 access to health information and data under this subsection
24 shall have immunity from any civil or criminal liability, or
25 any other type of liability that might otherwise result by
26 reason of these actions except in the event of willful and

1 wanton misconduct. The privileged quality of communication
2 between any professional person or any facility shall not
3 constitute grounds for failure to provide emergency access.
4 Nothing in this subsection shall prohibit the sharing of
5 information as authorized in Section 2.1 of this Act. The
6 disclosure of any of this information, records, reports,
7 statements, notes, memoranda, or other data obtained in any
8 activity under this Act, except that necessary for the purposes
9 of this Act, is unlawful, and any person convicted of violating
10 this provision is guilty of a Class A misdemeanor.

11 (i) (A) The Department, in order to prevent and control
12 disease, injury, or disability among citizens of the State
13 of Illinois, may develop and implement, in consultation
14 with local public health authorities, a Statewide system
15 for syndromic data collection through the access to
16 interoperable networks, information exchanges, and
17 databases. The Department may also develop a system for the
18 reporting of comprehensive, integrated data to identify
19 and address unusual occurrences of disease symptoms and
20 other medical complexes affecting the public's health.

21 (B) The Department may enter into contracts or
22 agreements with individuals, corporations, hospitals,
23 universities, not-for-profit corporations, governmental
24 entities, or other organizations, whereby those
25 individuals or entities agree to provide assistance in the
26 compilation of the syndromic data collection and reporting

1 system.

2 (C) The Department shall not release any syndromic data
3 or information obtained pursuant to this subsection to any
4 individuals or entities for purposes other than the
5 protection of the public health. All access to data by the
6 Department, reports made to the Department, the identity of
7 or facts that would tend to lead to the identity of the
8 individual who is the subject of the report, and the
9 identity of or facts that would tend to lead to the
10 identity of the author of the report shall be strictly
11 confidential, are not subject to inspection or
12 dissemination, and shall be used only for public health
13 purposes by the Department, local public health
14 authorities, or the Centers for Disease Control and
15 Prevention. Entities or individuals submitting reports or
16 providing access to the Department shall not be held liable
17 for the release of information or confidential data to the
18 Department in accordance with this subsection.

19 (D) Nothing in this subsection prohibits the sharing of
20 information as authorized in Section 2.1 of this Act.

21 (j) This Section shall be considered supplemental to the
22 existing authority and powers of the Department and shall not
23 be construed to restrain or restrict the Department in
24 protecting the public health under any other provisions of the
25 law.

26 (k) Any person who knowingly or maliciously disseminates

1 any false information or report concerning the existence of any
2 dangerously contagious or infectious disease in connection
3 with the Department's power of quarantine, isolation and
4 closure or refuses to comply with a quarantine, isolation or
5 closure order is guilty of a Class A misdemeanor.

6 (l) The Department of Public Health may establish and
7 maintain a chemical and bacteriologic laboratory for the
8 examination of water and wastes, and for the diagnosis of
9 diphtheria, typhoid fever, tuberculosis, malarial fever and
10 such other diseases as it deems necessary for the protection of
11 the public health.

12 As used in this Act, "locality" means any governmental
13 agency which exercises power pertaining to public health in an
14 area less than the State.

15 The terms "sanitary investigations and inspections" and
16 "sanitary practices" as used in this Act shall not include or
17 apply to "Public Water Supplies" or "Sewage Works" as defined
18 in the Environmental Protection Act. The Department may adopt
19 rules that are reasonable and necessary to implement and
20 effectuate this amendatory Act of the 93rd General Assembly.

21 (m) The public health measures set forth in subsections (a)
22 through (h) of this Section may be used by the Department to
23 respond to chemical, radiological, or nuclear agents or events.
24 The individual provisions of subsections (a) through (h) of
25 this Section apply to any order issued by the Department under
26 this Section. The provisions of subsection (k) apply to

1 chemical, radiological, or nuclear agents or events. Prior to
2 the Department issuing an order for public health measures set
3 forth in this Act for chemical, radiological, or nuclear agents
4 or events as authorized in subsection (m), the Department and
5 the Illinois Emergency Management Agency shall consult in
6 accordance with the Illinois emergency response framework.
7 When responding to chemical, radiological, or nuclear agents or
8 events, the Department shall determine the health related risks
9 and appropriate public health response measures and provide
10 recommendations for response to the Illinois Emergency
11 Management Agency. Nothing in this Section shall supersede the
12 current National Incident Management System and the Illinois
13 Emergency Operation Plan or response plans and procedures
14 established pursuant to IEMA statutes.

15 (Source: P.A. 96-698, eff. 8-25-09.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.