

*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

### ■ CANNABIS BUSINESSES

The DEPARTMENT OF AGRICULTURE adopted a new Part by emergency rulemaking titled Cannabis Regulation and Tax Act (8 IAC 1300; 44 Ill Reg 1466) effective 1/1/20 for a maximum of 180 days under a statutory exemption from the 150-day emergency rule limit in the Illinois Administrative Procedure Act. The rule implements the Cannabis Regulation and Tax Act by establishing licensing and regulatory standards for cultivators, infusers, and transporters of adult use cannabis and establishing a Community College Cannabis Vocational Pilot Program for persons interested in working in the cannabis industry.

### Licenses

Newly established cultivation centers may apply for conditional

adult use cultivation center licenses during a 14 day application window to be announced on the DOA website. Craft growers (cultivation facilities with less than 5,000 square feet devoted to cultivation), infuser organizations, and transporters may submit license applications from 2/14 through 3/16/20. Information to be included on all license applications

### Gun Dealers Emergency Rule,

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includes a detailed description of the facility and its inventory, processing and packaging plans; its proposed operation and management practices; required financial disclosures; and the details of any administrative or judicial proceeding that resulted in any principal officers or board members of the facility being convicted of or pleading guilty to a

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## Proposed Rulemakings

### ■ PRESCHOOL PROGRAMS

The STATE BOARD OF EDUCATION proposed an amendment to Early Childhood Block Grant (23 IAC 235; 44 Ill Reg 1461) implementing Public Act 100-819. The rulemaking requires early childhood programs that receive State funds under the Early Childhood Block Grant program to collect and review data on chronic absences (students who are absent with or without valid cause for 10% or more of school days in the most recent academic year) and determine what resources and supports are needed to encourage daily attendance. This data must be reported to SBE by 7/1/20 and annually thereafter. SBE must also make the report publically available via the Illinois Early Childhood Asset Map website and the Preschool for All program. Preschool programs that

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**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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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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criminal offense, or having a registration or license suspended or revoked. The applicant must also provide a plan of action for recruiting and hiring minorities, women, veterans and persons with disabilities and, if applicable, evidence of status as a social equity applicant. Employees, agents, principal officers and board members must complete fingerprint background checks and receive identification cards (application fee is \$100). The rule also includes numerous specifications for facility production and operations; equipment and facilities; recordkeeping and inventory; product testing, packaging and labeling; security (including 24-hour video surveillance); and disposal/destruction of cannabis waste. Approved pesticides, herbicides, insecticides/repellents and fungicides for use on cannabis plants are listed in the rule.

## Fees

Cultivation centers that receive a conditional license become eligible to receive an adult use cultivation center license after undergoing a DOA inspection and paying a licensing fee of \$100,000. These licenses must be renewed annually with a renewal fee of \$100,000. Substantial modifications or alterations to a cultivation or infuser facility must be approved by DOA with fees of \$1,000 to \$5,000 based on the extent of the modifications. Each product offered for sale by any

cannabis business must also be registered by name with DOA for a \$100 fee.

## Selection Criteria

All license applicants will be evaluated on a point system with points awarded for facility suitability, employee training and security plans, cultivation plans, product safety and labeling, business plans and services offered, social equity applicant status, labor and employment practices, environmental plans, majority ownership by Illinois residents, and a diversity plan. Up to 15 bonus points will be awarded for inclusion of an incubator program, substance abuse prevention plan, and education plan for children and teens concerning the potential harms of cannabis use. In the event two or more applicants receive tied scores, remaining available licenses shall be distributed via a random drawing.

## Craft Growers

Craft grower licensees will be charged a prorated licensing fee of \$40,000 upon initial licensing and upon each annual license renewal. DOA may permit craft growing facilities to expand in 3,000-square-foot increments up to a maximum of 14,000 square feet of growing space. Craft growers may share premises with an infuser or a dispensing organization provided each licensee stores all its cannabis products and currency separately from the other licensees and does

not allow the other licensees access to those items. Craft growers must be located at least 1,500 feet away from another craft grower or cultivation center.

