

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.

Proposed Rulemakings

■ TOBACCO TAXES

The DEPARTMENT OF REVENUE proposed amendments to the Part titled Tobacco Products Tax Act of 1995 (86 IAC 660; 43 Ill Reg 13687) implementing provisions of Public Act 101-31. The rulemaking adds 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. The rulemaking also raises the tax on "little cigars" from 99 to 149 mills per cigar (\$1.98 to \$2.98 per pack of 20). Those affected by this rulemaking include retailers who sell electronic cigarettes or smoking devices.

Questions/requests for copies/comments through 1/15/20: Richard S. Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

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Emergency Rulemaking

■ VIDEO GAMING

The ILLINOIS GAMING BOARD adopted an emergency amendment to Video Gaming (General) (11 IAC 1800; 43 Ill Reg 13785) effective 11/7/19 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 43 Ill Reg 13488. These rulemakings implement Public Act 101-318, which requires IGB to implement (within 90 days after the PA's effective date of 8/9/19) rules for undercover compliance checks of licensed video gaming locations to determine whether they are serving alcoholic beverages to persons under 21 or permitting such persons to play video gaming terminals. "Confidential sources" who are 18 or 19 years of age may be used to carry out these investigations. These sources must be of good character, must

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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.

Proposed Rulemakings

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■ SEXUAL ASSAULT

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 43 Ill Reg 13635) implementing 3 recent Public Acts. The rulemaking expands the applicability of the Part to include approved pediatric health care facilities, freestanding emergency centers, hospitals operated by the University of Illinois, and out of State hospitals that consent to DPH jurisdiction. All hospitals must have DPH-approved written plans for treating sexual assault survivors (treatment hospital), transferring them to another hospital (transfer hospital), or transferring pediatric (under age 13) survivors to an approved pediatric health care facility (treatment hospital with pediatric transfer). Criteria for approval of pediatric health care facilities are included in this rulemaking. In counties with a population of less than 1 million, a hospital located within a 20-mile radius of a 4-year public university cannot transfer sexual assault survivors unless there is an existing treatment hospital within the same radius of that university. Treatment hospitals and approved pediatric health care facilities must offer all survivors who report an assault within the previous 7 days, or who are disclosing a past assault by a specific individual in whose care they have been within the past 7 days, an opportunity to complete the Sexual Assault Evidence

Collection Kit provided by the Illinois State Police. They may also offer to complete the kit for survivors presenting more than 7 days after an assault. Hospitals that transfer pediatric survivors must have an approved area-wide treatment plan insuring that medical forensic services are provided to these survivors. Records of medical forensic services to survivors under age 18 shall be retained by the hospital for 60 years after the survivor reaches age 18; for survivors 18 and older, the medical forensic record shall be retained for 20 years after its creation. Facilities that provide medical forensic services must issue vouchers to eligible survivors enabling them to receive follow-up medical care free of charge; survivors cannot be billed for this care or for any forensic services. By 1/1/22, all treatment hospitals must employ, or contract with, a qualified provider (board-certified or board-eligible child abuse pediatrician, sexual assault forensic examiner, or sexual assault nurse examiner) who can initiate medical forensic services within 90 minutes after a sexual assault survivor presents for treatment. Emergency department physicians, physician assistants, advanced practice registered nurses, and registered professional nurses at treatment hospitals who do not meet the criteria for qualified providers must complete at least 2 hours of sexual assault training by 7/1/20 and at least 2 hours of continuing education every 2 years thereafter. DPH will conduct onsite compliance reviews of treatment

plans at least once every 3 years. The rulemaking also requires photographic documentation of injuries and other visible evidence to supplement the medical forensic history; a written chain of custody for any clothing or personal items taken from the survivor; reporting of treatment data; and agreements with local rape crisis centers to provide medical advocacy services if available. Those affected by this rulemaking include hospitals, pediatric health care facilities that treat sexual assault survivors, and rape crisis centers.

Questions/requests for copies/ comments through 1/15/20: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 2 1 7 / 7 8 2 - 2 0 4 3 , dph.rules@illinois.gov

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 43 Ill Reg 13769) clarifying various provisions. The rulemaking increases the quarterly external earnings threshold from \$2,490 to \$3,660 and provide that earnings from income-producing activities established by a SERS member prior to the onset of his or her disability, or income produced from passive investment activities, shall not be counted as earnings from gainful employment. When a

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Emergency Rule

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undergo background checks and must not use disguises, wear beards or moustaches, or alter their appearance in any way. Confidential sources must sign consent and acknowledgement forms (included in the rule) and carry either a valid State ID issued by the Secretary of State or no identification at all. Fraudulent or fictitious ID cards cannot be used in any compliance operation. All confidential sources shall receive orientation training on use of video gaming terminals and on avoiding actions that constitute entrapment. Confidential sources may be paid in compliance with Illinois State Police policy for payment of undercover agents or sources. Funding sources may set specific conditions for expenditure and

accounting of funds that the Board must meet before authorizing any disbursement. Funds used for underage compliance checks must be photocopied in advance and kept with the case file and all expenditures (including payment to the confidential source and purchases made by the confidential source) must be pre-approved by the detail supervisor. Prior to each detail, a compliance check operation plan must be submitted to and approved by the Board investigator in charge (operations officer). If possible, compliance checks shall be conducted outside of the peak business hours of a licensed video gaming location. A photograph of the confidential source showing his or her appearance and dress shall be taken on each day/night of the operation. Each detail team shall

include at least 4 IGB investigators in addition to the confidential source. Procedures for conducting and recording compliance checks and for responding when a violation is found are also included. The ultimate goal of these rules is to have IGB investigators visit all licensed video gaming locations in the State according to an annualized schedule that ensures random visitations. Those affected by these rules include licensed video gaming locations.

