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2nd-act twist: allowing for onstage smoking

By James Janega

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A Chicago alderman proposed an exemption Wednesday to a city smoking ordinance that would allow actors to light up on stage, days after producers of the musical "Jersey Boys" had to cut smoking out of their show.

"Other major cities are doing this that have smoking bans," Ald. Brendan Reilly (42nd) said Wednesday, citing artistic integrity.

But no matter the lofty aspiration, his proposal wouldn't get around a strict indoor smoking ban by the state, say legal experts and lawmakers. And it doesn't exempt film actors, who appear to be included in the smoking bans as well, according to city and state officials.

Other places with strict smoking bans, including New York, grant waivers to actors on the job by either letting them smoke tobacco or puff on herbal cigarettes without tobacco.

But Illinois law—carefully written to trump home-rule ordinances—prohibits herbal cigarettes too.

"The perfect solution," said Ann Lousin, professor of Illinois constitutional law at John Marshall Law School, "is for these actors in 'Jersey Boys' to have cigarettes on stage and not light them. . . . I would know that's what they are attempting to do. You always have a suspension of disbelief."

"Or," she said, "the state can amend its law."

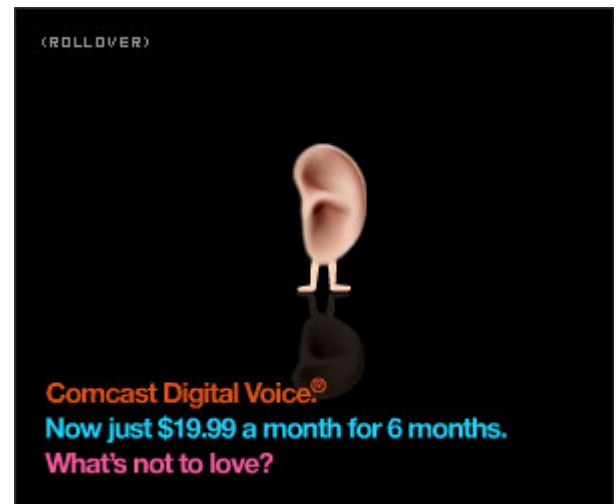
Legislators in Springfield for a special session Wednesday already were talking about that possibility, said state Rep. John Fritchey, a vocal advocate of the Smoke Free Illinois Act, which went into effect Jan. 1. Fritchey was studying whether to sponsor or support such a change.

Even if it happened, an amendment isn't likely to be introduced until the fall legislative session, and the relief it would bring could be more than a year away.

"This really just doesn't sit right with common sense," Fritchey said.

So far, the Chicago Film Office has had to tell only one film production—a small independent film—that, yes, it did seem like the state and city rules prohibited anyone from lighting up inside a public building, even actors on camera.

"At a time when Illinois has been trying to offer tax credits to revitalize our film industry, the last thing we need to do is leave ourselves at a competitive disadvantage," Fritchey said.



Tribune reporter Hal Dardick contributed to this report.

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