## Early Approval

Medical cannabis cultivation centers already licensed under the Compassionate Use of Medical Cannabis Pilot Program Act may obtain early approval licenses. An application fee of \$100,000 and a business development fee of \$250,000 to \$750,000 are required with the application. Applicants must also agree to complete a social equity inclusion plan (i.e., a direct monetary contribution to cannabis business development or job training, or participation/financial investment in a cannabis business incubator program) before the early approval license expires. All early approval licenses expire 3/31/21 and may be renewed (with an additional renewal fee of \$100,000) until 3/31/22. After that date, early approval license holders must apply for regular adult use cultivation center licenses.

## Infusers

DOA will also license infuser organizations that directly incorporate cannabis or cannabis concentrate into other products (e.g., oils). Infuser organizations and cultivation centers that produce edible products must comply with Department of Public Health rules for food handling and sanitation.

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Infuser license applications must be accompanied by a \$5,000 application fee and must contain the same information regarding operations, disclosures, social equity status, etc., as applications for cultivation licenses. The initial licensing fee and the annual renewal fee are \$20,000.

### Vocational Program

Illinois community colleges may apply to participate in the Cannabis Vocational Pilot Program until 7/1/20. Applications will be evaluated with points awarded for faculty experience and credentials; security plan; curriculum plan; career advising and job placement plan; and the percentage of low-income students enrolled at the college. Program licenses are valid for 1 year and may be renewed for a \$50 fee. Community colleges that receive Vocational Pilot Program licensure may begin awarding Career in Cannabis Certificates to qualifying students in the 2021-2022 academic year. The certificate program must include courses that allow students to study, work with, and grow live cannabis plants and that instruct students in best business practices, professional responsibility, and legal compliance. Vocational program licensees may not keep more than 50 flowering cannabis plants at one time and their employees and agents must complete fingerprint background checks.

### Social Equity Applicants

License applicants with majority ownership by one or more persons who meet any of the following criteria are considered social equity applicants:

- was arrested for or convicted of a cannabis-related offense that is now eligible for expungement;
- was the spouse, parent or dependent child of a person arrested/convicted of a cannabis-related offense now eligible for expungement; or
- is a resident of a disproportionately impacted area with a high rate of arrests or convictions for cannabis-related offenses under previous laws.

A license applicant with 10 or more employees also qualifies for social equity status if at least 51% of its employees were arrested/convicted of cannabis offenses eligible for expungement or live in a disproportionately impacted area. (Social equity applicants are eligible for low-interest loans and other forms of assistance to start and expand their cannabis businesses.)

### Transportation

Craft growers and infusers who do not also have a transport organization license may only transport their products to other cannabis businesses within a specified radius (2,000 feet in Cook County, 2 miles in DuPage and Lake counties, 15 miles in all other counties). Beginning 7/1/20, cultivation centers must also obtain

## Proposed Rulemakings

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participate in the grant program are affected by this rulemaking.

*Questions/requests for copies/comments through 3/2/20: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, [rules@isbe.net](mailto:rules@isbe.net)*

### ■ WATER TREATMENT

The POLLUTION CONTROL BOARD proposed amendments to Primary Drinking Water Standards (35 IAC 611; 44 Ill Reg 692) implementing U.S. Environmental Protection Agency regulations, including updates to analytical methods for water testing, adopted between 7/1/18 and 12/31/18. The rulemaking also includes non-substantive corrections and clarifications unrelated to the federal regulations. Those affected by this rulemaking include local governments that operate drinking water treatment facilities.

*Requests for copies/comments through 3/2/20: Don A. Brown, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference docket R19-16. Questions: Michael J. McCambridge, same address, 3 1 2 / 8 1 4 - 6 9 2 4 , [michael.mccambridge@illinois.gov](mailto:michael.mccambridge@illinois.gov). Copies of the Board's opinion and order can be downloaded from the PCB website at <http://www.ipcb.state.il.us>.*

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transporter licenses in order to transport cannabis to other cannabis businesses. License applications will be accepted from 2/14 through 3/16/20, and every year thereafter from 2/15 through 3/15. Application fee is \$5,000 and the annual licensing fee is \$10,000. Transporters may not use commercial motor vehicles weighing more than 10,000 pounds and only persons registered with DOA as transporter agents are permitted in vehicles transporting cannabis or cannabis products. Vehicles cannot display any identifying markings or logos that bear the business name or that indicate the vehicle contains cannabis.

