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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 4

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

■ SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 39 Ill Reg 12262) effective 1/6/16. A companion emergency rule-making, effective 8/20/15, appeared in the *Illinois Register* at 39 Ill Reg 12369. The rulemaking implements Public Act 99-194, which creates a pilot program for electronic learning (e-learning) on snow days or other emergency days when classes are canceled. No more than three school districts may participate in the pilot program. The emergency rule outlines the applications process and the minimum requirements districts must meet, which include an explanation of how the district will provide 5 clock hours of instructional time for all students on e-learning days. Since 1st

Notice, SBE has added language stating that priority may be given to applications from programs with specific areas of emphasis, such as ensuring geographic distribution or participation of school districts with varying demographic characteristics.

SBE also adopted amendments to Requirements for Accounting, Budgeting, Financial Reporting and Auditing (23 IAC 100; 39 Ill Reg 12283), effective 1/5/16, adding a revenue line for general State aid supplemental grants that some districts will receive this fiscal year. A companion emergency rulemaking effective 8/20/15 appeared in the *Register* at 39 Ill Reg 12398.

Questions/requests for copies of the 2 SBE rulemakings: Part 1, Dora Welker (N-242, 217/524-

(cont. page 2)

Proposed Rulemakings

■ DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to Issuance of Licenses (92 IAC 1030; 40 Ill Reg 1598) specifying that new photographs must be taken at least every 8 years when a driver's license is renewed, unless the license holder has a military deferral certificate or civilian employee deferral card that delays expiration of the person's license while they are stationed or employed outside of Illinois.

SOS also proposed amendments to Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 40 Ill Reg 1641) updating the list of offenses for which SOS may suspend or revoke a license to reflect recent Public Acts. Offenses being added include theft of motor fuel,

(cont. page 3)

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

(cont. from page 1)

4832); Part 100, Debbie Vespa (N-330, 217/785-8779); SBE, 100 N. First St., Springfield IL 62777.

■ DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 39 Ill Reg 11889 and 12800), effective 1/12/16, combining two separately proposed rulemakings. The amendments prohibit the use of recording devices during a road test. If the examiner discovers a device is being used, he or she will stop the exam and ask the applicant to stop recording and delete any videos. If the applicant does not comply, the road test will be stopped and the applicant will be deemed to have failed. The rulemaking also updates the requirements for CDL holders operating in non-excepted interstate commerce to obtain a medical examiner's certificate, including the process used if SOS will investigate whether the certificate is fraudulent.

SOS also adopted amendments to Motor Vehicle Accident Prevention Courses for Liability Insurance Premium Reduction (50 IAC 8000; 39 Ill Reg 12796), effective 1/12/16, that allow SOS to approve motor vehicle accident prevention course instructors if an instructor's driver's license has lapsed for less than 10 days. Since 1st Notice, SOS has added a list of factors to be considered when reviewing requests for waivers.

Questions/requests for copies of the 3 SOS rulemakings: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

ABUSE REPORTING

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (89 IAC 50; 39 Ill Reg 13192), effective 1/5/16. A companion emergency amendment, effective 9/18/15, appeared in the *Illinois Register* at 39 Ill Reg 13271. The amendment implements Public Act 99-323 by expanding the definition of sexual abuse (when committed by an employee of a State-operated facility or community agency against a mentally ill or developmentally disabled client of the facility/agency) to include sending, showing, or posting of sexually explicit images to an individual via computer, cell phone, e-mail, portable electronic devices, or other media, or posting of sexually explicit images of an individual online or elsewhere, regardless of whether there is contact with the individual. The rule also defines sexually explicit images; clarifies that allowing individuals to voluntarily view movies or images of a sexual nature or to read material containing sexual content does not constitute sexual abuse unless the individual's guardian has prohibited these actions; and excludes sex education

materials from the definition of sexually explicit images. Agencies and facilities that provide mental health or developmental disability services are affected.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

