

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.

Adopted Rules

SCHOOLS

The STATE BOARD OF EDUCATION adopted an amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 43 Ill Reg 7389), effective 1/13/20, implementing Public Act 100-726, which permits schools to keep a general stock of asthma medications that are not designated for a specific person. The rulemaking adds asthma medication (changed since 1st Notice from "medication to treat respiratory distress") to the list of undesignated medications that school nurses or trained school personnel may administer when a student displays symptoms (formerly, only epinephrine and opioid antagonists could be administered in this manner). Schools must adopt standing protocols for administering these medications and school personnel who are not nurses or physicians

must complete specific training and certification in their administration. A definition of asthma medication has been added since 1st Notice.

■ PRESCHOOLS

SBE also adopted amendments to the Part titled Early Childhood Block Grant (23 IAC 235; 43 Ill Reg

Emergency Rule, Page 3

2343) effective 1/10/20, implementing Public Act 100-105. The Act and the rulemaking require early childhood programs that receive State funding to insure that children who exhibit persistent and serious challenging behaviors continue to receive services rather than simply being expelled. The rulemaking sets forth process by which an early childhood program

(cont. page 2)

Proposed Rulemakings

■ BOARDING KENNELS

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Animal Welfare Act (8 IAC 25; 44 Ill Reg 1745) implementing Public Act 101-210, which requires kennel operators that board cats or dogs to have staff on site whenever cats or dogs are on the premises and to have an operational fire sprinkler or fire alarm system in every building in which cats or dogs are located. If a sprinkler system is used, it must notify local emergency responders when it is activated. If an alarm system is used, it must directly alert local emergency responders or be monitored by a third-party security service that will notify emergency responders. Local fire inspectors may subject boarding kennels to routine inspections and notify DOA

(cont. page 3)

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.

Adopted Rules

(cont. from page 1)

must document these behaviors, communicate with parents, and utilize a range of community resources that may include, but are not limited to, developmental screenings, special education programs, and early childhood mental health services. If a child continues to demonstrate inability to benefit from the type of care or activity offered by a particular program, the child may be transitioned to a different program and a transition plan to ensure continuity of services must be created. Early childhood programs must also collect and report annually to SBE the following data: total number of children (ages birth to 5) served; the number of children who left the program; the number of planned transitions due to behavior, broken down by race, gender, disability, language, class/group size, teacher-child ratio, and length of program day; number of temporary removals of a child from group settings due to a serious safety threat, also broken down by race, gender, disability, etc.; the hours of contact between infant/early childhood mental health consultants and program leaders, staff, and families during the program year; and the total number of children returned to the program after a planned transition. Since 1st Notice SBE has replaced references to “preschool” with “early childhood”; added, amended or removed various definitions. It has also clarified the process for transitioning a child to a different program due to behaviors stemming from a

disability, and when this will not be classified as an expulsion. Early childhood/preschool programs that receive State funding are affected by this rulemaking.

■ PURCHASED CARE

SBE adopted amendments to the Part titled Illinois Purchased Care Review Board (89 IAC 900; 43 Ill Reg 8670) effective 1/8/20, implementing recent amendments to Section 14-7.02 of the School Code (PA 100-587) affecting private education providers who serve, at school district/State expense, students with significant disabilities whose needs cannot be met by their local school district. The rulemaking provides that the Board may grant an increase in allowable costs for services when the General Assembly has approved wage increases to front-line personnel (including direct support persons; aides; nurses; front-line supervisors; qualified intellectual disabilities professionals; and non-administrative support staff working in community based settings) and the provider has given the same wage increases to similar personnel in the provider’s special education program. Private educational providers serving special education students may be affected.

