
ILLINOIS

REGISTER



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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2025

Issue#	Rules Due Date	Date of Issue
1	December 23, 2024	January 3, 2025
2	December 30, 2024	January 10, 2025
3	January 6, 2025	January 17, 2025
4	January 13, 2025	January 24, 2025
5	January 21, 2025	January 31, 2025
6	January 27, 2025	February 7, 2025
7	February 3, 2025	February 14, 2025
8	February 10, 2025	February 21, 2025
9	February 18, 2025	February 28, 2025
10	February 24, 2025	March 7, 2025
11	March 3, 2025	March 14, 2025
12	March 10, 2025	March 21, 2025
13	March 17, 2025	March 28, 2025
14	March 24, 2025	April 4, 2025
15	March 31, 2025	April 11, 2025
16	April 7, 2025	April 18, 2025
17	April 14, 2025	April 25, 2025
18	April 21, 2025	May 2, 2025
19	April 28, 2025	May 9, 2025
20	May 5, 2025	May 16, 2025
21	May 12, 2025	May 23, 2025

22	May 19, 2025	May 30, 2025
23	May 27, 2025	June 6, 2025
24	June 2, 2025	June 13, 2025
25	June 9, 2025	June 20, 2025
26	June 16, 2025	June 27, 2025
27	June 23, 2025	July 7, 2025
28	June 30, 2025	July 11, 2025
29	July 7, 2025	July 18, 2025
30	July 14, 2025	July 25, 2025
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33	August 4, 2025	August 15, 2025
34	August 11, 2025	August 22, 2025
35	August 18, 2025	August 29, 2025
36	August 25, 2025	September 5, 2025
37	September 2, 2025	September 12, 2025
38	September 8 2025	September 19, 2025
39	September 15, 2025	September 26, 2025
40	September 22, 2025	October 3, 2025
41	September 29, 2025	October 10, 2025
42	October 6, 2025	October 17, 2025
43	October 14, 2025	October 24, 2025
44	October 20, 2025	October 31, 2025
45	October 27, 2025	November 7, 2025
46	November 3, 2025	November 14, 2025
47	November 10, 2025	November 21, 2025
48	November 17, 2025	December 1, 2025
49	November 24, 2025	December 5, 2025
50	December 1, 2025	December 12, 2025
51	December 8 2025	December 19, 2025
52	December 15, 2025	December 26, 2025

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Dental Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1220
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1220.10	Amendment
1220.100	Amendment
1220.390	New Section
1220.402	New Section
1220.415	Amendment
1220.440	Amendment
1220.442	New Section
1220.505	Amendment
1220.510	Amendment
1220.520	Amendment
1220.530	Repealed
1220.560	Amendment
- 4) Statutory Authority: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois (Department of Professional Regulation Law) [20 ILCS 2105/2105-15(7)].
- 5) A Complete Description of the Subjects and Issues Involved: In response to a finding by the Illinois Dental Board that it would be more appropriate for preexisting associations and entities already approved under Section 1220.440(b)(2) of this Part to approve continuing education sponsors, these amendments would remove continuing education sponsors approved by the Board and the Division. The amendments would also include new sections pertaining to sanitary standards in dental offices and to the parameters surrounding teledentistry. Pursuant to Section 8.1 of the Illinois Dental Practice Act, the amendments would also create new avenues for receiving a moderate sedation permit, including moderate sedation continuing education sponsors.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 9) Do these proposed amendments contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, IL 62786

(217) 785-0810
Fax: (217) 557-4451
Craig.Cellini@illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed amendments: None
 - B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the amendments: None
 - C) Description of the types of professional skills necessary for compliance: None
- 14) Small Business Economic Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2025
- 16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups. None

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1220
ILLINOIS DENTAL PRACTICE ACT

SUBPART A: DENTIST

Section

1220.10	Definitions
1220.100	Application for Licensure
1220.110	Application for Examination (Repealed)
1220.120	Dental Examinations
1220.130	System of Retaking the Clinical Sections of the Examination (Repealed)
1220.140	Minimum Standards for an Approved Program in Dentistry
1220.150	Licensure (Repealed)
1220.155	Restricted Faculty Licenses
1220.156	Temporary Training License
1220.157	Temporary Permit for Free Dental Care
1220.160	Restoration
1220.170	Renewal

SUBPART B: DENTAL HYGIENIST

Section

1220.200	Application for Licensure
1220.210	Application for Examination (Repealed)
1220.220	Dental Hygiene Examination
1220.230	System of Grading (Repealed)
1220.231	System of Retaking the Clinical Examination (Repealed)
1220.240	Prescribed Duties for Dental Hygienists
1220.245	Prescribed Duties of Dental Assistants
1220.250	Approved Programs of Dental Hygiene
1220.260	Restoration
1220.270	Renewal

SUBPART C: DENTAL SPECIALIST

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section	
1220.310	Applications
1220.320	Examination (Repealed)
1220.330	System of Grading (Repealed)
1220.335	American Board Diplomates (Repealed)
1220.340	Specialty Listing (Repealed)
1220.350	Restoration
1220.360	Renewal

SUBPART D: GENERAL

Section	
1220.380	Definitions
<u>1220.390</u>	<u>Sanitary Standards</u>
1220.400	Reportable Diseases and Conditions
<u>1220.402</u>	<u>Teledentistry</u>
1220.403	Dentists Administering Flu Vaccines
1220.405	Reporting of Adverse Occurrences
1220.406	Impaired Dentist and Dental Hygienist Program of Care, Counseling or Treatment
1220.407	Death or Incapacitation of Dentist
1220.410	Endorsement
1220.415	Fees
1220.421	Advertising
1220.425	Referral Services
1220.431	Employment by Corporation (Repealed)
1220.435	Renewals (Repealed)
1220.440	Continuing Education
1220.441	Granting Variances
<u>1220.442</u>	<u>Recordkeeping Requirements</u>

SUBPART E: ANESTHESIA PERMITS

Section	
1220.500	Definitions
1220.505	Minimal Sedation in the Dental Office Setting
1220.510	Moderate Sedation (Conscious Sedation) in the Dental Office Setting
1220.520	Deep Sedation and General Anesthesia in the Dental Office Setting
1220.525	Renewal
1220.530	Anesthesia Review Panel (<u>Repealed</u>)

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1220.540 Approved Programs in Anesthesiology (Repealed)
1220.550 Reporting of Adverse Occurrences (Repealed)
1220.560 Restoration of Permits

1220.APPENDIX A Pre-clinical Restorative Dentistry Sub-section (Repealed)
1220.APPENDIX B Dental Assistant Permitted Procedures (Repealed)
1220.APPENDIX C Dental Hygienist Permitted Procedures (Repealed)
1220.APPENDIX D Characteristics of Levels of Anesthesia

AUTHORITY: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Dental Practice Act, effective August 16, 1967; amended at 3 Ill. Reg. 16, p. 21, effective April 21, 1979; amended at 3 Ill. Reg. 42, p. 266, effective October 3, 1979; codified at 5 Ill. Reg. 11028; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 4174, effective May 24, 1982; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 8952, effective July 15, 1983, for a maximum of 150 days; emergency expired December 12, 1983; amended at 8 Ill. Reg. 15610, effective August 15, 1984; amended at 10 Ill. Reg. 20725, effective December 1, 1986; transferred from Chapter I, 68 Ill. Adm. Code 220 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1220 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2926; amended at 13 Ill. Reg. 4191, effective March 16, 1989; amended at 13 Ill. Reg. 15043, effective September 11, 1989; amended at 17 Ill. Reg. 1559, effective January 25, 1993; emergency amendment at 17 Ill. Reg. 8309, effective May 21, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15890, effective September 21, 1993; amended at 17 Ill. Reg. 21492, effective December 1, 1993; amended at 19 Ill. Reg. 6606, effective April 28, 1995; amended at 21 Ill. Reg. 378, effective December 20, 1996; emergency amendment at 22 Ill. Reg. 2332, effective January 8, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10574, effective June 1, 1998; amended at 22 Ill. Reg. 14880, effective July 29, 1998; amended at 23 Ill. Reg. 7294, effective June 10, 1999; amended at 24 Ill. Reg. 13992, effective August 31, 2000; amended at 25 Ill. Reg. 10901, effective August 13, 2001; amended at 26 Ill. Reg. 18286, effective December 13, 2002; amended at 30 Ill. Reg. 8574, effective April 20, 2006; emergency amendment at 30 Ill. Reg. 12999, effective July 18, 2006, for a maximum of 150 days; emergency expired December 14, 2006; amended at 30 Ill. Reg. 19656, effective December 18, 2006; amended at 34 Ill. Reg. 7205, effective May 5, 2010; amended at 38 Ill. Reg. 15907, effective July 25, 2014; amended at 40 Ill. Reg. 12553, effective September 2, 2016; amended at 47 Ill. Reg. 1672, effective January

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23, 2023; amended at 48 Ill. Reg. 14138, effective September 10, 2024; amended at 50 Ill. Reg. _____, effective _____.

SUBPART A: DENTIST

Section 1220.10 Definitions

"AAOMS" means the American Association of Oral and Maxillofacial Surgeons.

"ACLS" means Advanced Cardiac Life Support.

"Act" means the Illinois Dental Practice Act [225 ILCS 25].

"AMP Exam" means the national Anatomy, Morphology, and Physiology exam administered by DANB.

"Asynchronous System" means the transmission of a patient's healthcare information through an electronic communications system at an originating site to a dentist or dental office at a distant site that does not require real-time or synchronous interaction between the provider and the patient.

"BLS" means current basic life support certification intended for healthcare providers that includes evaluation of hands-on skills and a written exam.

"Board" means the Board of Dentistry authorized by Section 6 of the Act.

"CDCA-WREB" means the Commission on Dental Competency Assessments and Western Regional Examining Board.

"CE" means continuing education.

"CITA" means the Counsel of Interstate Testing Agencies, Inc.

"CODA" means Commission on Dental Accreditation of the American Dental Association.

"CRDTS" means the Central Regional Dental Testing Service.

"DANB" means Dental Assisting National Board, Inc.

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"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation with the authority delegated by the Secretary.

"IS Exam" means the national exam on oral cavity isolation techniques administered by DANB.

"JCNDE" or "Joint Commission" means the Joint Commission on National Dental Examinations.

"LLC" means limited liability company, as defined in Section 1-5 of the Limited Liability Company Act [805 ILCS 180].

"NERB" means the North East Regional Board.

"PALS" means Pediatric Advanced Life Support.

"RF Exam" means the national Restorative Functions exam administered by DANB.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"SRTA" means the Southern Regional Testing Agency, Inc.

"Synchronous System" means the transmission of a patient's healthcare information through a real time, two-way interaction between a patient and a dentist or dental office using audiovisual telecommunications technology.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1220.100 Application for Licensure

An applicant for a license to practice dentistry in Illinois shall file an application on forms

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supplied by the Division that shall include:

- a) For graduates from a dental college or school in the United States or Canada, certification of successful completion of 60 semester hours or its equivalent of college pre-dental education, and graduation from a dental program specified in Section 1220.140.
- b) For graduates from a dental college or school outside of the United States or Canada:
 - 1) Certification of graduation from a dental college or school; and
 - 2) Clinical Training
 - A) Certification from an approved dental college or school in the United States or Canada that the applicant has completed a minimum of 2 years of general dental clinical training at the school in which the applicant met the same level of scientific knowledge and clinical competence as all graduates from that school or college. The 2 years of general dental clinical training shall consist of:
 - i) 2850 clock hours completed in 2 academic years for full-time applicants; or
 - ii) 2850 clock hours completed in 4 years with a minimum of 700 hours per year for part-time applicants; or
 - B) In the alternative, certification, from the program director of an accredited advanced dental education program approved by the Division, of completion of no less than 2 academic years may be substituted for the 2 academic years of general dental clinical training. The accredited advanced dental education program must have sufficient clinical and didactic training. An advanced dental education clinical program in Prosthodontics, pediatric dentistry, periodontics, endodontics, orthodontics, and oral and maxillofacial surgery is acceptable under this Part. An advanced dental education clinical program in Dental Anesthesiology, Dental Public Health, Oral and Maxillofacial Pathology, Oral and

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Maxillofacial Radiology, Orofacial Pain Management, and Oral Medicine are not acceptable under this Part;

- c) The required fee set forth in Section 1220.415(a)(1).
- d) Proof of successful completion of the Theoretical examination given by JCNDE. The passing score shall be determined by JCNDE. The National Board Certificate must be mailed to the Division by JCNDE.
- e) Proof of successful completion of an examination set forth in Section 1220.120(a).
- f) Certification, on forms provided by the Division, from the state in which an applicant was originally licensed and is currently licensed, if applicable, stating:
 - 1) The time during which the applicant was licensed in that state, including the date of the original issuance of the license; and
 - 2) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART D: GENERAL

Section 1220.390 Sanitary Standards

Licensees shall ensure that offices and work environments be kept in clean and sanitary conditions, as required by the Occupational Safety and Health Standards for healthcare facilities, including those in 29 CFR 1910. Licensees shall also follow guidance issued by the Center for Disease Control (CDC) regarding dental practice, including the CDC recommendations from the Centers for Disease Control and Prevention. Guidelines for Infection Control in Dental Health-Care Settings – 2003. MMWR 2003; 52 (No. RR-17) or any successor to such Guidelines. The presence of animals, except for service animals pursuant to the American with Disabilities Act, on the premises of a dental office or work environment constitutes a violation of this Section. Failure to maintain a clean and sanitary office and work environment is grounds for disciplinary action against licenses pursuant to Section 23 of the Act.

(Source: Added at 50 Ill. Reg. _____, effective _____)

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Section 1220.402 Teledentistry

Teledentistry means the use of asynchronous and synchronous telehealth systems and methodologies in dentistry to evaluate, diagnose, provide patient care, education delivery, and interpret electronically transmitted patient-specific data to aid in treatment planning to a patient of record located in a remote location. A dentist may utilize teledentistry for the purpose of treating or assessing for acute pain, infection, injury, or any intraoral or perioral condition on an emergency basis that presents immediate harm or discomfort to the patient for which treatment cannot be postponed.

- a) Teledentistry services shall only be provided to a patient of record as outlined in 225 ILCS 25/17.2(a).
- b) Dental services may be delegated using teledentistry. Delegation of dental services shall be done under the supervision of the dentist.
- c) Dentists providing services through teledentistry shall provide to the patient proof of valid Illinois licensure and the identification of the providers collecting or evaluating their information or providing treatment, as well as the direct telephone number and physical address of the dental practice associated with the licensed dentist.
- d) Patient treatment via teledentistry must be properly documented and consistent with in-person recordkeeping requirements. The treating dentist must provide the patient with a summary of services that were provided via teledentistry. Dentists providing services through teledentistry shall provide to the patient in writing the address of where records will be stored and information on how the patient or the patient's parent or guardian may obtain the patient's dental records.
- e) Patients receiving emergent care via teledentistry must be directed to receive appropriate in-person care following teledentistry service.
- f) A dentist treating a patient located in Illinois must hold an Illinois Dental License.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 1220.415 Fees

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The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
 - 1) The fee for application for initial license as a dentist is \$250.
 - 2) The fee for application as a dental specialist is \$300.
 - 3) The fee for application as a dental hygienist is \$100.
 - 4) Applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 5) The fee for application for a dentist licensed under the laws of another jurisdiction is \$750.
 - 6) The fee for application for a dental hygienist licensed under the laws of another jurisdiction is \$300.
 - 7) The fee for application for a dental sedation permit is \$300.
 - 8) The fee for application for a restricted faculty license is \$250.
 - 9) The fee for application for a temporary training license is \$150.
 - 10) The fee for application as a moderate sedation continuing education sponsor is \$1,000.
 - 11) The fee for application for a temporary visiting dentist is \$100.
 - 12) The fee for application for live patient clinical training is \$100.
- b) Renewal Fees

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- 1) The fee for the renewal of a license as a dentist is \$300 (\$100 per year), pursuant to Section 21 of the Act.
- 2) The fee for the renewal of a license as a dental specialist is \$300 (\$100 per year), pursuant to Section 21 of the Act.
- 3) The fee for the renewal of a license as a dental hygienist is \$150 (\$50 per year), pursuant to Section 21 of the Act.
- 4) The fee for the renewal of a sedation permit is \$300 (\$100 per year).
- 5) The fee for the renewal of a license as a moderate sedation continuing education sponsor is \$700.
- 6) The fee for the renewal of a restricted faculty license is \$150.
- 7) The fee for the renewal of a temporary visiting dentist is \$100.

c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) ~~The fee for a roster of persons licensed in this State under the Act shall be the actual cost of producing the roster.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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Section 1220.440 Continuing Education

- a) Continuing Education Hours Requirements
 - 1) Each person who applies for renewal of a license as a dentist shall have completed 48 hours of continuing education (CE) relevant to the practice of dentistry during the prerenewal period.
 - 2) Each person who applies for renewal of a license as a dental hygienist shall have completed 36 hours of CE relevant to the practice of dental hygiene during the prerenewal period.
 - 3) A prerenewal period is the 36 months preceding September 30 of the year of the renewal.
 - 4) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of a dental or dental hygienist license.
 - 5) Continuing education is not required to renew a dental specialty license. The holder of a dental specialty license is, however, required to complete 48 hours to renew the dental license.
 - 6) Dentists or dental hygienist licensed in Illinois but residing in other states shall comply with the CE requirements set forth in this Section.
 - 7) Continuing education credit for hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois.
- b) Approved Continuing Education/Continuing Education Sponsors
 - 1) All CE courses shall be relevant to the treatment and care of patients and shall be:
 - A) Clinical courses in dentistry and dental hygiene; or
 - B) Nonclinical subjects that relate to the skills necessary to provide

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dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this definition include, but are not limited to, estate planning, financial planning, investments and personal health.

- 2) CE credit may be earned for verifiable attendance at or participation in any courses that meet the requirements of subsection (b)(1) given by one of the following sponsors:
 - A) American Dental Association and National Dental Association, its constituent and component/branch associations and the American Dental Association Continuing Education Recognition Programs;
 - B) American Dental Hygienist's Association and National Dental Hygienist's Association, its constituent and component/branch associations;
 - C) Dental programs approved by the Division as meeting minimum standards for an approved curriculum in dentistry under Section 1220.140 and dental hygiene programs approved under Section 1220.250;
 - D) Organizations of specialties recognized by the American Dental Association and its constituent and component/branch associations, which are:
 - i) Oral and maxillofacial surgery;
 - ii) Endodontics;
 - iii) Pediatric dentistry;
 - iv) Prosthodontics;
 - v) Orthodontics;
 - vi) Periodontology;

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vii) Oral and maxillofacial radiology;

E) Academy of General Dentistry, its constituent and component/branch associations and approved sponsors and the Academy of General Dentistry Program Approval for Continuing Education;

F) American Dental Society of Anesthesiology and its constituent and component/branch associations;

G) Community colleges with an approved dental hygiene program if offered under the auspices of the dental hygiene program;

H) A college or university accredited by an agency approved by the U.S. Office of Education or a community college approved by the Illinois Community College Board;

I) A hospital that has been accredited by the Joint Commission on Accreditation of Healthcare Organizations;

J) The American Heart Association and the American Cancer Society;

K) A medical school that is accredited by the American Medical Association's Liaison Committee for Medical Education;

L) American Medical Association (AMA), specialty medical associations/organizations, the Accreditation Council on Continuing Medical Education;

M) Federal and State government agencies (i.e., dental division, military dental division, Veterans' Administration, etc.);

N) A sponsor whose course is approved by the National Board for Certification in Dental Laboratory Technology; or

O) ~~A person, firm or association approved by the Division in accordance with subsection (e).~~

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- 3) CE credit may be earned for completion of an individual study course (correspondence, audio or video course) sponsored by an approved sponsor. The courses shall include a test that the licensee must pass to obtain credit. No more than 50% of the required CE credit hours during a prerenewal period may be acquired through correspondence courses.
- 4) CE credit may be earned from teleconferencing courses with a moderator present given by an Illinois approved sponsor.
- 5) CE credit may be earned from courses leading to an advanced degree or specialty in dental or dental hygiene. The courses shall be allotted CE credit at the rate of 15 CE hours for each semester hour and 10 CE hours for each quarter hour of school credit awarded.
- 6) CE credit may be earned as an instructor of continuing education courses given by approved sponsors. Credit will be applied for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations). No more than 50% of the required CE credit hours during a prerenewal period may be acquired through teaching continuing education courses.
- 7) CE credit may be earned for presenting volunteer community oral health education programs. Credit will be applied for each hour of presentation documented by the program director. No more than 2 hours of the required CE credit hours during a prerenewal period may be acquired through presentation of volunteer community oral health education programs.
- 8) Continuing education hours required by a disciplinary order shall not be used to satisfy the continuing education requirements for license renewal.
- 9) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an Illinois approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (b)(1). Applicants may seek individual program approval prior to participation in the course or program. All individual

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program approval requests shall be submitted prior to the expiration date of the license.

- e) ~~Sponsor Application Pursuant to Subsection (b)(2)(O)~~
- f) ~~Entities seeking approval as CE sponsors pursuant to subsection (b)(2)(O) shall file an application, on forms supplied by the Division, along with the fee set forth in Section 1220.415(a)(9). The applicant shall certify on the application the following:~~
 - A) ~~That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (b)(1) and all other criteria in this Section;~~
 - B) ~~That the sponsor will be responsible for providing a certificate of attendance and will maintain attendance records for at least 5 years. The certificate of attendance shall contain:~~
 - i) ~~The name and address of the sponsor;~~
 - ii) ~~The name, address and license number of the participant;~~
 - iii) ~~A brief statement of the subject matter;~~
 - iv) ~~The number of hours attended in each program;~~
 - v) ~~An indication of whether the program fulfills CE requirements for dentist, dental hygienist or both;~~
 - vi) ~~The date and place of the program; and~~
 - vii) ~~The signature of the sponsor;~~
 - C) ~~That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with this Part and that the information is necessary to ensure compliance.~~

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2) ~~To maintain approval as a sponsor, each sponsor shall submit to the Division by September 30 of each even numbered year a renewal application, the fee set forth in Section 1220.415(b)(5) and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.~~

3) ~~The sponsor shall be responsible for ensuring that any dentist or dental hygienist who will be performing some type of procedure as a part of a continuing education course shall have a current license in Illinois or another jurisdiction.~~

cd) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, to full compliance with the CE requirements set forth in subsection (a).
- 2) The Division may require additional evidence (e.g., certificate of attendance, transcripts and proof of registration) demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of the compliance. The evidence shall be retained for at least 5 years following the renewal period in which the CE was taken.
- 3) The Division may conduct random audits to verify compliance with CE requirements.
- 4) When there is evidence of a lack of compliance with CE requirements, an applicant shall be notified in writing and may request a hearing before the Board. The Division may recommend that steps be taken to begin the formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of the license or certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning the noncompliance, a request for waiver of the CE

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requirements on the basis of the facts and, if desired, a request for an interview before the Board. If the Division finds, from the statement or any other evidence submitted, that good cause has been shown for granting a waiver of the CE requirements, or any part thereof, the Division shall waive enforcement of those requirements for the renewal period for which the applicant has applied.

- 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of that period;
 - B) A temporary incapacitating illness documented by a licensed physician. A second, consecutive request for a CE waiver pursuant to this subsection (e)(2)(B) shall be *prima facie* proof that the renewal applicant has a physical or mental illness, including, but not limited to, deterioration through the aging process, or loss of motor skills that results in the dentist's inability to practice dentistry with reasonable judgment, skill or safety, in violation of Section 23(24) of the Act, and shall be grounds for denial of the renewal or other discipline;
 - C) Temporary undue hardship (e.g., prolonged hospitalization, being disabled and unable to practice dentistry or dental hygiene on a temporary basis).
- 3) If an interview is requested at the time the request for waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1220.442 Recordkeeping Requirements

Records must be maintained in accordance with 225 ILCS 25/50. Upon receiving a written request or authorization from a patient or their representative, dentists shall provide copies of the

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patient's dental records within 15 days of receiving the request. Patient treatment via teledentistry must be properly documented and consistent with in-person recordkeeping requirements.

(Source: Added at 50 Ill. Reg. _____, effective _____)

SUBPART E: ANESTHESIA PERMITS

Section 1220.505 Minimal Sedation in the Dental Office Setting

- a) Minimal sedation includes the prescription or administration of a pharmacologic anxiolitic either with or without concomitant use of nitrous oxide dental analgesia. The drugs and/or techniques used must carry a margin of safety wide enough to prevent a depressed level of consciousness.
- b) No permit is required beyond the dental license~~D.D.S. or D.M.D. degrees~~.
- c) Minimal monitoring of the patient is to be by clinical observation and appropriately documented in the patient's record.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1220.510 Moderate Sedation (Conscious Sedation) in the Dental Office Setting

- a) Moderate sedation (conscious sedation) includes the prescription or administration of pharmacologic agents to be used for the purposes of moderate sedation. Moderate sedation (conscious sedation) must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.) The drugs and/or techniques used must carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
- b) A licensed dentist seeking a Permit A for moderate sedation (conscious sedation) administration privileges shall file an application with the Division, on forms provided by the Division, that shall include:
 - 1) Certification of completion of an anesthesiology training program that meets one of the following requirements:

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A) Include a minimum of 75 hours of didactic and supervised clinical study in a CODA-accredited dental specialty, general practice dentistry, or advanced education in a general dentistry residency program that includes training and documentation in moderate sedation (conscious sedation) techniques appropriate for each specialty, or a CODA-accredited dental anesthesiology residency program, physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing moderate sedation to 20 or more patients;~~and~~

B) Applicants who have graduated from a CODA-accredited residency program as detailed in subsection (b)(1)(A), and whose sedation cases are older than 5 years from the date of application, will be required to obtain supervised experience and documentation in providing moderate sedation to 20 or more patients under the supervision of a dentist who holds a Permit A or Permit B or a physician anesthesiologist, pre-approved by the Board. Each applicant must individually manage and be the sole provider of anesthesia for each case. Of the 20 cases, at least 5 must utilize the intravenous route of moderate sedation administration regardless of the dental specialty program attended. Any sedation case that falls outside of the 5 years will not be considered and will have to be newly submitted.~~Be an organized sequence of study operated by one entity and completed in less than one calendar year;~~

C) A structured course of study provided by a Board approved continuing education provider that includes training and documentation in moderate sedation, physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies and monitoring with additional supervised experience and documentation demonstrating competence in providing moderate sedation utilizing enteral and parenteral routes of administration of medications to competency to at least 20 individual patient experiences on a 1 to 1 ratio with an instructor, in which the applicant is the sole provider of sedation over

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continuous time frame as set by the Department and as provided in the American Dental Association's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students.

D) A moderate sedation continuing education program shall meet the following requirements:

i) The curriculum must include at least 75 hours of didactic study over the course of at least 4 months and must include education in the following:

- Advanced airway management;
- Physical evaluation;
- Venipuncture;
- Technical administration;
- Recognition and management of complications and emergencies;
- Pharmacology;

ii) There must be at least two months of didactic study prior to clinical cases beginning;

iii) Supervised experience and documentation demonstrating competence in providing moderate sedation utilizing enteral and parenteral routes of administration to at least 20 individual patient experiences on a 1 to 1 ratio with an instructor, in which the applicant is the sole provider. Case times cannot overlap. All 20 cases must include the intravenous route of administration;

iv) There shall be no more than three sedation cases per day and no more than 10 sedation cases per every 30 day period;

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- v) Patient simulator technology must be utilized for emergency situation training;
 - vi) The didactic and clinical instructor must have educational experience equivalent to or greater than the requirements for a Permit B or greater in Illinois, hold a dental license in their state, and be eligible to administer sedation in the state where they are licensed;
 - vii) Each approved CE provider providing moderate sedation courses must be American Dental Association-Continuing Education Recognition Program approved;
 - viii) A course syllabus must be provided with the course materials to the Board for approval;
 - ix) The required fee set forth in 1220.415; and
 - x) Each course must receive Board approval prior to commencement.
- 2) Each institution shall attest, on forms provided by the Division, to the competence of the permit candidate including, but not limited to: American Society of Anesthesiologists patient status classification; knowledge of agents' pharmacology; venipuncture ability; recognition and management of complications and/or emergencies; airway assessment and management; monitor/record contemporaneously drugs/dosage; monitor/record contemporaneously vital signs (blood pressure, pulse, oxygen saturation, end tidal carbon dioxide); monitor continuous EKG; and recording pre-operative, intra-operative, and post-operative treatment;

32) A signed affidavit certifying that:

- A) the dentist will practice in a facility properly equipped in accordance with subsection (g) for the administration of moderate sedation (conscious sedation);
- B) the facility will be staffed with a team, supervised by the applicant, that will remain in the treatment room. For each patient, the

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anesthesia team will consist of at least:

- i) the dentist who holds the Permit A;
- ii) one dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of sedation; and
- iii) one additional hygienist or dental assistant;

C) the dentist permit holder will remain immediately available to the patient after being treated under moderate sedation. A dental hygienist or dental assistant trained to monitor a patient under moderate sedation will remain with the sedated patient until the patient is no longer sedated;

D) all members of the anesthesia team are capable of assisting with procedures, problems and emergencies incident to the administration of sedation and will maintain current certification in BLS; and

E) for the dentist permit holder, the BLS certification is in addition to the required 9 sedation technique CE hours (see subsection (k)) required per renewal cycle;

43) Proof of current ACLS certification or PALS certification; and

54) The required fee set forth in Section 1220.415.

c) Dentists who have a current valid permit for moderate sedation (conscious sedation) issued by the Division shall be permitted to administer without additional application.

d) In accordance with the standards set forth in this Section, the Division will:

- 1) Issue a moderate sedation (conscious sedation) permit (Permit A).

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- 2) Re-issue a moderate sedation (conscious sedation) permit to Permit A holders who:
 - A) attest to completing continuing education; and
 - B) Certify that the Permit A holder maintains proper equipment and facility requirements pursuant to subsection (g) of this Section.
- e) Licensees qualified to administer deep sedation (Permit B) pursuant to Section 1220.520 may administer moderate sedation (conscious sedation) without a Permit A.
- f) If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board, because of discrepancies or conflicts in information, needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities, equipment and personnel may be conducted by the Division or a member of the Board's Anesthesia Review Panel.
- g) A properly equipped facility for the administration of moderation sedation (conscious sedation) shall include at minimum:
 - 1) Sphygmomanometer and stethoscope;
 - 2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an emergency backup system;
 - 3) Emergency drugs and equipment appropriate to the medications administered;
 - 4) Suction equipment, including an emergency backup suction system;
 - 5) An emergency backup lighting system that will permit the completion of any operation underway;
 - 6) A pulse oximeter;

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- 7) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;
- 8) Advanced airway devices that would isolate the trachea and facilitate positive pressure oxygen administration in sizes appropriate for the patient population being served (e.g., endotracheal tubes or laryngeal mask airway);
- 9) Tonsillar or pharyngeal suction tips adaptable to all office outlets;
- 10) Nasal and oral airways in sizes appropriate to the patient population being served;
- 11) Defibrillator (an automated external defibrillator is an acceptable defibrillator);
- 12) Equipment for the establishment of an intravenous infusion;
- 13) An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; and
- 14) A recovery area that has available oxygen, lighting, suction and electrical outlets. The Permit A holder shall remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.

h) The following records shall be kept during the administration of moderate sedation (conscious sedation):

- 1) Medical history of the patient and consent for administration of anesthesia prior to the performance of any procedure;
- 2) Preoperative, intraoperative and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation. A time based record shall be entered into the patient's chart;
- 3) Drugs and dosages of these drugs used during the operative procedure,

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including the identification of the person administering drugs and times of their administration over the course of the procedure.

- i) The dentist who holds the Permit A shall report adverse occurrences to the Division and the Board as required by Section 1220.405.
- j) A licensed dentist shall hold Permit A in order to perform dentistry while a licensed certified nurse anesthetist administers moderate sedation (conscious sedation). For purposes of this Section, a~~A~~ nurse anesthetist ~~for purposes of this Section~~ is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the Nurse Practice Act [225 ILCS 65]. The dentist shall enter into a written collaborative agreement with the nurse anesthetist consisting of the requirements of this section as follows: A certified registered nurse anesthetist who provides anesthesia services in a dental office shall enter into a written collaborative agreement with the operating dentist performing the procedure. The agreement shall describe the working relationship of the nurse anesthetist and the operating dentist and shall authorize the categories of care, treatment, or procedures to be performed by the nurse anesthetist. In a collaborating dentist office, the nurse anesthetist may only provide those services that the operating dentist with the appropriate permit is authorized to provide as found in 68 Ill. Adm. Code 1220.510 and 1220.520. For anesthesia services, the operating dentist shall approve the anesthesia plan prepared by the nurse anesthetist and shall remain physically present and be available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. The nurse anesthetist may select, order, and administer medications, including controlled substances, and apply appropriate medical devices for delivery of anesthesia services under the anesthesia plan agreed with by the operating dentist.
- k) Proof of 9 hours of continuing education per renewal cycle in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit A.
- l) A treating dentist does not need to hold Permit A to perform dentistry when another dentist, who holds Permit A or Permit B, or a physician or dental anesthesiologist assists the treating dentist by administering moderate sedation (conscious sedation). For purposes of this Section, Physician ~~for purposes of this Section~~ means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60] and is authorized

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to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is a Board-certified anesthesiologist.

- 1) The treating dentist shall be prepared to provide affidavits to the following if requested by the Division:
 - A) That the facility used for sedation meets the criteria of subsection (g) of this Section;
 - B) That the dentist shall staff the facility with a team, supervised by the permit holder or physician, that includes a minimum of 3 individuals per patient. The team shall be composed of either:
 - i) One dental hygienist or dental assistant; the treating dentist; and the dentist who holds a Permit A or B providing the anesthesia services; or
 - ii) One dental hygienist or dental assistant; the treating dentist; and a dental anesthesiologist or physician performing the anesthesia services.
 - C) That the permit holder or physician will remain immediately available to the patient after being treated under moderate sedation. A dental hygienist or dental assistant trained to monitor a patient under moderate sedation will remain with the sedated patient until the patient is no longer sedated.
- 2) All team members ~~of the team~~, including the treating dentist (non-permit holder) must maintain current BLS certification or its equivalent.
- 3) In addition, the dentist (non-permit holder) shall report adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility to verify the certification and licensure of any licensed provider present during the moderate sedation (conscious sedation) of a patient who is receiving dental care.

m) A dentist holding a Permit A shall maintain current ACLS or PALS certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle.

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- n) A dentist holding a Permit A shall maintain a logbook indicating the sedation cases performed. The log shall include the patient name, date, route of sedation administration, drug name and dosage, and the names of anesthesia team members assisting. This information shall be supplied to the Division upon request.
- o) A dentist holding a Permit A must also hold an active Illinois Controlled Substances License and current federal Drug Enforcement Administration registration.
- p) All permit holders' premises are subject to periodic inspection and evaluation by the Division.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting

Deep sedation and general anesthesia must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.)

- a) A licensed dentist seeking a permit to administer deep sedation or general anesthesia shall make application to the Division, on forms provided by the Division, that shall include:
 - 1) Certification of meeting one or more of the following:
 - A) Completion of a minimum of 2 years of advanced training in anesthesiology beyond the pre-doctoral level, in a training program approved by the American Dental Association, Commission on Dental Education, as outlined in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, Commission on Dental Education (October 2012).
 - B) Be a diplomate of the American Board of Oral and Maxillofacial Surgery.

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~~C~~ ~~E~~ ~~Have an active, approved application with the American Board of Oral and Maxillofacial Surgery to obtain diplomat status.~~

~~C~~~~D~~ Have a specialty license in oral and maxillofacial surgery issued by the Division;

2) A signed affidavit certifying that:

A) the dentist will practice in a facility properly equipped in accordance with subsection (d) for the administration of deep sedation and general anesthesia;

B) the facility will be staffed with an anesthesia team, supervised by the applicant, that will remain in the treatment room during the procedure on the patient. For each patient, the anesthesia team will consist of at least:

i) the dentist who holds the permit B;

ii) one dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; and

iii) one additional hygienist or dental assistant;

C) the dentist permit holder will remain immediately available to the patient after being treated under deep sedation or general anesthesia. A dental hygienist or dental assistant trained to monitor a patient under deep sedation or general anesthesia will remain with the sedated patient until the patient is no longer sedated;

D) all members of the anesthesia team are capable of assisting with procedures, problems and emergencies incident to the administration of sedation and will maintain current certification in BLS or its equivalent; and

E) for the dentist permit holder, the BLS certification is in addition to

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the required 9 sedation technique CE hours (see subsection (h)) required per renewal cycle;

- 3) Proof of current ACLS or PALS certification; and
- 4) The required fee set forth in Section 1220.415.

b) In accordance with the standards set forth in this Section, the Division will issue a deep sedation or general anesthesia permit (Permit B).

c) If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board because of discrepancies or conflicts in information needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities, equipment and personnel may be conducted by the Division or a member of the Board's Anesthesia Review Panel.

d) A properly equipped facility for the administration of deep sedation or general anesthesia shall include, at a minimum:

- 1) Sphygmomanometer and stethoscope;
- 2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an emergency backup system;
- 3) Emergency drugs and equipment appropriate to the medications administered;
- 4) Suction equipment, including an emergency backup suction system;
- 5) An emergency backup lighting system that will permit the completion of any operation underway;
- 6) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;
- 7) Endotracheal tubes and connectors in sizes appropriate for the patient

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population being served;

- 8) Tonsillar or pharyngeal suction tips adaptable to all office outlets;
- 9) Nasal and oral airways in sizes appropriate to the patient population being served;
- 10) Device for monitoring temperature (e.g., temperature strips, thermometer);
- 11) Electrocardioscope and defibrillator (an automated external defibrillator is an acceptable defibrillator);
- 12) Pulse oximeter;
- 13) Equipment for the establishment of an intravenous infusion;
- 14) An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; and
- 15) A recovery area that has available oxygen, lighting, suction and electrical outlets. The Permit B holder shall remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.

e) The following records shall be kept when administering deep sedation and general anesthesia:

- 1) Medical history and patient evaluation prior to the performance of any procedure;
- 2) Preoperative, intraoperative, and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation. A time based record shall be entered into the patient's chart;
- 3) EKG monitoring during the entire procedure;
- 4) Drugs and dosages of agents used during the operative procedure,

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including nitrous oxide and oxygen, and including identification of the person administering drugs and times of their administration over the course of the procedure. Documentation of the anesthetic encounter will be consistent with currently accepted standards of anesthetic practice.

- f) The dentist who holds the Permit B shall report adverse occurrences to the Division and the Board as required by Section 1220.405.
- g) A licensed dentist shall hold a Permit B in order to perform dentistry while a licensed certified nurse anesthetist administers deep sedation or general anesthesia. A nurse anesthetist for purposes of this Section is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the Nurse Practice Act. The dentist shall enter into a written collaborative agreement with the nurse anesthetist in accordance with the following:
 - 1) A certified registered nurse anesthetist who provides anesthesia services in a dental office shall enter into a written collaborative agreement with the operating dentist performing the procedure. The agreement shall describe the working relationship of the nurse anesthetist and the operating dentist and shall authorize the categories of care, treatment, or procedures to be performed by the nurse anesthetist. In a collaborating dentist office, the nurse anesthetist may only provide those services that the operating dentist with the appropriate permit is authorized to provide as found in 68 Ill. Adm. Code 1220.510 and 1220.520.
 - 2) For anesthesia services, the operating dentist shall approve the anesthesia plan prepared by the nurse anesthetist and shall remain physically present and be available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. The nurse anesthetist may select, order, and administer medications, including controlled substances, and apply appropriate medical devices for delivery of anesthesia services under the anesthesia plan agreed with by the operating dentist.
- h) Proof of 9 hours of continuing education per renewal cycle in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit B.
- i) A treating-dentist does not need to hold Permit B to perform dentistry when

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another dentist, who holds Permit B, or a physician or dental anesthesiologist assists the treating dentist by administering deep sedation or general anesthesia. Physician for purposes of this Section means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 and is authorized to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is a Board-certified anesthesiologist.

- 1) The treating dentist shall be prepared to provide affidavits attesting to the following if requested by the Division:
 - A) That the facility used is equipped as specified in subsection (d);
 - B) That the dentist shall staff the facility with a team, supervised by the Permit B holder or physician, that includes a minimum of 3 individuals per patient. The team shall be composed of either:
 - i) One dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; the treating dentist; and the dentist who holds a Permit B providing the anesthesia services;
 - ii) One dental hygienist or dental assistant; the treating dentist; and a physician providing the anesthesia services; or
 - iii) One dental hygienist or dental assistant; the treating dentist; and a dental anesthesiologist providing the anesthesia services.
 - C) That the Permit B holder will remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.
- 2) All members of the anesthesia team, including the treating dentist (non-Permit B holder) must maintain certification in BLS or its equivalent.

