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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 39

August 28, 2015

Issue 35

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.

New Rules

■ SMOKE FREE ILLINOIS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Smoke Free Illinois Code (77 IAC 949; 38 Ill Reg 17283) effective 8/14/15, implementing Public Act 95-17, the Smoke Free Illinois Act. The new Part outlines and clarifies various aspects of the Act and the procedures for complaints and enforcement. Smoking is prohibited in restaurants, bars and any enclosed area where food, beverages or both are prepared or served by employees. The statutory definition of a bar is expanded to include brew pubs, saloons, microbreweries and sports bars; independent contractors are added to the statutory definition of an employee; and places of worship are added to the statutory definition of public place. The rule also includes procedures for

filing complaints with DPH or a State-certified local public health department alleging violations. The identity of complainants will be kept confidential unless the complainant agrees to disclosure. Enforcement shall be conducted by DPH, local public health departments and local law enforcement agencies. Persons or entities that receive a citation

Peremptory Rule, page 3 **DHS Public Hearings, page 3**

or notice of violation may request an administrative hearing from the agency that issued the citation or notice. Since 1st Notice, DPH has defined an "enclosed area" in which smoking is prohibited; removed provisions that would have prohibited smoking in outdoor areas such as patios, beer gardens, decks, rooftops and concession areas; and

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Proposed Rulemakings

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to Issuance of Licenses (92 IAC 1030; 39 Ill Reg 11889) prohibiting use of recording devices during a road test. If the examiner discovers a device is being used, the applicant will be asked to stop recording and delete any videos before the test continues. An applicant who does not comply will fail the test.

Questions/requests for copies/comments through 10/13/15: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

■ SALES TAX

The DEPARTMENT OF REVENUE proposed amendments to Retailers'

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NEW 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.

New Rules

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removed references to self-service outdoor areas (which, in the originally proposed rule, would have been the only outdoor restaurant or bar facilities in which smoking was permitted). Those affected by this rulemaking include restaurants, bars, casinos and other small businesses and small municipalities.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov

Proposed Rulemakings

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Occupation Tax (86 Ill Adm 130; 39 Ill Reg 11865) codifying a court ruling (*Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351 (2009)). The rulemaking makes shipping and transportation charges taxable as part of the gross receipts of a sale when there is an inseparable link between the sale of the property and its delivery. This provision is retroactive to 11/19/09. Examples of how the tax should be applied are provided. This rulemaking may affect small businesses that ship products directly to purchasers and do not have brick and mortar locations for merchandise pickup.

Questions/requests for copies/comments through 10/13/15: Jerilynn Troxell Gorden, DOR Legal

RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to Licensing of Radioactive Material (32 IAC 330; 39 Ill Reg 6748), effective 8/17/15, reflecting updates to the U.S. Nuclear Regulatory Commission's (NRC) requirements. Changes include adding static elimination devices and ion generating tubes to the list of products containing radioactive materials that are exempt from this Part's licensing requirements, clarifying the licensing and reporting requirements for new products,

and clarifying requirements for products containing tritium or promethium. IEMA also adopted amendments to Financial Assurance Requirements (32 IAC 326; 39 Ill Reg 6743) and Fees for Radioactive Material Licenses (32 IAC 331; 39 Ill Reg 6824), both effective 8/17/15, that update their cross-references to Part 330.

Questions/requests for copies of the 3 IEMA rulemakings: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704; 217/785-9860 (voice); 217/782-6133 (TDD).

Services, 101 W. Jefferson St, Springfield IL 62794, 217/ 782-2844.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Surplus Line Business Requirements (50 IAC 2801; 39 Ill Reg 11852) in response to Public Act 98-978, which made statutory revisions regarding surplus line insurance (insurance, not including life, accident or health insurance and which generally address liability for negligence, fraud or the acts of another) procured from a company not licensed in Illinois after an insurance producer is unable to procure the insurance from an authorized insurer. New provisions in the rulemaking state that a surplus line producer may

obtain insurance from an unauthorized producer domiciled outside the United States only if the insurer is permitted in its domiciliary jurisdiction to write the type of insurance involved or is listed in the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners (NAIC). A surplus line producer may obtain insurance from an unauthorized insurer for an exempt commercial purchaser without making the required diligent effort to procure the insurance from an authorized insurer if the producer has disclosed to the exempt commercial purchaser that the insurance may or may not be available from authorized insurers that may provide greater