Questions/requests for copies of the 3 SBE rulemakings: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ VEHICLE REGISTRATION

The SECRETARY OF STATE adopted amendments to the Part titled Certificate of Title, Registration of Vehicles (92 IAC 1010; 43 Ill Reg 11100), effective 12/31/19, instituting new fraud prevention provisions for businesses that issue Temporary Registration Permits (TRPs) for recently purchased new or used vehicles. Entities authorized to issue TRPs must designate one individual, known as a Superuser, to be responsible for issuing, tracking and managing these permits and to act as the primary contact with SOS. The Superuser may designate other persons as additional issuers of TRPs. Only individuals with a valid username issued by SOS may issue a TRP from the inventory allocated to each licensed entity. If SOS determines that a Superuser or an authorized entity has allowed an unauthorized individual to issue a TRP, SOS may suspend, revoke or deny its access to the TRP program. If an entity is found to have violated these rules more than once, or to have permitted one or more Superusers/additional issuers to do so, that entity may be permanently denied access to the TRP system. All Superusers and additional issuers must complete a no-cost training session on SOS procedures within 60 days after receiving a username and on an annual basis thereafter. All required information on a TRP must be electronically printed and

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

if they determine that the facility lacks an alarm or sprinkler system. Kennel operators must certify in their initial license and license renewal applications that they are staffed at all times when cats or dogs are on site and that they have an operational fire alarm or fire sprinkler system. A picture of the alarm or sprinkler system, description of the make and model of the system, and an inspection report or copy of the security service contract must also be submitted. Operators of pet boarding kennels licensed by DOA will be affected by this rulemaking.

Questions/requests for copies/ comments through 3/9/20: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051, fax 217/785-4505.

SCHOOL CHECKUPS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Child and Student Health Examination and Immunization Code (77 IAC 665; 44 Ill Reg 1779) implementing Public Act 100-829, which requires dental examinations for students in 9th grade (currently, this requirement applies to students in kindergarten, 2nd and 6th grades). The dental exam must be performed between Nov. 15 of the previous school year and May 15 of the school year for which it is required. Students who fail to present proof of dental examination by May 15 of the applicable school year may have

Emergency Rule

■ CANNABIS SALES TAX

The DEPARTMENT OF REVENUE adopted an emergency amendment to Retailer's Occupation Tax (86 IAC 130; 44 Ill Reg 2055), effective 1/13/20 for a maximum of 180 days under a statutory exemption from the 150-day limit in the Illinois Administrative Procedure Act. A companion proposed rulemaking appears in this week's *Illinois Register* at 44 Ill Reg 1811. The emergency and proposed rules implement PA 101-593, which clarifies the applicable tax rate for

food products that contain or are infused with cannabis for adult use. These products are subject to the adult use cannabis tax rate of 6.25% rather than the 1% sales tax rate normally applied to food purchased for off-premises consumption. Adult use cannabis sellers are affected.

Questions/requests for copies/ comments on the proposed rulemaking through 3/9/20: Richard Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

their report cards withheld until they document that an examination has been completed or has been scheduled within the next 60 days.

Questions/requests for copies/ comments through 3/9/20: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217 / 782 - 2043, dph.rules@illinois.gov.

■ COMMUNITY CARE

The DEPARTMENT ON AGING proposed amendments to Community Care Program (89 IAC 240; 44 Ill Reg 1724) clarifying requirements for certification as providers of in-home services, adult day services, emergency home response services or automated medication dispensing services. Agencies seeking certification as adult day service providers must have at least 2 years' experience providing direct

social services programming (currently, 2 years' experience in "business operations" providing adult day service). Provider agencies for any service that have not previously been certified, or are not in operation at the time they apply for certification, may receive provisional certification for up to 2 years, during which they will be subject to additional DonA oversight. This provisional certification will replace current rule provisions that allow experience exceptions for providers that are accredited by recognized national organizations. Newly established entities may, in lieu of submitting audited financial reports for the last complete fiscal year, submit bank approved business plans with approved financial backing, along with proof that employee tax accounts have been established

(cont. page 5)

