

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

FOID & CONCEALED CARRY

The ILLINOIS STATE POLICE adopted emergency amendments to the Parts titled Firearm Owners Identification Card Act (20 IAC 1230; 44 Ill Reg 6166) and Firearm Concealed Carry Act Procedures (20 IAC 1231; 44 Ill Reg 6170), both effective 4/6/20 for a maximum of 150 days. These emergency rules allow Firearm Owners Identification (FOID) Cards and Firearm Concealed Carry Licenses (FCCLs) that expire during the Gubernatorial Disaster Proclamation related to the COVID-19 pandemic or during the 12 months after the disaster proclamation ends to remain valid if the holder has submitted a renewal application to ISP and the card or license is not subject to revocation under other provisions of either Act. FOID Cards renewed by ISP during the disaster proclamation period will remain

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

valid for 10 years after renewal and FCCLs renewed during this period will remain valid for 5 years.

Questions/requests for copies of the 2 ISP emergency rules: Yvette C. Loizon, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

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Proposed Rulemaking

CASINOS

The ILLINOIS GAMING BOARD proposed amendments to Riverboat and Casino Gambling (86 IAC 3000; 44 Ill Reg 5974) implementing a PA that expands contracting goals for casino owner's licenses to include veteran-owned businesses. The target contracting goals by business ownership are now 11% minority, 7% female, 3% veteran, and 2% persons with disabilities. Beginning in 2021, annual licensee reports of utilization of minority, female and disability-owned businesses shall also include veteran owned businesses. Small businesses owned by veterans may be affected.

Questions/requests for copies/comments through 6/1/20: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, igb.legal@igb.illinois.gov

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rules

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PRISONS

The DEPARTMENT OF CORRECTIONS adopted an emergency amendment to the Part titled Records of Offenders (20 IAC 107; 44 Ill Reg 6091) effective 4/7/20 for a maximum of 150 days. The emergency rule permits the Director of DOC to award earned discretionary sentence credit to offenders with a record of 100-level disciplinary offenses while incarcerated (e.g., serious infractions such as arson, assault, possession of dangerous contraband, or escape attempts) if the most recent offense occurred more than 12 months prior to the Department's review. (Formerly, any 100-level disciplinary offense disqualified an offender from receiving earned discretionary sentence credit.) DOC states that this emergency rule will allow flexibility to reduce the population of its facilities in response to the COVID-19 pandemic.

Questions/requests for copies: Echo Beekman, DOC, 1301 Concordia Court, PO Box 19277, Springfield IL 62794-9277, 217./558-2200 ext. 6507, echo.beekman@doc.illinois.gov

DPH LICENSES

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Plumbers Licensing Code (68 IAC 750; 44 Ill Reg 6120), Lead Poisoning Prevention Code (77 IAC 845; 44 Ill Reg 6130), Asbestos Abatement for Public and Private Schools and

Commercial and Public Buildings in Illinois (77 IAC 855; 44 Ill Reg 6136) and Private Sewage Disposal Code (77 IAC 905; 44 Ill Reg 6142), all effective 3/31/20 for a maximum of 150 days. DPH also adopted an emergency amendment to School-Based/Linked Health Centers (77 IAC 641; 44 Ill Reg 6126) effective 4/2/20 for a maximum of 150 days. These emergency rules extend deadlines for renewal of the following DPH-administered licenses and certificates to 8/28/20 due to the COVID-19 pandemic: plumbers' licenses, apprentice plumbers' licenses, and plumbing inspectors' certificates (Part 750); lead inspection, risk assessment, mitigation and abatement licenses (Part 845); asbestos abatement licenses, course accreditation, and course certificate renewals (Part 855); and portable sanitation businesses and technicians (Part 905). The Part 845 emergency rule also allows lead case management and risk assessments to be conducted by phone consultation where possible. The emergency amendment to Part 641 extends DPH certification by 150 days for school-based/linked health centers whose certification is or was due to expire before 6/30/20. Those affected by these emergency rules include small businesses and school districts.

Questions/requests for copies of the 5 DPH emergency rules: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

UNEMPLOYMENT

The DEPARTMENT OF EMPLOYMENT SECURITY adopted an emergency amendment to Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 44 Ill Reg 6099) effective 4/8/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 44 Ill Reg 5971. The emergency and proposed rules provide that business interruptions and closures due to the COVID-19 pandemic constitute good cause for waiving any penalties an employer would otherwise incur for failing to timely submit February 2020 wage reports to DES. Small businesses will be affected.

