

Smoking Ban Effective January 1, 2008

APPLIES TO FIRE PROTECTION DISTRICT FACILITIES & VEHICLES



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As most Illinoisans are aware, effective January 1, 2008, a nearly complete ban on indoor smoking became effective. The new law, Public Act 95-0017 (Senate Bill 500), is applicable to fire station facilities and fire apparatus of fire protection districts. The law is broadly written with only a few exceptions (the principal one being private residences). By its terms, it defines a fire protection district as an “employer” and firefighters (whether career, POC, part-time, or volunteer) as “employees”. A fire station is by definition a “place of employment” and, to the extent that a station is open to the public (which most are), a station is also a “public place” and vehicles of district are also defined to be public places.

The law imposes a complete ban on smoking in places of employment and public places which means that districts will be required to prohibit smoking within their station facilities and their vehicles. The new law repeals the Illinois Clean Indoor Air Act which had allowed smoking in public buildings in designated areas and in private offices. These exceptions are now gone and indoor smoking must now be prohibited by districts.

In addition to the general prohibition, smoking must also be prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes.

“No Smoking” signs or standard no smoking symbols must be posted in each “place of employment” and “public place”

(as defined above), meaning that districts will be required to put up such signs in stations and in vehicles. Signs must also be posted at each entrance and ashtrays must be removed from all facilities. Approved signage is available from the IDPH “Smoke-free Illinois” website (www.smok-free.illinois.gov). Districts may also expand the smoking prohibition to “non-enclosed” areas of their facilities.

The new law is to be enforced by the Illinois Department of Public Health (IDPH), local public health agencies, and local police agencies. Private complaints of violations may be registered with the enforcing agencies. There will be a state-wide telephone number maintained by IDPH to take reports of violations.

Smokers who violate the law face a fine of between \$100 and \$250 per violation. Districts which violate the law face a fine of not less than \$250 for the first violation, not less than \$500 for the second violation within one year of the first violation, and not less than \$2,500 for the third or more violations within one year of the first violation. Repeat violators may also be subjected to court injunction.

IDPH has promulgated proposed rules and regulations to implement the new law and it has established a “Smoke-free Illinois” website (www.smok-free.illinois.gov) which has information about the new law and proposed regulations. (77 Ill. Adm. Code Part 975) The regulations, as proposed, impose a duty on any “proprietor” to stop smoking within its premises. A fire protection district falls within the definition of a proprietor under

the definitions in the regulations. This imposes an additional duty on districts to do more than simply establish a no smoking policy and post the required signage and the failure to stop smoking will be considered a violation of the new law. The regulations also prohibit discrimination against any person who reports a violation of the new law or seeks to exercise the rights conferred by the new law. Retaliation, discharge, and refusal to hire on account of a person’s exercise of the rights under the new law are expressly prohibited under the proposed regulations. This means that districts will be in violation if they seek to discourage or penalize a department member for filing a complaint under the new law.

Regardless of how they may feel about this new law, districts should undertake to implement the new law and comply with its requirements since the failure to do so can have significant adverse financial impacts on districts which do not comply and are found to be in violation. Additionally, it is important to bear in mind that a district may find itself facing a violation based simply on a complaint registered with the IDPH or a local enforcing agency. This opens the door for those who may have an axe to grind with the district completely distinct from the smoking ban to create problems for the district based on asserted noncompliance with the new law. ■