## Disciplinary Action

DOA may suspend or revoke licenses and agent identification cards for failure to comply with any provision of the Act or this Part; failure to comply with special conditions of the license/ID card; failure to file tax returns or pay taxes/penalties due; or failure to properly keep books and records. Fines of up to \$10,000 for transporters and infusers, \$15,000 for craft growers, and \$50,000 for cultivation centers may be imposed for each violation. However, the fine will be reduced to no more than \$2,000 if the licensee notifies DOA of the violation, initiates an investigation and cooperates fully with DOA during the investigation. Licenses or ID cards may be suspended immediately without a hearing if

DOA determines that this action is necessary to protect the public interest, safety or welfare, but a hearing must be held within 30 days after this suspension.

*Questions/requests for copies: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051, fax 217/785-4505.*

## ■ GUN DEALER LICENSING

The ILLINOIS STATE POLICE adopted a new Part by emergency rulemaking titled Firearm Dealer License Certification Act (20 IAC 1232; 44 Ill Reg 1681) effective 1/3/20 for a maximum of 150 days. The companion proposed rule was published in the 8/23/19 *Illinois Register* at 43 Ill Reg 9084. The emergency rule immediately implements many of the provisions of the proposed rulemaking with some revisions and clarifications. It implements Public Act 100-1178, which requires all Illinois holders of a Federal Firearms License (FFL) to additionally receive certification from the State in order to sell, lease or otherwise transfer firearms. The new Part sets forth the conditions and process for obtaining State certification of an FFL as follows.

## Clarifications

The emergency rule includes new and revised definitions clarifying who is considered to be engaged in the business of dealing, selling, leasing, or otherwise transferring firearms with the principal objective of livelihood and profit, which makes them subject to the

Act and this Part. Entities excluded from this definition and NOT subject to these rules include:

- gunsmiths who merely service or repair firearms and return them to the customer;
- collectors of firearms as curios or relics;
- firearms manufacturers or importers who do not sell, lease or transfer them at wholesale or retail to individual purchasers;
- pawnshops that acquire firearms only for bailment; and
- persons/entities engaging only in transactions not subject to a State or federal background check.

A “principal objective of livelihood and profit” means that the person engages in the sale/transfer of firearms as an income-generating business. It does not include persons whose primary objective is to improve or liquidate a personal collection, nor does it include persons who regularly purchase and dispose of firearms for criminal purposes.

## Applications

Every FFL licensee shall file with ISP a copy of its FFL, along with a sworn affidavit indicating that the license is currently valid and belongs to the licensee. This State certification must be renewed every 3 years when the FFL is renewed. ISP may, in lieu of requiring an affidavit, verify the validity of an FFL via any authentication system or website approved by the federal Bureau of Alcohol, Tobacco, Firearms and

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Explosives (ATF). Applicants for certification must also submit an affidavit listing the name and Firearm Owner's Identification Card (FOID) number of each owner, employee, or other agent who sells or transfers firearms for the licensee and attesting that each of these persons is at least 21 years old, holds a currently valid FOID card and (if a certification is being renewed) has completed the training required by the Firearm Dealer License Certification Act.

## Fees

For FFL licensees without a retail location, the application fee is \$300 for initial certification and \$100 for a renewal certification. For licensees with retail locations, the application fee is \$1,200 (in the proposed rule, \$1,500) for initial certification and \$500 for renewal. Total fees for certification of multiple licenses (e.g., retail stores at different locations) cannot exceed \$40,000. Initial certification fees for new applicants who held current FFL licenses as of 1/18/19 shall be prorated based on the number of months remaining on the applicant's current FFL. Overpayments will be credited toward the cost of the licensee's next renewal, or may be refunded to the licensee upon written request.

## Inspections

All certified licensees (CLs) shall allow inspection of their place of business by ISP and other law enforcement agencies during all

hours of operation when firearms are sold, leased or transferred. All records, documents and firearms shall be made accessible upon request of ISP or the LE agency. No more than one unannounced inspection may be conducted per year without good cause. A CL that is not open to the public, does not keep regular business hours or operates by appointment only shall advise ISP in writing of its hours of operation.