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- 3) In addition, the dentist shall report severe adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility for verifying certification and licensure of any licensed provider present during the deep sedation or general anesthesia of a patient receiving dental care.
- j) A dentist holding a Permit B shall maintain current ACLS or PALS certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle.
- k) A dentist holding a Permit B shall maintain a logbook indicating the sedation cases performed. The log shall include the patient name, date, route of sedation administration, drug name and dosage, and the names of anesthesia team members assisting. This information shall be supplied to the Division upon request.
- l) A dentist holding a Permit B must also hold an active Illinois Controlled Substances License and current federal Drug Enforcement Administration registration.
- m) All permit holders' premises are subject to periodic inspection and evaluation by the Division.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1220.530 Anesthesia Review Panel (Repealed)

- a) ~~The Director may appoint an Anesthesia Review Panel that shall consist of six members.~~
- b) ~~The members shall meet the following minimum requirements:~~
 - 1) ~~Each member shall be a licensed dentist in the State of Illinois whose license is active and in good standing;~~
 - 2) ~~Three members shall hold an active Permit A;~~
 - 3) ~~Three members shall hold an active Permit B.~~

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e) ~~The Panel shall:~~

- 1) ~~Meet only at the direction of the Director;~~
- 2) ~~Be reimbursed for all legitimate, necessary and authorized expenses incurred in attending the meetings of the panel;~~
- 3) ~~Review Permit A and Permit B applications at the request of the Director;~~
- 4) ~~Recommend to the Director the eligibility of applicants;~~
- 5) ~~Recommend to the Director when an on site inspection may be necessary and conduct an inspection with a Board member present;~~
- 6) ~~Evaluate results of on site inspection and make recommendation to the Director as to eligibility of applicants; and~~
- 7) ~~Advise the Director in regard to anesthesiology related matters that include mortality and morbidity statistics.~~

d) ~~Each Panel member shall serve a 4 year term and may be appointed once.~~

(Source: Repealed at 50 Ill. Reg. _____, effective _____)

Section 1220.560 Restoration of Permits

- a) A licensee seeking restoration of a permit after it has expired for 12 months or less shall have the permit restored upon payment of \$5020 plus the current renewal fee. The licensee shall also submit certification of anesthesia cases as provided in Section 1220.525(d) and the records required to be kept pursuant to Section 1220.510(n) or 1220.520(k), as appropriate to the permit held, of all anesthesia cases performed since the permit was last renewed. The permit will be restored if the Division finds that the applicant is competent to provide anesthesia services appropriate to the permit for which restoration is sought.
- b) A licensee seeking restoration of a permit after it has expired for more than 12 months shall file an application, on forms supplied by the Division, together with the fees required by Section 1220.415. The licensee shall also submit:

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- 1) Sworn evidence of lawful active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
- 2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of the permit within 2 years after termination of such service, he/she shall have the permit restored without paying any lapsed renewal or restoration fees; or
- 3) For Permit A restoration, proof of the training set forth in Section 1220.510(b)(1), 18 hours of continuing education in subjects included in Section 1220.510(k) taken 2 years prior to application, and must have an active and unencumbered dentist license; or
- 4) For Permit B restoration, proof of the training set forth in Section 1220.520(a)(1), 18 hours of continuing education in subjects included in Section 1220.520(h) taken 2 years prior to application, and must have an active and unencumbered dentist license.

- c) When proof of remedial training is provided, the permit shall not be restored unless and until the Board has reviewed and approved the training. The Board may require the renewal applicant to obtain additional training when it finds that the training completed was not sufficient.
- d) A licensee who has been granted restoration, whose license has not been active for less than 5 years due to discipline, and whose license expired during the period of discipline, must comply with the requirements of subsection (a). If the licensee has not had an active license for 5 years or more due to discipline, the licensee must show proof of certification of training pursuant to Sections 1220.510(b) and/or 1220.520(a) or shall be required to complete such additional testing, training, or remedial education as the Board may deem necessary in order to establish the licensee's present capacity to practice dentistry with reasonable judgment, skill and safety.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cannabis Regulation and Tax Act
- 2) Code Citation: 68 Ill. Adm. Code 1291
- 3) Section Number: 1291.345 Proposed Action: New Section
- 4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705].
- 5) A Complete Description of the Subjects and Issues Involved: Several provisions of the Cannabis Regulation and Tax Act require an applicant seeking to operate a dispensing organization to propose a location at least 1,500 feet away from certain other dispensing organizations (absent a statutory exception). The Department receives applications for licensure under the Act, and it must interpret and apply these 1,500-feet provisions when evaluating whether an application to open or relocate a dispensary at a particular location complies with the Act. Applicants seeking licensure for, and licensed operators of, dispensing organizations have demonstrated disagreement and misunderstanding about the meaning of the Act's 1,500-feet provisions. To prevent applicants investing time and money in locations that the Department will not approve, or avoiding locations that the Department would approve, based on a misreading of the Act, the Department seeks to formally construe the Act's 1,500-feet provisions and, thus, provide clarity on which locations comply with the Act.

Importantly, the Act currently provides an exception for Social Equity Applicants and Social Equity Justice Involved Applicants to operate within 1,500 feet of dispensing organizations who were licensed pursuant under Section 15-15 (Early Approval Adult Use Dispensing Organization License) or Section 15-20 (Early Approval Adult Use Dispensing Organization License at a secondary site). This proposed amendment will not impact these exceptions.

Through this proposed amendment, the Department is engaging in interpretive rulemaking concerning Subsections 15-25(e), 15-35(c), 15-35.10(c), and 15-70(p)(15) of the Cannabis Regulation and Tax Act. Subsection 15-70(p)(5) generally requires an operating dispensary – those with an Adult Use Cannabis Dispensing Organization License – not to be "located within 1,500 feet of the property line of a pre-existing dispensing organization". Relatedly, Subsections 15-25(e), 15-35(c), and 15-35.10(c) generally require an applicant planning to pursue a license for a dispensary – those with a Conditional Adult Use Cannabis Dispensing Organization License – to identify, within

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"180 days from the date of award (of the Conditional License"), "a physical location for the dispensing organization retail storefront" and "evidence that the location is not within 1,500 feet of an existing dispensing organization". Although the Act provides a definition of a "dispensing organization", it does not provide a definition of other relevant terms such as "pre-existing", "existing", "property line", and "retail storefront".

This proposed amendment would cohesively interpret the four statutory provisions. It would clarify that, for a given Conditional Licensee, the group of "existing dispensing organizations" – those that the Conditional Licensee's proposed location must be more than 1,500 feet from (absent a statutory exception) – means the dispensing organizations that were issued an Adult Use License before the Conditional Licensee was awarded its Conditional License. And, if the proposed location satisfies this 1,500 feet restriction, the applicant would be allowed to open and operate a dispensary at that location if and when it is issued an Adult Use License (i.e., the group of "existing dispensaries" during the Conditional License phase is the same as the group of "pre-existing dispensaries" during the Adult Use License phase). The proposed amendment would also clarify analogous situations when an operational dispensary seeks to relocate.

Additionally, the proposed amendment describes from where the 1,500 feet measurement is made. Consistent with the Act's use of "facility" (within the definition of "dispensing organization") and "retail storefront", the "property lines" are the outer perimeters of the relevant buildings or building units, and the measurement is made between the closest points on those property lines.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, IL 62786

(217) 785-0810
Fax: (217) 557-4451
Craig.Cellini@illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed amendments: Those licensed under the Act may be affected.

B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the amendments: None

C) Description of the types of professional skills necessary for compliance: None

14) Small Business Economic Impact Analysis: This proposed rulemaking should have no adverse impact on small businesses. Any positive or negative impacts on small business related to compliance with the Act's 1,500 feet provisions were set by the Act itself, not this proposed amendment. The proposed amendment would simply construe the 1,500 feet provisions in accordance with statutory interpretation principles to provide greater clarity as to the meaning of the 1,500 feet provisions. This clarity will likely have a positive economic impact on small businesses because the current lack of clarity has likely led to wasted time, energy, and resources of at least some small businesses who operate, or seek to operate, a dispensing organization licensed by the Department.

A) Types of businesses subject to the proposed amendment (Check all that apply):

44-45 Retail Trade

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B) Estimated number of small business subject to the proposed amendment: 500

C) Categories that the agency reasonably believes the rulemaking will impact, including (Check all that apply):

ii. regulatory requirements

D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed amendment: None

E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: None

F) Statement of the probable positive or negative economic effect on small business:
The proposed amendment would positively impact many dispensaries because it will help prevent newer dispensaries from wasting time and money building out a location that may ultimately be unlawful.

G) Description of any less intrusive or costly alternative methods of achieving the purposes of the amendment: None

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on any Regulatory Agenda. The Department has deemed it necessary to propose this interpretive rulemaking because applicants seeking licensure for, and licensed operators of, dispensing organizations under the Act have demonstrated disagreement and misunderstanding about the meaning of the Act's 1,500-feet provisions, including in public court filings. The Department is now aware of multiple, independent instances of such disagreement and misunderstanding, and the Department is concerned that, absent rulemaking, future instances will arise. It is therefore proposing this interpretive amendment to clarify the meaning of the Act's 1,500-feet provisions and, thus, avoid wasted rested resources by applicants and licensees.

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups. None

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The full text of the Proposed Amendment begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1291
CANNABIS REGULATION AND TAX ACT

SUBPART A: GENERAL PROVISIONS

Section	
1291.10	Definitions
1291.11	Granting Variances
1291.15	Dispensing Organization Fees and Renewals
1291.20	Agent Fees, Application, and Credentialing
1291.25	Agent-In-Charge Fees, Application, and Credentialing
1291.30	Principal Officer Fees, Application, and Credentialing
1291.50	Tied Applicant Lottery Conducted in 2021
1291.60	Unprofessional, Dishonorable, or Unethical Conduct
1291.70	Grounds for Discipline
1291.90	Disciplinary and Non-Disciplinary Actions and Petitions for Rehearing or Reconsideration Pursuant to Section 55-50 of the Act
1291.95	Tax Delinquency

SUBPART B: RESPONSIBLE VENDOR PROGRAM

Section	
1291.100	Application and Approval Process
1291.110	Curriculum Requirements
1291.120	Programmatic Requirements
1291.130	Responsible Vendor Provider Recordkeeping
1291.140	Closure of an Approved Program

SUBPART C: CHANGES TO DISPENSING ORGANIZATIONS

Section	
1291.200	Cosmetic and Non-Cosmetic Changes to Dispensing Organization Operations
1291.210	Change of a License's Entity or Ownership or Control Structure and the Sale or Transfer of a License
1291.211	Required Documents and Actions for Change of Ownership or Sale or Transfer of

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	a License Application
1291.212	Prohibitions and Denials
1291.213	Exceptions to the Change of Ownership Request Requirement
1291.214	Consultant and Conditional Management Service Agreements Exception
1291.215	Death, Incapacity, and Receivership of a Principal Officer
1291.220	Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site
1291.225	Relocation of an Adult Use Dispensing Organization License
1291.230	Changes to a Conditional Adult Use Dispensing Organization License and Location Parameters

SUBPART D: DISPENSING ORGANIZATION REQUIREMENTS

Section	
1291.300	Security Requirements
1291.301	Minors Prohibited in Dispensary
1291.305	Signage
1291.308	Purchaser Privacy
1291.310	Inventory Control System
1291.320	Returns and Refunds
1291.325	Destruction of Cannabis and Cannabis Infused Products
1291.330	Recalls and Product Safety
1291.335	Sale of Non-Cannabis Items
1291.340	Onsite Consumption Lounges
<u>1291.345</u>	<u>1,500 Feet Requirement</u>

SUBPART E: SOCIAL EQUITY CRITERIA LOTTERY

Section	
1291.400	Conditional License Lottery under Section 15-35.20(c) of the Act
1291.405	Conditional License Distribution under Section 15-35.20(c) of the Act
1291.410	Conditional License Lottery Application under Section 15-35.20(c) of the Act
1291.420	Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act
1291.440	Conditional Licensee Requirements under Section 15-35.20(c) of the Act

AUTHORITY: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705].

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SOURCE: Adopted by emergency rulemaking at 43 Ill. Reg. 14934, effective December 9, 2019, for a maximum of 180 days; emergency rule expired June 5, 2020; adopted at 44 Ill. Reg. 14103, effective August 24, 2020; emergency amendment at 45 Ill. Reg. 9586, effective July 15, 2021, for a maximum of 150 days; Subpart B of the emergency amendment suspended by the Joint Committee on Administrative Rules at 45 Ill. Reg. 10881, effective August 18, 2021; suspension withdrawn at 45 Ill. Reg. 12206, effective September 16, 2021; emergency amendment to emergency rule at 45 Ill. Reg. 11851, effective September 16, 2021, for the remainder of the 150 days; emergency amendment at 45 Ill. Reg. 13442, effective October 12, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 16320, effective December 7, 2021; amended at 46 Ill. Reg. 2660, effective January 28, 2022; amended at 46 Ill. Reg. 20783, effective December 13, 2022; amended at 48 Ill. Reg. 13377, effective August 20, 2024; amended at 50 Ill. Reg. _____, effective _____.

SUBPART D: DISPENSING ORGANIZATION REQUIREMENTS

Section 1291.345 1,500 Feet Requirement

- a) For purposes of this Section and Sections 15-25(e), 15-35(c), 15-35.10(c), and 15-70(p)(15) of the Act:
 - 1) the distance between a proposed dispensing organization's retail storefront and an existing dispensing organization shall be measured between the property line of the proposed dispensing organization and the property line of the existing dispensing organization;
 - 2) the distance between a dispensing organization and the property line of a pre-existing dispensing organization shall be measured between the property line of the dispensing organization and the property line of the pre-existing dispensing organization;
 - 3) a "property line" means the outer perimeter of the actual or proposed dispensing organization's building or, if in a building with multiple independently leasable units, means the outer perimeter of the unit or units occupied by the actual or proposed dispensing organization; and
 - 4) the distance between two property lines is measured as a straight line between the two closest points on the respective property lines.

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b) For purposes of this Section and Sections 15-25(e), 15-35(c), and 15-35.10(c) of the Act:

- 1) for an applicant holding a Conditional Adult Use Dispensing Organization License, an "existing dispensing organization" means a dispensing organization that was issued an Adult Use Dispensing Organization License before the applicant was issued the Conditional Adult Use Dispensing Organization License; and
- 2) if a dispensing organization relocates, it ceases to be an existing dispensing organization to any applicant holding a Conditional Adult Use Dispensing Organization License at the time of the relocation.

c) For purposes of this Section and Section 15-70(p) of the Act:

- 1) for a dispensing organization's first location after the associated applicant was issued an Adult Use Dispensing Organization License, a "pre-existing dispensing organization" means a dispensing organization that was an existing dispensing organization when the associated applicant held a Conditional Adult Use Dispensing Organization License;
- 2) for a dispensing organization's new location after the associated licensee was granted permission to relocate, another dispensing organization is a "pre-existing dispensing organization" if the other dispensing organization has been issued an Adult Use Dispensing Organization License before the relocating dispensing organization submitted its completed application to relocate to the Department pursuant to Sections 1291.220 and 1291.225 of this Part; and
- 3) a dispensing organization may be located at a location whose property line is within 1,500 feet of the property line of another dispensing organization if the dispensing organization was issued its Adult Use Dispensing Organization License as a Social Equity Applicant or Social Equity Justice Involved Applicant and the other dispensing organization was licensed under Section 15-15 or Section 15-20 of the Act.

d) If a dispensing organization license undergoes a change requiring the approval of the Department pursuant to Section 15-60 of the Act or of this Part, a dispensing

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organization may remain at the location where the dispensing organization, or its predecessors, operated immediately prior to the change.

e) It is the responsibility of the Conditional Adult Use Dispensing Organization Licensee or applicant to submit evidence to the Department that it satisfies the criteria described in subsections (a) through (c) above in a form or manner prescribed by the Department.

(Source: Added at 50 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number: 240.1500 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160], and Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to change the bond amounts as required in P.A. 104-0150.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: P.A. 104-0150
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit their written comments concerning this rulemaking within 45 days from the publication date of this issue of the *Illinois Register*. All comments should be submitted to:

Carrie Leitner, Legal Counsel
Department of Natural Resources
One Natural Resources
Springfield, IL 62702

217-782-1809

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dnr.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed amendment: None
- B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the amendment: None
- C) Description of the types of professional skills necessary for compliance: None

14) Small Business Economic Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because it was not known at the time of filing.

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups. None

The full text of the Proposed Amendment begins on the next page:

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TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCESPART 240
THE ILLINOIS OIL AND GAS ACT

SUBPART A: GENERAL PROVISIONS

Section

240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.125	Notice
240.130	Hearings – Notices (Repealed)
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.134	Lease Validation Petitions
240.135	Falsification or Misstatement of Information
240.140	Notice of Noncompliance
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings
240.185	Cessation of Operations Orders
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment (Repealed)
240.190	Temporary Relief Hearings
240.195	Subpoenas

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SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section

240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section

240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

SUBPART D: SPACING OF WELLS

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Section	
240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.425	Change of a Permitted Drilling Location
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

**SUBPART E: WELL DRILLING,
COMPLETION AND WORKOVER REQUIREMENTS**

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

**SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING
REQUIREMENTS FOR PRODUCTION WELLS**

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and

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240.670 Disposal Wells (Repealed)
240.680 Avoidable Waste of Gas (Repealed)
240.680 Escape of Unburned Gas Prohibited (Repealed)

**SUBPART G: WELL CONSTRUCTION, OPERATING
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS**

Section

240.700 Applicability and Definitions
240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells
240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells
240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells
240.740 Other Construction Requirements for Class II UIC Wells
240.750 Operating Requirements for Class II UIC Wells
240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells
240.770 Establishment of External Mechanical Integrity for Class II UIC Wells
240.780 Reporting Requirements for Class II UIC Wells
240.790 Confidentiality of Well Data
240.795 Commercial Saltwater Disposal Well
240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

SUBPART H: LEASE OPERATING REQUIREMENTS

Section

240.800 Definitions
240.805 Lease and Well Identification
240.810 Tanks, Tank Batteries and Containment Dikes
240.815 Permanent Well Site Equipment Setback
240.820 Flowlines
240.830 Power Lines
240.840 Equipment Storage
240.850 Concrete Storage Structures
240.860 Pits
240.861 Existing Pit Exemption For Continued Production Use
240.862 Existing Pit Exemption For Alternative Use
240.870 Leaking Unpermitted Drill Hole

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240.875	Leaking Previously Plugged Well
240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

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SUBPART K: PLUGGING OF WELLS

Section

240.1105	Plugging of Non-Productive Wells (Repealed)
240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
240.1130	Plugging and Temporary Abandonment of Inactive Production Wells
240.1131	Extension of Future Use Status for Production Wells (Repealed)
240.1132	Plugging and Temporary Abandonment of Inactive Class II UIC Wells
240.1140	General Plugging Procedures and Requirements
240.1150	Specific Plugging Procedures
240.1151	Procedures for Plugging Coal Seams
240.1160	Plugging Fluid Handling and Storage
240.1170	Plugging Fluid Waste Disposal and Well Site Restoration
240.1180	Lease Restoration
240.1181	Lease Restoration Requirements (Repealed)
240.1190	Filing Plugging Report

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

Section

240.1200	Applicability
240.1205	Application for Permit to Drill a Test Well or Drill Hole
240.1210	Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)
240.1220	Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well
240.1230	Authority of Person Signing Application
240.1240	Issuance of Permit
240.1250	When Wells Shall Be Plugged and Department Notification
240.1260	Plugging and Restoration Requirements
240.1270	Confidentiality
240.1280	Converting to Water Well

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

Section

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NOTICE OF PROPOSED AMENDMENT

240.1300	Introduction
240.1305	Permit Requirements in Mine Areas
240.1310	Workable Coal Beds Defined
240.1320	Mining Board may Determine Presence of Coal Seams
240.1330	Well Locations Prohibited
240.1340	Notice to Mining Board
240.1350	Casing and Protective Work
240.1360	Operational Requirements Over Active Mine
240.1370	Inspection of Vehicles (Recodified)
240.1380	Transfer of Permits (Recodified)
240.1385	Revocation of Oil Field Brine Hauling Permit (Recodified)
240.1390	Records and Reporting Requirements (Recodified)
240.1395	Bonds – Blanket Surety Bond (Recodified)

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section

240.1400	Definitions
240.1405	Transfer of Management (Repealed)
240.1410	Applicability
240.1420	Notification of Transfer
240.1425	Authority of Person Signing Notification of Transfer
240.1430	Responsibilities of Current Permittee
240.1440	Responsibilities of New Permittee
240.1450	Authority of Person Signing Notification of Acceptance
240.1460	Conditions for and Effect of Issuance or Transfer of Permit to Operate
240.1465	Condition for and Effect of Transfer of PRF Wells
240.1470	Revocation of Permit to Operate
240.1480	Involuntary Transfer
240.1485	Administrative Record Correction
240.1490	Transfer Hearings

SUBPART O: BONDS

Section

240.1500	When Required, Amount and When Released
240.1510	Definitions
240.1520	Bond Requirements
240.1530	Forfeiture of Bonds

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SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

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240.1600	Definitions
240.1610	Plugging Leaking or Abandoned Wells
240.1620	Plugging Orphaned Wells
240.1625	Plugging Abandoned Wells Through Landowner Grant
240.1630	Emergency Well Plugging, Emergency Repair Work, Emergency Projects
240.1635	Emergency Well Plugging and Emergency Project Reimbursement
240.1640	Repayment of Funds
240.1650	Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment
240.1660	Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Non-Payment of Annual Well Fees

SUBPART Q: ANNUAL WELL FEES

Section	
240.1700	Fee Liability
240.1705	Amount of Assessment
240.1710	Annual Permittee Reporting
240.1720	When Annual Well Fees are Due
240.1730	Opportunity to Contest Billing
240.1740	Delinquent Permittees

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS
AND FOR GAS STORAGE AND OBSERVATION WELLS

Section	
240.1800	Applicability
240.1805	Definitions
240.1810	Submission of Underground Gas Storage Field Map
240.1820	Permit Requests in a Underground Gas Storage Field
240.1830	Application for Permit to Drill or Convert Wells
240.1835	Contents of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
240.1840	Authority of Person Signing Application
240.1850	Issuance of Permit

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240.1851 Gas Storage and Observation Well Safety, Construction, and Operating Requirements

240.1852 Inspection and Maintenance Plan

240.1853 Gas Storage and Observation Well Records and Reporting Requirements

240.1854 Notice of Probable Violation, Complaints, Hearings and Civil Penalties

240.1855 Civil Complaint

240.1856 Determination of Penalty

240.1857 Director's Approval of Penalty or Agreed Compromise

240.1858 Enforcement Hearings

240.1859 Emergency Abatement Orders

240.1860 Temporary Relief Hearings

240.1861 Subpoenas

240.1862 Well Drilling Completion and Workover Requirements

240.1865 Liquid Oilfield Waste Disposal

240.1870 Plugging of Gas Storage and Observation Wells

240.1880 Sole Source Aquifer: Natural Gas Incident Notice to Department

240.1890 Sole Source Aquifer: Inspection Fees for Underground Natural Gas Storage Fields

240.1892 Sole Source Aquifer: When Annual Inspection Fees Are Due

240.1894 Sole Source Aquifer: Opportunity to Contest Billing

240.1898 Waiver

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section

240.1900 Applicability

240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes

240.1910 Contents of Application for Permit to Drill or Convert to a Service Well

240.1920 Authority of Person Signing Application

240.1930 Issuance of Permit

240.1940 When Wells Shall Be Plugged and Department Notification

240.1950 Plugging and Restoration Requirements

240.1960 Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160], and Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100].

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NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. 18717, effective August 29, 2014; amended at 38 Ill. Reg. 22052, effective November 14, 2014; amended at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016; emergency amendment at 40 Ill. Reg. 13265, effective September 1, 2016, for a maximum of 150 days; emergency expired January 28, 2017; amended at 41 Ill. Reg. 2957, effective February 21, 2017; amended at 42 Ill. Reg. 5811, effective March 14, 2018; emergency amendment at 43 Ill. Reg. 4650, effective April 4, 2019, for a maximum of 150 days; emergency expired August 31, 2019; amended at 43 Ill. Reg. 10459, effective September 6, 2019; amended at 43 Ill. Reg. 11524, effective September 24, 2019; amended at 45 Ill. Reg. 13907, effective October 25, 2021; amended at 46 Ill. Reg. 20013, effective January 1, 2023; amended at 48 Ill. Reg. 5734, effective March 27, 2024; amended at 49 Ill. Reg. 565, effective December 30, 2024; amended at 50 Ill. Reg. _____, effective _____.

SUBPART O: BONDS

Section 240.1500 When Required, Amount and When Released

- a) To Drill, Deepen, Convert or Operate an Oil or Gas Well

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- 1) A bond, in the amount provided in this Section, shall be submitted, along with an application to drill, deepen, convert, operate or transfer a production or Class II well, if:
 - A) the applicant was not an owner on January 1, 2025~~September 26, 1991~~ of the right to drill and produce the well or wells in the transfer request; or
 - B) the applicant was not a permittee of record on January 1, 2026~~September 26, 1991~~; or
 - C) the applicant has had a bond forfeited or is the subject of an unappealed, unabated Department final administrative decision requiring wells to be plugged; or
 - D) the applicant was not assessed an annual well fee as of July 1 preceding the application date, unless applicant was a permittee of record of an unplugged well in the previous fiscal year and not the subject of an unappealed, unabated Department final administrative decision; or
 - E) the applicant has had funds expended and/or wells plugged on its behalf by the Department using funds from the PRF; or
 - F) the applicant is not an appointed trustee or receiver in accordance with Section 240.1410(a)(4).
- 2) When a bond is required to be filed with the Department to drill, deepen, convert or operate an oil or gas well or Class II well, the amount of the bond shall be:
 - A) ~~\$10,000~~^{1,500} for one~~a~~ well ~~less than 2000 feet deep~~;
 - ~~B)~~ ~~\$3,000 for a well 2,000 or more feet deep;~~
 - ~~C~~^E) \$25,000 for up to 10~~25~~ wells of a permittee;
 - ~~C~~^D) \$50,000 for up to 50 wells of a permittee; ~~or~~

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DE) \$100,000 for all wells of a permittee; or-

E) Any blanket bond covering over 100 wells shall be increased to include the bond amount, as listed above, for the total number of wells over 100 that will be covered by the blanket bond.

3) Failure to provide the required bond will result in the issuance of a cessation of operations order in accordance with Section 240.185(b).

4) A bond submitted pursuant to Section 240.1500(a) shall be released when:

 A) all wells covered by the bond are plugged and restored in accordance with Subpart K; or

 B) all wells covered by the bond are transferred in accordance with Subpart N; or

 C) the permittee has paid assessments to the Department in accordance with Section 19.7 for 2 consecutive years and the permittee is not in violation of the Act.

b) To Operate a Liquid Oilfield Waste Transportation System
The amount of bond required to be filed with the Department before a permit is issued authorizing a person to operate a liquid oilfield waste system shall be \$10,000. When requested by permittee, bond shall be released when the permittee ceases operation and this system and the permittee's system is not in violation of the Act.

c) To Drill a Test Hole
The amount of bond required to be filed with the Department before a permit is issued to drill a geological structure, coal or other mineral test hole, or a monitoring well in connection with any activity regulated by the Department shall be \$2,500~~2500~~ for each permit or a blanket bond of \$25,000 for all permits. The bond requirements of this Subpart shall not apply to a hole or well drilled on acreage permitted and bonded under the Surface-Mined Land Conservation and Reclamation Act [225 ILCS 715] or the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]. When requested by permittee, bonds shall be released when the hole or holes are plugged and restored in accordance with Section 240.1260 and the permittee is not in violation of the Act.

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NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 50 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Cannabis Purchaser Excise Tax
- 2) Code Citation: 86 Ill. Adm. Code 423
- 3) Section Number: 423.155 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Article 65 of the Cannabis Regulation and Tax Act (Cannabis Purchaser Excise Tax Law) [410 ILCS 705] and authorized by Sections 65-50 of the Cannabis Purchaser Excise Tax Law.
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 423.155 to provide procedures for Seizure and Forfeiture from Public Act 103-1001, effective August 9, 2024.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Kimberly Rossini
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

DEPARTMENT OF REVENUE

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(217) 782-7055
REV.GCO@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed rule: Persons making sales of cannabis at retail are affected.
- B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the rule: Basic accounting and computer skills.
- C) Description of the types of professional skills necessary for compliance: Basic accounting and computer skills.

14) Small Business Economic Impact Analysis:

- A) Types of businesses subject to the proposed rule:

44-45 Retail Trade
92 Public Administration
- B) Estimated number of small business subject to the proposed rule: There are 264 registered dispensaries in Illinois.
- C) Categories that the agency reasonably believes the rulemaking will impact, including:

viii. record keeping
- D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed rule: No additional costs.
- E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: Basic recordkeeping, no new requirements.
- F) Statement of the probable positive or negative economic effect on small business: No economic effect on small business.

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G) Description of any less intrusive or costly alternative methods of achieving the purposes of the rule: Not applicable as there is no economic effect on small business.

15) Regulatory Agenda on which this rulemaking was summarized: July 2025

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups: This rule implements Public Act 103-1001 to permit the Department to seek a waiver and consent to forfeiture of seized products, which will reduce costs for the Department as storage is required to house seized product.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 423
CANNABIS PURCHASER EXCISE TAX

Section

423.100	Nature of the Tax
423.105	Definitions
423.110	Tax Imposed
423.115	Bundling of Taxable and Nontaxable Items; Prohibition; Taxation
423.120	Collection of Tax
423.125	Tax Collected as a -Debt Owed the State
423.130	Return and Payment of Tax by Cannabis Retailer
423.135	Registration of Cannabis Retailers
423.140	Revocation of Certificate of Registration
423.145	Books and Records
423.150	Arrest; Search and Seizure Without a Warrant
423.155	Seizure and Forfeiture
423.160	Search Warrant; Issuance and Return; Process; Confiscation of Cannabis; Forfeitures
423.165	Violations and Penalties; Interest
423.170	Cannabis Retailers; Purchase and Possession of Cannabis
423.175	Administration and Enforcement

AUTHORITY: Implementing Article 65 of the Cannabis Regulation and Tax Act (Cannabis Purchaser Excise Tax Law) [410 ILCS 705] and authorized by Section 65-50 of the Cannabis Purchaser Excise Tax Law.

SOURCE: Emergency rule adopted at 44 Ill. Reg. 612, effective December 27, 2019, for a maximum of 180 days; adopted at 44 Ill. Reg. 10751, effective June 2, 2020; amended at 45 Ill. Reg. 4124, effective March 9, 2021; amended at 47 Ill. Reg. 1450, effective January 17, 2023; amended at 50 Ill. Reg. _____, effective _____.

Section 423.155 Seizure and Forfeiture

- a) *After seizing any cannabis as provided in Section 423.150~~Section 423.150~~, the Department must~~will~~ hold a hearing and determine whether the retailer was properly registered to sell the cannabis at the time of its seizure by the*

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Department. The Department shall~~will~~ give not less than 20 days' notice of the time and place of the hearing to the owner of the cannabis, if the owner is known, and also to the person in whose possession the cannabis was found, if that person is known and if the person in possession is not the owner of the cannabis. If neither the owner nor the person in possession of the cannabis is known, the Department must~~will~~ cause publication of the time and place of the hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where the hearing is to be held.

- b) *The Department is not required to hold such a hearing if a waiver and consent to forfeiture has been executed by the owner of the cannabis, if the owner is known, and by the person in whose possession the cannabis so taken was found, if that person is known and if that person is not the owner of said cannabis.*
- c) *If, as the result of the hearing, the Department determines that the retailer was not properly registered at the time the cannabis was seized, or upon receipt of a properly executed waiver and consent to forfeiture as provided in subsection (b), the Department must~~will~~ enter an order declaring the cannabis confiscated and forfeited to the State, to be held by the Department for disposal by it as provided in Section 423.160~~Section 423.160~~. The Department must~~will~~ give notice of the order to the owner of the cannabis, if the owner is known, and also to the person in whose possession the cannabis was found, if that person is known and if the person in possession is not the owner of the cannabis. If neither the owner nor the person in possession of the cannabis is known, the Department must~~will~~ cause publication of the order to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where the hearing was held. [410 ILCS 705/65-42]*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
440.100	Amendment
440.110	Amendment
440.115	New Section
440.205	New Section
440.206	New Section
440.215	New Section
440.216	New Section
440.217	New Section
440.218	New Section
- 4) Statutory Authority: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking creates Section 440.206 to provide procedures for Seizure and Forfeiture enacted by Public Act 103-1001, effective August 9, 2024. In updating the rules regarding Seizure and Forfeiture, new sections, 440.205, 440.206, 440.215, 440.216, 440.217, and 440.218, are added to address search and seizure, license actions, violations and penalties, protest procedures, and reasonable cause determinations as authorized by statute.

This rulemaking also amends Sections 440.100 to update the required information to be reported on returns pursuant to Public Act 103-0592, effective June 7, 2024, and the electronic filing mandate enacted by Public Act 104-0006, effective June 16, 2025.

Section 440.115 is created from separating Books and Records from Penalties in Section 440.110.

Sections 440.205 and 440.206 are created to set out rules for search, seizure, and arrest as well as seizure and forfeiture procedures.

Section 440.215 is created to set out rules for license actions including violations under the Tobacco Products Escrow Enforcement Act of 2003 as provided in Public Act 104-0006.

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Sections 440.216, 440.217, and 440.218 are created to provide for violations and penalties, protest procedures, and reasonable cause considerations.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a State mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Kimberly Rossini
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed rule: Persons making sales of cigarettes at retail and for resale are affected.
 - B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the rule: Basic accounting, computer skills, and recordkeeping.

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C) Description of the types of professional skills necessary for compliance: Basic accounting, computer skills, and recordkeeping.

14) Small Business Economic Impact Analysis:

A) Types of businesses subject to the proposed rule:

42 Wholesale Trade
44-45 Retail Trade
48-49 Transportation and Warehousing
92 Public Administration

B) Estimated number of small business subject to the proposed rule: There are 28 Cigarette Distributor licenses, 22 Cigarette Manufacturer licenses, 1 Cigarette Manufacturer representative license, and 14,402 Cigarette and Tobacco Retailers' Licenses. While these are the total number of license types impacted, the Department does not have data to determine whether a licensee meets the definition of small business. The Department also does not have data to determine how many retailers are cigarette only or tobacco products only.

C) Categories that the agency reasonably believes the rulemaking will impact, including:

ii. regulatory requirements
viii. record keeping

D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed rule: No additional costs.

E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: Basic recordkeeping and reporting.

F) Statement of the probable positive or negative economic effect on small business: No effect on small business.

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G) Description of any less intrusive or costly alternative methods of achieving the purposes of the rule: Not applicable as there is no economic effect on small business.

15) Regulatory Agenda on which this rulemaking was summarized: July 2025

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups: This rule implements the Public Act 103-1001 to permit the Department to seek a waiver and consent to forfeiture of seized products, which will reduce costs for the Department as storage is required to house seized product. This rule also implements Public Act 103-0592, updating the required information for returns, and Public Act 104-0006 mandating e-filing for payment and returns and providing for license actions for failing to file required reports.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 440
CIGARETTE TAX ACT

Section

440.10 Nature and Rate of Tax
440.20 Tax – How Paid
440.30 Tax – Who Liable For
440.40 Design
440.50 Tax Stamps – When and By Whom Affixed: License or Permit Required
440.60 Tax Stamps – How Affixed
440.70 Tax Stamps – Affixed Out of State
440.75 Cigarette Package Sizes; Sale of Individual or Loose Cigarettes Prohibited; Penalties
440.80 Transporter Permits
440.90 Tax Stamps – Purchase of: Cost: Discount
440.100 Returns and Reports Required: When Filed
440.110 Books and Records; Invoices; ~~Penalties~~
Books and Records Penalties
440.115
440.120 Unused Stamps: Sale of: Notice to Department
440.130 Mutilated Stamps
440.140 Tax Meters (Repealed)
440.150 Tax Meter Machine Settings (Repealed)
440.160 Vending Machines
440.170 Sales Out of Illinois
440.180 Sales to Governmental Bodies
440.190 Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment Affixed
440.200 Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer
440.205 Arrest; Search and Seizure Without a Warrant
440.206 Seizure and Forfeiture
440.210 Sale of Forfeited Cigarettes and Vending Machines
440.215 License Actions: Revocations, Cancellations, and Suspensions
440.216 Violations and Penalties
440.217 Protest Procedures for Certain Penalties
440.218 Reasonable Cause

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440.220 Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States

440.230 Claims for Credit or Refund

440.240 Protest Procedures

440.250 Criminal Investigations

AUTHORITY: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17793, effective November 28, 2000; amended at 25 Ill. Reg. 933, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9021, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1618, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10524, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3906, effective February 13, 2004; amended at 32 Ill. Reg. 17575, effective October 27, 2008; amended at 39 Ill. Reg. 14719, effective October 22, 2015; amended at 42 Ill. Reg. 23174, effective November 29, 2018; amended at 43 Ill. Reg. 8898, effective July 30, 2019; amended at 44 Ill. Reg. 6061, effective April 3, 2020; amended at 46 Ill. Reg. 6763, effective April 12, 2022; amended at 47 Ill. Reg. 5800, effective April 4, 2023; amended at 50 Ill. Reg. _____, effective _____.

Section 440.100 Returns and Reports Required: When Filed

a) Filing by Non-manufacturers

1) Every distributor who is required to procure a license under the Act, but who is not a manufacturer of cigarettes in original packages which are contained in a sealed transparent wrapper, shall, on or before the 15th day of each calendar month, file a return with the Department, showing:

A) the quantity of cigarettes manufactured during the preceding calendar month;

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B) the quantity of cigarettes brought into this State or caused to be brought into this State from outside this State during the preceding calendar month without authorized evidence on the original packages of cigarettes underneath the sealed transparent wrapper that the tax liability imposed by the Act has been assumed by the out-of-State seller of such cigarettes;

C) the quantity of cigarettes purchased tax-paid during the preceding calendar month either within or outside this State;

D) the quantity of cigarettes sold by manufacturer representatives on behalf of the distributor;

E) the quantity of cigarettes sold to manufacturer representatives; and

F) the quantity of cigarettes sold or otherwise disposed of during the preceding calendar month.

2) The return shall be filed on forms furnished and prescribed by the Department and shall contain such other information the Department may reasonably require. Information that the Department may reasonably require includes information related to the uniform regulation and taxation of cigarettes. All returns and supporting schedules required to be filed and all payments required to be made under Section 9 of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 130/9]

3) Every secondary distributor who is required to procure a license under the Act shall, on or before the 15th day of each calendar month, file a report with the Department, showing the quantity of cigarettes purchased during the preceding calendar month either within or outside this State, and the quantity of cigarettes sold to retailers or otherwise disposed of during the preceding calendar month. Such reports shall be filed electronically in such form prescribed by the Department and shall contain such other information as the Department may reasonably require. Information that the Department may reasonably require includes information related to the uniform regulation and taxation of cigarettes. [35 ILCS 130/9e]

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4) Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered unprocessable and may subject the filer to penalties and interest for failure to file a proper return.

b) Filing by Manufacturers

1) Illinois manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper shall file a return by the 5th day of each month covering the preceding calendar month. Each return shall show:

A) the quantity of cigarettes manufactured during the period covered by the return;

B) the quantity of cigarettes sold or otherwise disposed of during the period covered by the return; and

C) such other information the Department may lawfully require. Information that the Department may lawfully require includes information related to the uniform regulation and taxation of cigarettes. All returns and supporting schedules required to be filed and all payments required to be made under Section 9 of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 130/9]

2) Each out-of-State manufacturer, who is granted a permit by the Department under Section 4b(a) of the Act, shall file a return and shall disclose such information as the Department may lawfully require. Information the Department may lawfully require includes information related to the uniform regulation and taxation of cigarettes. All returns and supporting schedules required to be filed and all payments required to be made under Section 4b(a) of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 130/4b(a)] The return shall be filed by the 5th day of the month and shall cover the preceding calendar month.

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3) Each out-of-State manufacturer, who is granted a permit by the Department under Section 4b(b) of the Act, shall file a report covering cigarettes shipped or otherwise delivered in Illinois to licensed distributors or distributed to the public for promotional purposes on a form to be prescribed and furnished by the Department and shall disclose such other information as the Department may lawfully require. Information the Department may lawfully require includes information related to the uniform regulation and taxation of cigarettes. All reports and supporting schedules required to be filed under Section 4b(b) of the Act shall be filed electronically in the form prescribed by the Department. [35 ILCS 130/4b(b)] The return shall be filed by the 5th day of the month and shall cover the preceding calendar month.

4) Every manufacturer with authority to maintain manufacturer representatives as defined by Section 4f of the Act shall, on or before the 15th day of each calendar month, file a report with the Department, showing the quantity of cigarettes purchased from licensed distributors during the preceding calendar month, either within or outside this State, and the quantity of cigarettes sold to retailers or otherwise disposed of during the preceding calendar month. Such reports shall be filed in the form prescribed by the Department and shall contain such other information as the Department may reasonably require. Information that the Department may reasonably require includes information related to the uniform regulation and taxation of cigarettes. The report and supporting schedules shall be filed electronically in the form prescribed by the Department. [35 ILCS 130/9f]

5) Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered unprocessable and may subject the filer to penalties and interest for failure to file a proper return.