Adopted Rules

(cont. from page 2)

the month and year of expiration must be indicated in permanent black marker. If a used vehicle is returned to a dealer due to mechanical defects within 15 calendar days after its sale or before it has been driven 500 miles, the licensed dealer may void the TRP, and must retain documentation of the reason the vehicle was returned. A TRP cannot be voided if the vehicle is returned to the dealer solely because the purchaser could not secure financing. In this case, the dealer must still submit the appropriate title, registration fees and applicable taxes to SOS before another TRP can be issued for the same vehicle. All TRPs must have a document number identifying the accompanying application for a certificate of title; if this application is missing, the TRP issuing entity shall be billed for the certificate of title fee. TRPs shall not be accessible to the general public or to any individual that does not have a Superuser or additional issuer username issued by SOS. Holders of TRPs shall be limited to a 90-day inventory based on self-reported annual sales. Unused TRPs shall be returned to the SOS TRP Return Unit by mail. Entering false, misleading or deceptive information regarding a vehicle or vehicle owner into the TRP system shall incur a 90-day suspension of access to the system. Penalties for issuing TRPs without following proper SOS procedures include a \$175 fine per violation, a written warning for a single first-time

violation, and suspensions of 7 to 90 days for subsequent violations. Changes since 1st Notice establish a \$151 fee for lost, stolen or destroyed TRPs (matching the fee paid by the customer upon issuance of a TRP), clarify the process of certification for Superusers, additional issuers and authorized entities, and clarify penalties for improper use of the system. Those affected by this rulemaking include new and used vehicle dealers, currency exchanges, and other businesses that issue temporary registration permits.

■ USED VEHICLE DEALERS

SOS also adopted amendments to the Part titled Dealers, Wreckers, Transporters and Rebuilders (92 IAC 1020; 43 Ill Reg 11934), effective 12/31/19, implementing Public Act 101-105. The PA and the rulemaking institute rules for Buy Here, Pay Here (BHPH) used vehicle dealers that offer third-party financing through a financial institution in which the dealer has an ownership stake. (BHPH rules do not apply to dealers who use separate third-party lenders with which they have no legal or financial association.) Effective 1/1/20, all BHPH dealers must electronically submit titling and registration applications to SOS through the SOS website or via an Electronic Registration and Titling system. A BHPH shall only be required to acquire one license that permits it to sell or lease 5 or more used vehicles per year. It may have a separate legal entity that provides financing solely for its

customers, and may sell vehicles for cash or by other traditional financing methods. However, promotion, advertisement, solicitation, or other engagement in sales/leasing transactions must mention the associated financing entity and the availability and terms of its payment plans. Every BHPH must submit the appropriate certificate of title, registration fees and taxes to SOS and the Department of Revenue for each sales/lease transaction, and the application for title/registration must include the date of purchase, regardless of how the transaction was ultimately financed or how the vehicle was transferred to the customer. Since 1st Notice, SOS clarified that these rules apply to BHPH dealers that lease as well as sell vehicles. Those affected by this rulemaking include certain used vehicle dealers that also offer customer financing.

DRIVER'S LICENSES

SOS adopted amendments to Issuance of Licenses (92 IAC 1030; 43 Ill Reg 11114), effective 12/31/19, implementing two Public Acts. The rulemaking allows applicants for a "Veteran" designation on their driver's license or State ID card to obtain the designation by presenting to SOS a DD-214 discharge document, a federal Veterans Identification Card, and a federal Veterans Administration summary of benefits letter or other document indicating honorable discharge. The applicant is no longer required

(cont. page 6)

Proposed Rulemakings

(cont. from page 3)

with the State and with the U.S. Treasury. New for-profit entities backed entirely by individuals may, as an alternative to the bank approved business plan, submit the most recent 2 years of tax returns and documentation of bank approved financial backing for these individuals. An applying entity must show that it has sufficient assets to cover 90 days of operating expenses for the service it will provide, and no more than 30 of those days should be based on a line of credit. Those affected by this rulemaking include businesses and non-profit agencies seeking to become certified as CCP service providers.

Questions/requests for copies/ comments through 3/9/20: Paulette Dove, DonA, One Natural Resources Way, #100, Springfield IL 62702-1271, 217/785-3346, Aqing.Rulemaking@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC 100; 44 Ill Reg 1785) implementing Public Act 100-22, which repealed, effective 12/31/17, a prohibition against persons who are required to use different methods of apportioning their income (to determine how much is subject to Illinois income tax) belonging to the same unitary business group. The rulemaking clarifies the situations in which the

former prohibition does and does not apply. Additionally, the rulemaking accounts for limitations placed on the deduction of business interest expense from federal income tax for tax years 2018 and beyond. Small businesses may be affected.

