



**Adopted in House Comm. on Apr 28, 2009**

09600SB1685ham001

LRB096 11030 RPM 25405 a

1 AMENDMENT TO SENATE BILL 1685

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1685 by replacing  
3 everything after the enacting clause with the following:

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

14 "Department" means the Department of Public Health.

15 "Employee" means a person who is employed by an employer in  
16 consideration for direct or indirect monetary wages or profits

1 or a person who volunteers his or her services for a non-profit  
2 entity.

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

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

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

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

23 "Gaming facility" means an establishment utilized  
24 primarily for the purposes of gaming and where gaming equipment  
25 or supplies are operated for the purposes of accruing business  
26 revenue.

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

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

1 is exclusively conducted for the purpose of medical or  
2 scientific health-related research. Rulemaking authority to  
3 implement this amendatory Act of the 95th General Assembly, if  
4 any, is conditioned on the rules being adopted in accordance  
5 with all provisions of the Illinois Administrative Procedure  
6 Act and all rules and procedures of the Joint Committee on  
7 Administrative Rules; any purported rule not so adopted, for  
8 whatever reason, is unauthorized.

9 "Private club" means a not-for-profit association that (1)  
10 has been in active and continuous existence for at least 3  
11 years prior to the effective date of this amendatory Act of the  
12 95th General Assembly, whether incorporated or not, (2) is the  
13 owner, lessee, or occupant of a building or portion thereof  
14 used exclusively for club purposes at all times, (3) is  
15 operated solely for a recreational, fraternal, social,  
16 patriotic, political, benevolent, or athletic purpose, but not  
17 for pecuniary gain, and (4) only sells alcoholic beverages  
18 incidental to its operation. For purposes of this definition,  
19 "private club" means an organization that is managed by a board  
20 of directors, executive committee, or similar body chosen by  
21 the members at an annual meeting, has established bylaws, a  
22 constitution, or both to govern its activities, and has been  
23 granted an exemption from the payment of federal income tax as  
24 a club under 26 U.S.C. 501.

25 "Private residence" means the part of a structure used as a  
26 dwelling, including, without limitation: a private home,

1 townhouse, condominium, apartment, mobile home, vacation home,  
2 cabin, or cottage. For the purposes of this definition, a  
3 hotel, motel, inn, resort, lodge, bed and breakfast or other  
4 similar public accommodation, hospital, nursing home, or  
5 assisted living facility shall not be considered a private  
6 residence.

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

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

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

18 "Retail tobacco store" means a retail establishment that  
19 derives more than 80% of its gross revenue from the sale of  
20 loose tobacco, plants, or herbs and cigars, cigarettes, pipes,  
21 and other smoking devices for burning tobacco and related  
22 smoking accessories and in which the sale of other products is  
23 merely incidental. "Retail tobacco store" includes an enclosed  
24 workplace that manufactures, imports, or distributes tobacco  
25 or tobacco products, when, as a necessary and integral part of  
26 the process of making, manufacturing, importing, or

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

21 "Smoke" or "smoking" means the carrying, smoking, burning,  
22 inhaling, or exhaling of any kind of lighted pipe, cigar,  
23 cigarette, hookah, weed, herbs, or any other lighted smoking  
24 equipment. "Smoke" or "smoking" does not include smoking that  
25 is associated with a native recognized religious ceremony,  
26 ritual, or activity by American Indians that is in accordance

1 with the federal American Indian Religious Freedom Act, 42  
2 U.S.C. 1996 and 1996a.

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

6 "Unit of local government" has the meaning ascribed to it  
7 in Section 1 of Article VII of the Illinois Constitution of  
8 1970.

9 (Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09.)".