~~Every distributor who is required to procure a license under the Act, but who is not a manufacturer of cigarettes in original packages that are contained in a sealed transparent wrapper, shall, on or before the 15th day of each calendar month, file a return with the Department, showing:~~

A) ~~the quantity of cigarettes manufactured during the preceding calendar month;~~

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B) ~~the quantity of cigarettes brought into this State or caused to be brought into this State from outside this State during the preceding calendar month without authorized evidence on the original packages of cigarettes underneath the sealed transparent wrapper that the tax liability imposed by the Act has been assumed by the out of state seller of cigarettes;~~

C) ~~the quantity of cigarettes purchased tax paid during the preceding calendar month either within or outside this State; and~~

D) ~~the quantity of cigarettes sold or otherwise disposed of during the preceding calendar month.~~

2) ~~The return shall be filed on forms furnished and prescribed by the Department and shall contain other information the Department may reasonably require.~~

3) ~~Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~

b) ~~Illinois manufacturers of cigarettes in original packages that are contained inside a sealed transparent wrapper shall file a return by the 5th day of each month covering the preceding calendar month. Each return shall show the quantity of cigarettes manufactured during the period covered by the return, the quantity of cigarettes sold or otherwise disposed of during the period covered by the return, and other information the Department may lawfully require. Returns shall be filed on forms prescribed and furnished by the Department. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~

e) ~~Each out of state manufacturer, who is granted a permit by the Department under Section 4b of the Act, shall file a return with the Department on a form to be prescribed and furnished by the Department~~

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~~and shall disclose the information as the Department may lawfully require. The return shall be filed by the 5th day of the month and shall cover the preceding calendar month. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper form.~~

④ ~~The returns filed by both distributors required to procure a license under the Act who have 30 or more transactions per month, and by Illinois manufacturers having 30 or more transactions per month, must be accompanied by appropriate computer generated magnetic media supporting schedule data in the format required by the Department (Section 9 of the Act). Distributors and manufacturers who voluntarily file returns and schedules electronically are not subject to this requirement.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 440.110 Books and Records; Invoices; Penalties

a) Distributors. Every distributor of cigarettes, who is required to procure a license under the Act, shall keep within Illinois, at its licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at its licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a return is required of all cigarettes on hand and of all cigarette revenue stamps, both affixed and unaffixed, and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes. [35 ILCS 130/11]

Books and Records

1) ~~Distributors. Every distributor of cigarettes, who is required to procure a license under the Act, shall keep within Illinois, at his or her licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at his licensed address all invoices, bills of lading, sales~~

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~~records, copies of bills of sale, inventory at the close of each period for which a return is required of all cigarettes on hand and of all cigarette revenue stamps, both affixed and unaffixed, and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.~~ A distributor's records of a particular purchase from a manufacturer or distributor shall include:

- A) ~~a~~A copy of the distributor's purchase order, ~~(if any,~~2) to the manufacturer or distributor;
- B) the manufacturer's or distributor's invoice to the distributor in duplicate (see subsection (b)(~~2~~4));
- C) a bill of lading or waybill pertaining to the shipment covered by the invoice;
- D) the receiving record showing the date when the cigarettes were received by the distributor; and
- E) evidence of payment by the distributor to the manufacturer or distributor.

2) *Every distributor who is required to procure a license under the Act and who purchases cigarettes for shipment into Illinois from a point outside this State shall procure invoices in duplicate covering each shipment, shall make the invoices available for inspection upon demand by a duly authorized agent or employee of the Department, and shall, if the Department so requires, furnish one copy of each invoice to the Department upon request. [35 ILCS 130/12]*

3) *Every sales invoice issued by a licensed distributor to a retailer in this State shall contain the distributor's cigarette distributor license number unless the distributor has been granted a waiver by the Department. The distributor shall file a written request with the Department, and, if the Department determines that the distributor meets the conditions for a waiver, the Department shall grant the waiver. The Department shall grant a waiver in response to a written request when:*

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- A) the distributor sells cigarettes only to licensed retailers that are wholly-owned by the distributor or owned by a wholly-owned subsidiary of the distributor;
- B) the licensed retailer obtains cigarettes only from the distributor requesting the waiver; and
- C) the distributor affixes the tax stamps to the original packages of cigarettes sold to the licensed retailer. [35 ILCS 130/11]

4) Any licensed distributor that ships or otherwise causes to be delivered unstamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this subsection (a)(4) shall not be construed as to impose any requirement or liability upon any common or contract carrier. [35 ILCS 130/3]

5) When a distributor who is licensed or has a permit under the Cigarette Tax Act sells cigarettes to a federal or foreign government agency or instrumentality, the distributor shall print, stamp or otherwise write substantially the following legend on the original and all copies of the invoice covering the cigarettes: "Illinois cigarette tax paid".

6) When a distributor who is licensed or has a permit under the Cigarette Tax Act sells Illinois tax-stamped or tax-imprinted original packages of cigarettes to any purchaser other than a federal or foreign government agency or instrumentality, the distributor's invoice not only shall state that the cigarette tax has been paid by the distributor, but also shall state the amount of the tax to the purchaser as a separate item from the selling price of the cigarettes.

7) When a permit holder or licensee under the Cigarette Use Tax Act, as distinguished from a licensee or permit holder under the Cigarette Tax Act, sells Illinois tax-stamped or tax-imprinted cigarettes to anyone other than a federal or foreign government agency or instrumentality, the distributor's invoice shall state the amount of the Cigarette Use Tax to the

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purchaser as a separate item from the selling price of the cigarettes. However, when a person sells cigarettes to a federal or foreign government agency or instrumentality, the invoice should omit any reference to the Cigarette Use Tax.

- 8) Each Illinois manufacturer of cigarettes in original packages that are contained inside a sealed transparent wrapper shall keep a copy of each invoice rendered by the manufacturer to any purchaser to whom the manufacturer delivered cigarettes or caused cigarettes to be delivered during the period covered by the manufacturer's return. Copies of invoices must be furnished to the Department upon request.
- 9) Each manufacturer who holds a permit under Section 4b of the Act shall keep a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit or caused cigarettes of the type covered by the permit to be delivered in Illinois during the period covered by the return. Copies of invoices must be furnished to the Department upon request.

b) Secondary Distributors.

- 1) Every secondary distributor of cigarettes, who is required to procure a license under the Act shall keep within Illinois, at its licensed address, complete and accurate records of cigarettes held, purchased, brought in from without the State, and sold, or otherwise disposed of, and shall preserve and keep within Illinois at its licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of cigarettes. [35 ILCS 130/11a]
- 2) Every secondary distributor of cigarettes, who is required to procure a license under the Act and who purchases cigarettes for shipment into Illinois from a point outside this State shall procure invoices in duplicate covering each shipment, shall make the invoices available for inspection upon demand by a duly authorized agent or employee of the Department, and shall, if the Department so requires, furnish one copy of each invoice to the Department upon request. [35 ILCS 130/12]

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c) Manufacturers with Manufacturer Representatives. *Every manufacturer with authority to maintain manufacturer representatives under Section 4f of the Act shall keep within Illinois, at its business address identified under Section 4f of the Act, complete and accurate records of cigarettes purchased, sold, or otherwise disposed of, and shall preserve and keep within Illinois at its business address all invoices, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of cigarettes. At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the manufacturers with authority to maintain manufacturer representatives under Section 4f of the Act and their manufacturer representatives, or inspect any motor vehicle used by a manufacturer representative in the course of business, without a search warrant and may inspect the premises, motor vehicle, and any packages of cigarettes therein contained to determine whether any of the provisions of the Act are being violated.* [35 ILCS 130/11b]

d) Retailers. *Every retailer who is required to procure a license under the Act shall keep within Illinois complete and accurate records of cigarettes purchased, sold, or otherwise disposed of. It shall be the duty of every retail licensee to make sales records, copies of bills of sale, and inventory at the close of each period for which a report is required of all cigarettes on hand available upon reasonable notice for the purpose of investigation and control by the Department.*

1) The books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. However, all original invoices or copies thereof covering purchases of cigarettes must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request in cases in which records are kept at a central business location within the State of Illinois. [35 ILCS 130/11c] Prior to removing the books and records from the licensed premises, the retailer must notify the Department that the books and records will be kept at another location in Illinois and identify the location. Under these circumstances, books and records may be kept at that location in Illinois, but the taxpayer must, within a reasonable time after notification by the Department, make all pertinent books, records, papers, and documents available within 30 days at the licensed premises or an agreed upon location by the Department for

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the purpose of inspection and audit as the Department may deem necessary.

- 2) Books and records may be maintained out of State if access is available electronically. However, all original invoices or copies thereof covering purchases of cigarettes must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request in cases in which records that are available electronically are maintained out of State. [35 ILCS 130/11c]
- 3) The Department will grant a written waiver under subsections (d)(1) and (2) when the following requirements are met by the retailer:
 - A) The retailer submits a letter to the Department containing:
 - i) the retailer's license number and FEIN;
 - ii) the address or addresses of the licensed premises where records are currently maintained;
 - iii) the address of the central location or out-of-State location where the retailer intends to maintain the records;
 - iv) if the records are maintained out-of-State, an explanation of the process and system that will enable the Department or its duly authorized agents or employees to electronically access the records from the licensed premises on demand; and
 - v) an acknowledgement by the retailer that the Department, upon 30 days written notice, may revoke the waiver of the retailer for one or more licensed premises if the retailer fails to provide electronic access in accordance with the requirements of the written waiver; transfers or sells the licensed premises to another person; or changes the process or system for providing access to the records electronically.
 - B) For books and records maintained out of State, the Department is given access electronically to accurate records of cigarettes held,

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purchased, sold, or otherwise disposed of; invoices; bills of lading; sales records; copies of bills of sale, returns, and other pertinent papers; and documents relating to the purchase, sale, or disposition of cigarettes kept at the licensed premises in the normal course of business at the time of the request; and

C) For books and records maintained out of State, the Department has tested the process and system from the licensed premises and verified that the Department and its duly authorized agents and employees have access electronically to the required records from the licensed premises on demand.

e) General.

- 1) For purposes of this Section, "records" means all data maintained by distributors, secondary distributors, manufacturers with the authority to maintain manufacturer representatives and their manufacturer representatives, and retailers, including data on paper, microfilm, microfiche, or any type of machine sensible data compilation. [35 ILCS 130/11, 11a, 11b and 11c]
- 2) All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. [35 ILCS 130/11, 11a, and 11b]
- 3) At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the distributor, secondary distributor, manufacturer with authority to maintain a manufacturer representative, manufacturer representative's vehicle, or retailer without a search warrant and inspect the premises and the stock or packages of cigarettes and any vending devices in the premises or motor vehicle to determine whether any of the provisions of the Act are being violated. If the agent or employee is denied free access or is hindered or interfered with in making the examination, the license of the distributor, secondary distributor, manufacturer representative, or retailer shall be subject to revocation by the Department. [35 ILCS 130/11, 11a, 11b, and 11c]

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4) *The books, records, papers and documents shall be preserved for a period of at least 3 years after the date of the documents, or the date of the entries appearing in the records, whichever is later, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. [35 ILCS 130/11, 11a, 11b, and 11c]*

Secondary Distributors. Every secondary distributor of cigarettes who is required to procure a license under the Act shall keep within Illinois, at his or her licensed address, complete and accurate records of cigarettes held, purchased, brought in from without the State, and sold, or otherwise disposed of, and shall preserve and keep within Illinois at his or her licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of cigarettes. [35 ILCS 130/11a]

3) *Manufacturers with Manufacturer Representatives. Every manufacturer with authority to maintain manufacturer representatives under Section 4f of the Act shall keep within Illinois, at his or her business address identified under Section 4f of the Act, complete and accurate records of cigarettes purchased, sold, or otherwise disposed of, and shall preserve and keep within Illinois at his or her business address all invoices, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of cigarettes. At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the manufacturers with authority to maintain manufacturer representatives under Section 4f of the Act and their manufacturer representatives, or inspect any motor vehicle used by a manufacturer representative in the course of business, without a search warrant and may inspect the premises, motor vehicle, and any packages of cigarettes therein contained to determine whether any of the provisions of the Act are being violated. [35 ILCS 130/11b]*

4) *Retailers. Every retailer who is required to procure a license under the Act shall keep within Illinois complete and accurate records of cigarettes*

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~~purchased, sold, or otherwise disposed of. It shall be the duty of every retail licensee to make sales records, copies of bills of sale, and inventory at the close of each period for which a report is required of all cigarettes on hand available upon reasonable notice for the purpose of investigation and control by the Department.~~

- A) ~~The books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. However, all original invoices or copies thereof covering purchases of cigarettes must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request in cases in which records are kept at a central business location within the State of Illinois. Prior to removing the books and records from the licensed premises, the retailer must notify the Department that the books and records will be kept at another location in Illinois and identify the location. Under these circumstances, books and records may be kept at that location in Illinois, but the taxpayer must, within a reasonable time after notification by the Department, make all pertinent books, records, papers and documents available at some point within Illinois for the purpose of inspection and audit as the Department may deem necessary.~~
- B) ~~Books and records may be maintained out of state if access is available electronically. However, all original invoices or copies thereof covering purchases of cigarettes must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request when records that are available electronically are maintained out of state. [35 ILCS 130/11e]~~
- C) ~~The Department will grant a written waiver under subsections (a)(4)(A) and (B) when the retailer submits a letter to the Department containing:~~
 - 1) ~~the retailer's license number and FEIN;~~
 - 2) ~~the address or addresses of the licensed premises where records are currently maintained;~~

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3) ~~the address of the central location or out of state location where the retailer intends to maintain the records;~~

4) ~~if the records are maintained out of state, an explanation of the process and system that will enable the Department or its duly authorized agents or employees to electronically access the records from the licensed premises on demand; and~~

5) ~~an acknowledgement by the retailer that the Department, upon 30 days written notice, may revoke the waiver of the retailer for one or more licensed premises if the retailer:~~

 A) ~~fails to provide access in accordance with the requirements of the written waiver;~~

 B) ~~transfers or sells the licensed premises to another person; or~~

 C) ~~changes the process or system for providing access to the records electronically.~~

5) *For purposes of this Section, "records" means all data maintained by distributors, secondary distributors, manufacturers with manufacturer representatives, and retailers, including data on paper, microfilm, microfiche or any type of machine sensible data compilation. [35 ILCS 130/11, 11a, 11b and 11c]*

6) *All books and records and other papers and documents which are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the distributor, secondary distributor, manufacturer with authority to maintain a manufacturer representative, manufacturer representative's vehicle, or retailer without a search warrant and inspect the premises and the stock or packages of cigarettes and any vending devices in the premises to determine whether any of the provisions of the Act are being violated. If the agent or employee is denied free access or is hindered or*

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interfered with in making the examination, the license of the distributor, secondary distributor, manufacturer representative or retailer shall be subject to revocation by the Department. [35 ILCS 130/11, 11a, 11b and 11e]

7) *The books, records, papers and documents shall be preserved for a period of at least 3 years after the date of the documents, or the date of the entries appearing in the records, whichever is later, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. [35 ILCS 130/11, 11a, 11b and 11e]*

b) **Invoices**

1) *Every distributor who is required to procure a license under the Act and who purchases cigarettes for shipment into Illinois from a point outside this State shall procure invoices in duplicate covering each shipment, shall make the invoices available for inspection upon demand by a duly authorized agent or employee of the Department, and shall, if the Department so requires, furnish one copy of each invoice to the Department upon request.*

2) *Every sales invoice issued by a licensed distributor to a retailer in this State shall contain the distributor's cigarette distributor license number unless the distributor has been granted a waiver by the Department. The distributor shall file a written request with the Department, and, if the Department determines that the distributor meets the conditions for a waiver, the Department will grant the waiver. The Department will grant a waiver in response to a written request when:*

A) *the distributor sells cigarettes only to licensed retailers that are wholly owned by the distributor or owned by a wholly owned subsidiary of the distributor;*

B) *the licensed retailer obtains cigarettes only from the distributor requesting the waiver; and*

C) *the distributor affixes the tax stamps to the original packages of cigarettes sold to the licensed retailer. [35 ILCS 130/11]*

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3) *Any licensed distributor that ships or otherwise causes to be delivered unstamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this subsection (b)(3) shall not be construed as to impose any requirement or liability upon any common or contract carrier. [35 ILCS 130/3]*

4) *Each Illinois manufacturer of cigarettes in original packages that are contained inside a sealed transparent wrapper shall keep a copy of each invoice rendered by the manufacturer to any purchaser to whom the manufacturer delivered cigarettes (or caused cigarettes to be delivered) during the period covered by the manufacturer's return. Copies of invoices must be furnished to the Department upon request.*

5) *Each manufacturer who holds a permit under Section 4b of the Act shall keep a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit (or caused cigarettes of the type covered by the permit to be delivered) in Illinois during the period covered by the return. Copies of invoices must be furnished to the Department upon request.*

6) *When a distributor who is licensed or has a permit under the Cigarette Tax Act sells cigarettes to a federal or foreign government agency or instrumentality under circumstances causing Illinois cigarette tax liability to be incurred (see Section 440.180), the distributor shall print, stamp or otherwise write substantially the following legend on the original and all copies of the invoice covering the cigarettes: "Illinois cigarette tax paid".*

7) *When a distributor who is licensed or has a permit under the Cigarette Tax Act sells Illinois tax stamped or tax imprinted original packages of cigarettes to any purchaser other than a federal or foreign government agency or instrumentality, the distributor's invoice not only shall state that the cigarette tax has been paid by the distributor, but also shall state the amount of the tax to the purchaser as a separate item from the selling price of the cigarettes.*

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8) ~~When a permit holder or licensee under the Cigarette Use Tax Act (as distinguished from a licensee or permit holder under the Cigarette Tax Act) sells Illinois tax stamped or tax imprinted cigarettes to anyone other than a federal or foreign government agency or instrumentality, the distributor's invoice shall state the amount of the cigarette use tax to the purchaser as a separate item from the selling price of the cigarettes. (See Section 440.50.) However, when a person sells cigarettes to a federal or foreign government agency or instrumentality, the invoice should omit any reference to the cigarette use tax.~~

e) **Penalties**

1) ~~Any person required by the Act to keep records of any kind whatsoever, who shall fail to keep the records so required or who shall falsify those records, shall be guilty of a Class 4 felony. If a person fails to produce the records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep the records so required. A person who is unable to rebut this presumption is in violation of the Act and is subject to the penalties provided in this subsection (e). [35 ILCS 130/14].~~

2) ~~Any person who shall fail to safely maintain and preserve the records required by Sections 11, 11a, 11b, and 11c of the Act for a period of 3 years, as required in the Act, in such manner as to insure permanency and accessibility for inspection by the Department, shall be guilty of a business offense and may be fined up to \$5,000. [35 ILCS 130/15] (See subsection (a) for the requirements to maintain books and records.)~~

3) ~~The Department may, after notice and hearing as provided for by the Act, revoke, cancel or suspend the license of any distributor, secondary distributor, or retailer for any noncompliance with this subsection (e). No license so revoked shall be reissued to any such distributor, secondary distributor, or retailer within a period of 6 months after the date of the final determination of the revocation. Any distributor, secondary distributor, or retailer aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor, secondary distributor, or retailer requesting the hearing of the time and place fixed~~

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~~for the hearing. If a distributor, secondary distributor, or retailer protests the revocation, cancellation or suspension of a license and requests a hearing, the notice also shall contain a statement of the charges preferred against the distributor, secondary distributor or retailer. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor, secondary distributor, or retailer. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. [35 ILCS 130/6]~~

- 4) ~~Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c of the Act, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c, and \$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c. [35 ILCS 130/15a] (See subsections (a) and (b) for the requirements to maintain books and records.)~~
 - A) ~~All books and records and other papers and documents that are required to be kept by the Act shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. (See subsection (a)(6).) A person that prohibits a duly authorized agent of the Department from inspecting books and records during usual business hours of the day has failed to produce books and records to the Department for inspection as required by this Section. The Department may issue a notice of penalty to that person pursuant to this subsection (c)(4). The Department is not required to provide the retailer with a written document request pursuant to this subsection (c)(4)(A) or provide additional time for the retailer to allow the inspection of the premises and the books and records at the location.~~
 - B) ~~Except for retailers that are permitted to maintain books and records at another location pursuant to subsection (a)(4),~~

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~~distributors, secondary distributors, manufacturers with manufacturer representatives, and retailers must have a person at their place of business at all times during the usual business hours of the day who is authorized to produce books and records for inspection by the Department. It is presumed that a person working at a place of business has authority to permit the Department to inspect the books and records at the business location. If a retail establishment has only one employee working at the time of the request for the books and records who has no ownership interest in the establishment and is not authorized to produce books and records, the employee is required to advise the Department he or she does not have authority to provide books and records for inspection. The Department will not issue a notice of penalty to a retailer for failure to produce books and records if a person who is authorized to produce the books and records can be contacted by the employee and arrives at the place of business within 2 hours and produces the books and records. The Department may extend the period either on verbal or written request for good cause shown or on its own motion.~~

~~EXAMPLE 1: An authorized agent of the Department attempts to inspect the books and records of a cigarette retailer. The person at the store states the books and records are at the store but refuses to provide access to the books and records because the owner of the store told him not to let anyone have access to the records. The person states the owner is unavailable and cannot be contacted. The Department issues a notice of penalty.~~

~~EXAMPLE 2: An authorized agent of the Department attempts to inspect the books and records of a cigarette retailer. The person at the store states the books and records are at the store but refuses to provide access to the books and records because the owner of the store told him not to let anyone have access to the records. The person states he can call a person responsible for making the records available to the agent. The employee calls the person and the person arrives at the store in less than 2 hours and makes the books and records available to the agent. The Department will not issue a notice of penalty.~~

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~~EXAMPLE 3: An authorized agent of the Department enters a retailer's place of business and requests to see the books and records. The person at the store states the books and records are maintained at another business location in Illinois. The agent cannot issue a notice of penalty unless the retailer failed to notify the Department that the books and records are located at another location pursuant to subsection (a)(4). However, the authorized agent of the Department does have authority to inspect the premises pursuant to subsection (a)(6).~~

④ If a person fails to produce books and records for inspection by the Department upon request, a *prima facie* presumption shall arise that the person has failed to keep the books and records so required. A person who is unable to rebut this presumption is subject to the penalty provided in this subsection (e)(4). Except as otherwise provided by subsection (e)(4)(A), if a request for the production of books and records has been made and not honored, prior to issuing a notice of penalty for a failure to maintain books and records or a failure to produce books and records, the Department must provide the taxpayer with a document request in writing. The written document request shall contain:

- i) the name of the person receiving the request;
- ii) the name of the business;
- iii) the date of the original request or requests;
- iv) the books and records requested;
- v) the books and records that the person failed to produce;
- vi) the number of days the person has to produce the books and records; and
- vii) the name of the Department agent or employee and his or her contact information.

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D) ~~The Department agent or employee shall sign and date the written document request and personally provide or mail a copy of the written document request to the business at its last known address. The person shall have 30 days from the date of the written document request to produce the books and records the person has failed to produce. The Department may extend the period either on written request for good cause shown or on its own motion. If the person fails to produce the books and records within the time allotted, the Department may issue a notice of penalty pursuant to this subsection (c)(4) to the business at its last known address.~~

~~EXAMPLE: An authorized agent of the Department enters a convenience store and requests to see all the invoices for cigarettes purchased by the store in the last 60 days and all cash register receipts for sales made in the last 60 days. The person at the store produces the cash register receipts but states that they have no invoicees for cigarettes purchased in the last 60 days. The agent completes a written document request, provides a copy to the person, and provides the person 30 days to produce the invoices. The agent returns 30 days later and requests the invoices. The person at the store cannot produce the invoices. The Department will issue a notice of penalty to the business at its last known address.~~

E) ~~Any person receiving a notice of penalty may, within 20 days after the date on the notice, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. If the request is made during an audit, the Department shall postpone the hearing until completion of the audit or inspection. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.~~

F) ~~The Department cannot impose more than one penalty for failure to produce books and records for a calendar month.~~

~~EXAMPLE 1: An authorized agent of the Department inspects a cigarette retailer and requests the records for the first week in April. The retailer~~

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~~does not produce the records. The agent subsequently requests the records for the remaining 3 weeks in April. The retailer does not produce the records. The agent can assess only one penalty for the month of April.~~

~~EXAMPLE 2: An authorized agent of the Department inspects a cigarette retailer and requests all purchase invoices for cigarettes for March. The invoices are not provided by the retailer and the Department issues a notice of penalty. The agent returns in May and ask to see all the cigarette sales receipts for March. The retailer fails to produce the sales receipts for March. The Department cannot issue a penalty for failure of the retailer to provide sales receipts for March because the agent has previously issued a notice of penalty for failure to produce the invoices for March.~~

G) ~~A records request can cover multiple periods. The Department is authorized to issue a separate penalty for each period; e.g., for a taxpayer that files returns monthly, the period is one month.~~

~~EXAMPLE: An authorized agent of the Department inspects a cigarette retailer and requests the books and records for the months of January through July. The retailer cannot produce the books and records for any of the months. The agent fills out a written document request, provides a copy of the document request to the person, and provides the person 30 business days to produce the invoices. The agent returns 30 business days later and requests the invoices. The person at the store cannot produce the invoices. The Department will issue a notice of penalty in the amount of \$1,000 for the month of January and \$3,000 for each of the months February through July, for a total penalty of \$19,000.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 440.115 Books and Records Penalties

a) *Any person required by the Act to keep records of any kind whatsoever, who shall fail to keep the records so required or who shall falsify such records, shall be guilty of a Class 4 felony. If a person fails to produce the records for inspection by the Department upon request, a *prima facie* presumption shall arise that the person has failed to keep the records so required. A person who is unable to rebut this presumption is in violation of the Act and is subject to the penalties provided in this subsection (a). [35 ILCS 130/14].*

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b) Any person who shall fail to safely maintain and preserve the records required by Sections 11, 11a, 11b, and 11c of the Act for a period of 3 years, as required in the Act, in such manner as to ensure permanency and accessibility for inspection by the Department, shall be guilty of a business offense and may be fined up to \$5,000. [35 ILCS 130/15] See Section 440.110.

c) Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c of the Act, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c, and \$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Sections 11, 11a, 11b, and 11c. [35 ILCS 130/15a] See Section 440.110.

1) All books and records and other papers and documents that are required to be kept by the Act shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. A person that prohibits a duly authorized agent of the Department from inspecting books and records during usual business hours of the day has failed to produce books and records to the Department for inspection as required by this Section. The Department may issue a notice of penalty to that person pursuant to this subsection (c). The Department is not required to provide the retailer with a written document request pursuant to this subsection (c)(1) or provide additional time for the retailer to allow the inspection of the premises and the books and records at the location.

2) Except for retailers that are permitted to maintain books and records at another location pursuant to Section 440.110(d), distributors, secondary distributors, manufacturers with manufacturer representatives, and retailers must have a person at their place of business at all times during the usual business hours of the day who is authorized to produce books and records for inspection by the Department. It is presumed that a person working at a place of business has authority to permit the Department to inspect the books and records at the business location. If a retail establishment has only one employee working at the time of the request

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for the books and records who has no ownership interest in the establishment and is not authorized to produce books and records, the employee is required to advise the Department they do not have authority to provide books and records for inspection. The Department will not issue a notice of penalty to a retailer for failure to produce books and records if a person who is authorized to produce the books and records can be contacted by the employee and arrives at the place of business within 2 hours and produces the books and records. The Department may extend the period either on verbal or written request for good cause shown.

EXAMPLE 1: An authorized agent of the Department attempts to inspect the books and records of a cigarette retailer. The person at the store states the books and records are at the store but refuses to provide access to the books and records because the owner of the store told the employee not to let anyone have access to the records. The person states the owner is unavailable and cannot be contacted. The Department will issue a notice of penalty.

EXAMPLE 2: An authorized agent of the Department attempts to inspect the books and records of a cigarette retailer. The person at the store states the books and records are at the store but refuses to provide access to the books and records because the owner of the store told the employee not to let anyone have access to the records. The person offers to call a person responsible for making the records available to the agent. The employee calls the person, and the person arrives at the store in less than 2 hours and makes the books and records available to the agent. The Department will not issue a notice of penalty.

EXAMPLE 3: An authorized agent of the Department enters a retailer's place of business and requests to see the books and records. The person at the store states the books and records are maintained at another business location in Illinois. The agent cannot issue a notice of penalty unless the retailer failed to notify the Department that the books and records are located at another location pursuant to Section 440.110(d). However, the authorized agent of the Department does have authority to inspect the premises pursuant to subsection Section 440.110(e)(2) and (3).

- 3) If a person fails to produce books and records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep the books and records so required. A person

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who is unable to rebut this presumption is subject to the penalty provided in this subsection (c). Except as otherwise provided by subsection (c)(1), if a request for the production of books and records has been made and not honored, prior to issuing a notice of penalty for a failure to maintain books and records or a failure to produce books and records, the Department must provide the taxpayer with a document request in writing. The written document request shall contain:

- A) the name of the person receiving the request;
- B) the name of the business;
- C) the date of the original request or requests;
- D) the books and records requested;
- E) the books and records that the person failed to produce;
- F) the number of days the person has to produce the books and records; and
- G) the name of the Department agent or employee and their contact information.

- 4) The Department agent or employee shall sign and date the written document request and personally provide or mail a copy of the written document request to the business at its last known address. The person shall have 30 days from the date of the written document request to produce the books and records the person has failed to produce. The Department may extend the period either on written request for good cause shown or on its own motion. If the person fails to produce the books and records within the time allotted, the Department may issue a notice of penalty pursuant to this subsection (c) to the business at its last known address.

EXAMPLE: An authorized agent of the Department enters a convenience store and requests to see all the invoices for cigarettes purchased by the store in the last 60 days and all cash register receipts for sales made in the last 60 days. The person at the store produces the cash register receipts

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but states that they have no invoices for cigarettes purchased in the last 60 days. The agent completes a written document request, provides a copy to the person, and provides the person 30 days to produce the invoices. The agent returns 30 days later and requests the invoices. The person at the store cannot produce the invoices. The Department will issue a notice of penalty to the business at its last known address.

- 5) Any person receiving a notice of penalty may, within 20 days after the date on the notice, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. If the request is made during an audit, the Department shall postpone the hearing until completion of the audit or inspection. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.
- 6) The Department cannot impose more than one penalty for failure to produce books and records for a calendar month.

EXAMPLE 1: An authorized agent of the Department inspects a cigarette retailer and requests the records for the first week in April. The retailer does not produce the records. The agent subsequently requests the records for the remaining 3 weeks in April. The retailer does not produce the records. The agent can assess only one penalty for the month of April.

EXAMPLE 2: An authorized agent of the Department inspects a cigarette retailer and requests all purchase invoices for cigarettes for March. The invoices are not provided by the retailer and the Department issues a notice of penalty. The agent returns in May and asks to see all the cigarette sales receipts for March. The retailer fails to produce the sales receipts for March. The Department cannot issue a penalty for failure of the retailer to provide sales receipts for March because the agent has previously issued a notice of penalty for failure to produce the invoices for March.

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7) A records request can cover multiple periods. The Department is authorized to issue a separate penalty for each period. For example, for a taxpayer that files a return monthly, the period is one month.

EXAMPLE: An authorized agent of the Department inspects a cigarette retailer and requests the books and records for the months of January through July. The retailer cannot produce the books and records for any of the months. The agent fills out a written document request, provides a copy of the document request to the person, and provides the person 30 business days to produce the invoices. The agent returns 30 business days later and requests the invoices. The person at the store cannot produce the invoices. The Department will issue a notice of penalty in the amount of \$1,000 for the month of January and \$3,000 for each of the months February through July, for a total penalty of \$19,000.

d) The Department may, after notice and hearing as provided for by the Act, revoke, cancel or suspend the license of any distributor, secondary distributor, or retailer for any noncompliance with this Section.

e) Any distributor, secondary distributor, or retailer aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor, secondary distributor, or retailer requesting the hearing stating the time and place fixed for the hearing and containing a statement of the charges preferred against the distributor, secondary distributor, or retailer. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor, secondary distributor, or retailer.

f) In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

g) No license so revoked shall be reissued to any such distributor, secondary distributor, or retailer within a period of 6 months after the date of the final determination of the revocation. [35 ILCS 130/6]

(Source: Added at 50 Ill. Reg. _____, effective _____)

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Section 440.205 Arrest; Search and Seizure Without a Warrant

- a) Any duly authorized employee of the Department may:
 - 1) arrest without warrant any person committing in the presence of the employee a violation of any of the provisions of the Act, and
 - 2) without a search warrant inspect all cigarettes located in any place of business and seize any original packages of contraband cigarettes and any vending device in which such packages may be found.
- b) Any contraband cigarettes or vending devices so seized shall be subject to confiscation and forfeiture as provided in Sections 440.206 and 440.210. [35 ILCS 130/18]

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 440.206 Seizure and Forfeiture

- a) After seizing any original packages of cigarettes or cigarette vending devices, as provided in Section 440.205, the Department shall hold a hearing and shall determine whether the seized original packages of cigarettes, at the time of their seizure, were contraband cigarettes, or whether the seized cigarette vending devices, at the time of their seizure, contained original packages of contraband cigarettes. The Department shall give not less than 7 days' notice of the time and place of such hearing to the owner of such property if the owner is known, and also to the person in whose possession the property so taken was found, if such person is known and if such person in possession is not the owner of said property. If neither the owner nor the person in possession of such property is known, the Department shall cause publication of the time and place of such hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing is to be held.
- b) If, as a result of a hearing, the Department shall determine that the original packages of cigarettes seized were at the time of seizure contraband cigarettes, or that any cigarette vending device at the time of its seizure contained original packages of contraband cigarettes, the Department shall enter an order declaring such original packages of cigarettes or such cigarette vending devices confiscated

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and forfeited to the State, and to be held by the Department for disposal by it as provided in Section 21 of the Act.

c) *The Department is not required to hold a hearing if a waiver and consent to forfeiture has been executed by the owner of the property, if the owner is known, and by the person in whose possession the property so taken was found, if that person is known and if that person is not the owner of the property. Upon receipt of a properly executed waiver and consent to forfeiture as provided in this subsection (c), the Department shall enter an order declaring such original packages of cigarettes or such cigarette vending devices confiscated and forfeited to the State, and to be held by the Department for disposal by it as provided in Section 21 of the Act. [35 ILCS 130/18a]*

- 1) *The waiver and consent to forfeiture is limited to declaring the contraband items, such as cigarettes or little cigars, confiscated and forfeited to the State of Illinois for disposal as provided by Section 21 of the Act.*
- 2) *The waiver and consent to forfeiture does not preclude the taxpayer from requesting a hearing on the tax, penalties, and interest imposed by the Department.*
- 3) *The waiver and consent to forfeiture may not be introduced by the Department as evidence in any proceeding relating to the contraband items found in possession of the taxpayer.*

d) *The Department shall give notice of such order to the owner of such property if the owner is known, and also to the person in whose possession the property so taken was found, if such person is known and if the person in possession is not the owner of said property. If neither the owner nor the person in possession of such property is known, the Department shall cause publication of the time and place of such hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing was held. [35 ILCS 130/18a]*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 440.215 License Actions: Revocations, Cancellations, and Suspensions

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a) *The Department may, after notice and hearing as provided for by the Act revoke, cancel or suspend the license of any distributor, secondary distributor, or retailer for the violation of any provision of the Act; for noncompliance with this Section; for noncompliance with any Section of this Part 440; or because the licensee is determined to be ineligible for a distributor's license, secondary distributor's license, or retailer's license for any one or more of the reasons provided for in Sections 4, 4c, or 4g of the Act.*

b) *No such license shall be revoked, cancelled, or suspended, except after a hearing by the Department with notice to the distributor, secondary distributor, or retailer, providing a reasonable opportunity to appear and defend.*

c) **Distributors.**

1) *The Department may revoke, cancel or suspend the license of any distributor for a violation of Section 30 of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167/30]. [35 ILCS 130/6]*

2) *Upon notification by the Attorney General, the Department may revoke a distributor's license for failure to submit information as required by Section 25(a) or (d) of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003. [30 ILCS 167/30(c-5)]*

d) **Secondary Distributors.** *The Department may revoke, cancel, or suspend, the license of any secondary distributor for a violation of Section 15(e) of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167/15(e)]. [35 ILCS 130/6]*

e) **Retailers. Violations of Minimum-Age Tobacco Laws**

1) *If the retailer has a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 3 days the license of that retailer for a fourth or subsequent violation of the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a) of that Act [720 ILCS 675]. For the purposes of this Section, any violation of Section 2(a) of the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act*

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occurring at the retailer's licensed location, during a 24-month period, shall be counted as a violation against the retailer.

- 2) If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend the license of that retailer for violations of the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5), as follows:
 - A) 3 days for a second violation;
 - B) 7 days for a third violation; and
 - C) 30 days for a fourth or subsequent violation.
- 3) A training program that facilitates compliance with minimum-age tobacco laws must include at least the following elements:
 - A) it must explain that only individuals displaying valid identification demonstrating that they are 21 years of age or older shall be eligible to purchase cigarettes or tobacco products; and
 - B) it must explain where in the establishment, at the time of purchase, a clerk can check identification for a date of birth.
- 4) The training may be conducted electronically. Each retailer that has a training program shall require each employee who completes the training program to sign a form attesting that the employee has received and completed tobacco training. The form shall be kept in the employee's file and may be used to provide proof of training. [35 ILCS 130/6]
- f) Any distributor, secondary distributor, or retailer aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor, secondary distributor, or retailer requesting the hearing stating the time and place fixed for the hearing and containing a statement of the charges preferred against the distributor, secondary distributor, or retailer. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final

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administrative decision in the matter to the distributor, secondary distributor, or retailer.

- g) *In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.*
- h) *No license so revoked shall be reissued to any such distributor, secondary distributor, or retailer within a period of 6 months after the date of the final determination of the revocation. [35 ILCS 130/6]*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 440.216 Violations and Penalties

- a) *With the exception of licensed distributors and transporters, anyone possessing or having possessed 10 to 100 packages of contraband cigarettes contained in original packages is liable to pay to the Department, for a deposit into the Tax Compliance and Administration Fund, a penalty of \$15 for each package of contraband cigarettes, unless reasonable cause can be established by the person upon whom the penalty is to be imposed. The provisions of the Uniform Penalty and Interest Act do not apply to this subsection (a). [35 ILCS 130/18c] For purposes of this Section, "contraband cigarettes" means unstamped original packages of cigarettes or original packages of cigarettes that bear a tax stamp of another state or taxing jurisdiction.*
- b) *With the exception of licensed distributors and transporters, any person possessing or having possessed more than 100 packages of contraband cigarettes contained in original packages is liable to pay, to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$25 for each package of contraband cigarettes in excess of 100 packages, unless reasonable cause can be established by the person upon whom the penalty is to be imposed. This penalty is in addition to the taxes imposed by the Act. The provisions of the Uniform Penalty and Interest Act do not apply to this subsection (b). [35 ILCS 130/18b]*
- c) *The sale of individual or loose cigarettes is prohibited. Any person who violates this subsection (c) is liable to pay to the Department for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first violation*

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and \$3,000 for any subsequent violation. Any person who violates this subsection (c) shall be guilty of a Class 4 felony. [35 ILCS 130/18d]

d) Any person shall be guilty of a Class 2 felony who for the purpose of evading the tax imposed by the Act:

- 1) falsely or fraudulently makes, forges, alters, or counterfeits any stamp;
- 2) causes or procures to be falsely or fraudulently made, forged, altered, or counterfeited any such stamp;
- 3) knowingly and wilfully utters, publishes, passes, or tenders as genuine any such false, altered, forged, or counterfeit stamp;
- 4) falsely or fraudulently makes, forges, alters, or counterfeits any tax imprint on an original package of cigarettes inside a sealed transparent wrapper;
- 5) causes or procures falsely or fraudulently to be made, forged, altered, or counterfeited any such tax imprint; or
- 6) knowingly and wilfully utters, publishes, passes, or tenders as genuine any false, altered, forged, or counterfeited tax imprint. [35 ILCS 130/22]

e) Any person including every distributor, secondary distributor, retailer, manufacturer with authority to maintain manufacturer representatives, and their manufacturer representatives shall be deemed guilty of a Class 2 felony who shall:

- 1) knowingly and wilfully sell or offer for sale any original package having affixed to such original package any fraudulent, spurious, imitation, or counterfeit stamp, or stamp which has been previously affixed, or affixes a stamp which has previously been affixed to an original package; or
- 2) knowingly and wilfully sell or offer for sale any original package having imprinted on such original package underneath the sealed transparent wrapper any fraudulent, spurious, imitation, or counterfeit tax imprint. [35 ILCS 130/23]

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f) Sale or Possession of Packages of Contraband Cigarettes.

1) With the exception of licensed distributors, licensed secondary distributors, or licensed transporters, any person who has in their possession or sells:

A) 100 or less original packages of contraband cigarettes is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense occurring within 12 months of a prior offense;

B) 101 to 250 original packages of contraband cigarettes is guilty of Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense;

C) 251 to 1000 original packages of contraband cigarettes is guilty of a Class 4 felony; or

D) 1001 or more original packages of contraband cigarettes is guilty of a Class 3 felony. [35 ILCS 130/24(a)-(d)]

2) Any licensed distributor, licensed secondary distributor, or licensed transporter who has in their possession or sells:

A) 100 or less original packages of contraband cigarettes is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense occurring within 12 months of a prior offense; or

B) 101 or more original packages of contraband cigarettes is guilty of a Class 4 felony. [35 ILCS 130/24(e) and (f)]

3) Notwithstanding subsections (f)(2)(A) and (B),

A) licensed distributors and transporters may possess unstamped packages of cigarettes;

B) licensed distributors may possess cigarettes that bear a tax stamp of another state or taxing jurisdiction;

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C) a licensed distributor or licensed secondary distributor may possess contraband cigarettes returned to the distributor or secondary distributor by a retailer if:

- i) the distributor or licensed secondary distributor immediately conducts an inventory of the cigarettes being returned;
- ii) the distributor or licensed distributor and the retailer returning the contraband cigarettes sign the inventory;
- iii) the distributor or licensed secondary distributor provides a copy of the signed inventory to the retailer; and
- iv) the distributor or licensed secondary distributor retains the inventory in its books and records and promptly notifies the Department. [35 ILCS 130/24(g)]

4) Retailers.