Questions/requests for copies/ comments through 3/9/20: Brian Fliflet, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

■ COMMERCIAL VEHICLES

The DEPARTMENT OF TRANSPORTATION proposed an amendment to Procedures (92 IAC 107; 44 Ill Reg 1814) incorporating by reference federal regulations (in effect as of 10/1/19) regarding registration of hazardous materials transporters and registration of manufacturers, inspectors and repairers of cargo tanks or cargo vehicles. Hazardous material haulers and commercial vehicle inspectors and repairers may be affected by this rulemaking.

Questions/requests for copies/ comments through 3/9/20: Greg Stucka, DOT, 2300 S. Dirksen Pkwy., Rm. 317, Springfield IL 62764, 217/524-2638.

■ BIOLOGICAL HAZARDS

The POLLUTION CONTROL BOARD proposed an amendment to General Provisions (35 IAC 1420; 44 Ill Reg 1768) regarding potentially infectious medical waste. The rulemaking

implements recent federal regulations adding the Ebola, Sabia, and Guanarito viruses and Equine Morbillivirus to the list of Class 4 etiologic agents deemed by the National Institutes of Health to be extremely hazardous to laboratory personnel or liable to cause serious epidemic disease.

Questions/requests for copies/ comments through 3/9/20: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3620. Please reference docket R20-17. Comments may also be filed via the Clerk's Office On-Line at www.ipcb.state.il.us. Copies of the Board's opinion and order may also be downloaded from the PCB website.

■ IGB ETHICS RULES

The ILLINOIS GAMING BOARD proposed an amendment to Riverboat Gambling (86 IAC 3000; 44 Ill Reg 1752) implementing a Code of Conduct for IGB members and employees. The rulemaking forbids Board members and employees from engaging in riverboat/casino gambling, video gaming, sports wagering, or wagering on horse racing except when required as part of their official duties. Members and employees also shall not engage in any other form of legal gambling that could present an actual or potential conflict of interest. Board members and employees, as well as their spouses, domestic partners, boyfriends/girlfriends,

(cont. page 7)

Adopted Rules

(cont. from page 4)

to visit an Illinois Department of Veterans' Affairs office prior to application to obtain confirmation of veteran status. SOS will continue to notify DVA of all persons who have been issued veteran's licenses or IDs so that DVA can match this information to its records. If DVA cannot verify an applicant's status, SOS will notify the applicant and he/she will have 30 days to visit a DVA office with proof of honorably discharged veteran status. The rulemaking also reflects a provision of the Illinois Vehicle Code prohibiting the use of vehicles with smoked or tinted lighting in road tests.

SOS PROCEDURES

SOS adopted an amendment to Departmental Duties (2 IAC 552; 43 Ill Reg 9365), effective 12/31/19, updating the addresses where service of process can be made upon SOS and updating various statutory and rule citations. The rulemaking also clarifies that SOS is not a default or general agent for process service in Illinois and will only accept service of process in instances where it is required by law to do so.

Questions/requests for copies of the 4 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

LIBRARIES

SOS adopted amendments to the Parts titled Illinois State Library, Government Documents Section

(23 IAC 3020; 43 Ill Reg 10404), Illinois State Library Grant Programs (23 IAC 3035; 43 Ill Reg 10408) and Public Library Non-Resident Services (23 IAC 3050; 43 Ill Reg 10430), all effective 1/7/20. The Part 3020 rulemaking changes, from January 15 to July 15, the date for State agencies to annually notify SOS of the person who will be responsible for submitting publications to the Government Documents Section. (The date change allows more time to update information if agency personnel changes occur after a general election.) Amendments to Part 3035 update the definition of "instructional material" to include electronic material and update various incorporations and cross references. Since 1st Notice, proposed changes to adult literacy grant application criteria and to the 20-year ownership/occupancy requirement for library construction grants have been removed from the rulemaking. The Part 3050 rulemaking provides that nonresident library fees shall not be charged to nonresidents of a library district who own or lease (formerly, own) property that is taxed for library services, and also allows more than one nonresident per parcel of taxable property to take advantage of nonresident library privileges. Small businesses and small municipalities may be affected.