Questions/requests for copies/ comments on the proposed rulemaking through 1/15/20: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, Agostino.lorenzini@igb.illinois.gov

Proposed Rulemakings

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SERS member elects a reversionary annuity (deferring his/her SERS pension for payment to a surviving family member after the member's death) and receives payments from a reciprocal retirement system, the reversionary annuity shall begin on the first day of the month following the member's death. Members who receive accelerated pension benefits may not establish service credit for employment that occurred prior to the acceptance of the accelerated payment. Regarding disability benefits, the rulemaking codifies current procedures for processing

disability claims and provides that if a member falsifies or omits pertinent information related to a disability claim, the member's benefit shall be suspended until the correct information has been provided. If the correct information does not substantiate the disability benefit, or if it is determined that the member knowingly attempted to defraud SERS, the benefit shall be terminated. If the correct information substantiates that the member is gainfully employed, applicable rules related to gainful employment shall be followed.

Questions/requests for copies/ comments through 1/15/20: Jeff Houch, SERS, 2101 S. Veterans

Pkwy., PO Box 19255, Springfield IL 62794-9255, 217/524-8105, fax 217/557-3943, jeff.houch@srs.illinois.gov

STATE INVESTMENTS

The ILLINOIS STATE BOARD OF INVESTMENT proposed an amendment to Rules and Regulations of the Board (74 IAC 800; 43 Ill Reg 13763) reflecting the establishment of a Defined Contribution Committee as one of the Board's subcommittees. This committee oversees administration of the Deferred Compensation Plan for State

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Proposed Rulemakings

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employees, evaluates its investments, and responds to recommendations from ISBI staff and consultants regarding investment options, participant communications, and other matters.

Questions/requests for copies/comments through 1/15/20: Dipesh Mehta, ISBI, 180 N. La Salle St., Suite 2015, Chicago IL 60610, 312/793-1486, dmehta@isbinvestment.com

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 IAC 100; 43 Ill Reg 13700) that update procedures for school district accounting of various funds. The rulemaking allows tort expenditures to be recorded under categories other than general administration and adds provisions for reporting student activity funds, in accordance with Governmental Accounting Standards Board (GASB) rules, within district educational funds instead of separately.

Questions/requests for copies/comments through 1/15/20: Azita

Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782/6510, rules@isbe.net

NATURAL GAS

The ILLINOIS COMMERCE COMMISSION proposed amendments to the Part titled Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities (83 IAC 590; 43 Ill Reg 13483) that update the effective date of incorporated federal safety standards from 7/1/18 to 9/1/19 to accommodate recent amendments. Small businesses subject to gas transportation/pipeline rules may be affected.

Questions/requests for copies/comments through 1/15/20: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to General Provisions (50 IAC 2500; 43 Ill Reg 13494) updating various provisions and consolidating rules from other Parts. The Part 2500 amendments include changing the hearing process to an audit process (since DOI can correct mistakes without a hearing and

does not have statutory authority to waive or adjust required fees, fines, etc.); removing a provision that requires DOI to publish the names of persons or companies that have written bad checks to the Department; removing per diem examination charges (covered by statute); allowing DOI to apply an overpayment to any type of tax, fee or charge (current rule allows an offset to be applied only to the same type of charge); and updating provisions regarding taxes paid by aggregate groups. DOI is also proposing repeal of the Parts titled Fees and Charges (50 IAC 2505; 43 Ill Reg 13517), Annual Privilege Tax (50 IAC 2510; 43 Ill Reg 13530), Annual Retaliatory Tax (50 IAC 2515; 43 Ill Reg 13575), Annual State Fire Marshal Tax (50 IAC 2520; 43 Ill Reg 13607) and Overpayments, Refunds, Amendments and Penalties (50 IAC 2525; 43 Ill Reg 13618). The applicable provisions from these Parts are being added to Part 2500.

Questions/requests for copies/comments on the 6 DOI rulemakings through 1/15/20: Kathryn Williams (217/557-1416) or Susan Anders (217/558-0957), DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0001.

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 December 17, 2019 JCAR 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.

DEPT OF PUBLIC HEALTH

Illinois Plumbing Code (77 IAC 890; 42 Ill Reg 24640) proposed 12/28/18

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 43 Ill Reg 10771) proposed 10/4/19

DEPT OF NATURAL RESOURCES

Illinois Natural Areas Stewardship Program (17 IAC 3051; 43 Ill Reg 8657) proposed 8/16/19

WORKERS' COMPENSATION COMMISSION

Miscellaneous (50 IAC 9110; 43 Ill Reg 9945) proposed 9/13/19

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Muñoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**