A) Any retailer who knowingly possesses packages of cigarettes with a counterfeit stamp with intent to sell is guilty of a Class 2 felony.

B) Any retailer who knowingly possesses unstamped packages of cigarettes with intent to sell is guilty of a Class 4 felony.

C) Notwithstanding subsections (f)(1)(A)-(D), a retailer unknowingly possessing contraband cigarettes obtained from a licensed distributor or licensed secondary distributor or knowingly possessing contraband cigarettes obtained from a licensed distributor or secondary distributor is not subject to penalties under this Section if the retailer, within 48 hours after discovering that the cigarette are contraband cigarettes, excluding Saturdays, Sundays, and holidays:

- i) notifies the Department and the licensed distributor or licensed secondary distributor from whom the cigarettes were obtained, orally and in writing, that the retailer

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possesses contraband cigarettes obtained from a licensed distributor or licensed secondary distributor;

ii) *places the contraband cigarettes in one or more containers and seals those containers; and*

iii) *places on the containers the following or similar language: "Contraband Cigarettes. Not For Sale."*

D) *All contraband cigarettes in the possession of a retailer remain subject to forfeiture under the provisions of the Act. [35 ILCS 130/24(h)]*

g) *Any person, or any officer, agent or employee of a person, required by the Act to make, file, render, sign or verify any report or return, who makes any false or fraudulent report or return or files any false or fraudulent report or return, or who shall fail to make such report or return or files such report or return when due, shall be guilty of a Class 4 felony. [35 ILCS 130/25]*

h) *Any person who acts as a distributor, secondary distributor, retailer, or manufacturer representative without having a license, as required by the Act, shall be guilty of a Class 4 felony. [35 ILCS 130/26]*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 440.217 Protest Procedures for Certain Penalties

Except as otherwise provided in this Part, any person aggrieved by any decision of the Department under this Part may, within 60 days after notice of the decision, protest in writing and request a hearing. Upon receiving a timely, written request for a hearing, the Department shall provide written notice of the date, time, and place of the hearing to the person requesting the hearing at least 20 days prior to the hearing date, shall hold a hearing in conformity with the provisions of this Part, and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 60 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 440.218 Reasonable Cause

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- a) The penalties imposed under the Sections 18b and 18c of the Act shall not apply if the person shows that the possession of unstamped original packages of cigarettes or original packages of cigarettes that bear a tax stamp of another state or taxing jurisdiction at the time of inspection or seizure was due to reasonable cause. Reasonable cause is determined in each situation in accordance with this Section.
- b) The determination of whether a person acted with reasonable cause shall be made on a case-by-case basis considering all pertinent facts and circumstances. The most important factor to be considered in determining to abate a penalty will be the extent to which the person made a good faith effort to determine the existence of any contraband cigarettes in its possession and to timely report such contraband cigarettes to the Department.
- c) A person will be considered to have made a good faith effort to determine the existence of any contraband cigarettes if the person exercised ordinary business care and prudence in so doing. A determination of whether a person exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the person's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does not necessarily establish that a person exercised ordinary business care and prudence, nor does reliance on incorrect facts.
- d) A person's history of compliance is also a factor to be considered in determining whether the taxpayer acted in good faith. An isolated incident of contraband cigarettes being found in a person's inventory generally will not indicate a lack of good faith.
- e) Examples of Reasonable Cause. The following is a non-exclusive list of situations in which reasonable cause may exist for purposes of the abatement of penalties:
 - 1) Reasonable cause for abatement of penalty will exist if a liability results from amendments made by the Department to regulations or formal administrative policies or positions after the discovery and seizure of contraband cigarettes.

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- 2) Reasonable cause for abatement may also be based on the death, incapacity or serious illness of the person or a death or serious illness in the person's immediate family that causes them to be away from the premises for an extended period of time. In the case of a corporation, estate, trust, etc., the death, incapacity, or serious illness of an individual having sole authority to inspect inventory or a member of that individual's immediate family, may be reasonable cause for abatement.
- 3) An unavoidable absence of a person due to circumstances unforeseeable by a reasonable person may also constitute reasonable cause for purposes of abatement of the penalty. An unavoidable absence does not include a planned absence such as a vacation. In the case of a corporation, estate, trust, etc., the absence of an individual having sole authority to inspect and approve inventory may be reasonable cause for purposes of abatement.
- 4) An Illinois appellate court decision, a U.S. appellate court decision, or an appellate court decision from another state (provided that the appellate court case in the other state is based upon substantially similar statutory or regulatory law) that supports the person's position will ordinarily provide a basis for a reasonable cause determination.
- 5) The Department gave erroneous information or delayed a process under its control. In making the determination of whether the taxpayer had reasonable cause for purposes of abatement, the following factors are relevant:
 - A) Did the taxpayer timely inspect the incoming inventory of cigarettes?
 - B) Was the information requested by the taxpayer easily available in instructions or bulletins?
 - C) Did the taxpayer rely on the advice of the Department?
 - D) Did a Department employee who was acting in an official capacity and was authorized to provide assistance provide the advice?
 - E) Was the taxpayer's reliance upon the advice reasonable?

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6) Employee fraud not reasonably within the knowledge of the taxpayer.

f) Relevant Factors Used by the Department in Determining the Existence of Reasonable Cause.

- 1) Did the taxpayer have sufficient procedures to review inventory and to timely report any contraband cigarettes?
- 2) Does the taxpayer's reason address the penalty assessed?
- 3) Does the length of time between the reason cited and the actual violation support abatement? If the taxpayer cites a specific event or set of events (e.g., illness, unexpected absence, or natural disaster) or set of events that led to the imposition of the penalty, are those events directly related to the incident under review?
- 4) Could the event cited have been reasonably anticipated? Was the event one that should have been anticipated (e.g., a vacation or scheduled absence) or was it unexpected, unavoidable, or otherwise unplanned (e.g., an emergency or disaster)?
- 5) Were ordinary business care and prudence exercised? In the absence of new or unusual circumstances, possession penalties for contraband cigarettes are common knowledge or are readily available to most taxpayers. If the taxpayer did all that could be reasonably expected of them and still possessed contraband cigarettes, reasonable cause may be present.

(Source: Added at 50 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cigarette Use Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 450
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
450.40	Amendment
450.50	Amendment
450.105	New Section
450.106	New Section
450.115	New Section
450.116	New Section
450.117	New Section
450.118	New Section
- 4) Statutory Authority: Implementing and authorized by the Cigarette Use Tax Act [35 ILCS 135].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking creates Section 450.106 to provide procedures for Seizure and Forfeiture enacted by Public Act 103-1001, effective August 9, 2024. In updating the rules regarding Seizure and Forfeiture, new Sections 450.105, 450.106, 450.115, 450.116, 450.117, and 450.118 are added to address search and seizure, license actions, violations and penalties, protest procedures, and reasonable cause determinations as authorized by statute.

This rulemaking also amends Section 450.40 to update the required information to be reported on returns pursuant to Public Act 103-0592, effective June 7, 2024, and the electronic filing mandate enacted by Public Act 104-0006, effective June 16, 2025.

Sections 450.105 and 450.106 are created to set out rules for search, seizure, and arrest as well as seizure and forfeiture procedures.

Section 450.50 is amended to add statutory language and reorganize for readability.

Section 450.115 is created to set out rules for license actions including violations under the Tobacco Products Escrow Enforcement Act of 2003 as provided in Public Act 104-0006.

Sections 450.116, 450.117, and 450.118 are created to provide for violations and penalties, protest procedures, and reasonable cause considerations.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Kimberly Rossini
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Persons making sales of cigarettes at retail and for resale are affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting, computer skills, and recordkeeping.
 - C) Types of professional skills necessary for compliance: Basic accounting, computer skills, and recordkeeping.

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14) Small Business Economic Impact Analysis:A) Types of businesses subject to the proposed rule:

- 42 Wholesale Trade
- 44-45 Retail Trade
- 48-49 Transportation and Warehousing
- 92 Public Administration

B) Estimated number of small business subject to the proposed rule: There are 49 Cigarette Use Distributor licenses. While this is the total number of licensees impacted, the Department does not have data to determine whether a licensee meets the definition of small business.C) Categories that the agency reasonably believes the rulemaking will impact, including:

- ii. regulatory requirements
- viii. record keeping

D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed rule: No additional costs.E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: Basic recordkeeping and reporting.F) Statement of the probable positive or negative economic effect on small business: No effect on small business.G) Description of any less intrusive or costly alternative methods of achieving the purposes of the rule: Not applicable as there is no economic effect on small business.15) Regulatory Agenda on which this rulemaking was summarized: July 2025

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or

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amendment is projected to have on the Illinois public, consumers, investors or other similar groups: This rule implements Public Act 103-1001 to permit the Department to seek a waiver and consent to forfeiture of seized products, which will reduce costs for the Department as storage is required to house seized product. This rule also implements Public Act 103-0592, updating the required information for returns, and Public Act 104-0006 mandating e-filing for payment and returns and providing for license actions for failing to file required reports.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 450
CIGARETTE USE TAX ACT

Section

450.10	Nature and Rate of Tax
450.20	Tax Stamps – Affixed Out of State
450.30	Licenses and Permits – Bonds
450.40	Reports and Returns
450.50	Books and Records; Invoices; Penalties
450.60	Unused Stamps – Sale of – Notice to Department – Mutilated Stamps
450.70	Cigarettes Used Outside Illinois
450.80	Purchase of Cigarettes by Governmental Bodies for Use
450.90	Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer
450.100	Sample Packages of Cigarettes – Stamps or Other Evidence of Tax Collection Affixed
<u>450.105</u>	<u>Arrest; Search and Seizure Without a Warrant</u>
<u>450.106</u>	<u>Seizure and Forfeiture</u>
450.110	Forfeited Cigarettes and Vending Machines
<u>450.115</u>	<u>License Actions: Revocations, Cancellations, and Suspensions</u>
<u>450.116</u>	<u>Violations and Penalties</u>
<u>450.117</u>	<u>Protest Procedures for Certain Penalties</u>
<u>450.118</u>	<u>Reasonable Cause</u>
450.120	Claims for Credit or Refund
450.130	Protest Procedures
450.140	Criminal Investigations

AUTHORITY: Implementing and authorized by the Cigarette Use Tax Act [35 ILCS 135].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. 122, effective December 24, 1990; amended by emergency rulemaking at 23 Ill. Reg. 9546, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14753, effective December 8, 1999; amended at 24 Ill. Reg. 9909, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10759, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17800, effective November 28, 2000; amended at 25 Ill. Reg. 937,

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effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9027, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1647, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10529, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3911, effective February 13, 2004; amended at 32 Ill. Reg. 17580, effective October 27, 2008; amended at 42 Ill. Reg. 23186, effective November 29, 2018; amended at 43 Ill. Reg. 8915, effective July 30, 2019; amended at 44 Ill. Reg. 6069, effective April 3, 2020; amended at 46 Ill. Reg. 6768, effective April 12, 2022; amended at 47 Ill. Reg. 5806, effective April 4, 2023; amended at 50 Ill. Reg. _____, effective _____.

Section 450.40 Reports and Returns

- a) *When cigarettes are acquired for use in this State by a person (including a distributor), who did not pay the cigarette use tax to a distributor, the person, within 30 days after acquiring the cigarettes, shall file with the Department a return declaring the possession of the cigarettes and shall transmit with the return to the Department the tax imposed by the Act. All returns and supporting schedules required to be filed and all payments required to be made under Section 12 of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 135/12]*
~~When cigarettes are acquired for use in this State by a person (including a distributor as well as any other person), who did not pay the cigarette use tax to a distributor, the person, within 30 days after acquiring the cigarettes, shall file a return with the Department and shall transmit with the return to the Department the tax imposed by the Act. Computer generated returns or returns filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~
- b) *Every distributor, who is required or authorized to collect the tax under the Act, but who is not a manufacturer of cigarettes in original packages which are contained in a sealed transparent wrapper, shall, on or before the 15th day of each calendar month, file a return with the Department showing such information as the Department may reasonably require. Information that the Department may reasonably require includes information related to the uniform regulation and taxation of cigarettes. All returns and supporting schedules required to be filed under Section 11 of the Act shall be filed electronically in the form prescribed by the Department. [35 ILCS 135/11]*
~~Every distributor, who is required or authorized to collect tax under the Act, but who is not a manufacturer of cigarettes in original packages that are contained in a sealed transparent wrapper, shall, on~~

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~~or before the 15th day of each calendar month, file a return with the Department showing the information the Department may reasonably require. Computer generated returns and schedules or returns and schedules that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~

- c) ~~Every distributor who is a manufacturer of cigarettes in original packages which are contained inside a sealed transparent wrapper, and who is required or authorized to collect tax under the Act, shall file a return by the 5th day of each month covering the preceding calendar month. Each return shall be accompanied by the appropriate remittance for tax as provided in Section 3 and Section 7 of the Act. Each return shall disclose such information as the Department may lawfully require. Information that the Department may lawfully require includes information related to the uniform regulation and taxation of cigarettes. All returns and supporting schedules required to be filed and all payments required to be made under Section 11 of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 135/11] Every distributor who is a manufacturer of cigarettes in original packages contained inside a sealed transparent wrapper, and who is required or authorized to collect tax under the Act, shall file a return by the 5th day of each month covering the preceding calendar month. Each return shall be accompanied by the appropriate remittance for tax as provided in Sections 3 and 7 of the Act. Each return shall disclose the information the Department may lawfully require. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered to be non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~
- d) ~~No distributor shall be required to return information to the extent to which the reporting of such information would be a duplication of the distributor's reporting of information in any return the distributor is required to file with the Department under the Cigarette Tax Act. [35 ILCS 135/11] No distributor shall be required to return information to the extent to which the reporting of that information would be a duplication of the distributor's reporting of information in any return he or she is required to file with the Department under the Cigarette Tax Act. Returns shall be filed on forms prescribed by the Department. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.~~

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e) *Every secondary distributor who is required or authorized to procure a license under the Act, shall on or before the 15th day of each calendar month, file a report with the Department, showing the quantity of cigarettes purchased during the preceding calendar month, either within and outside this State, and the quantity of cigarettes sold to Illinois retailers or otherwise disposed of during the preceding calendar month. Such reports shall be filed electronically in such form prescribed by the Department and shall contain such information as the Department may reasonably require. Information that the Department may reasonably require includes information related to the uniform regulation and taxation of cigarettes.* [35 ILCS 135/11a] ~~The returns filed by both distributors required or authorized to collect tax under the Act who have 30 or more transactions per month, and by Illinois manufacturers having 30 or more transactions per month, must be accompanied by appropriate computer generated magnetic media supporting schedule data in the format required by the Department. (Section 11 of the Act) Distributors and manufacturers who voluntarily file returns and schedules electronically are not subject to this requirement.~~

f) *Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered unprocessable and may subject the filer to penalties and interest for failure to file a proper return.*

g) *A taxpayer who has an annual tax liability of \$20,000 or more shall make all payments of that tax to the Department by electronic funds transfer. Before August 1 of each year, the Department shall notify all taxpayers required to make payments by electronic funds transfer.* [20 ILCS 2505/2505-210~~2502/2505-200~~].

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 450.50 Books and Records; Invoices; Penalties

a) Books and Records

1) Distributors ~~and Persons that Have Not Paid the Tax Due Under the Act.~~ *Every distributor required or authorized to collect taxes imposed by the Act and every person using, in this State, cigarettes purchased on or after the effective date of the Act without cigarette tax stamps affixed to the original packages and without authorized tax imprints placed underneath the sealed transparent wrapper of the original packages, shall keep the*

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records, receipts, invoices, and other pertinent books, documents, memoranda and papers as the Department shall require, in a form as the Department shall require. The books, records, papers, memoranda, and documents of a distributor pertaining to business done by the distributor at or from a licensed place of business, or at or from a place of business for which the distributor holds a permit issued by the Department under Section 7 of the Act, shall be kept by the distributor at the place of business. [35 ILCS 135/15] ~~Every distributor required or authorized to collect taxes imposed by the Cigarette Use Tax Act and every person using, in this State, cigarettes purchased on or after the effective date of this Act without Illinois cigarette tax stamps affixed to the original packages and without authorized tax imprints placed underneath the sealed transparent wrapper of the original packages, shall keep the records, receipts, invoices and other pertinent books, documents, memoranda and papers as the Department shall require, in a form as the Department shall require. The books, records, papers, memoranda and documents of a distributor pertaining to business done by him or her at or from a licensed place of business, or at or from a place of business for which he or she holds a permit issued by the Department, shall be kept by the distributor at the place of business.~~ A distributor's records of a particular purchase from a manufacturer or other distributor shall, at a minimum, include:

- A) a copy of the distributor's purchase order, ~~if any~~ to the manufacturer or other distributor;
- B) the manufacturer's or other distributor's invoice to the distributor in duplicate (see subsection (b));
- C) bill of lading or waybill pertaining to the shipment covered by the invoice;
- D) receiving record ~~showing~~ *(the receiving record should show* the date when the cigarettes were received by the distributor*);*
- E) evidence of payment by the other distributor to the manufacturer; and
- F) other records as the Department may reasonably require.

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- 2) *Secondary Distributors. Every secondary distributor of cigarettes who is required to procure, or is allowed to procure, a license under the~~the~~ Act shall keep, at its~~his or her~~ licensed address, complete and accurate records of cigarettes held, purchased, brought in from without the State, and sold, or otherwise disposed of, and shall preserve and keep within Illinois at its~~his or her~~ licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes. [35 ILCS 135/15a]*
- 3) *For purposes of this Section~~this Section~~, "records" means all data maintained by the secondary distributors, including data on paper, microfilm, microfiche or any type of machine sensible data compilation. [~~See~~ 35 ILCS 135/15 and 15a]*
- 4) *All books, records, papers, memoranda, and documents that are required to be kept by the Act, shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. ~~All books, records, papers, memoranda and documents that are required to be kept under the Act shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.~~ At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the distributor or the secondary distributor, without a search warrant, and may inspect the premises and the stock or packages of cigarettes in those premises~~in those premises~~ to determine whether any of the provisions of the~~the~~ Act are being violated. If the agent or employee is denied free access or is hindered or interfered with in making the examination, the license of the secondary distributor at the premises shall be subject to revocation by the Department. [35 ILCS 135/15 and 15a]*
- 5) *The books, records, papers, memoranda and documents that are required to be kept shall be preserved for a period of at least 3 years after the date of the documents or the date of the entries appearing in the records, whichever is later, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. [35 ILCS 135/15 and 15a] ~~The~~*

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~~books, records, papers, memoranda and documents that are required to be kept shall be preserved for a period of at least 3 years after the date of the documents or the date of the entries appearing in the records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. (See 35 ILCS 135/15 and 15a.)~~

- 6) It is not the purpose of this subsection (a) to require distributors and secondary distributors to keep duplicate sets of books and records. Consequently, to the extent to which a distributor is required by the Cigarette Tax Act and by the Cigarette Use Tax Act to keep the same books and records, the distributor's compliance with the requirement under the Cigarette Tax Act shall be deemed to be a compliance with the same requirement under the Cigarette Use Tax Act.

b) Invoices

- 1) *Every person who purchases cigarettes for shipment into Illinois from a point outside this State, and who is required to file a return or report with the Department with respect to cigarettes, shall procure invoices covering each shipment and shall furnish one copy of each invoice to the Department upon request.* [35 ILCS 135/17] ~~Every person who purchases cigarettes for shipment into Illinois from a point outside this State, and who is required to file a return with the Department with respect to the cigarettes, shall procure invoices covering each shipment and shall furnish one copy of each invoice to the Department upon request.~~
- 2) Each Illinois manufacturer of cigarettes in original packages that are contained inside a sealed transparent wrapper shall keep a copy of each invoice rendered by the manufacturer to any purchaser to whom the manufacturer delivered cigarettes (or caused cigarettes to be delivered) during the period covered by the manufacturer's return. Copies must be furnished to the Department upon request.
- 3) Each manufacturer who holds a permit under Section 7 of the Cigarette Use Tax Act shall keep a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit (or caused cigarettes of the type covered by the permit to be delivered) in Illinois during the period covered by the return. Copies must be furnished to the Department upon request. Subsections

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(a)(1) through (a)(3) shall not apply to a transaction in which the same requirement applies by virtue of the provisions of 86 Ill. Adm. Code 440.110 (Cigarette Tax Act rules).

- 4) *Any licensed distributor that ships or otherwise causes to be delivered un stamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section~~this Section~~ shall not be construed as to impose any requirement or liability upon any common or contract carrier. [35 ILCS 135/3]*
- 5) When a permit holder or licensee under the Cigarette Use Tax Act (as distinguished from a licensee or permit holder under the Cigarette Tax Act) sells Illinois tax-stamped or tax-imprinted cigarettes to anyone other than a federal or foreign government agency or instrumentality, distributor's invoice shall state the amount of the cigarette use tax to the purchaser as a separate item from the selling price of the cigarettes. However, when a person sells cigarettes to a federal or foreign government agency or instrumentality, the invoice should omit any reference to the cigarette use tax.

c) Penalties

- 1) *Any person required by the~~the~~ Act to maintain or keep records of any kind whatsoever, who shall fail to keep the records so required, or who shall falsify those records, shall be guilty of a Class 4 felony. If a person fails to produce the records for inspection by the Department upon request, a *prima facie* presumption shall arise that the person has failed to keep the records so required. A person who is unable to rebut this presumption is in violation of the~~the~~ Act and is subject to the penalties provided in this~~this~~ Section. This subsection (c)(1)~~This subsection (c)(1)~~ shall not apply if the violation in a particular case also constitutes a criminal violation of the Cigarette Tax Act. [35 ILCS 135/22]*
- 2) *Any person who shall fail to safely preserve the records required by Sections 15 and 15a of the~~the~~ Act for the period of 3 years, as required in*

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those Sections, in such manner as to insure permanency and accessibility for inspection by the Department shall be guilty of a business offense and may be fined up to \$5,000. This subsection (c)(2)~~This subsection (c)(2)~~ shall not apply if the violation in a particular case also constitutes a criminal violation of the Cigarette Tax Act. [35 ILCS 135/23]

- 3) *The Department may, after notice and hearing as provided for by the Act, revoke, cancel or suspend the license of any distributor or secondary distributor for any noncompliance with this Section. Any distributor or secondary distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor or secondary distributor requesting the hearing stating the time and place fixed for the hearing and containing a statement of the charges preferred against the distributor, secondary distributor, or retailer. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor or secondary distributor. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. No license so revoked shall be reissued to any such distributor, secondary distributor, or retailer within a period of 6 months after the date of the final determination of the revocation. [35 ILCS 135/6] The Department may, after notice and hearing as provided for by the Act, revoke, cancel or suspend the license of any distributor or secondary distributor for any noncompliance with this Section. No license so revoked shall be reissued to any such distributor or secondary distributor within a period of 6 months after the date of the final determination of the revocation. (See 35 ILCS 135/6.) Any distributor or secondary distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor or secondary distributor requesting the hearing of the time and place fixed for the hearing. If a distributor or secondary distributor protests the revocation, cancellation or suspension of a license and requests a hearing, the notice also shall contain a statement of the charges preferred against the distributor or secondary distributor. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the*

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~~matter to the distributor or secondary distributor. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.~~

- 4) *Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Sections 15 and 15a of the Act, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Sections 15 and 15a, and \$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Sections 15 and 15a. [35 ILCS 135/23a] The provisions of [the Cigarette Tax Act Regulations](#), 86 Ill. Adm. Code 440.~~115~~¹¹⁰(e) ([Cigarette Tax Act Regulations](#)) that are not inconsistent with the Cigarette Use Tax Act shall apply, as far as practicable, to the subject matter of this Part to the same extent as if those provisions were included in this Part.*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 450.105 Arrest; Search and Seizure Without a Warrant

- a) *[Any duly authorized employee of the Department may](#)*
 - 1) *[arrest without warrant any person committing in his presence a violation of any of the provisions of the Act, and](#)*
 - 2) *[without a search warrant seize any original packages of contraband cigarettes and any vending device in which such packages may be found.](#)*
- b) *[Any contraband cigarettes or vending devices so seized shall be subject to confiscation and forfeiture as provided in Section 450.106. \[35 ILCS 135/24\]](#)*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 450.106 Seizure and Forfeiture

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a) After seizing any original packages of cigarettes, or cigarette vending devices, as provided in Section 450.105, the Department shall hold a hearing and shall determine whether such original packages of cigarettes, at the time of their seizure by the Department, were contraband cigarettes or whether such cigarette vending devices, at the time of their seizure, contained original packages of contraband cigarettes. The Department shall give not less than 7 days' notice of the time and place of such hearing to the owner of such property if the owner is known, and also to the person in whose possession the property so taken was found, if such person is known and if such person in possession is not the owner of said property. If neither the owner nor the person in possession of such property is known, the Department shall cause publication of the time and place of such hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing is to be held.

b) If, as a result of a hearing, the Department shall determine that the original packages of cigarettes seized were at the time of seizure contraband cigarettes, or that any cigarette vending device at the time of its seizure contained original packages of contraband cigarettes, the Department shall enter an order declaring such original packages of cigarettes or such cigarette vending devices confiscated and forfeited to the State, and to be held by the Department for disposal by it as provided in Section 27 of the Act.

c) The Department is not required to hold such a hearing if a waiver and consent to forfeiture has been executed by the owner of the property, if the owner is known, and by the person in whose possession the property so taken was found, if that person is known and if that person is not the owner of the property. Upon receipt of a properly executed waiver and consent to forfeiture as provided in subsection (c), the Department shall enter an order declaring such original packages of cigarettes or such cigarette vending devices confiscated and forfeited to the State, and to be held by the Department for disposal by it as provided in Section 27 of the Act. [35 ILCS 135/25]

1) The waiver and consent to forfeiture is limited to declaring the contraband items, such as cigarettes or little cigars, confiscated and forfeited to the State of Illinois for disposal as provided by Section 27 of the Act.

2) The waiver and consent to forfeiture does not preclude the taxpayer from requesting a hearing on the tax, penalties, and interest imposed by the Department.

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3) The waiver and consent to forfeiture may not be introduced by the Department as evidence in any proceeding relating to the contraband items found in possession of the taxpayer.

d) The Department shall give notice of such order to the owner of such property if the owner is known, and also to the person in whose possession the property so taken was found, if such person is known and if the person in possession is not the owner of said property. If neither the owner nor the person in possession of such property is known, the Department shall cause publication of the time and place of such hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing was held.
[35 ILCS 135/25]

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 450.115 License Actions: Revocations, Cancellations, and Suspensions

a) The Department may, after notice and hearing as provided for by the Act revoke, cancel or suspend the license of any distributor or secondary distributor: for the violation of any provision of the Act; for noncompliance with this Section; for noncompliance with any Section of this Part 450; or because the licensee is determined to be ineligible for a distributor's license or secondary distributor's license for any one or more of the reasons provided for in Sections 4, 4b, or 7a of the Act. [35 ILCS 135/6]

b) No such license shall be revoked, cancelled, or suspended, except after a hearing by the Department with notice to the distributor or secondary distributor providing a reasonable opportunity to appear and defend.

c) Distributors.

1) The Department may revoke, cancel or suspend the license of any distributor for a violation of Section 30 of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167/30].

2) Upon notification by the Attorney General, the Department may revoke a distributor's license for failure to submit information as required by

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Section 25(a) or (d) of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003. [30 ILCS 167/30(c-5)]

- d) Secondary Distributors. The Department may revoke, cancel, or suspend, the license of any secondary distributor for a violation of Section 15(e) of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003. [30 ILCS 167/15(e)]
- e) Any distributor or secondary distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor or secondary distributor requesting the hearing stating the time and place fixed for the hearing and containing a statement of the charges preferred against the distributor or secondary distributor. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor or secondary distributor.
- f) In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.
- g) No license so revoked shall be reissued to any such distributor or secondary distributor within a period of 6 months after the date of the final determination of the revocation. [35 ILCS 135/6]

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 450.116 Violations and Penalties

- a) With the exception of licensed distributors and transporters, anyone possessing or having possessed not less than 10 and not more than 100 packages of contraband cigarettes contained in original packages is liable to pay to the Department, for a deposit into the Tax Compliance and Administration Fund, a penalty of \$20 for each package of contraband cigarettes, unless reasonable cause can be established by the person upon whom the penalty is to be imposed. Any person who purchases and possesses a total of 9 or fewer original packages of unstamped cigarettes per month is exempt from the penalties of this Section. The provisions of the Uniform Penalty and Interest Act do not apply to this subsection

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(a). [35 ILCS 135/25b] For purposes of this Section, "contraband cigarettes" means unstamped original packages of cigarettes or original packages of cigarettes that bear a tax stamp of another state or taxing jurisdiction.

b) *With the exception of licensed distributors and transporters, any person possessing or having possessed more than 100 packages of contraband cigarettes contained in original packages is liable to pay, to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$25 for each package of contraband cigarettes in excess of 100 packages, unless reasonable cause can be established by the person upon whom the penalty is to be imposed. The provisions of the Uniform Penalty and Interest Act do not apply to this subsection*
[35 ILCS 135/25al]

c) *The sale of individual or loose cigarettes is prohibited. Any person who violates this subsection (c) is liable to pay to the Department for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first violation and \$3,000 for any subsequent violation. Any person who violates this subsection (c) shall be guilty of a Class 4 felony. This subsection shall not apply if the violation in a particular case also constitutes a violation of the Cigarette Tax Act.*
[35 ILCS 135/25c]

d) *Any person shall be guilty of a Class 2 felony who for the purpose of evading the tax imposed by the Act:*

- 1) *falsely or fraudulently makes, forges, alters, or counterfeits any stamp;*
- 2) *causes or procures to be falsely or fraudulently made, forged, altered, or counterfeited any such stamp;*
- 3) *knowingly and wilfully utters, publishes, passes, or tenders as genuine any such false, altered, forged, or counterfeit stamp;*
- 4) *falsely or fraudulently makes, forges, alters, or counterfeits any tax imprint on an original package of cigarettes inside a sealed transparent wrapper;*
- 5) *causes or procures falsely or fraudulently to be made, forged, altered, or counterfeited any such tax imprint; or*

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6) *knowingly and wilfully utters, publishes, passes, or tenders as genuine any false, altered, forged, or counterfeited tax imprint. [35 ILCS 135/28]*

e) *Any person including every distributor or secondary distributor shall be deemed guilty of a Class 2 felony who shall:*

- 1) *knowingly and wilfully sell or offer for sale any original package having affixed to such original package any fraudulent, spurious, imitation, or counterfeit stamp, or stamp which has been previously affixed, or affixes a stamp which has previously been affixed to an original package; or*
- 2) *knowingly and wilfully sell or offer for sale any original package having imprinted on such original package underneath the sealed transparent wrapper any fraudulent, spurious, imitation, or counterfeit tax imprint.*
- 3) *This subsection (e) shall not apply if the violation in a particular case also constitutes a criminal violation of the Cigarette Tax Act. [35 ILCS 135/29]*

f) *Sale or Possession of Packages of Contraband Cigarettes.*

- 1) *With the exception of licensed distributors, licensed secondary distributors, or licensed transporters, any person who has in their possession or sells:*
 - A) *10 to 100 original packages of contraband cigarettes is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense occurring within 12 months of a prior offense;*
 - B) *101 to 250 original packages of contraband cigarettes is guilty of Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense;*
 - C) *251 to 1000 original packages of contraband cigarettes is guilty of a Class 4 felony; or*
 - D) *1001 or more original packages of contraband cigarettes is guilty of a Class 3 felony. [35 ILCS 135/30(a)-(d)]*

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2) Any licensed distributor, licensed secondary distributor, or licensed transporter who has in their possession or sells:

A) 100 or less original packages of contraband cigarettes is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense occurring within 12 months of a prior offense; or

B) 101 or more original packages of contraband cigarettes is guilty of a Class 4 felony. [35 ILCS 130/24]

3) Notwithstanding subsections (f)(2)(A) and (B),

A) licensed distributors and transporters may possess unstamped packages of cigarettes;

B) licensed distributors may possess cigarettes that bear a tax stamp of another state or taxing jurisdiction;

C) a licensed distributor or licensed secondary distributor may possess contraband cigarettes returned to the distributor or secondary distributor by a retailer if:

i) the distributor or licensed secondary distributor immediately conducts an inventory of the cigarettes being returned;

ii) the distributor or licensed distributor and the retailer returning the contraband cigarettes sign the inventory;

iii) the distributor or licensed secondary distributor provides a copy of the signed inventory to the retailer; and

iv) the distributor or licensed secondary distributor retains the inventory in its books and records and promptly notifies the Department. [35 ILCS 135/30(g)]

4) Retailers.

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A) Any retailer who knowingly possesses packages of cigarettes with a counterfeit stamp with intent to sell is guilty of a Class 2 felony.

B) Any retailer who knowingly possesses unstamped packages of cigarettes with intent to sell is guilty of a Class 4 felony. [35 ILCS 135/30(h)]

C) Notwithstanding subsections (f)(1)(A)-(D), a retailer unknowingly possessing contraband cigarettes obtained from a licensed distributor or licensed secondary distributor or knowingly possessing contraband cigarettes obtained from a licensed distributor or licensed secondary distributor is not subject to penalties under this Section if the retailer, within 48 hours after discovering that the cigarette are contraband cigarettes, excluding Saturdays, Sundays, and holidays:

- i) notifies the Department and the licensed distributor or licensed secondary distributor from whom the cigarettes were obtained, orally and in writing, that the retailer possesses contraband cigarettes obtained from a licensed distributor or licensed secondary distributor;
- ii) places the contraband cigarettes in one or more containers and seals those containers; and
- iii) places on the containers the following or similar language: "Contraband Cigarettes. Not For Sale."

D) All contraband cigarettes in the possession of a retailer remain subject to forfeiture under the provisions of the Act. [35 ILCS 135/30(h)]

g) Any person, or any officer, agent or employee of a person, required by the Act to make, file, render, sign or verify any report or return, who makes any false or fraudulent report or return or files any false or fraudulent report or return, or who shall fail to make such report or return or file such report or return when due, shall be guilty of a Class 4 felony. [35 ILCS 135/31]

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(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 450.117 Protest Procedures for Certain Penalties

Except as otherwise provided in this Part, any person aggrieved by any decision of the Department under this Part may, within 60 days after notice of the decision, protest in writing and request a hearing. Upon receiving a timely, written request for a hearing, the Department shall provide written notice of the date, time, and place of the hearing to the person requesting the hearing at least 20 days prior to the hearing date, shall hold a hearing in conformity with the provisions of this Part, and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 60 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 450.118 Reasonable Cause

- a) The penalties imposed under the Sections 25a and 25b of the Act shall not apply if the person shows that the possession of unstamped original packages of cigarettes or original packages of cigarettes that bear a tax stamp of another state or taxing jurisdiction at the time of inspection or seizure was due to reasonable cause. Reasonable cause is determined in each situation in accordance with this Section.
- b) The determination of whether a person acted with reasonable cause shall be made on a case-by-case basis considering all pertinent facts and circumstances. The most important factor to be considered in determining to abate a penalty will be the extent to which the person made a good faith effort to determine the existence of any contraband cigarettes in its possession and to timely report such contraband cigarettes to the Department.
- c) A person will be considered to have made a good faith effort to determine the existence of any contraband cigarettes if the person exercised ordinary business care and prudence in so doing. A determination of whether a person exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the person's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does not necessarily establish that a person exercised ordinary business care and prudence, nor does reliance on incorrect facts.

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d) A person's history of compliance is also a factor to be considered in determining whether the taxpayer acted in good faith. An isolated incident of contraband cigarettes being found in a person's inventory generally will not indicate a lack of good faith.

e) Examples of Reasonable Cause. The following is a non-exclusive list of situations in which reasonable cause may exist for purposes of the abatement of penalties:

- 1) Reasonable cause for abatement of penalty will exist if a liability results from amendments made by the Department to regulations or formal administrative policies or positions after the discovery and seizure of contraband cigarettes.
- 2) Reasonable cause for abatement may also be based on the death, incapacity or serious illness of the person or a death or serious illness in the person's immediate family that causes them to be away from the premises for an extended period of time. In the case of a corporation, estate, trust, etc., the death, incapacity, or serious illness of an individual having sole authority to inspect inventory or a member of that individual's immediate family, may be reasonable cause for abatement.
- 3) An unavoidable absence of a person due to circumstances unforeseeable by a reasonable person may also constitute reasonable cause for purposes of abatement of the penalty. An unavoidable absence does not include a planned absence such as a vacation. In the case of a corporation, estate, trust, etc., the absence of an individual having sole authority to inspect and approve inventory may be reasonable cause for purposes of abatement.
- 4) An Illinois appellate court decision, a U.S. appellate court decision, or an appellate court decision from another state (provided that the appellate court case in the other state is based upon substantially similar statutory or regulatory law) that supports the person's position will ordinarily provide a basis for a reasonable cause determination.
- 5) The Department gave erroneous information or delayed a process under its control. In making the determination of whether the taxpayer had

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reasonable cause for purposes of abatement, the following factors are relevant:

- A) Did the taxpayer timely inspect the incoming inventory of cigarettes?
- B) Was the information requested by the taxpayer easily available in instructions or bulletins?
- C) Did the taxpayer rely on the advice of the Department?
- D) Did a Department employee who was acting in an official capacity and was authorized to provide assistance provide the advice?
- E) Was the taxpayer's reliance upon the advice reasonable?

6) Employee fraud not reasonably within the knowledge of the taxpayer.

f) Relevant Factors Used by the Department in Determining the Existence of Reasonable Cause.

- 1) Did the taxpayer have sufficient procedures to review inventory and to timely report any contraband cigarettes?
- 2) Does the taxpayer's reason address the penalty assessed?
- 3) Does the length of time between the reason cited and the actual violation support abatement? If the taxpayer cites a specific event or set of events (e.g., illness, unexpected absence, or natural disaster) or set of events that led to the imposition of the penalty, are those events directly related to the incident under review?
- 4) Could the event cited have been reasonably anticipated? Was the event one that should have been anticipated (e.g., a vacation or scheduled absence) or was it unexpected, unavoidable, or otherwise unplanned (e.g., an emergency or disaster)?
- 5) Were ordinary business care and prudence exercised? In the absence of new or unusual circumstances, possession penalties for contraband

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cigarettes are common knowledge or are readily available to most taxpayers. If the taxpayer did all that could be reasonably expected of them and still possessed contraband cigarettes, reasonable cause may be present.

(Source: Added at 50 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Tobacco Products Tax Act of 1995

2) Code Citation: 86 Ill. Adm. Code 660

3) <u>Section Numbers:</u>	<u>Proposed Actions:</u>
660.5	Amendment
660.10	Amendment
660.15	Amendment
660.16	Amendment
660.17	New Section
660.20	Amendment
660.24	Amendment
660.25	Amendment
660.30	Amendment
660.45	Amendment
660.50	Amendment
660.51	New Section
660.60	New Section
660.65	New Section
660.70	New Section

4) Statutory Authority: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143/Art. 10] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois (Department of Revenue Law) [20 ILCS 2505].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking creates Section 660.65 to provide procedures for Seizure and Forfeiture enacted by Public Act 103-1001, effective August 9, 2024. In updating the rules regarding Seizure and Forfeiture, new Sections 660.51, 660.60, 660.65, and 660.70 are added to address search and seizure, license actions, violations and penalties, protest procedures, and reasonable cause determinations as authorized by statute.

This rulemaking also amends Section 660.20 to update the required information to be reported on returns pursuant to Public Act 103-0592, effective June 7, 2024, and the electronic filing mandate enacted by 104-0006, effective June 16, 2025.

Section 660.5 is amended to update the tax rate for all tobacco products at 45% pursuant to Public Act 104-0006.

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Sections 660.10 and 660.15 are also amended to include the definition of prior continuous compliance taxpayer, nicotine, and tobacco products, and to reflect the new bonding requirements for distributors enacted by Public Acts 103-1001, 103-1055, and 104-0006.

Section 660.15 also sets forth the certification requirement for distributors.

Section 660.16 is amended to update the licensing fee for retailers pursuant to Public Act 104-0006.

Section 660.17 is created to address the addition of nicotine products to the definition of tobacco products.

Section 660.20 is updated to expand the required information for returns under tobacco uniformity and with the updated tax rate.

Sections 660.24 and 660.25 update the books and records requirements for distributors and retailers.

Section 660.30 is amended to update exemptions for sales of tobacco products to Native Americans consistent with tobacco uniformity.

Sections 660.45 and 660.50 are updated to list all license actions and associated penalties.

Sections 660.51, 660.60, 660.65, and 660.70 are created to provide rules for protest procedures, arrest procedures, seizure and forfeiture procedures, and sale of forfeited items.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a State mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Kimberly Rossini
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed rule: Persons making sales of tobacco products at retail and for resale are affected.
 - B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the rule: Basic accounting, computer skills, and recordkeeping.
 - C) Description of the types of professional skills necessary for compliance: Basic accounting, computer skills, and recordkeeping.
- 14) Small Business Economic Impact Analysis:
 - A) Types of businesses subject to the proposed rule:

42 Wholesale Trade
44-45 Retail Trade
48-49 Transportation and Warehousing
92 Public Administration

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B) Estimated number of small business subject to the proposed rule: There are 28 Cigarette Distributor licenses for little cigars in packages of 20 or 25, 49 Cigarette Use Distributor license for little cigars in packages of 20 or 25, 607 Tobacco Distributor licenses, and 14,402 Cigarette and Tobacco Retailers Licenses. While these are the total number of license types impacted, the Department does not have data to determine whether a licensee meets the definition of small business. The Department also does not have data to determine how many retailers are cigarette only or tobacco products only.