## Security

No later than 1/2/20, CLs that maintain an inventory of firearms for sale or transfer must be connected to an alarm system or service that notifies local law enforcement of any unauthorized intrusion. This system must include features such as duress/holdup silent alarms and backup electrical power. By 1/2/21, all CLs operating retail locations must have a video surveillance system in place. The system must monitor all entrances and exits and any inside areas where firearms are stored, handled, sold or transferred. Video surveillance records and sound recordings obtained from them must be retained for at least 90 days. (Additional specifications for video surveillance systems that are included in the proposed rule are not included in the emergency rule.)

## Records

CLs operating retail locations on or after 1/2/20 must use electronic-based recordkeeping for all acquisition and disposition

records currently required by federal law. Retail sales and purchases must be recorded within 24 hours after the transaction. Shipments from manufacturers or wholesalers must be recorded within 24 hours after unpacking or 5 business days after shipping, whichever is earlier. Inventory, acquisition and disposition records must be made available to ISP or local law enforcement upon request. An alternate method of recordkeeping may be used with ISP approval if good cause is shown and the records can be clearly uploaded in a PDF format.

## Storage

CLs with retail locations must develop and submit to ISP (using a form and method provided on the Department's website) their written plans for safe storage of firearms and ammunition during retail hours, after closing, and in the event of a disaster. Storage procedures must include keeping all inventoried firearms in a safe, vault, secured room or locked display and in a location accessible only to specifically authorized personnel; insuring that all keys, lock combinations, passwords or other security measures are accessible only to specifically authorized personnel; and keeping ammunition stored securely out of the reach of customers. Any loss, theft or diversion of inventoried firearms from a retail location must be reported to ATF and local law

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enforcement within 48 hours and a copy of the notification must also be submitted to ISP.

### Signage

Each location where a CL conducts business must post two signs (templates are provided in the rule and at ISP's website). One sign must notify patrons that the premises are under video surveillance and that their images may be recorded. The other sign must advise patrons that the following actions are unlawful: storing or leaving unsecured firearms where children can access them, selling or transferring firearms to someone else without receiving approval from ISP, and failing to report the loss or theft of a firearm to local law enforcement within 72 hours.

### Training

Every CL and employees who sell or transfer firearms must complete ISP-approved training (at a minimum, covering materials made available via the ISP website or other means) prior to certification and annually thereafter. Newly hired employees must complete this training before selling or transferring any firearms or ammunition. The CL must submit an affidavit to ISP verifying that the licensee and any applicable employees have completed this training.

### Penalties and Appeals

Disciplinary actions for any violation of the Act or this Part may include suspension or revocation of license certification, refusal to renew or restore a certification, or a reprimand. Additionally, a fine

may be imposed based on the seriousness and frequency of the violation. Fines range from a maximum of \$200 for a first-time petty violation up to \$10,000 per offense for repeated major violations. Procedures for notifying CLs of violations and for CLs to request hearings or appeals are included in the Part.

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

## JCAR Meeting Action

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At its 1/14/20 meeting, the Joint Committee on Administrative Rules voted to approve the following actions:

### EXTENSIONS

JCAR and the Department of Human Services agreed to extend the Second Notice periods for the following rulemakings an additional 45 days: General Grantmaking (DHS) (44 IAC 7040; 43 Ill Reg 11812) and Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 438657 Ill Reg 11905). These rulemakings will be reconsidered at the 2/18/20 meeting.

### POSTPONEMENT

JCAR postponed action on the Department of Natural Resources rulemaking titled Illinois Natural Areas Stewardship Grant Program (17 IAC 3051; 43 Ill Reg 8657), which is currently on extended Second Notice, until the 2/18/20 meeting.

## 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 February 18, 2020 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 HUMAN SERVICES

Sexually Violent Persons (59 IAC 299; 43 Ill Reg 11815) proposed 10/18/19

### DEPT OF PUBLIC HEALTH

Hospice Programs (77 IAC 280; 43 Ill Reg 11908) proposed 10/18/19

### TEACHERS' RETIREMENT SYSTEM

The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 43 Ill Reg 13394) proposed 11/22/19

### DEPT OF INSURANCE

Variable Contracts (50 IAC 1551; 43 Ill Reg 12054) proposed 10/25/19

Licensing and Suitability Requirements for the Solicitation of Variable Contracts (Repealer) (50 IAC 3117; 43 Ill Reg 12070) proposed 10/25/19

Pre-Licensing and Continuing Education (50 IAC 3119; 43 Ill Reg 11067) proposed 10/11/19

## 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**