■ COMMERCIAL TRANSPORT

The DEPARTMENT OF TRANSPORTATION adopted amendments to 13 Parts, all effective 1/8/16: Procedures For Transportation Workplace Drug and Alcohol Testing Programs (92 IAC 340; 39 Ill Reg 9213), Special Training Requirements (92 IAC 380; 39 Ill Reg 9217), Controlled Substance and Alcohol Use and Testing (92 IAC 382; 39 Ill Reg 9221), Commercial Driver's License Standards; Requirements and Penalties (92 IAC 383; 39 Ill Reg 9226), Procedures and Enforcement (92 IAC 386; 39 Ill Reg 9231), Minimum Levels of Financial Responsibility for Motor Carriers (92 IAC 387; 39 Ill Reg 9238), Motor Carrier Safety Regulations: General (92 IAC 390; 39 Ill Reg 9242), Qualification of Drivers (92 IAC 391; 39 Ill Reg 9276), Driving of Commercial Motor Vehicles (92 IAC 392; 39 Ill Reg 9283), Parts and Accessories Necessary for Safe Operation (92 Ill Adm Code 393; 39 Ill Reg 9287), Hours-of-Service of Drivers (92 IAC 395; 39 Ill Reg 9291), Inspection, Repair

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

aggravated speeding in a construction or school zone, failure to appear on a traffic violation charge, and driving without the proper class of Commercial Learner's Permit or Commercial Driver's License.

Questions/requests for copies/comments on the 2 SOS rulemakings through 3/7/16: Jennifer Egizii, SOS, 2701 S. Dirksen Pkwy, Springfield IL 62723, 217/557-4462.

■ TAX PAYMENTS

The DEPARTMENT OF REVENUE proposed an amendment to Payment of Taxes By Electronic Funds Transfer (86 IAC 750; 40 Ill Reg 1587) reflecting various statutory changes and updates. Individual taxpayers with annual tax liabilities of \$200,000 or more, and other entities with annual tax liabilities of \$20,000 or more, must make all payments to DOR by electronic funds transfer (EFT). These rules also apply to motor fuel taxes, environmental impact fees and taxes imposed on medical cannabis cultivation centers and dispensaries. Businesses subject to income tax, sales tax and other State taxes are affected.

Questions/requests for copies/comments through 3/7/16: Richard Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ BOBCAT HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, and Woodchuck (Groundhog) Hunting (17 IAC 550; 40 Ill Reg 1413) and Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 IAC 570; 40 Ill Reg 1429) implementing Public Act 99-33, which permits bobcat hunting and trapping on DNR-owned or DNR-managed hunting sites. The amendments add "Bobcat" to the species listed in the name of each Part; require hunters to obtain bobcat hunting and trapping permits before taking bobcats, and bobcat registration permits within 48 hours after taking a bobcat (the hunting/trapping and registration permits each cost \$5 and can be purchased online from DNR); and require federally approved pelt tags to be attached to any bobcat hide that is exported from the U.S. or transferred to a fur buyer, taxidermist, tanner or manufacturer. Amendments to Part 570 also set bobcat trapping hours and dates and limit possession to one bobcat per person, per season. Roadkilled bobcats are also subject to the possession, permit and tagging requirements. Other amendments to Part 570 allow licensed trappers with valid Firearm Owners Identification Cards to

use pistols and airguns to remove trapped animals during the firearm deer season and other open seasons.

Questions/requests for copies/comments on the 2 DNR rulemakings through 3/7/16: Anne Mergen, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-6899.

■ NURSING SCHOLARSHIPS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Nursing Education Scholarships (77 IAC 597; 40 Ill Reg 1448) updating and clarifying various aspects of DPH's Nursing Education Scholarship program. Scholarship renewals are being limited to only the current nursing degree being sought, and an existing scholarship cannot be renewed or extended to cover a higher-level degree program. Other provisions establish criteria under which scholarship recipients may request a deferral or waiver of their nursing education or service obligation; incorporate reporting and recovery provisions for scholarship grants; and add provisions for nurse educator scholarships. Nursing students, nursing educators, and nursing schools may be affected.