C) Categories that the agency reasonably believes the rulemaking will impact, including:

ii. regulatory requirements

viii. record keeping

D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed rule: This rule implements Public Act 103-0592, which updated the required information reasonably required for tobacco products returns to align with the tobacco uniformity standards. There may have been some upfront costs associated with tobacco uniformity, but implementation took effect February 2025 and are not a result of this rulemaking.

E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: Basic recordkeeping and reporting.

F) Statement of the probable positive or negative economic effect on small business: Any economic impact is a result of the Public Acts this rulemaking is implementing. One positive economic effect is the elimination of the bonding requirement for tobacco distributors for first applications and licensees with annual liability below \$50,000. It is possible that tobacco retailers may lose customers and revenue based on the increased tax on tobacco products enacted by Public Act 104-0006; however, these rules are simply implementing the Public Act and do not expand any requirements.

G) Description of any less intrusive or costly alternative methods of achieving the purposes of the rule: Not applicable as any economic effect on small business is a result of the Public Acts this rulemaking is implementing, and not a result of the rulemaking itself.

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- 15) Regulatory Agenda on which this rulemaking was summarized: July 2025
- 16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups: This rule implements Public Act 103-1001 to permit the Department to seek a waiver and consent to forfeiture of seized products, which will reduce costs for the Department as storage is required to house seized product. This rule also implements Public Act 103-0592, updating the required information for returns. Public Act 104-0006 mandates e-filing for payment and returns, provides for license actions for failing to file required reports, and increases and equalizes the tobacco products tax to 45% across all product types, including nicotine products not derived from tobacco.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 660
TOBACCO PRODUCTS TAX ACT OF 1995

Section

660.5	Nature and Rate of Tobacco Products Tax
660.10	General Definitions
660.15	Distributor Licenses
660.16	Retailer Licenses
<u>660.17</u>	<u>Nicotine Products</u>
660.18	Stamping Distributors; Purchasing Tax Stamps; Affixing Tax Stamps to Packages of Little Cigars
660.19	Electronic Cigarettes
660.20	Returns
660.24	Books and Records; Invoices – Retailers
660.25	Books and Records; Invoices – Distributors
660.26	Invoices Relating to Packages of Little Cigars
660.27	Manufacturers – Sale of Little Cigars
660.28	Retailers – Purchase and Possession of Tobacco Products
660.29	Wholesalers – Possession of Little Cigars
660.30	Exempt Sales
660.35	Claims for Credit
660.40	Credit for Stamps that Are Damaged, Unused, Destroyed or Affixed to Packages of Little Cigars Returned to the Manufacturer
660.45	License Actions: Revocations, Cancellations and Suspensions
660.50	Penalties, Interest, and Procedures
<u>660.51</u>	<u>Protest Procedures for Certain Penalties</u>
660.55	Incorporation by Reference
<u>660.60</u>	<u>Arrest; Search and Seizure Without a Warrant</u>
<u>660.65</u>	<u>Seizure and Forfeiture</u>
<u>660.70</u>	<u>Sale of Forfeited Tobacco Products</u>

AUTHORITY: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143/Art. 10] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted at 20 Ill. Reg. 10174, effective July 16, 1996; amended at 26 Ill. Reg. 13310, effective August 23, 2002; amended at 34 Ill. Reg. 12972, effective August 19, 2010;

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amended at 40 Ill. Reg. 10954, effective July 29, 2016; amended at 43 Ill. Reg. 8923, effective July 30, 2019; amended at 44 Ill. Reg. 6079, effective April 3, 2020; amended at 46 Ill. Reg. 6603, effective April 5, 2022; amended at 47 Ill. Reg. 1488, effective January 17, 2023; amended at 50 Ill. Reg. _____, effective _____.

Section 660.5 Nature and Rate of Tobacco Products Tax

The Tobacco Products Tax Act of 1995 imposes a tax on any person in business as a distributor of tobacco products. The tax is based on the wholesale price of tobacco products sold or otherwise disposed of to distributors located in Illinois, except moist snuff sold or otherwise disposed of on or after January 1, 2013 through June 30, 2025, and little cigars sold or otherwise disposed of on or after July 1, 2013. Beginning January 1, 2013, and through June 30, 2025, under the Act, moist snuff is taxed by the ounce and all fractional parts of an ounce. Beginning July 1, 2013, little cigars are taxed under the Act at the same rate as cigarettes. Little cigars in packages of 20 or 25 little cigars sold by stamping distributors must have a tax stamp affixed. Stamping distributors must purchase tax stamps from the Department in same manner as licensed cigarette distributors purchase tax stamps that are affixed to packages of cigarettes. The same tax stamps are affixed to packages of little cigars and cigarettes containing 20 or 25 little cigars or cigarettes. Taxes on packages of little cigars containing other than 20 or 25 little cigars are reported on a return to be filed no later than the 15th of the month and paid on or before the date the return is due.

- a) Except as otherwise provided in this Section with respect to moist snuff, electronic cigarettes, and little cigars, the Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer located in Illinois at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State *prior to July 1, 2012 and 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State beginning on July 1, 2012 and through June 30, 2025*. Beginning on January 1, 2013 and through June 30, 2025, the tax on moist snuff shall be imposed at a rate of \$0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce, sold or otherwise disposed of to retailers or consumers located in this State, provided that the rate of tax imposed on moist snuff after any future rate increases may not exceed 15% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act [35 ILCS 130]. Beginning July 1, 2013, the tax on little cigars shall be imposed at the same rate, and the proceeds shall be distributed in the same manner, as the tax imposed on cigarettes under the Cigarette Tax Act [35 ILCS 130]. [35 ILCS 143/10-10] Beginning July 1, 2013, and prior to July 1,

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2019, the tax on little cigars is 99 mills per little cigar sold or otherwise disposed of. Beginning July 1, 2019, the tax on little cigars is 149 mills per little cigar sold or otherwise disposed of. *Beginning July 1, 2019 and through June 30, 2025, the tax on electronic cigarettes shall be at the rate of 15% of the wholesale price of electronic cigarettes sold or otherwise disposed of to retailers or consumers located in this State. [35 ILCS 143/10-10]*

- b) *Beginning on July 1, 2025, except as otherwise provided in subsection (a) with respect to little cigars, the Tobacco Products Tax is imposed upon the last distributor who sells tobacco products to a retailer or consumer located in Illinois at the rate of 45% of the wholesale price of tobacco products, including moist snuff and electronic cigarettes, sold or otherwise disposed of to retailers or consumers located in this State. [35 ILCS 143/10-10]*
- c) *The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation [35 ILCS 143/10-10(a)].*
- de) A retailer is required to register as a distributor, file returns and pay the Tobacco Products Tax imposed by the Act on all sales of tobacco products on which the tax has not been paid unless the sales are exempt under Section 660.30. (See Sections 660.15, 660.20, and 660.30.) *Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. Retailers who are not stamping distributors may not purchase or possess packages of little cigars containing other than 20 or 25 little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. [35 ILCS 143/10-27] (See Section 660.28.)*
- ed) The Tobacco Products Tax is paid on the wholesale price of tobacco products, except on ~~moist snuff and~~ little cigars. The wholesale price is the established list price for which a manufacturer sells tobacco products to a distributor, or the established list price for which a wholesaler or distributor sells tobacco products to the last distributor, before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.

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- 1) The wholesale price for purposes of imposing the Tobacco Products Tax on the last distributor is the invoice price at which tobacco products are sold by a wholesaler or distributor to the last distributor before the allowance of any discounts, trade allowances, rebates, or other reductions. Surcharges added by distributors are considered part of the wholesale price subject to tax.
- 2) The wholesale price for purposes of imposing the tax on a retailer who receives or purchases tobacco products on which the tax has not been paid or will not be paid by a licensed distributor is the invoice price paid by the retailer to an unlicensed distributor or other supplier of tobacco products before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers, distributors or other suppliers are considered part of the wholesale price subject to tax.
- 3) The wholesale price for purposes of imposing tax on a manufacturer of a tobacco product who sells the tobacco product directly to consumers is the cost to the manufacturer to manufacture the tobacco product. When determining its cost, the time period used for purpose of the study should be long enough to include all costs incurred by the manufacturer to manufacture the product.

fe Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of Section 660.25(d), (e), and (g), a *prima facie* presumption shall arise that the tax imposed by Section 10-10 of the Act and this Section has not been paid on the tobacco products listed on the sales invoice. A retailer that is unable to rebut this presumption is in violation of both the Act and this Part and is subject to applicable tax, penalties, and interest.

gf *Beginning July 1, 2013, all moneys received by the Department under the Act from the tax imposed on little cigars shall be distributed as provided in Section 2 of the Cigarette Tax Act. [35 ILCS 143/10-10].*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.10 General Definitions

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"Act" means the Tobacco Products Tax Act of 1995. [35 ILCS 143/10-1~~Art. 10~~]-

"Business" means any trade, occupation, activity, or enterprise engaged in, at any location whatsoever, for the purpose of selling tobacco products. ~~135 ILCS 143/10-5~~

"Contraband little cigar" means:

packages of little cigars containing 20 or 25 little cigars that do not bear a required tax stamp under ~~the~~^{the} Act;

packages of little cigars containing 20 or 25 little cigars that bear a fraudulent, imitation, or counterfeit tax stamp;

packages of little cigars containing 20 or 25 little cigars that are improperly tax stamped, including packages of little cigars that bear only a tax stamp of another state or taxing jurisdiction; or

packages of little cigars containing other than 20 or 25 little cigars in the possession of a distributor, retailer or wholesaler, unless the distributor, retailer, or wholesaler possesses, or produces within the time frame provided in Section 10-27 or 10-28 of ~~the~~^{the} Act, an invoice from a stamping distributor, distributor, or wholesaler showing that the tax on the packages has been or will be paid.

"Department" means the Illinois Department of Revenue.

"Distributor" means any of the following:

Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within

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this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

Any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor.

"Distributor" does not include any person, wherever resident or located, who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5] A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Electronic cigarette" means:

any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation, except for (A) any device designed solely for use with cannabis that contains a statement on the retail packaging that the device is designed solely for use with cannabis and not for use with tobacco or (B) any device that contains a solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act;

any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device, except for any cartridge or container of a solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act; or

any solution or substance, whether or not it contains nicotine, intended for use in the device, except for any solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act.

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"Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any component or part that can be used to build the product or device. "Electronic cigarette" does not include:

cigarettes, as defined in Section 1 of the Cigarette Tax Act;

any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, a tobacco dependence product, or for other medical purposes that is marketed and sold solely for that approved purpose;

any asthma inhaler prescribed by a physician for that condition that is marketed and sold solely for that approved purpose; or

any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130].

"Little cigar" means and includes any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco.

"Manufacturer" means any person, wherever resident or located, who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, including tobacco products referred to as "snus", but shall~~does~~ not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Nicotine" means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived, and includes nicotinic alkaloids and nicotine analogs.

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"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, or public or private corporation, however formed, or a receiver, executor, administrator, trustee, conservator, or other representative appointed by order of any court.

"Place of business" means and includes any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

"Prior continuous compliance taxpayer" means any person who is licensed under the Act and who, having been a licensee for a continuous period of 2 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of the Act. "Prior continuous compliance taxpayer" also means any taxpayer who has, as verified by the Department, continuously complied with the condition of the bond or other security under provisions of the Act for a period of 2 consecutive years. In calculating the consecutive period of time described in this definition for qualification as a prior continuous compliance taxpayer, a consecutive period of time of qualifying compliance immediately prior to August 9, 2024, the effective date of P.A. 103-1001, shall be credited to any licensee who became licensed on or before August 9, 2024.

A distributor that is a prior continuous compliance taxpayer and becomes a successor to a distributor as the result of an acquisition, merger, or consolidation of that distributor shall be deemed to be a prior continuous compliance taxpayer with respect to the acquired, merged, or consolidated entity.

"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales.

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. [35 ILCS 143/10-5]

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed

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distributor under the Cigarette Tax~~the Cigarette Tax~~ Act or the Cigarette Use Tax Act [35 ILCS 135], sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale. [35 ILCS 130/1]

"Stamp" or "stamps" mean the indicia required to be affixed on a package of little cigars that evidence payment of the tax on packages of little cigars containing 20 or 25 little cigars under Section 10-10 of the~~the~~ Act. These stamps shall be the same stamps used for cigarettes under the Cigarette Tax Act.

"Stamping distributor" means a distributor licensed under the~~the~~ Act and also licensed as a distributor under the Cigarette Tax Act or Cigarette Use Tax Act.

"Tobacco products" means any product that is made from or derived from tobacco that is intended for human consumption or is likely to be consumed, including but not limited to cigars, including little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff (including moist snuff) and~~or~~ snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; snus; shisha and tobacco for use in waterpipes; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking or for inhalation, absorption, or ingesting by any other means; but does not include cigarettes as defined in~~by~~ Section 1 of the Cigarette Tax Act or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. Beginning on July 1, 2019, "tobacco products" also includes electronic cigarettes.

Beginning on July 1, 2025, "tobacco products" also includes any product that is made from or derived from tobacco, or that contains nicotine whether natural or synthetic, that is intended for human consumption or is likely to be consumed, including but not limited to nicotine pouches, lozenges, and gum; and other kinds and forms of nicotine prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking or for inhalation, absorption, or ingesting by any other means.

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"Tobacco products" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco or smoking cessation product, a nicotine replacement therapy product, or for other medical purposes where that product is marketed and sold solely for such approved use, including but not limited to spray or inhaler prescribed by a physician, chewing gum, skin patches, or lozenges.

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. [35 ILCS 143/10-5] The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.

"Wholesaler" means any person, wherever resident or located, engaged in the business of selling tobacco products to others for the purpose of resale.

"Wholesaler" means any person, wherever resident or located, who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax. "Wholesaler", when used in ~~the~~^{the} Act, does not include a person licensed as a distributor under Section 10-20 of the Act unless expressly stated in ~~the~~^{the} Act. [35 ILCS 143/10-5]

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.15 Distributor Licenses

- a) *It shall be unlawful for any person to engage in business as a distributor of tobacco products within the meaning of ~~the~~^{the} Act without first having obtained a license to do so from the Department. Application for a distributor's license shall be made to the Department in a form prescribed and furnished by the Department and shall be accompanied by a bond, if applicable as provided in subsection (d). [35 ILCS 143/10-20] Bonds may be furnished electronically by sureties using one of the methods contained in 86 Ill. Adm. Code 760.230(b)(Section 10-20 of the Act) Application for a distributor's license shall be made to the Department in a form furnished and prescribed by the Department and shall be accompanied by a*

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~~joint and several bond in an amount fixed by the Department~~. Each licensed place of business shall be covered by a separate license. Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a retailer who receives or purchases tobacco products on which the tax has not been paid or will not be paid by another distributor is required to register with the Department and obtain a license, file returns, and pay the Tobacco Products Tax. Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of Section 660.25(d), (e), and (g), a *prima facie* presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the tobacco products listed on the sales invoice.

- 1) Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a retailer who receives or purchases tobacco products from an ~~out-of-State~~~~out-of-state~~ distributor that is not registered with the Department must obtain a license.
- 2) Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a retailer who receives or purchases tobacco products from a supplier, whether within or without the State, that is not registered with the Department must obtain a license.

b) *The Department may, in its discretion, and upon application issue licenses authorizing the payment of the tax imposed by the Act on tobacco products, excluding little cigars, by any distributor or manufacturer not otherwise subject to the tax imposed under the Act who, to the satisfaction of the Department furnishes adequate security to ensure payment of the tax. [35 ILCS 143/10-20]*~~The Department may, in its discretion, upon application, issue licenses authorizing the payment of the tax imposed by the Act on tobacco products, excluding little cigars, by any distributor or manufacturer not otherwise subject to the tax imposed under the Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax.~~

c) Wholesalers that are not registered and licensed as distributors with the Department but claim to only sell tobacco products, excluding little cigars, in such a way that their sales are not taxable under ~~the~~~~this~~ Act (e.g., resale or to exempt purchasers) are advised to apply to the Department for a resale number so that those wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products, excluding little cigars, that will be resold. Those

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wholesalers need not file returns with the Department. (See Section 660.30, Exempt Sales.)

d) Bonding.

1) Each distributor shall file with the Department a bond in an amount not to exceed 3 times the amount of the distributor's average monthly tax liability or \$50,000, whichever is lower, on a form to be approved by the Department, except for:

A) a distributor who is applying for a distributor's license under the Act for the first time; or

B) a distributor who, in the preceding year, had less than \$50,000 of tax liability.

2) Any applicant applying for a distributor's license after the applicant's distributor's license has been revoked by the Department shall also file a bond with the Department in an amount equal to 3 times the amount of the applicant's average monthly tax liability under the Act, as that average monthly tax liability was calculated immediately prior to the revocation of the applicant's distributor's license. The bonding requirement in Section 10-20 of the Act does not apply to an applicant for a distributor's license who is already bonded under the Cigarette Tax Act or the Cigarette Use Tax Act. Licenses issued by the Department under the Act shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled, or suspended as provided in the Act. [35 ILCS 143/10-20]

3) The Department shall discharge any surety and shall release and return any bond provided to it by a taxpayer under this subsection within 90 days after:

A) the taxpayer becomes a prior continuous compliance taxpayer, as defined in 660.10; or

B) the taxpayer has ceased to collect receipts on which the taxpayer is required to remit the tax under the Act to the Department, has filed a final tax return, and has paid to the Department an amount

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sufficient to discharge any remaining tax liability as determined by the Department under the Act.

- e) Licenses issued by the Department under the Act shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled, or suspended as provided in the Act.
- f) No license shall be issued to any person who is in default to the State of Illinois for moneys due under ~~the~~ the Act or any other tax Act administered by the Department. [35 ILCS 143/10-20]
- g) No person shall be issued a license or granted a renewal of a license to act as a distributor unless the person has certified in writing, under penalty of perjury, that the person will comply fully with the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003. [30 ILCS 167/35(b)]

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.16 Retailer Licenses

- a) *Beginning on January 1, 2016, no person may engage in business as a retailer of tobacco products in this State without first having obtained a license from the Department. Application for license shall be made to the Department, by electronic means, in a form prescribed by the Department. Each applicant for a license under this Section shall furnish to the Department, in an electronic format established by the Department, the following information:*
 - 1) *the name and address of the applicant;*
 - 2) *the social security number or FEIN of the applicant;*
 - 3) *the address of the applicant's principal place of business;*
 - 4) *the address of the location or locations at which the applicant proposes to engage in business as a retailer of tobacco products in this State [35 ILCS 143/10-21];*
 - 5) *In the case of:*

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- A) a publicly traded corporation, the FEIN of the corporation and the name and title of the Chief Financial Officer, Chief Operating Officer, and any other officer or employee with responsibility for preparing tax returns under the Act, along with the last 4 digits of each of their social security numbers; and
- B) all other corporations, the FEIN of the corporation and the name, title and social security number of each corporate officer;
- 6) in the case of a limited liability company, the name, social security number or FEIN of each manager and member;
- 7) in the case of a partnership, the name, title, social security number or FEIN of each general partner and each limited partner, if any; and
- 8) such other additional information as the Department may lawfully require.

b) *The annual license fee payable to the Department for each retailer's license shall be \$150~~75~~. Each applicant for license shall pay the fee to the Department at the time of submitting its application for license to the Department. The applicant for a license under this Section shall electronically file and pay the fee.*

c) *A separate annual license fee shall be paid for each place of business at which a person who is required to procure a retailer's license under Section 10-21 of the Act~~Section 10-21 of the Act~~ proposes to engage in business as a retailer in Illinois under the~~the~~ Act.*

d) *The following are ineligible to receive a retailer's license under the~~the~~ Act:*

- 1) *a person who has been convicted of a felony under any federal or State law for smuggling cigarettes or tobacco products or tobacco tax evasion~~for smuggling cigarettes or tobacco products or tobacco tax evasion~~, if the Department, after investigation and a hearing if requested by the applicant, determines that person has not been sufficiently rehabilitated to warrant the public trust; and*
- 2) *a corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the*

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stock of that corporation, would not be eligible to receive a license under the~~the~~ Act for any reason.

- e) *The Department, upon receipt of an application and license fee, in proper form, from a person who is eligible to receive a retailer's license under the~~the~~ Act, shall~~will~~ issue to the applicant a license in the~~the~~ form prescribed by the Department. Such~~That~~ license shall permit the applicant to whom~~whom~~ it is issued to engage in business as a retailer under the~~the~~ Act at the place shown in its~~his or her~~ application. All licenses issued by the Department under Section 10-21 of the Act~~this Section~~ shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled or suspended as provided in the~~the~~ Act. No license issued under this Section~~this Section~~ is transferable or assignable. Such~~The~~ license shall be conspicuously displayed in the place of business conducted by the licensee in Illinois under the~~the~~ license. A person who obtains a license as a retailer who ceases to do business as specified in the license, or who never commenced business, or whose license is suspended or revoked, shall immediately surrender the license to the Department. The Department shall not issue a license to a retailer unless the retailer is also validly registered under the Retailers' Occupation Tax Act [35 ILCS 120~~130~~4g]. A retailer, as defined under the~~the~~ Act, need not obtain an additional license under the Act, but shall be deemed to be sufficiently licensed by virtue of his being properly licensed as a retailer under Section 4g of the Cigarette Tax Act [35 ILCS 130].*
- f) *Any person aggrieved by any decision of the Department under Section 10-21 of the Act~~Section 10-21 of the Act~~ may, within 30 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the~~the~~ Act and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 30 days, the Department's decision shall become final without any further determination being made or notice given. [35 ILCS 143/10-21]*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.17 Nicotine Products

- a) Beginning July 1, 2025, nicotine products, whether naturally derived from tobacco or synthetically made, are included in the definition of "tobacco products"

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and subject to the provisions of this Part. Public Act 104-0006 changed the definition of "tobacco products."

- 1) Effective on and after July 1, 2025, "tobacco product" includes any product that is made from or derived from tobacco, or that contains nicotine whether natural or synthetic, that is intended for human consumption or is likely to be consumed, including but not limited to nicotine pouches, lozenges, and gum; and other kinds and forms of nicotine prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking or for inhalation, absorption, or ingesting by any other means.
- 2) However, "tobacco products" does not include any product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco or smoking cessation product, a nicotine replacement therapy product, or for other medical purposes where that product is marketed and sold solely for such approved use, including but not limited to spray or inhaler prescribed by a physician, chewing gum, skin patches, or lozenges. [35 ILCS 143/10-5]

b) To be excluded from the definition of "tobacco product" as a therapeutic product or smoking cessation product, the product must be marketed as FDA-approved nicotine replacement therapy. Over-the-counter nicotine, FDA-approved replacement therapy products include a "drug facts" label on the packaging.

c) Registration and Licenses

- 1) Retailers selling nicotine products, including pouches, at retail to users and consumers must obtain a tobacco retailer license. See 86 Ill. Adm. Code 660.16.
- 2) Retailers selling nicotine products on which the tax has not or will not be paid by a distributor must obtain a distributor license, file returns, and remit the tax to the Department. See 86 Ill. Adm. Code 660.15.
- 3) Manufacturers of nicotine products (e.g., pouches, lozenges) meeting the definition of "distributor" selling nicotine products directly to consumers must obtain both a distributor license and a tobacco retailer license.

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4) Any manufacturer or wholesaler engaged in the business of selling tobacco products from outside of Illinois who sells, exchanges, distributes, ships, or transports nicotine products to retailers or consumers located in Illinois must register to become a distributor if the manufacturer or wholesaler has or maintains within Illinois, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within Illinois under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

EXAMPLE: An out-of-State manufacturer of nicotine products sells nicotine products over the internet at retail to consumers in this State. It also sells nicotine products to retailers in this State. The manufacturer has representatives that solicit sales by retail stores in this State. The manufacturer is required to obtain a distributor license and pay the tax on all sales made to retailers and consumers in this State.

d) Invoices

Whenever any sales invoice issued by an in-State or out-of-State seller for nicotine products sold to a retailer does not comply with the requirements of Section 660.25 (d) and (e), a *prima facie* presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the nicotine products listed on the sales invoice. A retailer that is unable to rebut this presumption is in violation of both the Act and this Part and is subject to applicable taxes, penalties, and interest.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 660.20 Returns

a) Every distributor of tobacco products shall, on or before the 15th day of each calendar month, file a return with the Department covering the preceding calendar month. For reporting periods through June 30, 2025, the return shall disclose the wholesale price for all tobacco products other than moist snuff and little cigars and the quantity of moist snuff sold or otherwise disposed of and other information that the Department may reasonably require. Beginning with the July 2025 reporting period due August 15, 2025, the return shall disclose the wholesale price for all tobacco products, including moist snuff, sold or otherwise disposed of and other information that the Department may reasonably require.

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Information that the Department may reasonably require includes information related to the uniform regulation and taxation of tobacco products. [35 ILCS 143/10-30]disclosing the following (Section 10-20 of the Act):

b) For reporting periods up to and including December 31, 2024, the following information shall be reported:

- 1) The wholesale price for tobacco products, excluding little cigars and moist snuff, manufactured and then sold or otherwise disposed of.
- 2) The wholesale price for tobacco products, excluding little cigars and moist snuff, purchased and then sold or otherwise disposed of.
- 3) The total cost of all tobacco products, excluding little cigars and moist snuff, sold or otherwise disposed of.
- 4) Deductions authorized by law on tobacco products, excluding little cigars and moist snuff.
- 5) Tobacco products tax base, excluding little cigars and moist snuff.
- 6) Total tax based on percentage of wholesale price on tobacco products, excluding little cigars and moist snuff.
- 7) Total quantity in ounces and fractional ounces of moist snuff purchased and then sold or otherwise disposed of.
- 8) Deductions authorized by law on moist snuff.
- 9) Total tax on moist snuff.
- 10) In addition to the items listed in subsections (a)(1) through (9):
 - A) The quantity of little cigars purchased and sold or otherwise disposed of.
 - B) The quantity of packages of little cigars containing 20 or 25 little cigars.

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C) Deductions authorized by law on little cigars.

D) Total tax on little cigars.

c**b**) Beginning with the January 2025 reporting period due February 18, 2025, and through the June 2025 reporting period due July 15, 2025, each return shall include *information related to the uniform regulation and taxation of tobacco products.* [35 ILCS 143/10-30] Such information shall include the following:

- 1) The total amount of tobacco products, excluding little cigars, sold or otherwise dispersed to all customers as reported on the supporting schedules;
 - A) For tobacco products (OTP), other than little cigars, and electronic cigarettes (E-cigs), the total amount shall be reported as the total wholesale price reflecting the value of each product times the quantity of the number of products; and
 - B) For moist snuff (MS), the total amount shall be reported as the total ounces reflecting the number of products sold times the total weight/volume of the product.
- 2) Any deductions authorized by law on tobacco products, excluding little cigars. Such deductions include in-State returns from customers located within this State for which tax was previously paid.
 - A) For OTP and E-cigs, the total amount shall be reported as summed total of wholesale prices listed on all supporting schedules for returned tobacco products, excluding little cigars; and
 - B) For MS, the total amount shall be reported as the summed total ounces listed on all supporting schedules for returned MS.
- 3) Exempt transactions, including sales to:
 - A) Native American entities, including transactions to a Native American tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as a Native

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American tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 [25 U.S.C. 479a];

- B) licensed distributors or wholesalers, who will purchase for resale and not sell to retailers, consumers, or end users;
- C) the military, government, or other exempt transactions; and
- D) interstate commerce or out-of-State sales.

4) In addition to the items listed in (b)(1) through (4), each stamping distributor shall report:

- A) the quantity of little cigars, purchased and sold or otherwise disposed of;
- B) the quantity of packages of little cigars containing 20 or 25 little cigars [35 ILCS 143/10-30(b)];
- C) any deductions authorized by law on little cigars; and
- D) the total tax on little cigars.

5) Failure to provide the information related to the uniform regulation and taxation of tobacco products as required under this subsection (c), may subject the return and supporting schedule to be considered unprocessable and may subject the filer to penalties and interest for failure to file. Repeated violations may also result in license revocation pursuant to Section 10-25 of the Act. Such information includes tobacco products received and disbursed as follows:

- A) received from a manufacturer or first importer;
- B) received from a person other than a manufacturer or first importer (e.g., wholesaler, distributor, or other licensee);
- C) received from a retailer or end user;

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D) received by a manufacturer or first importer from a person other than a manufacturer or first importer (e.g., returned product);

E) disbursed by a manufacturer or first importer;

F) disbursed to a person other than a manufacturer or first importer (e.g., wholesaler, distributor, or other licensee);

G) disbursed to a retailer or end user; and

H) returned to the manufacturer.

6) Falsifying any of the information related to the uniform regulation and taxation of tobacco products as required under this subsection (c), may subject the return and supporting schedule to be considered unprocessable and may subject the filer to penalties and interest for failure to file. Repeated violations may also result in license revocation pursuant to Section 10-25 of the Act.

d) Beginning with the July 2025 reporting period due August 15, 2025, and all returns thereafter, each return shall include *information related to the uniform regulation and taxation of tobacco products.* [35 ILCS 143/10-30] Such information shall include the following:

- 1) The total amount of tobacco products, excluding little cigars, sold or otherwise dispersed to all customers as reported on the supporting schedules. For tobacco products (OTP), including electronic cigarettes (E-cigs) and moist snuff (MS), the total amount shall be reported as the total wholesale price reflecting the value of each product times the quantity of the number of products.
- 2) Any deductions authorized by law on tobacco products, excluding little cigars. Such deductions include in-State returns from customers located within this State for which tax was previously paid. The total amount shall be reported as summed total of wholesale prices listed on all supporting schedules for returned tobacco products, excluding little cigars.
- 3) Exempt transactions, including sales to:

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- A) Native American entities, including transactions to a Native American tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as a Native American tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 [25 U.S.C. 479a];
 - B) licensed distributors or wholesalers, who will purchase for resale and not sell to retailers, consumers, or end users;
 - C) the military, government, or other exempt transactions; and
 - D) interstate commerce or out-of-State sales.
- 4) In addition to the items listed in (d)(1) through (4), each stamping distributor shall report:
 - A) the quantity of little cigars, purchased and sold or otherwise disposed of;
 - B) the quantity of packages of little cigars containing 20 or 25 little cigars [35 ILCS 143/10-30(b)];
 - C) any deductions authorized by law on little cigars; and
 - D) the total tax on little cigars.
- 5) Failure to provide the information related to the uniform regulation and taxation of tobacco products as required under this subsection (d), may subject the return and supporting schedule to be considered unprocessable and may subject the filer to penalties and interest for failure to file. Repeated violations may also result in license revocation pursuant to Section 10-25 of the Act. Such information includes tobacco products received and disbursed as follows:
 - A) received from a manufacturer or first importer;
 - B) received from a person other than a manufacturer or first importer (e.g., wholesaler, distributor, or other licensee);

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- C) received from a retailer or end user;
- D) received by a manufacturer or first importer from a person other than a manufacturer or first importer (e.g. returned product);
- E) disbursed by a manufacturer or first importer;
- F) disbursed to a person other than a manufacturer or first importer (e.g., wholesaler, distributor, or other licensee);
- G) disbursed to a retailer or end user; and
- H) returned to the manufacturer.

6) Falsifying any of the information related to the uniform regulation and taxation of tobacco products as required under this subsection (d), may subject the return and supporting schedule to be considered unprocessable and may subject the filer to penalties and interest for failure to file. Repeated violations may also result in license revocation pursuant to Section 10-25 of the Act.

e) The return shall be filed in the format and manner prescribed by the Department. Payment of the tax in the amount disclosed by the return shall accompany the return. Taxpayers whose annual liability is \$20,000 or more for the preceding calendar year are required to make payments of tax by Electronic Funds Transfer as provided in 86 Ill. Adm. Code 750. For purposes of this subsection, *the term "annual tax liability" means, for a taxpayer that incurs a tax liability under the Retailers' Occupation Tax Act, Service Occupation Tax Act, Use Tax Act, Service Use Tax Act, or any other State or local occupation or use tax law that is administered by the Department (which includes the Act), the sum of the taxpayer's liabilities under the Retailers' Occupation Tax Act, Service Occupation Tax Act, Use Tax Act, Service Use Tax Act, and all other State and local occupation and use tax laws administered by the Department for the immediately preceding calendar year.* [20 ILCS 2505/2505-210(c)]

fe) Tobacco products "otherwise disposed of" include samples of tobacco products. Transfers of tobacco products between divisions of a corporation that have separate Illinois Business Tax numbers are required to be reported as sales under "otherwise disposed of."

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g(d) *All returns and supporting schedules required to be filed and all payments required to be made under Section 10-30 of the Act shall be by electronic means in the form prescribed by the Department. [35 ILCS 143/10-30(d)]* ~~Returns, schedules, documents and data required to be filed by the Act with the Department must be filed electronically in the format required by the Department. Distributors who do not have access to the Internet may petition the Department for a waiver of this requirement.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.24 Books and Records; Invoices – Retailers

a) *Every* ~~Every~~ retailer, as defined in Section 10-5 of the Act, whether or not the retailer has obtained a retailer's license pursuant to Section 4g, shall keep complete and accurate records of tobacco products held, purchased, sold, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale, returns and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products.

1) *The books and* ~~The books and~~ records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. However, all original invoices or copies *of those invoices* ~~of those invoices~~ covering purchases of tobacco products must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request in cases *in which* ~~in which~~ *which* records are kept at a central business location within the State of Illinois. [35 ILCS 143/10-35(b)] Prior to removing the books and records from the licensed premises, the retailer shall notify the Department that the books and records will be kept at another location in Illinois and shall identify the location. Under those circumstances, books and records may be kept at that location in Illinois, but the taxpayer shall, within a reasonable time after notification by the Department, make all pertinent books, records, papers, and documents available *within 30 days at the licensed premises or an agreed upon location by the Department* ~~at some point within Illinois~~ for the purpose of inspection and audit as the Department may deem necessary.

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2) *Books and Books and records may be maintained out of state if access is available electronically. However, all original invoices or copies of those invoices of those invoices covering purchases of tobacco products must be retained on the licensed premises for a period of 90 days after purchase, unless the Department has granted a waiver in response to a written request in cases in which in which records that are available electronically are maintained out of state.* [35 ILCS 143/10-35(b)]

3) The Department will grant a written waiver under subsections (a)(1) and (2) when the following requirements are met by the retailer:

A) The retailer submits a letter to the Department containing:

- i) the retailer's license number and FEIN;
- ii) the address or addresses of the licensed premises where records are currently maintained;
- iii) the address of the out-of-State location where the retailer intends to maintain the records;
- iv) if the records are maintained out of State, an explanation of the process and system that will enable the Department or its duly authorized employees to electronically access the records from the licensed premises on demand; and
- v) an acknowledgement by the retailer that the Department, upon 30 days written notice, may revoke the waiver of the retailer for one or more licensed premises if the retailer:
 - fails to provide electronic access in accordance with the requirements of the written waiver;
 - transfers or sells the licensed premises to another person; or
 - changes the process or system for providing access to the records electronically.

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B) For books and records maintained out of state, the Department is given access electronically to accurate records of tobacco products held, purchased, sold, or otherwise disposed of; invoices; bills of lading; sales records; ~~and~~ copies of bills of sale, returns, and other pertinent papers; and documents relating to the purchase, sale, or disposition of tobacco products kept at the licensed premises in the normal course of business at the time of the request; ~~and~~.

C) For books and records maintained out of state, the Department has tested the process and system from the licensed premises and verified that the Department and its duly authorized employees have access electronically to the required records from the licensed premises on demand.

b) *Books, records, papers, and documents that are required by ~~the~~ the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period, which is 3 to 3½ years for filed returns.* [35 ILCS 143/10-35(c)]

c) *Whenever any ~~retailer~~ retailer obtains tobacco products from an unlicensed in-state or out-of-state distributor or person, a prima facie presumption shall arise that the tax imposed by ~~the~~ the Act on ~~such~~ those tobacco products has not been paid in violation of ~~the~~ the Act. Invoices or other documents kept in the normal course of business in the possession of a person reflecting purchases of tobacco products from an unlicensed in-state or out-of-state distributor or person or invoices or other documents kept in the normal course of business obtained by the Department from in-state or out-of-state distributors or persons, are sufficient to raise the presumption that the tax imposed by ~~the~~ the Act has not been paid. If a presumption is raised, the Department may assess tax, penalty, and interest on the tobacco products.* [35 ILCS 143/10-38]

d) *Every ~~retailer~~ retailer who purchases tobacco products for resale for shipment into Illinois from a point outside Illinois shall procure invoices in duplicate covering each shipment and shall make the invoices available for inspection upon demand by a duly authorized employee of the Department, and shall, if the Department so*

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requires, furnish one copy of each invoice to the Department at the time of filing the return required by the~~the~~ Act. [35 ILCS 143/10-40]

- e) Every retailer who purchases rolls, made wholly or in part of tobacco, when those rolls have an integrated cellulose acetate filter and a wrapper or cover that is made in whole or in part of tobacco and the rolls are contained in packages of 20 or 25, shall procure an invoice from the seller that states whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand. If a person fails to produce an invoice for inspection by the Department upon request that states whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand, a *prima facie* presumption shall arise that the rolls weigh less than 4 pounds per thousand. If the rolls do not contain a tax stamp in accordance with Section 10-10 of the Act, the rolls are contraband and subject to seizure and forfeiture.
- f) *The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any retailer who fails to keep books and records as required under the~~the~~ Act, fails to make books and records available for inspection upon demand by a duly authorized employee of the Department, or violates this Section~~Section~~. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is based. [35 ILCS 143/10-25] Any retailer aggrieved by any decision of the Department under this Section may, within 30~~20~~ days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the retailer requesting the hearing that contains a statement of the charges preferred against the retailer and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the retailer. In the absence of a protest and request for a hearing within 30~~20~~ days, the Department's decision shall become final without any further determination being made or notice given.*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.25 Books and Records; Invoices – Distributors

- a) *Every distributor of tobacco products~~Every distributor of tobacco products~~ who is required to procure a license under the Act, including retailers who are required to procure a distributor's license under Section 660.15, shall keep~~shall keep~~ within*

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Illinois, at the distributor's~~his or her~~ licensed address, complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the State, and tobacco products sold, or otherwise disposed of, and shall preserve and keep~~complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep~~ within Illinois at his or her licensed address all of the following:

- 1) invoices~~;~~Invoices~~.~~
- 2) bills of lading~~;~~Bills of lading~~.~~
- 3) sales records~~;~~Sales records~~.~~
- 4) copies of bills of sale~~;~~Copies of bills of sale~~.~~
- 5) the wholesale price for tobacco products sold or otherwise disposed of~~;~~The wholesale price for tobacco products sold or otherwise disposed of~~.~~
- 6) an inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if the distributor files federal income tax returns on the basis of a fiscal year~~;~~An inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if he or she files federal income tax returns on the basis of a fiscal year~~.~~
- 7) other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products~~[35 ILCS 143/10-35(a)]~~; ~~and~~ Other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products~~.~~
- 8) any Certificates of Resale and Certificates of Exemption~~.~~

b) All books, records, papers, and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.~~[35 ILCS 143/10-35(c)]~~All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business

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~~hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.~~

- c) Such books, records, papers, and documents shall be preserved for the period during which the Department is authorized to issue notices of tax liability~~Notices of Tax Liability~~, which is 3 to~~generally for a maximum of 3½ years~~ for filed returns.
- d) ~~Every sales invoice issued by a licensed distributor for tobacco products shall contain the distributor's Tobacco Products License number. Every sales invoice issued by a licensed distributor to a retailer in this State shall contain the distributor's Tobacco Products License number unless the distributor has been granted a waiver by the Department in response to a written request in cases in which~~
 - 1) *the distributor sells little cigars or other tobacco products only to licensed retailers that are wholly-owned by the distributor or owned by a wholly-owned subsidiary of the distributor.*
 - 2) *the licensed retailer obtains little cigars or other tobacco products only from the distributor requesting the waiver;* and
 - 3) *the distributor affixes the tax stamps to the original packages of little cigars or has or will pay the tax on the other tobacco products sold to the licensed retailer.* [35 ILCS 143/10-35(a)]
- e) Every sales invoice issued by a licensed distributor shall state whether:

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- 1) the tax imposed by the Act has been or will be paid in full; or
- 2) the sale is exempt in whole or in part under Section 660.30 and the specific subsections under which the exemption is claimed.
 - A) If the sale is exempt in part, the invoice additionally shall state:
 - i) the amount of tax actually paid or what will be paid; or
 - ii) the percentage of tax actually paid based on the amount of the invoice before the allowance of any discount, trade allowance, rebate, or other reduction, and including any added surcharges.
 - B) The distributor making an exempt sale of tobacco products shall document the exemption by obtaining a certification required by Section 660.30(hg).
- f) Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of subsections (d),~~and~~ (e),and (g) a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the tobacco products listed on the sales invoice. A retailer that is unable to rebut this presumption is in violation of both the Act and this Part and is subject to the penalties provided in Section 10-50 of the Act.
- g) *Every*~~*Every*~~ licensed distributor of tobacco products in this State is required to show proof of the tax having been paid as required by ~~the~~the Act by displaying its Tobacco Products License number on every sales invoice issued ~~to a retailer~~ in this State. [35 ILCS 143/10-37]
- h) *Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor shall contain both the stamping distributor's Tobacco Products License number and either the stamping distributor's Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number.* [35 ILCS 143/10-29] See Section 660.26 for additional rules regarding invoices for little cigars.