Questions/requests for copies/comments on the proposed rulemaking through 6/1/20: Kevin Lovellette, DES, 33 S. State St., Room 930, Chicago IL 60603, 312/793-1224, fax 312/793-5645, Kevin.Lovellette@illinois.gov

PUBLIC ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES adopted an emergency amendment to General Administrative Provisions (89 IAC 10; 44 Ill Reg 6107) effective 4/6/20 for a maximum of 150 days. An identical proposed amendment appears at 44 Ill Reg 5991. The emergency and proposed rules allow applicants for cash assistance, medical

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Emergency Rules

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assistance, or the Supplemental Nutrition Assistance Program (SNAP) to verbally assent to an application by telephone if they cannot sign an application in person or submit an electronic signature meeting the normal security requirements. DHS states that this emergency rule allows Family Community Resource Centers to handle increased requests for assistance during the COVID-19 pandemic.

■ FUNERALS

DHS also adopted an emergency amendment to Related Program Provisions (89 IAC 117; 44 Ill Reg 6114) effective 4/6/20 for a maximum of 150 days, with an identical proposed amendment at 44 Ill Reg 5993. This amendment

increases the maximum reimbursement amount for the funeral expenses of an eligible decedent to \$1,370 and the maximum reimbursement amount for burial or cremation to \$686. (Reimbursement limits in current rule are based on inflationary increases from benchmark amounts established in 2002.) Funeral service providers may be affected.

Questions/requests for copies/ comments on the 2 proposed DHS rulemakings through 6/1/20: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

■ LIBRARIES

The SECRETARY OF STATE adopted emergency amendments to the Parts titled Illinois Library

System Act (23 IAC 3030; 44 Ill Reg 6148) and Illinois State Library Grant Programs (23 IAC 3035; 44 Ill Reg 6157) effective 4/6/20 for a maximum of 150 days. These emergency rules suspend Library System member libraries' annual certification process for calendar year 2020 and extend the 2020 application deadline for library grants to June 15 (normally April 15). Public library districts will be affected by these emergency rules.

Questions/requests for copies of the 2 SOS emergency rules: Joseph Natale, SOS/Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, jnatale@ilsos.net

Adopted Rules

FOSTER HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Licensing Standards for Foster Family Homes (89 IAC 402; 43 Ill Reg 7554) effective 4/1/20, updating and clarifying its foster home rules to conform to best practices, existing laws and national standards. The rulemaking updates certain definitions; clarifies that all individuals age 18 and older in a foster family home must undergo a background check; and adds or clarifies various safety restrictions. Foster parents must sign specific

assurances that they understand and will adhere to restrictions on smoking, substance use and corporal punishment; that they will adhere to "reasonable and prudent" parenting standards as defined in rule; and must ensure that they have safe, legal and reliable transportation access. All children residing in the foster home must have up to date immunizations according to the American Academy of Pediatrics' recommended schedule, and all adult caregivers must have up to date immunizations for pertussis (whooping cough), Tdap (tetanus/diphtheria/pertussis) and influenza, unless contraindicated

by their primary care physician. At least one applicant for foster home licensure must be able to read and write at the level necessary to meet the needs of youth in care. The name and address of at least one relative who can attest to the applicants' capability to care for a child or children must be provided upon application (along with the three unrelated character references currently required). Foster homes must, at a minimum, have a stove, oven, refrigerator and sink in the kitchen; a properly functioning toilet, sink, shower and

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Adopted Rules

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tub in the bathroom; a first aid kit and supplies; a prominently posted list of emergency telephone numbers (including poison control); and an operable, accessible fire extinguisher. No person may smoke or use vaping materials inside a foster family home or in any vehicle used to transport a youth in care. Alcoholic beverages and toxic materials must be stored where youth cannot access them. Swimming pools must be equipped with a life saving device (e.g., life preserver or life jacket) approved by the U.S. Coast Guard for that purpose, and must have a working pump and filtering system if the pool cannot be emptied after each use. Expanded capacity licenses (allowing a foster family to care for more than 6 children or to exceed limits on the number of children below age 2 or age 6) may be granted to allow a family to keep a child with an established “meaningful relationship” in the home, or to allow a family with special training or skills to care for a child with a severe disability. Finally, the rulemaking lists (in an appendix) which Sections of the Part contain non-safety related licensing rules that can be waived in order to permit a licensed foster home to care for a related youth. Changes since 1st Notice clarify the non-waivable provisions and also clarify various restrictions concerning smoking/vaping, sleeping arrangements for foster children, and transportation availability. Foster families and agencies that place foster children are affected by this rulemaking.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TTY 217/524-3715, CFPolicy@idcfs.state.il.us