■ DISEASE REPORTING

DPH proposed amendments to Control of Communicable

(cont. page 5)

New Rules

(cont. from page 2)

and Maintenance (92 IAC 396; 39 Ill Reg 9298), and Transportation of Hazardous Materials; Driving and Parking (92 IAC 397; 39 Ill Reg 9302), all of which implement recent changes or updates to federal rules and update references to the most recent edition of the applicable federal rules for each Part (dated 10/1/14). The amendments to Parts 382, 383, 390 and 391 also implement exemptions for covered farm vehicles, and the Part 390 rulemaking applies a \$10 surcharge to registration fees for second division motor vehicles weighing 12,000 pounds or less that an owner wishes to classify as a covered farm vehicle. Commercial drivers and trucking firms and owners of covered farm vehicles are affected by these rulemakings.

■ SCHOOL BUSES

DOT also adopted amendments to School Bus Driver's Pretrip Inspection Requirements (92 IAC 458; 39 Ill Reg 9317) effective 1/8/16, clarifying the length of time inspection forms documenting repairs or adjustments must be kept. The original copy of an inspection form must be retained by the bus owner/operator for 6 months (currently, 180 business days) after the date of inspection, while duplicate copies must remain in the bus for 1 month (currently, 30 business days) following the inspection, after which they must be removed from the bus. School bus owners,

drivers and mechanics are affected by this rulemaking.

MOTORCYCLE SAFETY

Finally, DOT adopted an amendment to Illinois Cycle Rider Safety Training Program (92 IAC 455; 39 Ill Reg 9306) effective 1/8/16 clarifying that Temporary Visitor's Driver's Licenses (TVDLs) can be used to verify 3 of the Program's 4 enrollment criteria (age, Illinois residency, and possession of a valid driver's license or permit) and that TVDL holders must also show current proof of liability insurance (the 4th criterion).

Questions/requests for copies of the 15 DOT rulemakings: Catherine Allen, DOT Division of Traffic Safety, 1340 N. 9th St., P.O. Box 19212, Springfield IL 62794-9212, 217/785-1181.

ELECTIONS

The STATE BOARD OF ELECTIONS adopted amendments to Administrative Complaint Procedures for Violations of Title III of HAVA (26 IAC 150; 39 Ill Reg 12475) effective 1/5/16 regarding procedures for filing complaints alleging that a local election authority has violated Title III of the federal Help America Vote Act (HAVA) (e.g., by denying access to a polling place or a provisional ballot for a federal election). The complaint must cite the section of Title III that was allegedly violated. The rulemaking also removes the requirement that any

disputes in which SBEL itself is a defendant must go directly to alternative dispute resolution. Since 1st Notice, SBEL removed a provision extending the 90-day time period for filing complaints; the existing time limit remains in effect.

Questions/requests for copies: Kenneth R. Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62708, 217/782-0608.

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Hospital Report Card Code (77 IAC 255; 39 Ill Reg 12460) effective 1/5/16, removing the requirement that hospitals report data for the Surgical Care Improvement Project (SCIP). DPH states that SCIP reporting is no longer necessary because the federal Centers for Medicare and Medicaid Services is phasing out the project and DPH's current vendor is unable to process SCIP data.

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

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; 39 Ill Reg 9882) effective

(cont. page 6)

Proposed Rulemakings

(cont. from page 3)

Diseases Code (77 IAC 690; 40 Ill Reg 1479) reinstating Campylobacteriosis (a foodborne bacterial infection) as a Class II reportable disease that must be reported within 7 days to a local health department, which in turn must report the case to DPH within another 7 days. Laboratories must also report and submit food samples or other specimens related to an outbreak. Local health departments are affected by this rulemaking.