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i^h) *Every distributor who purchases tobacco products for resale for shipment into Illinois from a point outside Illinois shall procure invoices in duplicate covering each shipment and shall make the invoices available for inspection upon demand by a duly authorized employee of the Department, and shall, if the Department so requires, furnish one copy of each invoice to the Department at the time of filing the return required by ~~the~~^{the} Act. [35 ILCS 143/10-40]*

jⁱ) Every distributor who purchases rolls, made wholly or in part of tobacco, when those rolls have an integrated cellulose acetate filter and a wrapper or cover that is made in whole or in part of tobacco and the rolls are contained in packages of 20 or 25, shall procure an invoice from the seller that states whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand. If a distributor fails to procure an invoice or produce an invoice for inspection by the Department upon request, a *prima facie* presumption shall arise that the rolls weigh less than 4 pounds per thousand. A distributor that sells these rolls must provide all purchasers with invoices that state whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand.

k^j) *Whenever any person obtains tobacco products from an unlicensed in-state or out-of-state distributor or person, a *prima facie* presumption shall arise that the tax imposed by ~~the~~^{the} Act on ~~such~~^{those} tobacco products has not been paid in violation of ~~the~~^{the} Act. Invoices or other documents kept in the normal course of business in the possession of a person reflecting purchases of tobacco products from an unlicensed in-state or out-of-state distributor or person or invoices or other documents kept in the normal course of business obtained by the Department from in-state or out-of-state distributors or persons, are sufficient to raise the presumption that the tax imposed by ~~the~~^{the} Act has not been paid. If a presumption is raised, the Department may assess tax, penalty, and interest on the tobacco products. [35 ILCS 143/10-38] See Section 660.50(r) for the penalties that may be imposed for a violation of this Section.*

l^k) *The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any distributor who fails to keep books and records as required under ~~the~~^{the} Act, fails to make books and records available for inspection upon demand by a duly authorized employee of the Department, or violates ~~this Section~~^{this Section}. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is based. [35 ILCS 143/10-25] Any distributor aggrieved by any decision of the Department under*

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this Section may, within 30~~20~~ days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor. In the absence of a protest and request for a hearing within 30~~20~~ days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.30 Exempt Sales

- a) Sales of tobacco products, excluding little cigars, by distributors or wholesalers who will not sell the product to a retailer or consumer are exempt from the tax imposed by the Act. For example, sales by a distributor to another distributor as sales for resale are exempt from the tax imposed by the Act. Sales of tobacco products to retailers or consumers are not exempt sales (unless the retailer is a registered distributor. See; ~~see~~ subsection (g~~f~~)).
- b) *The tax is not imposed upon any activity in the business as a distributor in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State. [35 ILCS 143/10-10(a)]* ~~(Section 10-10 of the Act)~~ Sales of tobacco products, excluding little cigars, delivered by a distributor to persons located outside of Illinois are exempt from the tax imposed by the Act.
- c) Sales of tobacco products, excluding little cigars, to retailers who will deliver the tobacco products outside of Illinois are exempt.
- d) The tax imposed by the Act shall not apply to sales or other disposition of tobacco products to the United States Government or any entity of the United States government. For instance, sales of tobacco products to U.S. Veterans' Hospitals and U.S. Military personnel through officially recognized agencies physically located at military bases are exempt from the tax imposed by the Act.
- e) The tax imposed by the Act shall not apply to sales of tobacco products to penal institutions for use in a Correctional Industries program that makes, manufactures,

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or fabricates tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. However, sales of tobacco products to a penal institution that will sell tobacco products through its commissary are taxable.

- f) The tax imposed by the Act shall not apply to sales of tobacco products to Native Americans. Native American transactions include sales to a Native American tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as a Native American tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 [25 U.S.C. 479a].
- g) Under certain circumstances, a blanket Certificate of Resale may be provided by a purchaser to a distributor. These circumstances include the following:
 - 1) Retailers who purchase tobacco products, excluding little cigars, for delivery outside of Illinois are exempt under subsection (c). However, when the retailer may deliver tobacco products, excluding little cigars, outside of Illinois but may deliver some within Illinois and when it is impracticable, at the time of purchasing the tobacco products, for the retailer to determine in which way they~~he or she~~ will dispose of the tobacco products, the retailer may certify to the distributor that the retailer~~he or she~~ is buying all of the tobacco products, excluding little cigars, for resale and provide a blanket Certificate of Resale to the distributor. A retailer may provide such a certificate only if the retailer~~he or she~~ is registered as a distributor under the Act and agrees to assume responsibility for reporting and remitting tax on their~~his or her~~ taxable Illinois sales (e.g., sales to consumers or retailers).
 - 2) Often times, a distributor registered under the Act will also sell tobacco products to consumers. This distributor may similarly find it impracticable, at the time of purchasing the tobacco products, to determine in which way they~~he or she~~ will dispose of the tobacco products. Consequently, except for little cigars, the distributor may provide the selling distributor with a blanket Certificate of Resale and assume responsibility for reporting and remitting tax on their~~his or her~~ taxable sales to consumers.
- ~~h~~g) A distributor making an exempt sale of tobacco products shall document this exemption by obtaining a certification of exemption or resale from the purchaser

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containing the distributor's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for one of the purposes or activities identified in subsections (a) through (f) or is assuming responsibility for reporting and remitting tax as provided for under subsection (g).

ih) A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-27(a)] A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the retailer may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-27(b)]

ji) A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-28(a)] A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the wholesaler may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-28(b)]

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.45 License Actions: Revocations, Cancellations, and Suspensions

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- a) *The Department has the power, after notice and an opportunity for a hearing, to revoke a license issued by the Department if the holder of the license fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the Tobacco Products Tax Act of 1995~~the Act~~ or any other tax or fee Act administered by the Department. [20 ILCS 2505/2505-380(a)]*
- b) *The Department may refuse to issue, reissue, or renew a license if a person who is named as the owner, a partner, a corporate officer, or, in the case of a limited liability company, a manager or member, of the applicant on the application for the license, is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the ~~certificate of registration, permit, or~~ license of a person that is in default for moneys due under ~~the Act~~~~the Act~~ or any other tax or fee Act administered by the Department. For purposes of ~~this subsection~~~~this Section~~ only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 23 years prior to the date of the Department's notice of refusal to issue or reissue the ~~certificate of registration, permit, or~~ license. For purposes of this ~~Section~~~~Section~~, "person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court. [20 ILCS 2505/2505-380(b)]*
- c) *The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any distributor or and, beginning January 1, 2016~~beginning January 1, 2016~~, any retailer who violates any of the provisions of ~~the~~~~the~~ Act. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is base. [35 ILCS 143/10-25(a)]*
- d) *The Department may revoke, cancel or suspend the license of any distributor for a violation of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 as provided in Section 30 of that Act [30 ILCS 167]. [35 ILCS 143/10-25(b)]*
- e) Upon a determination that a distributor has violated Section 15(e) of the Tobacco Products~~Product~~ Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167] or any regulation adopted pursuant thereto, the Department *may revoke or*

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suspend the license of any distributor in the manner provided by Section 10-25 of the ~~the Tobacco Products Tax Act of 1995~~ [30 ILCS 167/30(a)]

f) Upon notification by the Attorney General, the Department may revoke a distributor's license for failure to submit information as required by Section 25(a) or (d) of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003. [30 ILCS 167/30(c-5)]

ge) *The Department may, by application to any circuit court, obtain an injunction restraining any person who engages in business as a distributor of tobacco products without a license (either because ~~the his or her~~ license has been revoked, canceled, or suspended or because of a failure to obtain a license in the first instance) from engaging in that business until that person, as if that person were a new applicant for a license, complies with all of the conditions, restrictions, and requirements of Section 10-20 of ~~the the~~ Act and qualifies for and obtains a license. Refusal or neglect to obey the order of the court may result in punishment for contempt. [35 ILCS 143/10-25(d)]*

hf) *Beginning January 1, 2016, failure to comply with the provisions of Section 10-37 of the ~~Act 660-26(e)~~ may be grounds for revocation of a distributor's or retailer's license in accordance with Section 10-25 of ~~the the~~ Act or Section 6 of the Cigarette Tax Act. [35 ILCS 143/10-37]*

ig) Retailers~~;~~ Violations of Minimum-Age Tobacco Laws Training Programs
Beginning January 1, 2016:

- 1) *If the retailer has a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 3 days the license of that retailer for a fourth or subsequent violation of the Prevention of Tobacco Use by Persons under 21 Years of Age~~Minors~~ and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a) of that Act [720 ILCS 675]. For the purposes of ~~this Section~~this Section, any violation of Section 2(a) of the Prevention of Tobacco Use by Persons under 21 Years of Age~~Minors~~ and Sale and Distribution of Tobacco Products Act [720 ILCS 675] occurring at the retailer's licensed location, during a 24-month period, shall be counted as a violation against the retailer.*

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- 2) *If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 3 days the license of that retailer for a second violation of the Prevention of Tobacco Use by Persons under 21 Years of Age~~Minors~~ and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.*
- 3) *If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 7 days the license of that retailer for a third violation of the Prevention of Tobacco Use by Persons under 21 Years of Age~~Minors~~ and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.*
- 4) *If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 30 days the license of a retailer for a fourth or subsequent violation of the Prevention of Tobacco Use by Persons under 21 Years of Age~~Minors~~ and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.*
- 5) *A training program that facilitates compliance with minimum-age tobacco laws must include at least the following elements:*
 - A) *it must explain that only individuals displaying valid identification demonstrating that they are 21~~18~~ years of age or older shall be eligible to purchase cigarettes or tobacco products; and*
 - B) *it must explain where in the establishment, at the time of purchase, a clerk can check identification for a date of birth.*
- 6) *The training may be conducted electronically. Each retailer that has a training program shall require each employee who completes the training program to sign a form attesting that the employee has received and completed tobacco training. The form shall be kept in the employee's file and may be used to provide proof of training. [35 ILCS 143/10-25(c)]*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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Section 660.50 Penalties, Interest, and Procedures

- a) The provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Act apply to the enforcement of the Act. See Section 3-1A of the Uniform Penalty and Interest Act.
- b) *When the amount due is under \$300, any distributor who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the~~the~~ Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the business of distributing tobacco products to retailers and consumers located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the~~the~~ Act is guilty of a Class 4 felony.*
- c) *When the amount due is under \$300, any person who accepts money that is due to the Department under the~~the~~ Act from a taxpayer for the purpose of acting as the taxpayer's agent to make the payment to the Department, but who fails to remit the payment to the Department when due, is guilty of a Class 4 felony.*
- d) *When the amount due is \$300 or more, any distributor who files, or causes to be filed, a fraudulent return, or any officer or agent of a corporation engaged in the business of distributing tobacco products to retailers and consumers located in this State who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the~~the~~ Act is guilty of a Class 3 felony.*
- e) *When the amount due is \$300 or more, any person engaged in the business of distributing tobacco products to retailers and consumers located in this State who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the~~the~~ Act, or accepts money that is due to the Department under the~~the~~ Act from a taxpayer for the purpose of acting as the taxpayer's agent to make payment to the Department but fails to remit that payment to the Department when due is guilty of a Class 3 felony.*
- f) *Any person who violates any provision of Sections~~Section~~ 10-20₁~~of the Act and, beginning January 1, 2016, Sections~~ 10-21₂ and 10-22 of the~~the~~ Act, fails to keep books and records as required under the~~the~~ Act, or willfully violates a rule or*

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regulation of the Department for the administration and enforcement of ~~the~~^{the} Act, is guilty of a Class 4 felony. A person commits a separate offense on each day that the person~~he or she~~ engages in business in violation of Sections~~Section~~ 10-20₂ ~~of the Act and, beginning January 1, 2016, Section~~ 10-21₂ or 10-22 of ~~the~~^{the} Act. If a person fails to produce the books and records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep books and records as required under ~~the~~^{the} Act. A person who is unable to rebut this presumption is in violation of ~~the~~^{the} Act and is subject to the penalties provided in this subsection (f)~~Section~~.

- g) Any taxpayer or agent of a taxpayer who, with the intent to defraud, purports to make a payment due to the Department by issuing or delivering a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository, is guilty of a deceptive practice in violation of Section 17-1 of the Criminal Code of 2012 [720 ILCS 5].
- h) Any person who violates any provision of Sections 10-20, 10-21 and 10-22 of ~~the~~^{the} Act, fails to keep books and records as required under ~~the~~^{the} Act, or willfully violates a rule or regulation of the Department for the administration and enforcement of ~~the~~^{the} Act, is guilty of a business offense and may be fined up to \$5,000. If a person fails to produce books and records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep books and records as required under ~~the~~^{the} Act. A person who is unable to rebut this presumption is in violation of ~~the~~^{the} Act and is subject to the penalties provided in this subsection (h)~~Section~~. A person commits a separate offense on each day that the person~~he or she~~ engages in business in violation of Sections 10-20, 10-21 and 10-22 of ~~the~~^{the} Act.
- i) When the amount due is under \$300, any retailer who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by ~~the~~^{the} Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the retail business of selling tobacco products to purchasers of tobacco products for use and consumption located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under ~~the~~^{the} Act is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense.

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j) *When the amount due is \$300 or more, any retailer who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the~~the~~ Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the retail business of selling tobacco products to purchasers of tobacco products for use and consumption located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the~~the~~ Act is guilty of a Class 4 felony.*

k) *A prosecution for a violation described in subsections (b) through (j)~~(b) through (j)~~ may be commenced within 3 years after the commission of the act constituting the violation. [35 ILCS 143/10-50]*

l) *Any person who knowingly acts as a retailer of tobacco products in this State without first having obtained a license to do so in compliance with Section 10-21 of the~~the~~ Act or a license in compliance with Section 4g of the Cigarette Tax Act shall be guilty of a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense. Each day the person operates as a retailer without a license constitutes a separate offense. [35 ILCS 143/10-53]*

m) *Licensed distributors and retailers of tobacco products are required to show proof that the tax imposed by the Act has been paid. Failure to comply with this subsection may be grounds for revocation of the distributor's or retailer's license. The Department may impose a civil penalty on distributors and retailers not to exceed \$1,000 for the first violation and \$3,000 for each subsequent violation of Section 10-37 of the Section 10-37 of the Act. [35 ILCS 143/10-37]*

n) *Any person whose principal place of business is in this~~the~~ State and who is charged with a violation under Section 10-50 of the Act Section 10-50 of the Act shall be tried in the county where the person's~~his or her~~ principal place of business is located unless the person~~he or she~~ asserts a right to be tried in another venue. If the taxpayer does not have its~~his or her~~ principal place of business in this State, however, the hearing must be held in Sangamon County unless the taxpayer asserts a right to be tried in another venue. [35 ILCS 143/10-50]*

o) *Except as otherwise provided in this Part, any person aggrieved by any decision of the Department under this Part may, within 60 days after notice of the decision, protest in writing and request a hearing. Upon receiving a written request for a*

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hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of this Part and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 60 days, the Department's decision shall become final without any further determination being made or notice given.

p) *Except as provided by the Constitution of the United States, the Constitution of the State of Illinois, or any statutes of this State, including, but not limited to, the State Officers and Employees Money Disposition Act [30 ILCS 230], the Tax Tribunal established pursuant to the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010] shall have original jurisdiction over all determinations of the Department reflected on a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability issued under the Tobacco Products Tax Act of 1995 or the Uniform Penalty and Interest Act. Jurisdiction of the Tax Tribunal is limited to Notices of Tax Liability, Notices of Deficiency, Notices of Claim Denial, and Notices of Penalty Liability when the amount at issue in a notice, or the aggregate amount at issue in multiple notices issued for the same tax year or audit period, exceeds \$15,000, exclusive of penalties and interest. In notices solely asserting either an interest or penalty assessment, or both, the Tax Tribunal shall have jurisdiction over cases in which the combined total of all penalties or interest assessed exceeds \$15,000. [35 ILCS 1010/1-45]*

q) *Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Section 10-35, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Section 10-35, and \$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Section 10-35. [35 ILCS 143/10-35a]*

1) All books and records and other papers and documents that are required to be kept by the Act shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. *(See Sections 660.24(b) and 660.25(b).)* A person that prohibits a duly authorized agent of the Department from inspecting books and records during usual business hours of the day has failed to produce books and records to the Department for inspection as required by

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this Section. The Department may issue a notice of penalty to that person pursuant to this subsection (q)(1). The Department is not required to provide the retailer with a written document request pursuant to this subsection (q)(1) or provide additional time for the retailer to allow the inspection of the premises and the books and records at the location.

- 2) Except for retailers that are permitted to maintain books and records at another location pursuant to Section 660.24(a), distributors and retailers must have a person at their place of business at all times during the usual business hours of the day who is authorized to produce books and records for inspection by the Department. It is presumed that a person working at a place of business has authority to permit the Department to inspect the books and records at the business location. If a retail establishment has only one employee working at the time of the request for the books and records who has no ownership interest in the establishment and is not authorized to produce books and records, the employee is required to advise the Department he or she does not have authority to provide books and records for inspection. The Department will not issue a notice of penalty to a distributor or retailer for failure to produce books and records if a person who is authorized to produce the books and records can be contacted by the employee and arrives at the place of business within 2 hours and produces the books and records. The Department may extend the period either on verbal or written request for good cause shown or on its own motion.

EXAMPLE 1: An authorized agent of the Department attempts to inspect the books and records of a tobacco retailer. The person at the store states the records are at the store but refuses to provide access to the books and records because the owner of the store told him not to let anyone have access to the records. The person states the owner is unavailable and cannot be contacted. The Department will issue a notice of penalty.

EXAMPLE 2: An authorized agent of the Department attempts to inspect the books and records of a tobacco retailer. The person at the store states the records are at the store but refuses to provide access to the books and records because the owner of the store told him not to let anyone have access to the records. The person states he can call a person responsible for making the records available to the agent. The employee calls the person and the person arrives at the store in less than 60 minutes and

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makes the records available to the agent. The Department will not issue a notice of penalty.

EXAMPLE 3: An authorized agent of the Department enters a retailer's place of business and requests to see the books and records. The person at the store states the books and records are maintained at another business location in Illinois. The agent cannot issue a notice of penalty unless the retailer failed to notify the Department that the books and records are located at another location pursuant to Section 660.24(a). However, the authorized agent of the Department does have authority to inspect the premises pursuant to Section 620.24(b).

- 3) If a person fails to produce books and records for inspection by the Department upon request, a *prima facie* presumption shall arise that the person has failed to keep the books and records as required. A person who is unable to rebut this presumption is subject to the penalty provided in this subsection (q).
- 4) Except as otherwise provided by subsection (q)(1), if a request for the production of books and records has been made and not honored, prior to issuing a notice of penalty for a failure to maintain books and records or a failure to produce books and records, the Department must provide the taxpayer with a document request in writing. The written document request must contain:
 - A) the name of the person receiving the request;
 - B) the name of the business;
 - C) the date and time of the original request or requests;
 - D) the books and records requested;
 - E) the books and records that the person failed to produce;
 - F) the number of days the person has to produce the books and records; and

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G) the name of the Department agent or employee and his or her contact information.

5) The Department agent or employee shall sign and date the written document request and personally provide or mail a copy of the written document request to the business at its last known address. The person shall have 30 days from the date of the written document request to produce the books and records the person has failed to produce. The Department may extend the period either on written request for good cause shown or on its own motion. If the person fails to produce the books and records within the time allotted, the Department may issue a notice of penalty pursuant to this subsection (q) to the business at its last known address.

EXAMPLE: An authorized agent of the Department enters a convenience store and requests to see all the invoices for tobacco products purchased by the store in the last 60 days and all cash register receipts for sales made in the last 60 days. The person at the store produces the cash register receipts but states that they have no invoices for tobacco products purchased in the last 60 days. The agent fills out a written document request, provides a copy of the written document request to the person, and provides the person 30 days to produce the invoices. The agent returns 30 days later and requests the invoices. The person at the store cannot produce the invoices. The Department issues a notice of penalty to the business at its last known address.

6) Any person receiving a notice of penalty may, within 20 days after the date on the notice of penalty, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. If the request is made during an audit, the Department shall postpone the hearing until completion of the audit or inspection. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

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7) The Department cannot impose more than one penalty for failing to produce books and records for a calendar month.

EXAMPLE 1: An authorized agent of the Department inspects a tobacco retailer and requests the records for the first week in April. The retailer does not produce the records. The agent subsequently requests the records for the remaining 3 weeks in April. The retailer does not produce the records. The agent can assess only one penalty for the month of April.

EXAMPLE 2: An authorized agent of the Department inspects a tobacco retailer and requests all purchase invoices for cigarettes for March. The invoices are not provided by the retailer and the Department issues a notice of penalty. The agent returns in May and ask to see all the tobacco sales receipts for March. The retailer fails to produce the sales receipts. The Department cannot issue a notice of penalty for failure of the retailer to provide sales receipts for March because the agent has previously issued a notice of penalty for failure to produce records for March.

8) A records request can cover multiple periods. The Department is authorized to issue a separate penalty for each period; e.g., for a taxpayer that files returns monthly, the period is one month.

EXAMPLE: An authorized agent of the Department inspects a tobacco retailer and requests the books and records for the months of January through July. The retailer cannot produce the books and records for any of the months. The agent fills out a written document request, provides a copy to the person, and provides the person 30 business days to produce the invoices. The agent returns 30 business days later and requests the invoices. The person at the store cannot produce the invoices. The Department will issue a notice of penalty in the amount of \$1,000 for the month of January and \$3,000 for each of the months February through July, for a total penalty of \$19,000.

r) Any distributor or retailer~~distributor or retailer~~ who violates Section 10-38 of the Act~~Section 10-38 of the Act~~ is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first violation and \$3,000 for any subsequent violation. [35 ILCS 143/10-38] (See Sections 660.24(c) and 660.25(ki)).

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(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 660.51 Protest Procedures for Certain Penalties

- a) Any person aggrieved by any action of the Department under item Sections 10-35a, 10-37, or 10-38 of the Tobacco Products Act of 1995 may protest the action by making a written request for a hearing within 60 days after the original action.
- b) Hearings that have been timely requested will be scheduled by the Department. The Department will provide written notice of the date, time, and place of the hearing at least 20 days prior to the hearing date.
- c) Hearings shall be conducted in accordance with the provisions of the Illinois Administrative Procedure Act [5 ILCS 100] and regulations promulgated thereunder found at 86 Ill. Adm. Code 200.101 through 200.225.
- d) The Department shall notify the licensee of the findings of fact and ruling on the hearing. If, within 35 days from the date the licensee receives notice of the decision, proceedings for review thereof are not instituted in the manner provided by the Administrative Review Law [735 ILCS 5/Art. III], the decision shall become final.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 660.60 Arrest; Search and Seizure Without a Warrant

- a) Any duly authorized employee of the Department may:
 - 1) arrest without warrant any person committing in the employee's presence a violation of any of the provisions of the Act.
 - 2) without a search warrant inspect all tobacco products located in any place of business,
 - 3) seize any tobacco products in accordance with the provisions of the Act, and
 - 4) seize any vending device in which those tobacco products are found.

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b) *The tobacco products and vending devices so seized are subject to confiscation and forfeiture as provided in Sections 10-56 through 10-58 of the Act. [35 ILCS 143/10-55]*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 660.65 Seizure and Forfeiture

a) *After seizing any tobacco products or vending devices, as provided in Section 10-55 of the Act, the Department must hold a hearing and determine whether the distributor or retailer was properly licensed to sell the tobacco products at the time of their seizure by the Department. The Department shall give not less than 20 days' notice of the time and place of the hearing to the owner of the property, if the owner is known, and also to the person in whose possession the property was found, if that person is known and if the person in possession is not the owner of the property. If neither the owner nor person in possession of the property is known, the Department must cause publication of the time and place of the hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where the hearing is to be held.*

b) *The Department is not required to hold such a hearing if a waiver and consent to forfeiture has been executed by the owner of the property, if the owner is known, and by the person in whose possession the property so taken was found, if that person is known and if that person is not the owner of the property.*

c) *If, as the result of the hearing, the Department determines that the distributor or retailer was not properly licensed at the time the tobacco products were seized, or upon receipt of a properly executed waiver and consent to forfeiture as provided in subsection (b), the Department must enter an order declaring the tobacco products or vending devices confiscated and forfeited to the State, to be held by the Department for disposal by it as provided in Section 10-58. The Department must give notice of the order to the owner of the property, if the owner is known, and also to the person in whose possession the property was found, if that person is known and if the person in possession is not the owner of the property. If neither the owner nor the person in possession of the property is known, the Department must cause publication of the order to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where the hearing was held. [35 ILCS 143/10-56]*

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(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 660.70 Sale of Forfeited Tobacco Products

When any tobacco products or any vending devices are declared forfeited to the State by the Department, and when all proceedings for the judicial review of the Department's decision have terminated, the Department shall, to the extent its decision is sustained on review, sell the property for the best price obtainable and shall pay over the proceeds of the sale to the State Treasurer. [35 ILCS 143/10-58]

(Source: Added at 50 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Roadside Memorials
- 2) Code Citation: 92 Ill. Adm. Code 549
- 3) Section Numbers: Proposed Actions:

549.100	Amendment
549.200	Amendment
549.300	Amendment
549.400	Amendment
549.500	Amendment
- 4) Statutory Authority: Implementing, and authorized by Section 25 of, the Roadside Memorial Act [605 ILCS 125] and Section 5-9-1.22 of the Unified Code of Corrections [730 ILCS 5/5-9-1.22].
- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing minor amendments to this part to reflect changes made to the Roadside Memorial Act (605 ILCS 125) by P.A. 102-0982 and P.A. 103-0082. The changes include replacing "fatal accident" with "fatal crash" per P.A. 102-0982 and replacing memorial marker and commemorative plaque maintenance time by the Department from 2 years to 4 years per P.A. 103-0082. One-time fee increases from \$150 to \$200 for each DUI or fatal crash memorial marker, from \$50 to \$75 for each commemorative plaque, which is necessary to offset the actual cost of fabrication of the marker and plaque.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed amendments contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

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12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Julita Kuzminaite, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, Illinois 62764

(217) 524-2638
DOT.AdminRules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Description of the type of small business, not for profit corporations or small municipalities subject to the proposed amendment: This rulemaking will not affect small business or not for profit corporations; it may affect small municipalities; however, no financial impact is anticipated.
- B) Description of the proposed reporting, bookkeeping and other procedures required for compliance with the amendment: None
- C) Description of the types of professional skills necessary for compliance: None

14) Small Business Economic Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: July 2025

16) Any other information or justification for the proposed rule or amendment that the agency believes would be helpful to the public regarding the proposed rule or amendment. For example, a discussion or analysis of the benefits of the proposed rule or amendment is projected to have on the Illinois public, consumers, investors or other similar groups. None

The full text of these Proposed Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYSPART 549
ROADSIDE MEMORIALS

Section	
549.100	Introduction
549.200	Definitions
549.300	Criteria for DUI Memorial Markers, Fatal <u>Crash</u> Accident Memorial Markers, and Commemorative Plaques
549.400	Design of DUI Memorial Markers, Fatal <u>Crash</u> Accident Memorial Markers, and Commemorative Plaques
549.500	Application, Fees and Other Regulations

549.APPENDIX A District Offices and Counties (Repealed)

AUTHORITY: Implementing, and authorized by Section 25 of, the Roadside Memorial Act [605 ILCS 125] and Section 5-9-1.22 of the Unified Code of Corrections [730 ILCS 5/5-9-1.22].

SOURCE: Adopted at 32 Ill. Reg. 8047, effective May 8, 2008; amended at 33 Ill. Reg. 15885, effective October 30, 2009; amended at 34 Ill. Reg. 7330, effective May 4, 2010; amended at 35 Ill. Reg. 1081, effective December 29, 2010; amended at 36 Ill. Reg. 2402, effective January 24, 2012; amended at 46 Ill. Reg. 1627, effective January 6, 2022; amended at 50 Ill. Reg. _____, effective _____.

Section 549.100 Introduction

- a) This Part has been developed in accordance with the Roadside Memorial Act [605 ILCS 125] to regulate the use, by the Illinois Department of Transportation, of DUI memorial markers, fatal crash**accident** memorial markers and associated commemorative plaques along streets and highways under the jurisdiction of the Department. This Part establishes standards and financial responsibility for a program of placing markers and plaques at locations under the jurisdiction of the Department. The DUI memorial marker program became effective on January 1, 2008. The fatal crash**accident** memorial marker program became effective on January 1, 2011.

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b) This program does not apply to freeways within the State of Illinois that are under the jurisdiction of the Department.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 549.200 Definitions

The following words or phrases, when used in this Part, shall have the meanings ascribed to them in this Section.

"Act" – the Roadside Memorial Act [605 ILCS 125].

"Department" – the Illinois Department of Transportation, with central offices at 2300 South Dirksen Parkway, Springfield, Illinois 62764.

"DUI Memorial Commemorative Plaque" – a rectangular sign, placed beneath a DUI memorial marker, displaying the name of a victim who died as a proximate result of a crash caused by a driver under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination of these substances, along with the date of the crash.

"DUI Memorial Marker" – a sign on a highway in the state of Illinois commemorating one or more persons who died as a proximate result of a crash caused by a driver under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination of these substances and displaying the words "Don't Drive Under the Influence" on a DUI Memorial Marker erected on or after July 1, 2021 or "Please Don't Drink and Drive" on a DUI Memorial Marker erected before July 1, 2021. (See Sections 10 and 20(a) of the Act.)

"Entrance Ramp" – a lane entering the main traveled way of a freeway providing access between the freeway and the crossroad at an interchange.

"Fatal CrashAccident Memorial Commemorative Plaque" – a rectangular sign, placed beneath a fatal crashaccident memorial marker, displaying the name of a victim who died as a proximate result of a crash caused by a driver who committed an act of reckless homicide in violation of Section 9-3 or 9-3.2 of the Criminal Code of 1961 or 2012 [720 ILCS 5/9-3 or 9-3.2] or who otherwise

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caused the death of one or more persons through the operation of a motor vehicle, along with the date of the crash.

"Fatal CrashAccident Memorial Marker" – a sign on a highway in the State of Illinois commemorating one or more persons who died as a proximate result of a crash caused by a driver who committed an act of reckless homicide in violation of Section 9-3 or 9-3.2 of the Criminal Code of 1961 or 2012 or who otherwise caused the death of one or more persons through the operation of a motor vehicle and displaying the words "Reckless Driving Costs Lives" or "Drive With Care". (See Sections 23.1(b) and 23.1(d) of the Act.)

"Freeway" – a divided highway for through traffic, other than one under the jurisdiction of the Illinois State Toll Highway Authority, with full control of access and grade separations at all crossroads.

"Interchange" – a system of interconnecting ramps providing for the movement of traffic between two roadways on different levels.

"Qualified Relative" – an immediate relative of the deceased, by marriage, blood or adoption, such as his or her spouse, son, daughter, mother, father, sister or brother; a stepmother, stepfather, stepbrother or stepsister of the deceased; or a person with whom the deceased was in a domestic partnership or civil union as recognized by a State or local law or ordinance. (Section 10 of the Act)

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 549.300 Criteria for DUI Memorial Markers, Fatal CrashAccident Memorial Markers, and Commemorative Plaques

- a) Only a qualified relative of a deceased victim may request a DUI or fatal crashaccident memorial marker of the Department. (See Section 15(a) of the Act.)
- b) The Department shall deny the request if any qualified relative of any decedent involved in the crash objects in writing to the placement of the DUI or fatal crashaccident memorial marker. (See Section 15(c) of the Act.)
- c) The Department shall deny the request or, if a DUI or fatal crashaccident memorial marker has already been installed, may remove the marker, if the

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qualified relative requesting the memorial marker has provided false or misleading information in the application. (See Section 15(d) of the Act)

- d) *The qualified relative shall agree not to place or encourage the placement of flowers, pictures or other items at the crash site.* (Section 15(e) of the Act)
- e) The Department shall not erect a DUI or fatal crash~~accident~~ memorial marker for a deceased driver involved in a fatal crash who is shown by toxicology reports to have been in violation of state DUI law, unless the qualified relative of any other victim or victims killed in the crash consents in writing to the erection of the memorial. (See Section 15(f) of the Act)
- f) When requested and approved, DUI memorial markers and fatal crash~~accident~~ memorial markers may be installed for any crash occurring on or after January 1, 1990. (See Section 15(b) of the Act)
- g) DUI or fatal crash~~accident~~ memorial markers shall not be installed on freeways except that they may be installed on ramps leading from other highways to freeways.
- h) DUI or fatal crash~~accident~~ memorial markers shall not be installed within the median of any divided highway.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 549.400 Design of DUI Memorial Markers, Fatal Crash~~Accident~~ Memorial Markers, and Commemorative Plaques

- a) All DUI memorial markers shall be a standard size of 36 inches wide by 24 inches tall with white lettering on a retroreflectorized blue background. Markers erected on or after July 1, 2021 shall display the message "Don't Drive Under the Influence" and shall bear the Illinois Department of Transportation Sign Standard Number I1-I108c. Markers erected prior to July 1, 2021 shall display the message "Please Don't Drink and Drive" and shall bear the Illinois Department of Transportation Sign Standard Number I1-I108a.
- b) The fatal crash~~accident~~ memorial marker shall be a standard size of 36 inches wide by 24 inches tall with the message "Reckless Driving Costs Lives" in white lettering on a retroreflectorized blue background and shall bear the Illinois

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Department of Transportation Sign Standard Number I1-I108b if the death was caused by reckless driving. Otherwise, the fatal crashaccident memorial marker shall be a standard size of 36 inches wide by 18 inches tall with the message "Drive With Care" in white lettering on a retroreflectorized blue background and shall bear the Illinois Department of Transportation Sign Standard Number I1-I108d. (See Section 23.1(d) of the Act.)

- c) The DUI or fatal crashaccident memorial marker may be supplemented by a commemorative plaque having a standard size of 36 inches wide by 18 inches tall mounted underneath with the message "IN MEMORY OF (Victim's Name)" and the date of the applicable crash in white lettering on a retroreflectorized blue background and shall bear the Illinois Department of Transportation Sign Standard Number I1-I108. (See Sections 20(a) and 23.1(d) of the Act.)

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 549.500 Application, Fees and Other Regulations

a) Application

- 1) Qualifying relatives who wish to participate in the program must complete an application form (one for each victim being commemorated) and submit it to the Department. Application forms for the placement of DUI or fatal crashaccident memorial markers and commemorative plaques are available by writing:

Roadside Memorial Coordinator
Illinois Department of Transportation
Bureau of Operations
2300 South Dirksen Parkway
Springfield, Illinois 62764

- 2) When the Department determines from the initial application that the criteria listed in this Part are met, the application will be approved and a copy returned to the qualifying relative, along with instructions concerning payment of the fee and other appropriate information.

b) Fees

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- 1) Except as provided in subsection (b)(4), a one-time fee sufficient to offset the cost of the program will be charged to the qualifying relative for each DUI or fatal crash~~accident~~ memorial marker and commemorative plaque installed by the Department. The fees, as of January 1, 2026~~2008~~, will be \$200~~\$150~~ for each DUI or fatal crash~~accident~~ memorial marker and \$75~~\$50~~ for each commemorative plaque. A commemorative plaque cannot be installed without a DUI or fatal crash~~accident~~ memorial marker.
- 2) The Department will periodically adjust the fees to reflect the current cost of installing and maintaining the signs with adjustments subject to rulemaking.
- 3) Once the fee is paid for a DUI or fatal crash~~accident~~ memorial marker or a commemorative plaque and the marker or plaque is installed, the Department will maintain the marker or plaque for the entire 42-year period provided in Section 549.500(c)(3) without any additional cost to the qualified relative. (See Sections 20(c) and 23.1(f) of the Act.)
- 4) Subject to appropriation, the Department will use the money in the Roadside Memorial Fund, as prescribed in ~~Sections 27.5 and 27.6 of the Clerk of Courts Act [705 ILCS 105/27.5 and 27.6]~~, Section ~~5-9-1.225-9-1.17~~ of the Unified Code of Corrections [730 ILCS 5/5-9-1.225/5-9-1.17] and in Section 20(f) of the Roadside Memorial Act [605 ILCS 125/20(f)], to pay the fees for DUI memorial markers only. When the fees are paid from the fund, no fees will be charged to the qualifying relative.

c) Placing and Maintaining Memorial Markers and Commemorative Plaques

- 1) The DUI or fatal crash~~accident~~ memorial markers and commemorative plaques shall only be placed by the Department.
- 2) A DUI or fatal crash~~accident~~ memorial marker and commemorative plaque shall be maintained by the Department for at least 42 years from the date the last person was memorialized on the plaque or, if no plaque is present, 42 years from the date the marker was erected. (See Sections 20(c) and 23.1(f) of the Act.)
- 3) The Department has the right to install a marker at a location other than the location of the crash or to relocate a marker due to restricted room,

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property owner complaints, interference with essential traffic control devices, safety concerns, or other restrictions. In such cases, the Department may select an alternate location. (See Sections 20(d) and 23.1(g) of the Act.)

- 4) A DUI or fatal crash~~accident~~ memorial marker and commemorative plaque may memorialize more than one victim who died as a result of the same crash. If one or more additional, unrelated DUI or reckless homicide deaths subsequently occur in close proximity to an existing DUI or fatal crash~~accident~~ memorial marker, the Department may use the same marker to memorialize the subsequent death or deaths by adding the names of the additional persons. (See Sections 20(b) and 23.1(e) of the Act.)
- 5) *The Department shall secure the consent of any municipality before placing a DUI or fatal crash~~accident~~ memorial marker within the corporate limits of the municipality.* (Sections 20(e) and 23.1(h)) of the Act.)

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Live Theater Production Tax Credit Program
- 2) Code Citation: 14 Ill. Adm. Code 532
- 3) Section Numbers: Adopted Actions:

532.20	Amendment
532.30	Amendment
532.50	Amendment
532.70	Amendment
532.90	Amendment
- 4) Statutory Authority: Implementing and authorized by the Live Theater Production Tax Credit Act [35 ILCS 17].
- 5) Effective Date of Rule: December 4, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the *Illinois Register*: Published at 49 Ill. Reg. 10655; August 22, 2025
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version:

In Section 532.20, italicize "Commercial Broadway Touring Show" definition.

In Section 532.20, "Commercial Broadway Touring Show" definition, add "[35 ILCS 17/10-10]" at the end of the definition.

In Section 532.20, "Diversity Plan" definition, strike the extra space between "Act" and the citation.

In Section 532.20, italicize "Non-Profit Theater Production" definition

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In Section 532.20, "on-Profit Theater Production" definition, add "[35 ILCS 17/10-10]" at the end of the definition.

In Section 532.20, "Non-Talent" definition, add "Members of an orchestra or band who perform in a bit or other location not visible to the audience shall be considered non-talent." after the period.

In Section 532.20, "Script" definition, delete "alive" and add "live" after "guides a".

In Section 532.20, "Vendor" definition, strike "an" and add "a" before "vendor in Illinois".

In Section 532.50(b)(1), add "the" after "of".

In Section 532.50(b)(4)(e), strike "or" after the semicolon.

In Section 532.50(b)(4), add a new subsection as follows: "F) Not-for-profit; or". Change "F)" to "G)" and move down the new subsection G so it correctly follows the new subsection F.

In Section 532.50(b)(14), strike "informal or formal" after "subject to any".

In Section 532.50(d)(3), strike from the semicolon through "State" after "efforts in achieving those goals".

In Section 532.50(d)(5), delete the added text.

In Section 532.50(d)(5), strike "The" and add "Except for qualifying commercial Broadway touring shows and non-profit theater productions, the" before "applicant illustrates".

In Section 532.50(d)(5), capitalize the "I" in if.

In Section 532.90(d), add "the Department" after "and".

In Section 532.90(d), italicize from "or" through "applicable".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rules: The proposed amendments incorporate statutory changes to the Illinois Live Theater Production Tax Program. The amendments add commercial Broadway touring shows and nonprofit theater productions to qualified productions eligible for tax credits and adds the related caps to credits awarded under those sections.
- 16) Information and questions regarding these adopted rules shall be directed to:

Gina Arterberry
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
1011 S. 2nd St.
Springfield, Illinois 62704

217-524-8974
Gina.M.Arterberry@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 532

ILLINOIS LIVE THEATER PRODUCTION TAX CREDIT PROGRAM

Section

532.10	Purpose
532.20	Definitions
532.30	Live Theater Tax Credit Directives
532.40	Live Theater Tax Credit Amount
532.50	Application for Accredited Theater Production Certificate
532.60	Approval/Denial of Accredited Theater Production Certificate
532.70	Request for Theater Tax Credit Award
532.80	Approval/Denial of Theater Tax Credit Award
532.90	Calculation of Theater Tax Credit Award
532.100	Live Theater Tax Credit Program Evaluation and Report to Illinois General Assembly
532.110	Transfer of Theater Tax Credit Award
532.120	Confidentiality of Documents and Record Retention Requirements

AUTHORITY: Implementing and authorized by the Live Theater Production Tax Credit Act [35 ILCS 17].

SOURCE: Adopted at 37 Ill. Reg. 12028, effective July 12, 2013; amended at 49 Ill. Reg. 15946, effective December 4, 2025.