■ TOBACCO TAXES

The DEPARTMENT OF REVENUE adopted amendments to Cigarette Tax Act (86 IAC 440; 43 Ill Reg 13376), Cigarette Use Tax Act (86 IAC 450; 43 Ill Reg 13266) and Tobacco Products Tax Act of 1995 (86 IAC 660; 43 Ill Reg 13687), all effective 4/3/20, implementing the cigarette tax increase in Public Act 101-31. The Part 440 and 450 rulemakings increase the tax by \$1 per pack from 99 to 149 mills per cigarette (\$2.98 per pack of 20 cigarettes) effective 7/1/19. Revenues derived from this tax will be allocated as follows: 4 mills per month, to the Common School Fund, not to exceed \$9 million per month; an additional 7 mills per month to the Common School Fund (with no limitation); 50 mills per month to the Healthcare Provider Relief Fund; and 50 mills per month to the Capital Projects Fund. The rulemaking also clarifies how cigarette distributors and retailers are to pay tax on cigarettes that were in their possession, but not yet stamped, on 7/1/19, or if they have tax stamps in their possession on 7/1 that had not yet been affixed to cigarette packages. Amendments to Part 660 raise the tax on “little cigars” from 99 to 149 mills per cigar (\$1.98 to \$2.98 per pack of 20) and add electronic cigarettes

to the list of tobacco products subject to tax. Products included in the definition of electronic cigarettes include vape pens, pipes, hookahs, and any component or part that can be used to construct an electronic nicotine delivery system. Electronic cigarettes do not include products approved by the federal Food and Drug Administration as smoking cessation aids; asthma inhalers; or therapeutic medical cannabis smoking devices sold in licensed dispensaries. Effective 7/1/19, electronic cigarettes are taxed at 15% of the wholesale price and retailers selling electronic cigarettes must obtain a tobacco retailer or distributor license. Manufacturers of electronic cigarettes must obtain both retailer and distributor licenses if they meet the definition of a distributor. Out of State manufacturers and wholesalers must also register as distributors in Illinois if they have any physical presence in Illinois, such as an office or sales agents operating under their authority. Those affected by these rulemakings include retailers who sell cigarettes, little cigars or electronic cigarettes or devices.

Questions/requests for copies of the 3 DOR rulemakings: Richard S. Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

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Adopted Rules

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COMMUNITY CARE

The DEPARTMENT ON AGING adopted amendments to Community Care Program (89 IAC 240; 43 Ill Reg 14475), effective 4/3/20, updating its maximum payment levels for person-centered plans of care. Maximum monthly payment rates are based on the CCP participant's Determination of Need (DON) score. For plans of care that include in-home care, effective 1/1/20, monthly payment rates will range from \$547 (formerly, \$458) for participants with a DON score of 29 (the minimum required to qualify for CCP) up to \$5,200 (formerly, \$4,354) for a DON score of 100. For plans of care that include adult day service, effective 12/1/19, maximum monthly payment rates range from \$1,120 (formerly \$706) for a DON score of 29 to \$9,833

(formerly \$6,202) for a DON score of 100.

ABUSE INVESTIGATION

DonA also adopted amendments to Adult Protection and Advocacy Services (89 IAC 270; 44 Ill Reg 1) effective 4/3/20, implementing Public Act 101-496, which requires Adult Protective Services (APS) agencies to obtain the consent of an eligible adult (any person age 60+, or age 18-59 with a disability) to conduct an assessment of an allegation of abuse, neglect or financial exploitation of that person, except when the eligible adult is unable to seek assistance for himself/herself and the allegations are against a paid caregiver. APS agencies also must interview immediate family members of the alleged victim as part of an assessment. The rulemaking also allows individuals or their authorized representatives to designate up to 3 e-mail

addresses at which electronic service of documents will be accepted. These e-mail addresses must be verified annually and DonA must be notified immediately of any change. If transmission of a document to all of an individual's designated e-mail addresses fails, DonA will serve the document via First Class U.S. Mail to the individual's last known mailing address, or by another means.

Questions/requests for copies of the 2 DonA rulemakings: Jason Jordan, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/785-3370, jason.jordan@illinois.gov

JCAR MEMBERSHIP CHANGE

JCAR welcomes new member Sen. John F. Curran, R-Downers Grove. He succeeds Sen. Chuck Weaver, R-Peoria.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The SBE rulemaking will be considered at the April 21, 2020 JCAR meeting while the IEPA and DOI rulemakings will be considered at the May 19, 2020 meeting. Other items not listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

STATE BOARD OF EDUCATION

State Seal of Biliteracy (23 IAC 680; 43 Ill Reg 14636) proposed 12/20/19

IL ENVIRONMENTAL PROTECTION AGENCY

Public Participation in the Air Pollution Control Permit Program (35 IAC 252; 43 Ill Reg 7028) proposed 6/21/19

DEPT OF INSURANCE

Corporate Governance Annual Disclosure (50 IAC 630; 44 Ill Reg 88) proposed 1/3/20

Pharmacy Benefit Managers (50 IAC 3145; 44 Ill Reg 2207) proposed 1/31/20

Third Party Prescription Administrators (50 IAC 3150; 44 Ill Reg 2211) proposed 1/31/20