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

GAMING DEVICES

The ILLINOIS GAMING BOARD adopted amendments to Video Gaming (General) (11 IAC 1800; 43 Ill Reg 9312) effective 12/31/19, replacing emergency amendments effective 8/19/19 at 43 Ill Reg 9788. These amendments implement Public Act 101-31, which requires IGB to license independent testing laboratories and accept test reports from any such laboratory chosen by a gaming machine or gaming equipment manufacturer, whether or not that laboratory has a contract with the State. (Formerly, testing was performed only by laboratories that had entered contracts with IGB via the procurement process.) The rulemaking establishes the application process and criteria for independent testing laboratories to obtain IGB licensure. Laboratories that are accredited and are authorized to perform testing services in a gaming jurisdiction similar to Illinois may be licensed by IGB. A "jurisdiction similar to Illinois" means any jurisdiction that regulates the operation of electronic devices that are connected to a central monitoring system, capable of awarding credits dependent upon chance, and dependent upon approval by a gaming regulatory body. Since 1st Notice, IGB has added a definition of critical program storage media; revised the definition of a jurisdiction similar to Illinois; clarified options

(cont. page 7)

Proposed Rulemakings

(cont. from page 5)

parents, children, or other household members, are prohibited from the following actions: relationships that present or appear to present an actual or potential conflict of interest; accepting gifts, gratuities, services, or other items of value from a covered person (a gaming licensee or license applicant, or any affiliate, key person or person with significant influence or control of a licensee or applicant); holding or acquiring ownership of a licensee or applicant; or having an economic association with a gaming licensee/applicant, a race track, a racing association, or any person engaged in horse racing.

Any outside employment by a Board member or employee must be disclosed to and approved by IGB, and Board members may not hold other public offices. Board members must disclose any economic association with a covered person and recuse themselves from voting on issues related to a gaming entity connected with the covered person. These provisions may also apply to professional service agents of the Board (e.g., persons providing legal, accounting, financial/auditing, data processing or other services). IGB members, employees, and their immediate families are also subject to the “revolving door” provisions of the State Officials and Employees

Ethics Act (which prohibits State employees involved in contracting or procurement with specific entities from accepting employment with those entities for 1 year after leaving State employment). Violations of the Code of Conduct may result in removal from the Board or discipline up to and including termination.

Questions/requests for copies/ comments through 3/9/20: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, igb.legal@igb.illinois.gov

**NO SECOND NOTICES
THIS WEEK**

Adopted Rules

(cont. from page 6)

for equipment manufacturers to perform additional testing when required by the Administrator; listed the criteria that require additional testing; and listed criteria for approval of equipment. Those affected by this rulemaking include independent gaming equipment testing labs and gaming equipment manufacturers.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, Agostino.lorenzini@igb.illinois.gov

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT

SERVICES adopted amendments to Pay Plan (80 IAC 310; 43 Ill Reg 10527) effective 1/1/20. The rulemaking establishes new salary ranges for all Merit Compensation System (MS) positions effective 1/1/20, reflecting the increase in the State minimum wage. MS and bargaining unit pay grades are added, removed or updated for various positions. Pay rates for boiler safety specialists and boiler safety audit specialists in the Northern Region are also updated to reflect prevailing wages in accordance with an existing collective bargaining agreement.

Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, CMS.PayPlan@illinois.gov

OPEN MEETINGS

The GUARDIANSHIP AND ADVOCACY COMMISSION adopted an amendment to the Part titled Human Rights Authority (59 IAC 310; 43 Ill Reg 8610), effective 12/31/19, aligning its requirements for public notice of meetings with the Open Meetings Act. Regional authorities must give public notice of any special meeting at least 48 hours (currently, 24 hours) in advance.

Questions/requests for copies: Kenya A. Jenkins-Wright, GAC, 160 N. La Salle, S-500, Chicago IL 60601, 312/793-5900, TTY 866-333/3362.