Section 532.20 Definitions

The following definitions are applicable to this Part:

"Accredited Theater Production" means a for-profit live stage presentation in a qualified production facility, as defined in this Section, that is either a pre-Broadway production or a long-run production for which the aggregate Illinois labor and marketing expenditures exceed \$100,000. For credits awarded under this Act on or after July 1, 2022, "accredited theater production" also includes any commercial Broadway touring show. For credits awarded under this

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Act on or after July 1, 2024, "accredited theater production" also includes non-profit theater productions. [35 ILCS 17/10-10]

"Accredited Theater Production Certificate" means a certificate issued by the Department certifying that the production is an accredited theater production that meets the guidelines of the Act. [35 ILCS 17/10-10]

"Act" means the Live Theater Production Tax Credit Act [35 ILCS 17].

"Applicant" means:

~~a taxpayer that is~~ a theater producer, owner, licensee, operator, or presenter that is presenting or has presented a live stage presentation located within the State of Illinois who:

owns or licenses the theatrical rights of the stage presentation for the Illinois production period; or

has contracted or will contract directly with the owner or licensee of the theatrical rights or a person acting on behalf of the owner or licensee to provide live performances of the production.

an applicant that directly or indirectly owns, controls, or operates multiple qualified production facilities shall be presumed to be and considered for the purposes of the Act to be a single applicant; provided, however, that, as to each of the applicant's qualified production facilities, the applicant shall be eligible to separately and contemporaneously apply for and obtain accredited theater production certificates, stage accredited theater productions, and apply for and receive a tax credit award certificate for each of the applicant's accredited theater productions performed at each of the applicant's qualified production facilities. [35 ILCS 17/10-10]

"Broadway's Theater District" means the theater district located in Midtown Manhattan New York and shall include any theater with more than 500 seats that the American Theater Wing and the Broadway League have deemed eligible for the Tony Awards or any theaters that appear on the Broadway box-office charts.

"Commercial Broadway Touring Show" means a production that:

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is performed in a qualified production facility and plays in more than two other markets in North America outside of Illinois within 12 months of its Illinois presentation; and

has Illinois production spending of not less than \$100,000, as shown on the applicant's application for the credit. [35 ILCS 17/10-10]

"Department" means the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 17/10-10]

"Director" means the Director of the Department. [35 ILCS 17/10-10]

"Diversity Data or Information" means data pertaining to gender, race, ethnicity and disability of all employees of the applicant.

"Diversity Plan" means a written document through which the applicant assures the Department that minorities, females and persons with disabilities will have equal opportunities in recruitment, selection, appointment, promotion, training and related employment areas in the accredited production. The diversity plan must also describe the manner in which the applicant plans on hiring vendors certified by the Business Enterprise Council under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] with respect to the accredited production. The diversity plan must also detail the manner in which the applicant proposes to achieve its goals to ensure employment of protected classes (minorities, females and persons with disabilities) to achieve a diverse workforce rather than merely to assure nondiscrimination.

"Economic Impact Data" means data pertaining to the types of jobs (production, talent and vendor) created and retained in Illinois, as well as the total amount an applicant spends in Illinois on the accredited theater production.

"Employee" means any individual who is an employee of the applicant for purposes of employment taxes imposed under subtitle C of the Internal Revenue Code (42 USC subtitle C), any production staff or crew and any individual in a non-talent position.

"Female-Owned Business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock

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is owned by one or more females, and the management and daily business operations of which are controlled by one or more of the females who own it. [30 ILCS 575/2(A)(4)]

"Illinois Labor Expenditure" means gross salary or wages, including, but not limited to, taxes, benefits and any other consideration incurred or paid to non-talent employees of the applicant for services rendered to and on behalf of the accredited theater production. To qualify as an Illinois labor expenditure, the expenditure must be:

incurred or paid by the applicant on or after June 1, 2012 for services related to any portion of an accredited theater production from its pre-production stages, including, but not limited to, the writing of the script, casting, hiring of service providers, purchases from vendors, marketing, advertising, public relations, load in, rehearsals, performances, other accredited theater production related activities, and load out;

directly attributable to the accredited theater production;

limited to the first \$100,000 of wages incurred or paid to each employee of an accredited theater production in each tax year;

included in the federal income tax basis of the property;

paid in the tax year for which the applicant is claiming the tax credit award, or no later than 60 days after the end of the tax year;

paid to persons residing in Illinois at the time payments were made; and

reasonable in the circumstances. [35 ILCS 17/10-10]

"Illinois Production Spending" means any and all expenses directly or indirectly incurred relating to an accredited theater production presented in any qualified production facility of the applicant and associated to the performance run in that qualified production facility, including, but not limited to, expenditure for:

national marketing, public relations and the creation and placement of print, electronic, television, billboard and other forms of advertising; and

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the construction and fabrication of scenic materials and elements; provided, however, that the maximum amount of expenditures attributable to the construction and fabrication of scenic materials and elements eligible for a tax credit award shall not exceed \$500,000 per applicant per production in any single tax year. [35 ILCS 17/10-10]

"Illinois Resident" means an individual who is domiciled in this State during the accredited theater production. Except in a case when the applicant has actual knowledge, as shown in its books and records, that an individual is not an Illinois resident, the possession by an individual of an Illinois driver's license or other identification issued by this State prior to the commencement of the accredited theater production shall be sufficient proof that the individual is an Illinois resident and the address on the license or identification shall be deemed correct.

"Long-Run Production" means a live stage production that is performed in a qualified production facility for longer than 8 weeks, with at least 6 performances per week, and includes a production that spans the end of one tax year and the commencement of a new tax year that, in combination, meets the criteria set forth in this definition making it a long-run production eligible for a theater tax credit award in each tax year or portion of a tax year. [35 ILCS 17/10-10]

"Minority" means *a person who is a citizen or lawful resident of the United States and who is African American (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race); Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent*~~or the Pacific Islands~~*); Pacific Islander (Native Hawaiian or Other Pacific Islander – a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands); or Native American or Alaskan Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).* [30 ILCS 575/2(A)(1)]

"Minority-Owned Business" means a business concern that is at least 51% owned by one or more minority persons or, in the case of a corporation, at least 51% of the stock is owned by one or more minority persons, and the management and daily business operations of which are controlled by one or more of the minority individuals who own it. [30 ILCS 575/2(A)(3)]

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"Non-Profit Theater Production" means a live stage production that is at least 75 minutes in length with a written script that:

is produced by a 501(c)3 non-profit registered in the State of Illinois for at least five years;

has Illinois production spending of not less than \$10,000, as shown on the applicant's application for the credit; and

has a minimum annual operating budget of \$25,000 or more, as shown on the applicant's application for the credit. [35 ILCS 17/10-10]

"Non-Talent" means any person who is not a performer. A performer includes, but is not limited to, principal actors, ensemble actors, understudies, swings and members of the orchestra ensemble that are part of the on-stage theatrical performance. Members of an orchestra or band who perform in a pit or other location not visible to the audience shall be considered non-talent.

"Person with a Disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under Section 2(A)(2.1) of the Business Enterprise for Minorities, Females, and Person with Disabilities Act. [30 ILCS 575/2(A)(2.05)]

"Pre-Broadway Production" means a live stage production that:

in its original or adaptive version, is performed in a qualified production facility with the goal of having a presentation scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation; and

has Illinois production spending of not less than \$100,000, as shown on the applicant's application for credit. [35 ILCS 17/10-10]

"Qualified Production Facility" means an existing and permanent facility located in the State in which live theatrical productions are, or are intended to be, exclusively presented that contains at least one stage, a seating capacity of 1,200 or more seats or, if the live theater production is a non-profit theater production, a seating capacity of 50 or more seats, and dressing rooms, storage areas and

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other ancillary amenities necessary for the accredited theater production. [35 ILCS 17/10-10]

"Script" means a written or notated work that guides a live performance, including dialogue, lyrics, narration, musical score, stage directions, or choreography. A script may include:

A play or musical script with dialogue and stage directions;

A liberetto or score for opera, ballet, or symphonic works;

Choreographic notation or cue sheets for dance or movement-based performances;

A conductor's score or program notes for concert/theater hybrids; or

A devised or collaboratively created work documented in a reproducible format;

"State" means the State of Illinois.

"Tax year" means a calendar year for the period January 1 to and including December 31. [35 ILCS 17/10-10]

"Theater Tax Credit Award" means the issuance to a taxpayer by the Department of a tax credit award in conformance with Sections 10-40 and 10-45 of the Act. [35 ILCS 17/10-10]

"Training Plan" means a written document through which the applicant pledges to provide training, education and recruitment in accordance with the Act.

"Vendor" means an Illinois based supplier of any goods or services. Expenditures for purchases of tangible personal property or services from a vendor shall mean:

Purchases of tangible personal property for use in Illinois on an accredited theater production from a person who is registered under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] (ROTA). A copy of the purchase receipt showing that the purchase was made at an Illinois location and that ROT was paid shall be sufficient proof that the purchase

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was made from a vendor in Illinois. For tangible personal property ordered by mail, telephone or internet, a copy of the seller's ROTA registration certificate along with a receipt showing that Illinois Use Tax was collected by the vendor shall be sufficient proof that the purchase was made from a vendor in Illinois. Documentation that shows that Illinois Use Tax was collected by the vendor, but either does not show an Illinois address for the sale or is not accompanied by a ROTA registration certificate, shall not be sufficient proof that the purchase was made from a vendor in Illinois.

The lease or rental of real property located in Illinois for use in an accredited theater production, including hotels or other lodging for employees working on the accredited theater production.

The lease or rental of an automobile (as defined in the Illinois Automobile Renting Occupation and Use Tax Act [35 ILCS 155]) for use in an accredited theater production on which the renter collects the Illinois Automobile Renting Occupation and Use Tax from the rentee.

The lease or rental of other tangible personal property for use in an accredited theater production if the owner of the property has paid Illinois Use Tax on the property. A copy of the invoice or receipt for the lease or rental showing an Illinois address for the lessor, and showing that no other state's sales tax is collected from the lessee, shall be sufficient proof that the transaction was with a~~an~~ vendor in Illinois.

The purchase of insurance~~financial~~ services ~~(including insurance and the borrowing of funds)~~ from an~~a~~lender~~or~~ insurer whose commercial domicile is in this State.

The purchase of other services with respect to an accredited theater production from an Illinois resident or from a person whose commercial domicile is in this State. For purposes of this definition only, the commercial domicile of a person is in this State if the person's business address (as shown in the records of the applicant) is in this State.

"Vendor-Related Positions" means jobs obtained or created through a subcontractor, which includes, but is not limited to, security, janitorial, printing, florist, dry cleaners and limousine services.

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(Source: Amended at 49 Ill. Reg. 15946, effective December 4, 2025)

Section 532.30 Live Theater Tax Credit Directives

- a) For taxable years beginning on and after January 1, 2012, subject to the limitations and requirements provided in the Act, *an applicant is entitled to a theater tax credit award as approved by the Department for qualifying Illinois labor expenditures and Illinois production spending for each tax year in which the applicant is awarded an accredited theater production certificate issued by the Department. The amount of tax credits awarded pursuant to this Act shall not exceed \$2,000,000 in any State fiscal year ending on or before June 30, 2022. The amount of tax credits awarded pursuant to this Act for the State fiscal year ending on June 30, 2023 or the State fiscal year ending on June 30, 2024 shall not exceed \$4,000,000. For the State fiscal year ending on June 30, 2023 and the State fiscal year ending on June 30, 2024, no more than \$2,000,000 in credits may be awarded in either of those fiscal years to accredited theater productions that are not commercial Broadway touring shows, and no more than \$2,000,000 in credits may be awarded in either of those fiscal years to commercial Broadway touring shows. For State fiscal years ending on or after June 30, 2025, the amount of tax credits awarded under this Act shall not exceed \$6,000,000, with no more than \$2,000,000 in credits awarded for long-run productions and pre-Broadway productions, no more than \$2,000,000 in credits awarded for commercial Broadway touring shows, and no more than \$2,000,000 in credits awarded for non-profit theater productions.* [35 ILCS 17/10-20]
- b) *The \$2,000,000 in credits that may be awarded for non-profit theater productions under this Act in a State fiscal year shall be allocated as follows:*
 - 1) *no credits may be awarded for non-profit theater productions that have an annual operating budget of less than \$25,000;*
 - 2) *no more than \$225,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$25,000 or more but less than \$250,000;*
 - 3) *no more than \$225,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$250,000 or more but less than \$1,000,000;*

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- 4) *no more than \$250,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$1,000,000 or more but less than \$2,500,000;*
- 5) *no more than \$300,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$2,500,000 or more but less than \$5,000,000;*
- 6) *no more than \$300,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$5,000,000 or more but less than \$10,000,000; and*
- 7) *no more than \$700,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of \$10,000,000 or more. [35 ILCS 17/10-20].*

c(b) In accordance with the purpose of the Act, *credits shall be awarded on a first-come, first-served basis* as described in Section 532.40(c). [35 ILCS 17/10-20]

d(e) *To accomplish the purposes of the Act, the Department may use the training programs provided under Section 605-800 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois [20 ILCS 605]. [35 ILCS 17/10-35]*

(Source: Amended at 49 Ill. Reg. 15946, effective December 4, 2025)

Section 532.50 Application for Accredited Theater Production Certificate

- a) In order to obtain a theater tax credit award, an applicant must first receive an accredited theater production certificate establishing that the applicant has satisfied the requirements of the Act and this Part.
- b) *In order to qualify for a theater tax credit award under the Act, an applicant must file an application, on forms prescribed by the Department, providing information necessary to calculate the tax credit award and any additional information as reasonably required by the Department. [35 ILCS 17/10-40(a)] The Department shall only accept applications that are submitted electronically via the standard application form provided by the Department. The applicant will be required to provide information including, but not limited to, the following:*

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- 1) Legal name, address and telephone number of the applicant.
- 2) Whether the applicant is a:
 - A) Theater producer;
 - B) Owner;
 - C) Licensee;
 - D) Operator; or
 - E) Presenter.
- 3) Name, title and telephone number of the primary contact person.
- 4) Type of business entity:
 - A) Individual or sole proprietorship;
 - B) Partnership;
 - C) Corporation;
 - D) Subchapter S corporation;
 - E) Limited liability company;~~or~~
 - F) Not-for-profit; or
 - G) Other (applicant will provide description).
- 5) Date of incorporation or formation.
- 6) Federal Employer Identification Number (FEIN) or Tax Identification Number (TIN).
- 7) Production title and whether the production is a:

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- A) Pre-Broadway production;~~or~~
- B) Long-run production;~~or~~
- C) Commercial Broadway touring show; or
- D) Non-profit theater production.

8) Estimated opening night of the production run and estimated number of performances in Illinois.

9) Estimated total budget of production.

10) Estimated total Illinois labor expenditure.

11) Estimated number of Illinois residents to be hired to work on the production.

12) Commercial Broadway touring show, applicant must provide tangible evidence that the production plays in more than two other markets in Northern America outside of Illinois within 12 months of its Illinois presentation.~~For a Pre Broadway production, applicant must provide tangible evidence that the production is scheduled to be performed in Broadway's Theater District within 12 months after the end of the Illinois run.~~

13) For a non-profit theater production, applicant must provide a current copy of the Illinois Secretary of State Certificate of Good Standing and copies of IRS form 990 for the previous four years.

~~14~~¹³) The applicant must certify that it is and will remain in good standing with applicable state authorities, it is not currently operating under, or subject to, any cease and desist order, or subject to any ~~informal or formal~~ regulatory action, and, to the best of the applicant's knowledge, that it is not currently the subject of any investigation by any state or federal regulatory, law enforcement or legal authority. Should the applicant become the subject of an investigation by any state or federal regulatory, law enforcement or legal authority, the applicant shall promptly notify the

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Department of that investigation. The applicant acknowledges that, should it become delinquent in its good standing status with any applicable state authority or if it later becomes subject to a cease and desist order or memorandum of understanding, or is found in violation pursuant to any regulatory action or any court action or proceeding before any administrative agency, the Department is authorized to deny the applicant's request for an accredited theater production certificate.

- c) An application must be submitted to the Department no sooner than 180 calendar days prior to the opening ~~day of ticket sales for~~ the accredited theater production and no later than the last business day prior to the opening of the accredited theater production.
- d) The Department will evaluate applications for accredited theater production certificates from eligible applicants in accordance with the following requirements:
 - 1) *The Applicant intends to make the expenditure in the State. [35 ILCS 17/10-30]*
 - 2) *The applicant's accredited theater production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and will strengthen the economy of Illinois. [35 ILCS 17/10-30]*
 - 3) A suitable diversity plan has been created by the applicant and *the following requirements related to the implementation of a diversity plan have been met: the applicant has filed with the Department a diversity plan outlining specific goals for hiring Illinois labor expenditure eligible minority persons and females, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, and for using vendors receiving certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; the Department has approved the plan as meeting the requirements established by the Department and verified that the applicant has met or made good faith efforts in achieving those goals; and the Department has adopted any rules that are necessary to ensure compliance with the provisions set forth in this subsection (d)(3) and necessary to require that the applicant's plan*

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~~reflects the diversity of the population of this State.~~ [35 ILCS 17/10-30(a)(3)]

- 4) *The applicant's accredited theater production application provides a detailed training plan to participate in training, education and recruitment programs that are organized in cooperation with at least one of the following: Illinois colleges and universities; labor organizations; and the holders of accredited theater production certificates. Training plans are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of Illinois.* [35 ILCS 17/10-30(a)(4)]
- 5) *Except for qualifying commercial Broadway touring shows and non-profit theater productions, the* ~~The~~ *applicant illustrates evidence of a competitive need for credit. If not for the theater tax credit award, the applicant's accredited theater production would not occur in Illinois, which may be demonstrated by any means, including, but not limited to, evidence that: the applicant, presenter, owner, or licensee of the production rights has other state or international location options at which to present the production and could reasonably and efficiently locate outside of the State; at least one other state or nation could be considered for the production; the receipt of the theater tax credit award is a major factor in the decision of the applicant, presenter, production owner or licensee as to where the production will be presented and that without the theater tax credit award the applicant likely would not create or retain jobs in Illinois; or receipt of the theater tax credit award is essential to the applicant's decision to create or retain new jobs in the State.* [35 ILCS 17/10-30(a)(5)] The Department maintains sole discretion to review any information, materials or evidence to determine whether an applicant has established a competitive need for the credit in accordance with the Act.
- 6) *The theater tax credit award will result in an overall positive impact to the State, as determined by the Department using the best available data.* [35 ILCS 17/10-30]

e) The applicant is responsible for the accuracy of all data, information and documentation included in the application. Once submitted, applications shall become the property of the Department.

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- f) Upon written request, the applicant shall issue any necessary authorization to the appropriate federal, State or local authority for the release of information concerning a production being considered under this Part, including, but not limited to, financial reports and records relating to the applicant or the accredited theater production for which the theater tax credit award is requested.
- g) The Department is not responsible for any errors or delays in providing an application denial or approval caused by errors in any of the application information provided by the applicant or by any technical problems beyond the Department's control.
- h) Prior to substantive evaluation of an application for an accredited theater production certificate, the Department shall review all applications to determine that all required information and documentation has been provided. Applicants will be notified, in writing, of any application deficiencies and will be allowed 5 business days to correct those deficiencies through submission of additional documentation. If the applicant successfully cures any deficiencies within the 5-day period, the applicant will keep its numeric place in the queue. If an applicant does not correct the application deficiencies within 5 business days, then the Department may treat the application as newly submitted for purposes of determining the priority of applications and the applicant will lose its numeric place in the queue.
- i) The Department will provide interested applicants with information upon request and also be available via the Department's website. Submittal of an application does not commit the Department to award assistance or to pay any costs incurred by the applicant in the preparation of an application.

(Source: Amended at 49 Ill. Reg. 15946, effective December 4, 2025)

Section 532.70 Request for Theater Tax Credit Award

- a) After an applicant has received an accredited theater production certificate, it can request a theater tax credit award from the Department. In accordance with the Act, the theater tax credit award shall only be awarded to an applicant if:
 - 1) The total amount of theater tax credit awards awarded pursuant to the Act has not exceeded the annual fiscal maximum monetary cap amount.

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- 2) The applicant successfully demonstrates to the Department that it complied with its diversity plan or that it made good-faith efforts to comply with its diversity plan.
- 3) The applicant successfully demonstrates to the Department that it fulfilled its training plan or that it made good-faith efforts to comply with its training plan.

b) An applicant with an accredited theater production certificate shall provide the following with its request for a theater tax credit award:

- 1) An itemized statement of the Illinois labor expenditures or Illinois production spending for which the credit is claimed and of Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment for which additional credit is claimed;
- 2) Copies of the books and records of the applicant for the accredited theater production, showing the Illinois labor expenditures or Illinois production spending for which the credit is claimed, and all documentation necessary to support its computation; and
- 3) Independent Accountant's Report
 - A) An independent accountant's report, prepared by a licensed certified public accountant, in the form prescribed by the Department, that is supported by the copies of the books, records and other documents of the applicant that are attached to the request. The licensed certified public accountant must attest that he or she has examined the books, records and other documents according to procedures agreed upon by the Department. The attestation and examination must be performed by a licensed certified public accountant:
 - i) under the professional~~professiona~~ standards established by the American~~Americian~~ Institute of Certified Public Accountants, specifically the Statements on Standards of Attestation Engagements at AT Sec. 101 (Attest

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Engagements) and AT Sec. 201 (Agreed-Upon Procedures Engagements); and

- ii) whose engagement to provide the attestation was approved by the Department before work on the engagement is commenced.
- B) An independent accountant's report must be submitted to the Department within 60 calendar days after the end of the Illinois production run. If the independent accountant's report is not received by the Department, the applicant will forfeit its place in the queue.
- c) A request for a theater tax credit award must be made to the Department by March 1 in order to claim a theater tax credit for expenditures in the prior tax year.

(Source: Amended at 49 Ill. Reg. 15946, effective December 4, 2025)

Section 532.90 Calculation of Theater Tax Credit Award

- a) *The theater tax credit award shall be calculated each tax year based upon the filing by the applicant on forms prescribed by the Department containing information regarding qualifying and quantified Illinois labor expenditures, as defined in Section 10-10 of the Act, net of the limitation in that Section, and Illinois production spending, as defined in Section 10-10, net of the limitation in that Section. From the amount calculated, the applicant shall be entitled to receive a tax credit award of up to:*
 - 1) *20% of the Illinois labor expenditures for each tax year; plus*
 - 2) *20% of the Illinois production spending for each tax year; plus*
 - 3) *15% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department. [35 ILCS 17/10-45]*
- b) The theater tax credit award shall not exceed \$500,000 for any accredited theater production.

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- c) If an accredited theater production receives only a portion of the theater tax credit award to which the Department has determined it is entitled due to the annual fiscal cap on the amount of credits that can be awarded, the accredited theater production shall be eligible to receive the remainder of its credits in the next tax year. If an accredited theater production does not receive any theater tax credit award due to the annual fiscal cap on the amount of credits that can be awarded, the accredited theater production shall not be entitled to any theater tax credit award in the following tax years.
- d) The *theater tax credit award shall state the amount of the tax credit award to which the applicant is entitled for that tax year and the Department shall contemporaneously notify the applicant and Illinois Department of Revenue in accordance with Section 222 of the Illinois Income Tax Act [35 ILCS 5/222] or, if the applicant is a non-profit theater production, subsection (k) of Section 704A of the Illinois Income Tax Act, as applicable.* (Source: P.A. 97-636, eff. 6-1-12.) [35 ILCS 17/10-40]

(Source: Amended at 49 Ill. Reg. 15946, effective December 4, 2025)

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- 1) Heading of the Part: Consumer Legal Funding Act
- 2) Code Citation: 38 Ill. Adm. Code 170
- 3) Section Numbers:

170.210	<u>Adopted Actions:</u>
170.220	New Section
	New Section
- 4) Statutory Authority: Implementing and authorized by the Consumer Legal Funding Act [815 ILCS 121].
- 5) Effective Date of Rule: December 3, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 49 Ill. Reg. 3743; March 28, 2025
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: There were several changes made by the Department and JCAR from the proposed version including substantive changes made by the Department in coordination with JCAR and changes made by JCAR that were either technical/grammatical or for clarification purposes. The differences between the proposed and adopted versions are as follows:

The entire Section 170.210 was deleted from the proposed version and re-written as follows:

- "a) For purposes of this Section, the following definitions apply:
 - 1) "Additional funding" means a consumer legal funding related to the same legal claim as an original funding that does not pay the outstanding balance of an existing funding or fundings.

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- 2) "Funding date" means the date on which the funded amount is transferred to the consumer by the consumer legal funding company either by personal delivery; via wire, Automated Clearing House (ACH), or other electronic means; or mailed by insured, certified, or registered United State mail.
- 3) "Legal claim" means a bona fide civil claim or cause of action.
- 4) "original funding" means the first consumer legal funding the consumer received under the Act related to a particular pending legal claim.
- 5) "Refinance funding" or "refinance" means a funding that fully pays the outstanding balance of an existing funding or fundings related to a particular legal claim.

b) No funding may be refinanced more than 24 months after the funding date of an original funding.

c) The consumer legal funding company offering a refinance funding shall provide disclosure of the terms of the refinancing in accordance with Section 30 of the Act. In addition to the requirements of Section 30 of the Act, the contract shall include completed tables substantially similar to the following:

MAXIMUM AMOUNT YOU COULD OWE IF YOU DO NOT REFINANCE

Original Funded Amount	Maximum Amount You Could Owe on Original Funded Amount
[Insert Amount]	[Insert Amount]

MAXIMUM AMOUNT YOU COULD OWE IF YOU REFINANCE

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Additional Funded Amount:	Refinanced Amount Funded	Maximum Amount You Could Owe on Refinanced Amount
[Insert Amount]	[Insert Amount]	[Insert Amount]

- d) A refinance funding may only be provided by a consumer legal funding company that does not have any interest in the original funding.
- e) Any refinance funding shall comply with all legal requirements generally applicable to fundings as set forth by the Act and this Part.
- f) *Nothing in this Section permits an obligor to owe the license, an agent of the licensee, or an affiliate of the licensee, including a corporation owned or managed by the license, an aggregate principal amount in excess of \$100,000 at any time for consumer legal fundings transacted pursuant to the Act. [815 ILCS 121/10(d)].*
- g) A consumer legal funding company shall not refinance any funding to a consumer who has received a refinance funding secured by the consumer's legal claim.
- h) Upon written request of a consumer and a consumer's attorney, a consumer legal funding company shall provide all information and documentation necessary for another consumer legal funding company to refinance a funding and comply with this Section, including, but not limited to providing:
 - 1) The date the original funding occurred;
 - 2) The principal amount of the original funding;
 - 3) The total amount currently due on the original funding;
 - 4) The maximum total amount that could be owed on the original funding; and

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5) Whether the funding was a refinance funding.

i) Nothing in this Section shall be construed as prohibiting a consumer from entering into an agreement for an additional funding with the original consumer legal funding company or from entering into an agreement for an additional funding with another consumer legal funding company pursuant to 815 ILCS 121/15(6).".

In Section 170.220 b), after "licensee.", "The pro rata fee shall be paid by the licensee within 30 days from issuance of the invoice." is added to this adopted version.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and purpose of rulemaking: These adopted amendments add two new Sections to this Part. The first adopted Section implements rules relating to refinancing. The Act provides that a consumer legal funding may be refinanced as authorized by rule. The adopted Section authorizes refinancing with certain limitations for the protection of consumers, including a prohibition on refinancing more than 24 months after an original funding. Additionally, the amendments add a new Section to address the calculation of the pro rata fee assessment. The Act provides that each licensee shall pay its pro rata share of the cost for administration of the Act, and that the calculation method shall be established by rule. The adopted pro rata calculation rule provides an equitable and progressive approach to this calculation that can be easily administered by the Department.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

(217) 785-0810
Fax: (217) 557-4451

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Craig.Cellini@illinois.gov

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 170
CONSUMER LEGAL FUNDING ACT

SUBPART A: GENERAL PROVISIONS

Section

170.10	Purposes and Construction
170.20	Definitions
170.30	Administration and Enforcement of the Act
170.40	Minimum Requirements for Office Records
170.50	Individual Account Record
170.60	Payments
170.70	Determination of Payment
170.71	Permanent File
170.80	Return of Documents
170.90	Advertising
170.100	Other Business
170.110	Examinations
170.120	Relocation
170.130	Name Change
170.140	Verification of Resolution Amount
170.150	Off-Site Records
170.160	Servicing of Accounts by Contract
170.170	Transfer of Funding Contracts
170.180	Revocation or Suspension of License
170.190	Office Hours
170.200	Financial Coaching Disclosure
<u>170.210</u>	<u>Refinancing</u>
<u>170.220</u>	<u>Pro Rata Fee</u>

SUBPART B: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section

170.310	Purpose and Scope
170.320	Definitions
170.330	Requests for Confidential Supervisory Information

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170.340	Where to Submit a Request
170.350	Consideration of Requests
170.360	Disclosure of Confidential Supervisory Information
170.370	Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
170.380	Fees for Services

AUTHORITY: Implementing and authorized by the Consumer Legal Funding Act [815 ILCS 121].

SOURCE: Adopted at 47 Ill. Reg. 6644, effective May 2, 2023; amended at 49 Ill. Reg. 15967 effective December 3, 2025.

SUBPART A: GENERAL PROVISIONS

Section 170.210 Refinancing

a) For purposes of this Section, the following definitions apply:

- 1) "Additional funding" means a consumer legal funding related to the same legal claim as an original funding that does not pay the outstanding balance of an existing funding or fundings.
- 2) "Funding date" means the date on which the funded amount is transferred to the consumer by the consumer legal funding company either by personal delivery; via wire, Automated Clearing House (ACH), or other electronic means; or mailed by insured, certified, or registered United State mail.
- 3) "Legal claim" means a bona fide civil claim or cause of action.
- 4) "Original funding" means the first consumer legal funding the consumer received under the Act related to a particular pending legal claim.
- 5) "Refinance funding" or "refinance" means a funding that fully pays the outstanding balance of an existing funding or fundings related to a particular legal claim.

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- b) No funding may be refinanced more than 24 months after the funding date of an original funding.
- c) The consumer legal funding company offering a refinance funding shall provide disclosure of the terms of the refinancing in accordance with Section 30 of the Act. In addition to the requirements of Section 30 of the Act, the contract shall include completed tables substantially similar to the following:

MAXIMUM AMOUNT YOU COULD OWE IF YOU DO NOT REFINANCE

<u>Original Funded Amount</u>	<u>Maximum Amount You Could Owe on Original Funded Amount</u>
[Insert Amount]	[Insert Amount]

MAXIMUM AMOUNT YOU COULD OWE IF YOU REFINANCE

<u>Additional Funded Amount:</u>	<u>Refinanced Amount Funded</u>	<u>Maximum Amount You Could Owe on Refinanced Amount</u>
[Insert Amount]	[Insert Amount]	[Insert Amount]

- d) A refinance funding may only be provided by a consumer legal funding company that does not have any interest in the original funding.
- e) Any refinance funding shall comply with all legal requirements generally applicable to fundings as set forth by the Act and this Part.
- f) Nothing in this Section permits an obligor to owe the license, an agent of the licensee, or an affiliate of the licensee, including a corporation owned or managed by the license, an aggregate principal amount in excess of \$100,000 at

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any time for consumer legal fundings transacted pursuant to the Act. [815 ILCS 121/10(d)].

- g) A consumer legal funding company shall not refinance any funding to a consumer who has received a refinance funding secured by the consumer's legal claim.
- h) Upon written request of a consumer and a consumer's attorney, a consumer legal funding company shall provide all information and documentation necessary for another consumer legal funding company to refinance a funding and comply with this Section, including, but not limited to providing:
 - 1) The date the original funding occurred;
 - 2) The principal amount of the original funding;
 - 3) The total amount currently due on the original funding;
 - 4) The maximum total amount that could be owed on the original funding; and
 - 5) Whether the funding was a refinance funding.
- i) Nothing in this Section shall be construed as prohibiting a consumer from entering into an agreement for an additional funding with the original consumer legal funding company or from entering into an agreement for an additional funding with another consumer legal funding company pursuant to 815 ILCS 121/15(6).

(Source: Added at 49 Ill. Reg. 15967 effective December 3, 2025)

Section 170.220 Pro Rata Fee

- a) Each licensee shall pay to the Department its pro rata share of the cost for administration of the Act that exceeds other fees listed in this Section, as estimated by the Department, for the current year and any deficit actually incurred in the administration of the Act in prior years. [815 ILCS 121/95(f)(8)]
- b) Each licensee's pro rata share shall be the percentage that the total dollar amount of consumer legal fundings originated in Illinois during the preceding calendar

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year by the licensee bears to the total dollar amount of consumer legal fundings originated in Illinois during the preceding calendar year by all licensees. The pro rata fee shall be paid by the licensee within 30 days from issuance of the invoice.

(Source: Added at 49 Ill. Reg. 15967 effective December 3, 2025)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Information Access, Rulemaking and Organization of the Health Facilities and Services Review Board
- 2) Code Citation: 2 Ill. Adm. Code 1925
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1925.100	Amendment
1925.110	Amendment
1925.120	Amendment
1925.200	Amendment
1925.210	Amendment
1925.220	Amendment
1925.300	Amendment
1925.310	Amendment
1925.320	Amendment
1925.400	Amendment
1925.410	Amendment
1925.420	Amendment
1925.440	Amendment
1925.450	Amendment
1925.470	Amendment
1925.500	Amendment
1925.510	Amendment
1925.520	Amendment
1925.600	Amendment
1925.610	Amendment
1925.620	New Section
1925.630	New Section
1925.710	Amendment
1925.720	Amendment
1925.730	Amendment
1925.740	Amendment
1925.750	Amendment
1925.760	Amendment
1925.770	Amendment
1925.780	Amendment
1925.APPENDIX A	Amendment
1925.APPENDIX B	New Section

HEALTH FACILITIES AND SERVICES REVIEW BOARD

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- 4) Statutory Authority: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 12 of Health Facilities Planning Act [20 ILCS 3960].
- 5) Effective Date of Rules: December 2, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the Adopted Rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: This internal rulemaking is adopted pursuant to Section 5-15 of the Illinois Administrative Procedures Act (IAPA) [5 ILCS 100/5-15], so the Health Facilities and Services Review Board (HFSRB) was not required to publish this Part as a proposed rulemaking under Section 5-40 of the IAPA.
- 10) Has JCAR issued a Statement of Objection to these rules? This internal rulemaking is adopted pursuant to Section 5-15 of the IAPA, so it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between proposal and final version: This internal rulemaking is adopted pursuant to Section 5-15 of the IAPA, so it is not subject to First Notice or to Second Notice review by JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? This internal rulemaking is adopted pursuant to Section 5-15 of the IAPA, so it is not subject to First Notice or to Second Notice review by JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This internal rulemaking updates Subparts A, B, C, D, E, F, G, Appendix A, and Appendix B of 2 Ill. Adm. Code 1925 regarding HFSRB's public access to records, rulemaking and organization in compliance with Section 5-15(a)(a) of the IAPA.

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16) Information and questions regarding this adopted rulemaking shall be directed to:

Health Facilities and Services Review Board
Attention: Donald Jones, Rules Coordinator
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

(217) 782-3516
dph.hfsrb.rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE E: MISCELLANEOUS STATE AGENCIES

CHAPTER XVIII: HEALTH FACILITIES AND SERVICES REVIEW BOARD

PART 1925

PUBLIC INFORMATION ACCESS, RULEMAKING AND ORGANIZATION OF THE
HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBPART A: INTRODUCTION

Section	
1925.100	Summary and Purpose
1925.110	Definitions
1925.120	Records and Reports

SUBPART B: CLASSIFICATION OF RECORDS

Section	
1925.200	Records that Will Be Disclosed
1925.210	Records that <u>Shall</u> Will Be <u>Exempt</u> Withheld from Disclosure
1925.220	Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section	
1925.300	Submittal of Requests for Records
1925.310	Information <u>to be</u> To Be Provided in Requests for Records
1925.320	Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section	
1925.400	Timeline for Agency Response
1925.410	Requests for Records that the Agency Considers Unduly Burdensome
1925.420	Recurrent Requesters
1925.430	Requests for Records that Require Electronic Retrieval
1925.440	Denials of Requests for Records
1925.450	Requests for Review of Denials – Public Access Counselor

HEALTH FACILITIES AND SERVICES REVIEW BOARD

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1925.460 Circuit Court Review
1925.470 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section
1925.500 Inspection of Records
1925.510 Copying of Records; Fees
1925.520 Reduction and Waiver of Fees

SUBPART F: RULEMAKING

Section
1925.600 Rulemaking
1925.610 Request for Adoption of Rules
1925.620
1925.630
Public Comment – Hearings
Administrative Rules

SUBPART G: ORGANIZATION

Section
1925.700 Name, Statutory Authority and Composition
1925.710 Membership, Officers and Committees
1925.720 Meetings
1925.730 Quorum
1925.740 Conflict of Interest
1925.750 Compliance with Illinois Ethics Laws
1925.760 Travel Expenses
1925.770 Rules of Order
1925.780 Ex Parte and Extra-Record Communication

1925.APPENDIX A Fee Schedule for Duplication and Certification of Records
1925.APPENDIX B
Rulemaking Chart

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)], implementing the Illinois Health Facilities Planning Act [20 ILCS 3960] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 2 Ill. Reg. 187, effective July 26, 1978; amended at 3 Ill. Reg. 8, p. 57,

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effective February 18, 1979; amended at 4 Ill. Reg. 25, p. 187, effective June 11, 1979; amended at 3 Ill. Reg. 52, p. 118, effective January 1, 1980; amended at 5 Ill. Reg. 4995, effective April 22, 1981; amended at 6 Ill. Reg. 7221, effective June 9, 1982; amended at 6 Ill. Reg. 11484, effective September 9, 1982; amended at 7 Ill. Reg. 7316, effective May 31, 1983; amended at 8 Ill. Reg. 11518, effective June 27, 1984; codified at 8 Ill. Reg. 16340; amended at 9 Ill. Reg. 6276, effective April 24, 1985; amended at 11 Ill. Reg. 15649, effective September 14, 1987; amended at 24 Ill. Reg. 5671, effective March 14, 2000; amended at 24 Ill. Reg. 15060, effective September 26, 2000; amended at 25 Ill. Reg. 2718, effective January 22, 2001; old Part repealed at 38 Ill. Reg. 13899 and new Part adopted at 38 Ill. Reg. 13901, effective June 30, 2014; amended at 41 Ill. Reg. 6502, effective May 26, 2017; amended at 49 Ill. Reg. 15977, effective December 2, 2025.

SUBPART A: INTRODUCTION

Section 1925.100 Summary and Purpose

- a) Consistent with the Freedom of Information Act ("FOIA") [5 ILCS 140], as amended from time to time, this~~This~~ Part states the policy of the Health Facilities and Services Review Board ("HFSRB") for making its public records available for reasonable public inspection or copying while, at the same time, balancing~~protecting~~ legitimate interests in privacy. Nothing in this Part is intended to contradict or supersede the statutory requirements set forth in FOIA~~confidentiality~~.
- b) This Part:
 - 1) Establishes the following classifications for records in the Agency's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be exempt~~withhold~~ from disclosure.
 - 2) Contains the procedures by which requesters may obtain records in the Agency's possession; and
 - 3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

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(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.110 Definitions

Terms not defined in this Section shall have the same meaning as in FOIA, as amended from time to time~~the Freedom of Information Act [5 ILCS 140]~~. The following definitions are applicable for purposes of this Part:

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrator" means the chief administrative officer of HFSRB, responsible to the HFSRB chairman, and, through the chairman, responsible to HFSRB for the execution of its policies and procedures.

"Agency", "HFSRB", "State Board" or "Board" means the Health Facilities and Services Review Board (Section 3 of the Act)~~"State Board" or "Board" means the Illinois Health Facilities and Services Review Board, as established by the Act.~~

"Business day" or "working day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday, or Sunday.

"Calendar day" or "day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Commercial purpose" means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles ~~of~~^{or} opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

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"Copying" means the reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency~~Agency~~. (Section 2(d) of FOIA)

"Department" means the Illinois Department of Public Health. (Section 3 of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3 of the Act) ~~"Director" means the Director of the Department of Public Health.~~

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOIAFOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records in the possession of the Agency.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service in print~~paper~~ or electronic format~~form~~, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"OMA" means the Open Meetings Act [5 ILCS 120].