DPH also proposed amendments to Health and Hazardous Substances Registry Code (77 IAC 840; 40 Ill Reg 1553) that update reporting

requirements for the Illinois State Cancer Registry and remove the manual report form as a reporting option. Other amendments add ICD-10-CM Diagnosis and Procedure codes to the list of reportable diseases and modify the Adverse Pregnancy Outcomes Reporting System (APORS) rules to include infants born at less than 31 weeks gestation (currently, birth weight of less than 1,500 grams). The rulemaking also exempts cannabis from the APORS reporting requirement for positive toxicology tests in either mother or infant, but requires reporting if a mother admits to using any illicit drug other than cannabis during her pregnancy. Healthcare providers are affected.

■ FOOD SERVICE

DPH proposed amendments to Food Service Sanitation Code (77 IAC 750; 40 Ill Reg 1503) that incorporate the US Food and Drug Administration's model 2013 Food Code and repeal numerous Sections of the present code to avoid conflict, duplication or inconsistency with the FDA Code. Food service establishments and local health departments are affected by this rulemaking.

Questions/requests for copies/comments on the 4 DPH rulemakings through 3/7/16: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: rules@idph.state.il.us

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 February 16, 2016 meeting. Other items not published 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.

IL ENVIRONMENTAL PROTECTION AGENCY

Procedures for Issuing Loans From the Water Pollution Control Loan Program
(35 IAC 365; 39 Ill Reg 13131) proposed 9/25/15

DEPARTMENT OF HUMAN SERVICES

Electronic Prescription Monitoring Program (77 IAC 2080; 39 Ill Reg 14212) proposed 11/6/15

New Rules

(cont. from page 4)

1/5/16 concerning “hedging transactions” undertaken to offset the impact of fluctuations in interest rates, prices, or currency exchange rates upon a taxpayer’s business profits or expenses. The rulemaking requires Illinois income tax payers to count gains and losses from hedging transactions as adjustments to the dollar amounts of the hedged transactions, rather than as separate transactions, for purposes of computing the sales factor. Businesses engaged in hedging transactions are affected.

Questions/requests for copies: Paul Castleton, DOR, 101 W. Jefferson St., Springfield IL 62796, 217/524-3951.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to General Provisions (23 IAC 2700; 39 Ill Reg 12813), effective 1/7/16, stating that ISAC will audit institutions that receive assistance based upon risk assessments and ISAC resources rather than every 3 years as currently specified.

Factors used to determine whether an audit will be conducted include the amount of ISAC assistance, time since last ISAC review, institution internal/external audit findings, Education Department findings/issues, investigations by inspectors general or attorneys general, substantial increases in awarded ISAC gift assistance, evidence that the institution is experiencing difficulty meeting ISAC rules or federal regulations, or issues raised in past audits by ISAC.

EXONEREES

ISAC also adopted a new Part titled Grant Program for Exonerees (23 IAC 2743; 39 Ill Reg 12818), effective 1/7/16, implementing PA 99-199, which establishes an educational grant program for persons exonerated of wrongful criminal convictions by receiving a pardon from the Governor on the basis of innocence or a certificate of innocence from a circuit court. To qualify, exonerees must be Illinois residents enrolled in an Illinois public university or community college (for whom the grant will cover tuition and mandatory fees) or in studies toward a high school equivalency certificate (for whom the grant will cover costs associated with obtaining the

certificate and up to one retest on each subject). Recipients do not have to prove financial need, but qualified applicants who accept or receive assistance through the Monetary Award Program (MAP) cannot receive this grant during the same school year in which they receive MAP funds. Benefits are limited to 8 semesters or 12 quarters of payment for undergrad/grad study, and recipients may accumulate up to 48 eligibility units. Grants will be limited by the availability of funding as of the date ISAC receives a completed application. Preference may be given to renewal applicants as long as they continue to meet the eligibility requirements. Changes since 1st Notice additionally limit grant program funds to tuition and mandatory fees only, for no more than 2 semesters or 3 quarters in a regular school year. Also, the total amount of grant funds awarded to a qualified recipient, when added to all other financial aid available to the recipient for that year, cannot exceed the cost of attendance.

Questions/requests for copies of the 2 ISAC rulemakings: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail: lhynes@isac.org.