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DHS Public Hearings

The DEPARTMENT OF HUMAN SERVICES will hold public hearings on proposed amendments to Child Care (89 IAC 50; 39 Ill Reg 9731) at the following times and locations:

— **Tuesday, Oct. 6, 10 a.m.-noon**, Michael J. Howlett Bldg. Auditorium, Second and Edwards Streets, Springfield.

— **Wednesday, Oct. 7, 1:30-3:30 p.m.**, Michael A. Bilandic Bldg., Room C-500, 5th Floor, 160 N. La Salle, Chicago.

The hearings concern a proposed rulemaking published in the 7/17/15 *Illinois Register* that limits new enrollment in the Child Care Assistance Program (CCAP) to designated priority groups when DHS lacks sufficient

resources to serve all eligible applicants; raises monthly CCAP co-payments; and implements other measures. A companion emergency rule (39 Ill Reg 10072) took effect 7/1/15 for a maximum of 150 days. Official notice of these hearings will appear in next week's *Illinois Register* and more information will be included in next week's Flinn Report.

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 39 Ill Reg 12004), effective 8/13/15, implementing a 4-year collective bargaining agreement with Teamsters Local 700 (Cook County). The agreement, effective 7/1/15 through 6/30/19, freezes all base salaries and in-hire rates for the duration of the contract at the rates in effect on 7/1/14. It includes provisions for merit-

based bonuses and for gain sharing programs under which individuals or departments that propose cost-saving initiatives may receive a portion of the funds saved as a bonus. Merit bonuses and gain sharing will be paid as one-time bonuses that do not count toward an employee's salary for pension calculation purposes. Compliance with policies for merit bonus and gain sharing programs will be subject to grievance and arbitration procedures. Effective 1/1/16, newly hired employees covered

by this agreement can receive a vacation payout of no more than 45 days. This peremptory rule affects 341 Teamster-represented employees of CMS, the Illinois Department of Transportation, the Department of Human Services and the Department of Employment Security.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, CMS.PayPlan@illinois.gov

Proposed Rulemakings

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protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested the producer in writing to procure the insurance from an unauthorized insurer. The Surplus Line Association shall maintain records of surplus line insurance

submitted to the Association for 10 years and shall be audited annually. Each surplus line producer must keep records of the business transacted under its surplus line license for 7 years. Notices required to be furnished surplus line policyholders are being amended to state that the insurance contract is issued by a domestic surplus line insurer as

defined in the Insurance Code and is not covered by the Illinois Insurance Guaranty Fund.

Questions/requests for copies/comments through 10/13/15: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the Committee's September 15, 2015 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.

ILLINOIS RACING BOARD

Trifecta (11 IAC 306; 39 Ill Reg 7215) proposed 5/22/15

Superfecta (11 IAC 311; 39 Ill Reg 7217) proposed 5/22/15

Pentafecta (11 IAC 324; 39 Ill Reg 7219) proposed 5/22/15

Racing Rules (11 IAC 1318; 39 Ill Reg 7408) proposed 5/29/15

STATE BOARD OF EDUCATION

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 39 Ill Reg 7413)
proposed 5/29/15

Educator Licensure (23 IAC 25; 39 Ill Reg 7475) proposed 5/29/15

Standards for Endorsements in Early Childhood Education and in Elementary Education
(23 IAC 26; 39 Ill Reg 7586) proposed 5/29/15

Illinois Hope and Opportunity Pathways through Education Program
(23 IAC 210; 39 Ill Reg 6022) proposed 5/1/15

Summer Bridges Program (23 IAC 232; 39 Ill Reg 6028) proposed 5/1/15

Alternative Learning Opportunities Program (23 IAC 240; 39 Ill Reg 6035) proposed 5/1/15

Payments to Certain Facilities under Section 14-7.05 of the School Code
(23 IAC 405; 39 Ill Reg 7592) proposed 5/29/15