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's social security~~Social Security~~ number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. For a public body that is a

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HIPPA-covered entity, "private information" includes electronic medical records and all information, including demographic information, contained within or extracted from an electronic medical records system operated or maintained by the public body in compliance with State and federal medical privacy laws and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act and its regulations (45 CFR Parts 160 and 164). As used in this subsection, "HIPPA-covered entity" has the meaning given to the term "covered entity" (45 CFR 160.103). (Section 2(c-5) of FOIA)

"Public Access Counselor" means an attorney in the Attorney General's office whose responsibility is to ensure compliance with FOIA and who is individual appointed to that office by the Attorney General under Section 7(b) of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, state~~State~~ universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. For purposes of this Part, HFSRB is a public body as defined in FOIA, as amended from time to time. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, or a regional youth advisory board or the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act. (Section 2(a) of FOIA)

"Public records~~Records~~" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the Agency~~the Agency~~. (Section 2(c) of FOIA)

"Recurrent requester", as used in Section 3.2 of FOIA, ~~Requester~~" means a person that, in the 12 months immediately preceding the request, has submitted to the

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Agency, a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is to access and disseminate information concerning news and current or passing events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, "request" means a written document (or oral request, if the Agency chooses to honor oral requests) that is submitted to the Agency via personal delivery, mail, telefax, electronic mail, or other means available to the Agency and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(g) of FOIA)

"Request", for purposes of the term "recurrent requester" as defined in Section 2(g) of FOIA, means a written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(h) of FOIA)

"Requester" is any person who has submitted ~~to the Agency~~ a written request, electronically or on paper, for records to the Agency.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

"Voluminous request" means a request that includes more than 5 individual requests for more than 5 different categories of records or a combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days; or requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single request record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map microfilm, tape, or recording. "Voluminous request" does not include a request made by news media

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and non-profit, scientific, or academic organizations if the principal purpose of the request is to access and disseminate information concerning news and current or passing events; for articles of opinion of features of interest to the public; or for the purpose of academic, scientific, or public research or education. For the term "voluminous request", as defined in Section 2(h) of FOIA, "request" means a written document, or oral request, if the public body chooses to honor oral requests, that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record or records the requester seeks. One request may identify multiple individual records to be inspected or copied.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.120 Records and Reports

- a) The **HFSRB** Administrator or the FOIA Officer shall be responsible for all records, reports and files of HFSRB and shall keep these materials at the official headquarters or at other designated locations when directed to do so by HFSRB.
- b) The Administrator or the FOIA Officer shall, on behalf of HFSRB, make available for public inspection:
 - 1) all rules adopted by HFSRB in the discharge of its functions;
 - 2) all final orders, decisions and opinions of HFSRB, except any deemed confidential by State or federal statute; and
 - 3) all information declared public by the Health Facilities Planning Act [20 ILCS 3960], the Freedom of Information Act [5 ILCS 140], the Open Meetings Act [5 ILCS 120/2] or the Illinois Administrative Procedure Act [5 ILCS 100].
- c) Subject to exemptions set forth in Section 7 of FOIA, as amended from time to time, all~~All~~ files created or received in the execution of the responsibilities under the Act shall be open to reasonable public inspection and copying at the HFSRB offices.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

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SUBPART B: CLASSIFICATION OF RECORDS

Section 1925.200 Records that Will Be Disclosed

Upon request, meeting the requirements of this Part and FOIA, as amended from time to time, the Agency shall disclose to the requester responsive~~all~~ records requested except that it shall not disclose certain exempt records as provided in Section 1925.210 or 1925.220. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts~~Agency~~ are public records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Agency~~the Agency~~ under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are public records subject to inspection and copying in accordance with the provisions of FOIA~~FOIA~~; except that contractors' and employees' addresses, telephone numbers, and social security~~Social Security~~ numbers will be redacted by the Agency~~Agency~~ prior to disclosure. (Section 2.10 of FOIA)*
- c) *Arrest reports. The following chronologically maintained arrest and criminal history information maintained by State or local criminal justice agencies shall be furnished as soon as practical, but in no event later than 72 hours after the arrest, notwithstanding the time limits otherwise provided for in Section 3 of FOIA:
 - 1) information that identifies the individual, including the name, age, address, and photograph, when and if available;
 - 2) information detailing any charges relating to the arrest;
 - 3) the time and location of the arrest;
 - 4) the name of the investigating or arresting law enforcement agency; and
 - 5) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody.*

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d(e) *Criminal history records. The following documents maintained by the Agency*~~the Agency~~*pertaining to criminal history record information are public records subject to inspection and copying by the public pursuant to FOIA*~~FOIA~~*:*

- 1) *Court records that are public;*
- 2) *Records that are otherwise available under State or local law; and*
- 3) *Records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi) of FOIA*~~Section 1925.210(a)(5)(F) of this Part~~*. (Section 2.15(b) of FOIA)*

d) *Settlement and severance agreements. All settlement and severance agreements entered into by or on behalf of the Agency*~~the Agency~~ *are public records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 7 of FOIA*~~Section 1925.210 or 1925.220 of this Part~~ *may be redacted. (Section 2.20 of FOIA)*

e) *The Agency is not required to copy a public record that is published on the Agency's website. The Agency shall notify the requester that the public record is available online and direct the requester to the website where the record can be reasonably accessed. If the person requesting the public record is unable to reasonably access the record online after being directed to the Agency's website pursuant to this subsection, the requester may re-submit their request for the record stating their inability to reasonably access the record online, and the Agency shall make the requested record available for inspection or copying as provided in Section 3 of FOIA. (Section 8.5 of FOIA)*

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.210 Records that Shall~~Will~~ Be Exempt~~Withheld~~ from Disclosure

- a) For a complete list of exemptions from FOIA, refer to ~~that are stated in FOIA~~, see Section 7(1) of FOIA, as amended from time to time~~the Act~~.
- b) A public record that is not in the possession of the Agency~~the Agency~~ but is in the possession of a party with whom the Agency~~Agency~~ has contracted to perform a governmental function on behalf of the Agency~~Agency~~, and that directly relates to the governmental function and is not otherwise exempt under FOIA~~FOIA~~, shall be

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considered a public record of the AgencyAgency for purposes of FOIA and Subpart C. (Section 7(2) of FOIA)

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.220 Statutory Exemptions

For exemptions from FOIA that are stated in other statutes, see Section 7.5 of FOIA, as amended from time to time~~the Act~~.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY

Section 1925.300 Submittal of Requests for Records

- a) Any request for public records ~~shall~~should be submitted ~~in writing~~ to the FOIA~~HFSRB~~FOI Officer.
- b) FOIA requests may be submitted via mail, electronic mail~~email~~, fax or hand delivery. ~~Requests should be mailed or hand delivered to:~~

Illinois Health Facilities and Services Review Board
525 W. Jefferson Street, 2nd Floor
Springfield IL 62761
Attn: FOI Officer

- c) Requests that are mailed or hand delivered shall be sent to:

Illinois Health Facilities and Services Review Board
525 W. Jefferson Street, 2nd Floor
Springfield, IL 62761
Attn: FOIA Officer

- de) Electronic mail~~E-mailed~~ requests should be sent to DPH.HFSRB@illinois.gov~~DPH.HFSRB.FOIA@illinois.gov~~, contain the request in the body of the electronic mail~~email~~, and indicate in the subject line of the

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~~electronic mail~~~~e-mail~~ that it contains a FOIA request. ~~Faxed FOIA requests should be faxed to (312)814 4566, Attn: HFSRB FOI Officer.~~

- e) Faxed requests shall be faxed to (217) 785-4111, Attn: FOIA Officer.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.310 Information ~~to be~~To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address, electronic mail address, and telephone number of the requester;
- b) As specific a description as possible of the records sought. *Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extent to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information.* ~~Requests that the Agency considers unduly burdensome or categorical may be denied.~~ (See Section 3(g) of FOIA and Section 1925.410-);
- c) A statement as to the preferred~~requested~~ medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape. The Agency will make a reasonable effort to provide responsive records in the preferred medium;
- d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;

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- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.320 Requests for Records for Commercial Purposes

- ~~a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency. (Section 3.1(c) of FOIA)*~~
- ~~a**b**) *The Agency* ~~The Agency~~ shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:~~
 - 1) *Provide to the requester an estimate of the time required by the Agency* ~~Agency~~ *to provide the records requested and an estimate of the fees to be charged, which the Agency* ~~Agency~~ *may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in FOIA (Section 3.1(a) of FOIA)* ~~Section 1925.210 or 1925.220~~;
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- ~~b)e)~~ *Unless the records are exempt from disclosure, the Agency* ~~Agency~~ *shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*
- c) *It is a violation of this Part and FOIA for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Agency. (Section 3.1(c) of FOIA)*

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(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 1925.400 Timeline for Agency Response

- a) Except as stated in FOIA, as amended from time to time, ~~subsection (b) or (c)~~, the Agency will comply with or deny ~~respond to~~ any written request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended as stated in subsection (b) and (c) of this section or FOIA, as amended from time to time. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency ~~If the Agency~~ fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested public records, it may ~~will~~ not impose a fee for such copies. If the Agency ~~If the Agency~~ fails to respond to a request within the requisite periods in this Section, but thereafter provides the requester with copies of the requested public records, it may not impose a fee for such copies. A public body that fails to respond to a request received may, ~~it will~~ not treat the request as unduly burdensome ~~as provided~~ under Section 1925.410. (Section 3(d) of FOIA) The Agency can submit a ~~A~~ written request ~~from the Agency~~ to provide additional information about the FOIA request, including, but not limited to, requests to specify a time frame for the requested records or clarify the scope of records sought ~~shall be considered a response to the FOIA request~~.
- b) The time for response in ~~limits prescribed in~~ subsection (a) may be extended by the Agency for not more than 5 business days from the original due date, or by any time allotted under FOIA, as amended from time to time, for any of the following reasons:
 - 1) The requested records are stored in whole or in part at locations other than the office having charge of the requested records;
 - 2) The request requires the collection of a substantial number of specified records;

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- 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
- 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
- 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7-~~or~~7.5 of FOIAFOIA or should be revealed only with appropriate deletions;*
- 6) *The request for records cannot be complied with by the Agency~~Agency~~ within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Agency~~Agency~~; or*
- 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among 2~~two~~ or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*

c) *The person making a request and the Agency~~Agency~~ may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency~~Agency~~ agree to extend the period for compliance, a failure by the Agency~~Agency~~ to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*

d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency ~~shall~~Agency ~~will~~, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency~~If the~~ Agency ~~fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it~~ ~~it~~ may not impose a fee for those copies. If the Agency ~~requests~~If the Agency ~~issues~~ an extension and subsequently fails to respond to the request, it ~~may~~ it ~~will~~ not treat the request as unduly burdensome under Section 1925.410. (Section 3(f) of FOIA)*

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(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.410 Requests for Records that the Agency Considers Unduly Burdensome

- a) The Agency will fulfill requests~~The Agency will fulfill requests~~ calling for all records falling within a category . . . unless compliance with the request would be unduly burdensome for burden the Agency and Agency, there is no way to narrow the request, and the burden on the Agency~~Agency~~ outweighs the public interest in the information. Before invoking this exemption, the Agency shall~~Agency will~~ extend to the requester~~requester~~ an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.
- b) If the Agency responds to a categorical request by stating that compliance would unduly burden its operations, and the conditions described above are met~~determines that a request is unduly burdensome~~, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency~~Agency~~. Such a response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)
- c) Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Part ~~from the same person~~ shall be deemed unduly burdensome. (Section 3(g) of FOIA)

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.420 Recurrent Requesters

- a) Notwithstanding any provision of this Part to the contrary, the Agency shall~~will~~ respond to a request from a recurrent requester, as defined in subsection (g) of Section 2 of FOIA~~Section 1925.110~~, within 21 business days after receipt. The response shall~~will~~:
 - 1) provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;

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- 2) *deny the request pursuant to one or more of the exemptions set out in this Part and in FOIA;*
- 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
- 4) *provide the records requested. (Section 3.2(a) of FOIA)*

b) *Within 5 business days after receiving a request from a recurrent requester as define in subsection (g) of Section 2 of FOIA, the Agency shall~~will~~ notify the requestor:*

- 1) *that the Agency is treating the request as a recurrent request under subsection (g) of Section 2 of FOIA; ~~request, and that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a). The Agency will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).~~*
- 2) *of the reasons why the Agency is treating the request as a request under subsection (g) of Section 2 of FOIA; and*
- 3) *that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a) of Section 3.2 of FOIA. The Agency shall also notify the requester of the proposed responses that can be asserted pursuant to subsection (a) of Section 3.2 of FOIA. (Section 3.2(b) of FOIA)*

c) *Unless the records are exempt from disclosure, the Agency shall~~will~~ comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2(c) of FOIA)*

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.440 Denials of Requests for Records

a) The Agency will deny requests for records when:

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- 1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1925.410 and FOIA, as amended from time to time, and the requester has not reduced the request to manageable proportions; or
- 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA, as amended from time to time, or Section 1925.210 or 1925.220.

b) The denial of a request for records must be in writing.

- 1) The notification shall include a description of the records denied; *the reasons~~reason~~ for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial.* (Section 9(a) of FOIA);
- 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial shall inform each person of his or her right to judicial review.* (Section 9(a) of FOIA);~~and~~
- 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA~~FOIA~~, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority.* (Section 9(b) of FOIA);

c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

d) If the Agency has given written notice pursuant to Section 1925.400(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

e) *Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the*

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Agency~~Agency~~ fails to act within the time periods provided in Section 3 of FOIA and Section 1925.400. (Section 9(c) of FOIA)

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.450 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a public record is denied by the Agency~~the Agency~~ may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review must be in writing, signed by the requester, and include a copy of the request for access to records and any responses from the Agency. (Section 9.5(a) of FOIA)*
- b) *Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. If the Public Access Counselor determines that the alleged violation is unfounded they shall so advise the requester and the Agency, and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the Agency within 7 business days after receipt and shall specify the records or other documents that the Agency shall furnish to facilitate the review. (Section 9.5(c) of FOIA) If the Agency asserts that the records are exempt under Section 1925.210(a)(4) or (a)(7), it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*
 - 1) *A copy of the request for access to records;*
 - 2) *The proposed response from the Agency; and*
 - 3) *A detailed summary of the Agency's basis for asserting the exemption. (Section 9.5(b) of FOIA)*
- c) *Upon receipt of a notice of intent to deny from the Agency, the Public Access Counselor shall determine whether further inquiry is warranted. The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. Times for response or compliance by the Agency under*

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~~Section 1925.400 will be tolled until the Public Access Counselor concludes his or her inquiry. (Section 9.5(b) of FOIA)~~

- ~~c(d)~~ Within 7 business working days after receipt of the request for review, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)
- ~~d(e)~~ Within 7 business working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)
- ~~e(f)~~ The requester may, but is not required to, respond in writing to the answer within 7 business working days and shall provide a copy of the response to the Agency. (Section 9.5(d) of FOIA)
- ~~f(g)~~ In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)
- ~~g(h)~~ The Attorney General shall examine the issues and the records, shall make findings of fact and conclusions of law, and shall issue to the requester and the Agency an opinion in response to the request for review within 60 days after its receipt. The opinion shall be binding upon both the requester and the Agency subject to administrative review under Section 11.5 of FOIA, as amended from time to time. (Section 9.5(f) of FOIA) ~~A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 1925.408.~~ (Section 9.5(f) of FOIA)
- ~~h(i)~~ In responding to any request under this Section, ~~If~~ the Attorney General may ~~decides to~~ exercise his or her discretion and choose to resolve a request for review by mediation or by a means other than issuance of a binding opinion. ~~The, the~~ decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)

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ij) Upon receipt of a binding opinion concluding that a violation of FOIA~~FOIA~~ has occurred, the Agency~~Agency~~ shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 1925.470. If the opinion concludes that no violation of FOIA~~FOIA~~ has occurred, the requester may initiate administrative review under Section 1925.470. (Section 9.5(f) of FOIA)

jk) If the Agency~~If the Agency~~ discloses records in accordance with an opinion of the Attorney General the Agency,~~the Agency~~ is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA, as amended from time to time~~FOIA~~. (Section 9.5(f) of FOIA)

kl) If the requester files suit under Section 11 of FOIA or Section 1925.460 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency~~Agency~~. (Section 9.5(g) of FOIA)

lm) The Attorney General may also issue advisory opinions to the Agency~~the Agency~~ regarding compliance with FOIA~~FOIA~~. A review may be initiated upon receipt of a written request from the Administrator~~Director~~ of the Agency or the Agency's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency~~Agency~~ in order to assist in the review. If the Agency~~If the Agency~~ relies in good faith on an advisory opinion of the Attorney General in responding to a request the Agency,~~the Agency~~ is not liable for penalties under FOIA~~FOIA~~, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.470 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook-~~County~~ or Sangamon County. An advisory opinion issued to the Agency~~the Agency~~ shall not be considered a final decision of the Attorney General for purposes of FOIA~~this Section~~. (Section 11.5 of FOIA)

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(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 1925.500 Inspection of Records

- a) The Agency may make available records for personal inspection at the Agency's headquarters ~~office~~ located at 525 West Jefferson Street, 2nd Floor, Springfield, Illinois 62761, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Agency~~Agency~~ shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the Agency~~Agency~~ shall furnish it in the format in which it is maintained by the Agency~~Agency~~, or in paper format at the option of the requester.* (Section 6(a) of FOIA)
- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m., Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.
- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period ~~of time~~.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

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g) The requester shall segregate and identify the documents to be copied during ~~the course of~~ the inspection.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.510 Copying of Records; Fees

a) In accordance with Section 1925.520, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.

b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency shall the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records, except for commercial requests as provided in FOIA.* (Section 6(b) of FOIA)

~~c)~~ *In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1925.400, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 1925.500, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State controlled premises except under constant supervision of the agency responsible for maintaining the record.*

~~c④~~ Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium along with reasonable costs of copying records onto such medium. If a request is not a request for a commercial purpose or a voluminous request, the Agency may, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Illinois Department of Public Health".

~~d④~~ If a contractor is used to inspect or copy records, the following procedures shall apply:

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- 1) The requester, rather than the Agency, must contract with the contractor;
- 2) The requester is responsible for all fees charged by the contractor;
- 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
- 4) Only Agency personnel may provide records to the contractor;
- 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and
- 6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.520 Reduction and Waiver of Fees

- a) *Documents shall be furnished without charge or at a reduced charge, as determined by the Agency, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following: Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*
 - 1) *If*~~Whether~~ the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; and
 - 2) ~~Whether~~*Whether* the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information

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regarding the health, safety, welfare or legal rights of the general public.
(Section 6(c) of FOIA)

- b) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.* (Section 6(a) of FOIA)

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

SUBPART F: RULEMAKING

Section 1925.600 Rulemaking

- a) The State Board shall oversee all activities involved in the preparation of rules. HFSRB staff shall be responsible for the submission of rules to the Secretary of State for publishing and to the Joint Committee on Administrative Rules for review, as well as for all contacts with those entities.
- b) Responsibility for drafting the text of proposed rules shall rest with the State Board and HFSRB staff.
- c^a) Consistent with applicable rules and procedures, all requests for the adoption, amendment, or repeal of ~~All proposed~~ rules are referred by the State Board to HFSRB staff .
- d^b) Requests for the adoption, amendment or repeal of rules shall be processed as prescribed in Section 5-145 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-145], as amended from time to time, for presentation to the State Board (see Section 1925.610). Requesters shall be notified of the disposition of their requests.
- e^e) All proposed and adopted rulemaking of HFSRB shall be published in the *Illinois Register* in accordance with the requirements of the IAPA, as amended from time

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to time.

fd) Rules adopted by HFSRB shall be in effect on the date ~~that~~ the rules are filed with the Illinois Secretary of State's Office. The rules will then be available on HFSRB's website (<https://hfsrb.illinois.gov/rules.html> <http://www.hfsrb.illinois.gov>).

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.610 Request for Adoption of Rules

- a) Pursuant to the requirements of Section 5-145 of the IAPA, as amended from time to time, any interested person may contact HFSRB requesting the promulgation, amendment or repeal of a rule.
- b) The form of the request shall be typed and sent to the main HFSRB office (see Section 1925.300) via United States Postal Service~~USPS~~, any recognized delivery service or electronic mail (dph.hfsrb.rules@illinois.gov)email. The request shall include the following information:
 - 1) Name, title (if any), organization (if any), mailing address, electronic mail address and telephone number of the requester.
 - 2) Nature of action sought, i.e., promulgation of a new rule ~~or~~ amendment of an existing rule, or repeal of a rule.
 - 3) Proposed text or identification of the rule to be adopted, amended, or repealed.
 - 4) Brief statement of the rationale for the requested action.
- c) The Administrator will forward a copy of the request to the HFSRB Chairman who will assign the matter for consideration by the State Board.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.620 Public Comment – Hearings

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- a) Written comments shall be designated as the proper public response to proposed rules unless a hearing is requested by the public or if a hearing is determined appropriate by the State Board in consultation with HFSRB staff.
- b) The State Board will be responsible for conducting all public hearings with regards to changes in rules. The hearing will be held during the first 45-day period following the publication of the proposed rules in the *Illinois Register*. A summary of the public hearing shall be prepared by HFSRB staff.

(Source: Added at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.630 Administrative Rules

The following HFSRB rules are available at <https://ilga.gov/agencies/JCAR/AdminCode>

- a) 2 Illinois Administrative Code
 - Part 1925 Public Information Access, Rulemaking and Organization of the Health Facilities and Services Review Board.
- b) 77 Illinois Administrative Code
 - Part 1100 Narrative and Planning Policies
 - Part 1110 Processing, Classification Policies and Review Criteria
 - Part 1120 Health Facilities and Services Financial and Economic Feasibility Review
 - Part 1125 Long-Term Care
 - Part 1126 Specialized Mental Health Rehabilitation Facilities
 - Part 1130 Health Facilities and Services Review Operational Rules
 - Part 1235 Health Care Worker Self-Referral
 - Part 1260 State Board Policy Statement Regarding Reserve Bed Capacity

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Part 1270 Hospital Basic Services Preservation Code

(Source: Added at 49 Ill. Reg. 15977, effective December 2, 2025)

SUBPART G: ORGANIZATION

Section 1925.710 Membership, Officers and Committees

a) Membership

- 1) *The State Board shall be appointed by the Governor, with the advice and consent of the Senate. Not more than 65 of the appointments shall be of the same political party at the time of the appointment. [20 ILCS 3960/4(c)]*
- 2) *The State Board shall consist of 119 voting members. [20 ILCS 3960/4(b)]
Each~~Each~~ appointed member shall hold office for a term of 3 years, provided that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the term of office of each successor shall commence on July 1 of the year in which his or her predecessor's term expires. The Governor may reappoint a member for additional terms, but no member shall serve more than 3 terms, subject to review and re-approval every 3 years. [20 ILCS 3960/4(d)]*
- 3) Ex-Officio Members
The Secretary of Human Services, the Director of Healthcare and Family Services, and the Director of Public Health, or their designated representatives, shall serve as ex-officio, non-voting members of the State Board. [20 ILCS 3960(4)(c)~~20 ILCS 3960(e)~~]

b) Officers

The Governor shall designate one of the members to serve as the Chairman of the Board, who shall be a person with expertise in health care delivery system planning, finance or management of health care facilities that are regulated under the Act. The Chairman shall annually review Board member performance and shall report the attendance record of each Board member to the General Assembly. [20 ILCS 3960/4(f)]

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c) Committees

The Chairman, acting for the State Board, will establish such standing and/or special committees as are deemed necessary. The Chairman shall specify the duties of committees and appoint the members.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.720 Meetings

- a) The State Board will, in the scheduling and conduct of its meetings, conform to all requirements of OMA~~the Open Meetings Act~~ [5 ILCS 120], as amended from time to time.
- b) As provided in OMA~~the Open Meetings Act~~, all decisions of HFSRB shall be made at meetings open to the public.
- c) HFSRB shall keep a complete and accurate record of all meetings, including the votes of individual members on all matters before it. Minutes of HFSRB meetings shall be taken in a manner consistent with the Act~~by a court reporter~~. Meeting transcripts~~Transcriptions of any minutes~~ taken or made by HFSRB may be obtained pursuant to the provisions of FOIA~~the Freedom of Information Act~~ and OMA~~the Open Meetings Act~~ following approval of the minutes by HFSRB.
- d) Meeting Schedule
 - 1) Regular and special meetings shall be called by the Chairman through the Administrator.
 - 2) *The State Board~~HFSRB~~ shall meet at least every 45 days, or as often as the ~~HFSRB~~ Chairman of the State Board deems necessary, or upon the request of a~~the~~ majority of the members.* [20 ILCS 3960/4(h)]
 - 3) HFSRB, through its Administrator, shall, at the beginning of each fiscal year, prepare and make available a schedule of all regular HFSRB meetings for the fiscal year, listing the dates, times and places of the meetings. If a change is made in regular meeting dates, at least 10-day~~days~~ notice of the change shall be given by publication in a newspaper of general circulation, with notice of the change posted at the principal

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HFSRB office (see Section 1925.300(b)); and shall be supplied to those media that have requested annual information.

- 4) Public notice of regular meetings shall be given by posting the notice on the HFSRB website (<https://hfsrb.illinois.gov/announcements.html> <http://www.hfsrb.illinois.gov>).

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.730 Quorum

The quorum requirements are as specified in Section 4(i) of the Act, as amended from time to time. *A vacancy in the membership of the State Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the State Board as provided by this for in the Act.* [20 ILCS 3960/4(i)]

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.740 Conflict of Interest

- a) *Prior to appointment to, and in the course of service on, the Board, members of the Board shall disclose the employment or other financial interest of any other relative of the member, if known, in service or facilities subject to the Act. Members of the Board shall declare any conflict of interest that may exist with respect to the status of those relatives and recuse themselves from voting on any issue for which a conflict of interest is declared. No person shall be appointed or continue to serve as a member of the State Board who is, or whose spouse, parent, sibling, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility.* [20 ILCS 3960/4(b)]
- b) *A State Board member shall disqualify himself or herself from the consideration of any application for a permit or exemption in which the State Board member or the State Board member's spouse, parent, sibling, or child has an economic interest in the matter or is employed by, serves as a consultant for, or is a member of the governing board of the applicant or a party opposing the application.* [20 ILCS 3960/4(j)]

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.750 Compliance with Illinois Ethics Laws

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- a) *The Chairman, Board members and Board staff must comply with the Illinois Governmental Ethics Act. [5 ILCS 420]- [20 ILCS 3960/4(k)]*
- b) *The State Board is subject to the State Officials and Employees Ethics Act. [5 ILCS 430]- [20 ILCS 3960/4.1(b)]*

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.760 Travel Expenses

State Board members, while serving on business of the State Board, shall receive actual and necessary travel and subsistence expenses while serving away from their places of residence. [20 ILCS 3960/(4)(e)] ~~HFSRB members, while serving on the business of HFSRB, shall be reimbursed for actual and necessary travel and subsistence expenses as provided in Section 4(e) of the Act. Additionally, State Board members shall receive actual and necessary travel and subsistence expenses while serving away from their places of residence (as specified in subsection (e) of this Section).~~ Serving on the business of HFSRB includes, but shall not be limited to, attendance at regular, special or committee meetings or public hearings of HFSRB.

- a) Eligibility
 - 1) Voting HFSRB members shall be reimbursed through the Agency for travel and subsistence expenses incurred in the performance of their duties as provided by law and/or this Part.
 - 2) Ex-officio members of HFSRB shall request reimbursement for travel and subsistence expenses from their respective agencies as being a form of their official duties.
- b) Official Headquarters of Voting Members
To calculate ~~For the purpose of calculating~~ travel expenses for State Board members, the member's place of residence *is will be* considered his or her headquarters location.
- c) Official Travel Regulations
HFSRB is subject to the travel requirements for the State of Illinois, as published by the Department of Central Management Services and approved and promulgated by the Travel Control Board.

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d) Reimbursement Procedures

All claims for reimbursement of travel and subsistence expenses shall be submitted on forms provided for that purpose. Submission of travel reimbursement forms may be made after~~subsequent to~~ each meeting of the State Board, or may be held for submission at the conclusion of each month's individual activity. The Administrator shall be the recipient of the vouchers for administrative processing and approval.

e) Definition of Official Business Requiring Travel

For ~~the purpose of~~ travel expense reimbursement, expenses incurred by HFSRB members shall be ~~considered to be~~ official business of the State and of HFSRB when the expenses are incurred as a participant in the following activities:

- 1) HFSRB regular, special and committee meetings called by the Chairman through the Administrator.
- 2) Participation in investigations, hearings, judicial and legislative proceedings, or the like, in connection with a permit or matters arising from the administration of the Act.
- 3) Participation in public hearings relative to HFSRB rules and/or health facilities standards, criteria or plans.
- 4) Participation in task forces, ad hoc committees, and other special units prescribed by the HFSRB Chairman.
- 5) Speaking before interested groups and organizations and meetings with interested persons and government officials, as a representative of HFSRB, for the purpose of:
 - A) describing the activities of the State Board, its procedures, and the laws governing its purpose, organization and operation; and
 - B) discussing issues related to health facilities planning.
- 6) Attendance, as a representative of HFSRB, at meetings conducted by agencies of the State and federal governments, and by national, state and local organizations having a direct interest in health facilities planning,

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except that attendance at meetings held outside the State shall have the prior approval of the Chairman of the Board, the Administrator, and the Department of Central Management Services.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.770 Rules of Order

HFSRB proceedings shall be conducted in a manner consistent with Roberts Rules of Order newly revised, as amended from time to time. HFSRB shall adopt variations or modifications to these procedures as deemed appropriate for the efficient conduct of business, provided that such variations do not conflict with law, regulations, or any HFSRB governing documents. In the event of procedural questions, Roberts Rules of Order newly revised shall serve as guidance for HFSRB's considerations. ~~Roberts Rules of Order shall govern the conduct of all meetings of HFSRB, except that any matter on which HFSRB is required by the Act to defer its action until parties have been notified and afforded the opportunity to appear before the State Board shall be deferred until the next meeting.~~

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

Section 1925.780 Ex Parte and Extra-Record Communication

- a) *Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rulemaking~~rule making~~, the State Board, any State Board member, employee, or a hearing officer shall not engage in ex parte communication in connection with the substance of any formally filed application for a permit with any person or party or the representative of any party. This subsection (a) applies when the Board, member, employee, or hearing officer knows, or should know upon reasonable inquiry, that the application or exemption has been formally filed with the Board. Nothing in this Section shall prohibit staff members from providing technical assistance to applicants. Nothing in this Section shall prohibit staff from verifying or clarifying an applicant's information as it prepares the State Board Staff Report~~staff report~~. Once an application for permit or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2(a)]*

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b) *A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants. [20 ILCS 3960/4.2(b)]*

c) *An ex parte or extra-record communication received by the State Board, any State Board member, employee, or a hearing officer shall be made a part of the ~~record of the pending~~ matter, including all written communications ~~communication~~, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. [20 ILCS 3960/4.2(c)]*

d) The State Board member, employee or hearing officer who received or made the ex parte or extra-record communication shall submit those communications, responses and memoranda to the Administrator and the HFSRB Ethics Officer, who shall file those materials ~~cause them to be filed~~ in the administrative record for the subject project in a separately identified section.

e) The ex parte or extra-record communication, together with all other documents enumerated in this Section, shall be available to the public in conformance with Section 3 of FOIA ~~the Freedom of Information Act. Prohibited communications shall be reported to the General Assembly and incorporated on the State Board's website (<http://www.hfsrb@illinois.gov>).~~

f) Any ex parte or extra-record communication shall not be considered by the State Board, any State Board member, or any HFSRB employee, nor form the basis for any decision, finding of fact or order.

g) *"Ex Parte communication" or "extra-record communication" means a communication between a person who is not a State Board member or employee and a State Board member or employee that reflects on the substance of a pending or impending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte or extra-record ~~or extra-record~~ communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in*

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writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2(d)]

- h) Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter, other than the status of an application, that is not authorized by the public comment process specified in 77 Ill. Adm. Code 1130 is ex parte~~ex parte~~ or extra-record communication and is prohibited.
- i) *For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis. [20 ILCS 3960/4.2(e)]*
- j) *The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings. [20 ILCS 3960/4.2(f)]*
- k) *Nothing in this Section shall be construed to prevent the State Board or any member of the State Board~~board or any employee~~ from consulting with the attorney for the State Board. [20 ILCS 3960/4.2(g)]*

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

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Section 1925. APPENDIX A Fee Schedule for Duplication and Certification of Records

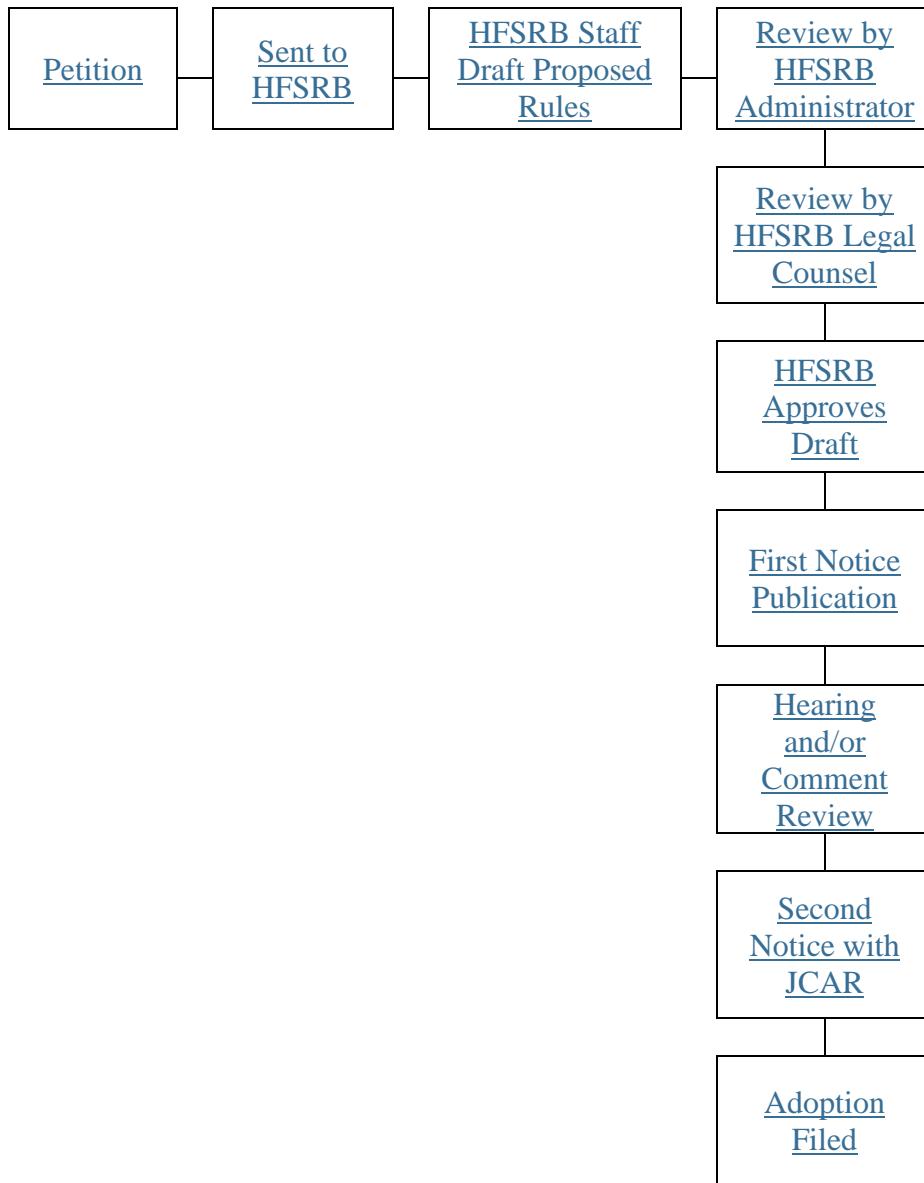
TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, <u>more than</u> in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

(Source: Amended at 49 Ill. Reg. 15977, effective December 2, 2025)

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Section 1925.APPENDIX B Rulemaking Chart

(Source: Added at 49 Ill. Reg. 15977, effective December 2, 2025)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.830 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].
- 5) Effective Date of Rule: December 2, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 49 Ill. Reg. 9699; July 25, 2025
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Language was changed, removed and relabeled as follows:
 - In section 140.830(d), a carriage return and an indent was added, followed by the new subsection "1) Certified Nursing Assistant (CNA) Incentive Payments", followed by a carriage return and an indent.
 - In section 140.830(d)(1), "1)" was relabeled to "A)".
 - In section 140.830(d)(2), "2)" was relabeled to "B)" followed by a carriage return and new section "2) Nurse Staffing Add-On Payments", followed by a carriage return and indent.
 - In section 140.830(d)(3), "3) was relabeled to "A)"; "nurse" was added before "staffing".

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- In section 140.830(d)(4), an indent was added; "4)" was relabeled to "B)"; "nurse staffing" was added before "PBJ data"; "a higher penalty is justified. If a higher penalty" was changed to "that the percentage of reported hours was overstated by more than 10%, in which case a higher penalty equal to the overstated percentage"; ", it will be tied to the federal audit information", was removed.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any other rulemakings pending on this Part? Yes

Section Number: 140.80 Proposed Action: Amendment Illinois Register Citation: 49 Ill. Reg. 14475; November 14, 2025

15) Summary and Purpose of Rulemaking: This adopted rulemaking, amends 89 Ill. Adm. Code Sections 140.380 to address appeals regarding missing Payroll Based Journal (PBJ) data, where providers fail to submit federally required data necessary for the calculation of staffing incentive payments. Nursing facility rate reforms in 2022 created new payments to incentivize higher staffing levels and better paid direct care workers. Calculation of these payments is reliant upon federally required staffing data that nursing facilities submit quarterly. The new appeals language allows the Department to address situations in which the staffing data was not submitted timely or was suppressed by federal CMS due to audits.

16) Information and questions regarding this adopted rulemaking shall be directed to:

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Springfield IL 62763-0002

217-782-1233
HFS.Rules@Illinois.gov

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

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140.2	Medical Assistance Programs
140.3	Covered Services Under Medical Assistance Programs
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under General Assistance
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
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140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
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140.18	Effect of Termination, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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	Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
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140.23	Payment Of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
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140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
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140.75	Managed Care – Disputed Provider Claims Resolution Process
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140.86	Supportive Living Facility Fund
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140.100	Limitation On Hospital Services (Recodified)
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140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
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140.372 Review Procedure (Recodified)
140.373 Utilization (Repealed)
140.374 Alternatives (Recodified)
140.375 Exemptions (Recodified)
140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
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140.391 Definitions (Recodified)
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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140.403 Telehealth Services
140.405 Non-Institutional Rate Reductions
140.410 Physicians' Services
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140.438 Diagnostic Imaging Services

140.439 Critical Access Care Pharmacy Payment

140.440 Pharmacy Services

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140.487	Healthy Kids Program Timeliness Standards
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984;

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emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987;

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amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3,

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1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30,

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1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332,

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effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002;

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amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill.

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Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended

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at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019; amended at 43 Ill. Reg. 4094, effective March 25, 2019; amended at 43 Ill. Reg. 5706, effective May 2, 2019; amended at 43 Ill. Reg. 6736, effective May 28, 2019; emergency amendment at 43 Ill. Reg. 12093, effective October 15, 2019, for a maximum of 150

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days; amended at 44 Ill. Reg. 226, effective December 23, 2019; amended at 44 Ill. Reg. 4616, effective March 3, 2020; emergency amendment at 44 Ill. Reg. 5745, effective March 20, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 12778, effective July 17, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 13678, effective August 7, 2020; amended at 44 Ill. Reg. 19713, effective December 11, 2020; emergency amendment at 45 Ill. Reg. 1345, effective January 15, 2021, for a maximum of 150 days; emergency expired June 13, 2021; emergency amendment at 45 Ill. Reg. 2734, effective February 19, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 5419, effective April 9, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 5848, effective April 20, 2021; amended at 45 Ill. Reg. 8958, effective June 29, 2021; amended at 45 Ill. Reg. 10996, effective August 27, 2021; emergency amendment at 46 Ill. Reg. 512, effective December 16, 2021, for a maximum of 150 days; amended at 46 Ill. Reg. 2046, effective January 21, 2022; amended at 46 Ill. Reg. 5229, effective March 11, 2022; amended at 46 Ill. Reg. 5725, effective March 25, 2022; emergency amendment at 46 Ill. Reg. 8348, effective May 2, 2022, for a maximum of 150 days; emergency amendment at 46 Ill. Reg. 12115, effective July 1, 2022, for a maximum of 150 days; emergency expired November 27, 2022; amended at 46 Ill. Reg. 16740, effective September 20, 2022; amended at 46 Ill. Reg. 18061, effective October 27, 2022; amended at 46 Ill. Reg. 19641, effective November 28, 2022; amended at 47 Ill. Reg. 3738, effective March 1, 2023; amended at 47 Ill. Reg. 16385, effective November 3, 2023; amended at 47 Ill. Reg. 18024, effective November 21, 2023; amended at 48 Ill. Reg. 864, effective December 27, 2023; emergency amendment at 48 Ill. Reg. 5768, effective March 28, 2024, for a maximum of 150 days; amended at 48 Ill. Reg. 11981, effective July 25, 2024; amended at 48 Ill. Reg. 13507, effective August 26, 2024; amended at 49 Ill. Reg. 1819, effective January 30, 2025; amended at 49 Ill. Reg. 3081, effective February 26, 2025; amended at 49 Ill. Reg. 3537, effective March 10, 2025; amended at 49 Ill. Reg. 4026, effective March 20, 2025; amended at 49 Ill. Reg. 4457, effective March 27, 2025; amended at 49 Ill. Reg. 8201, effective May 27, 2025; emergency amendment at 49 Ill. Reg. 9056, effective July 1, 2025, for a maximum of 150 days; emergency amendment at 49 Ill. Reg. 14799, effective November 3, 2025, for a maximum of 150 days; amended at 49 Ill. Reg. 15705, effective November 26, 2025; amended at 49 Ill. Reg. 16017, effective December 2, 2025.

SUBPART E: GROUP CARE

Section 140.830 Appeals of Rate Determinations

- a) Except as indicated in subsection (b), the Department shall notify all nursing facilities of their support and capital rates annually. Appeals of rate determinations shall be submitted in writing to the Department. Except as indicated in subsection (b), appeals received within 30 days after rate notification

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shall, if upheld, be made effective as of the beginning of the rate year. The effective date of all other upheld appeals shall be the first day of the month after the date the complete appeal was received.

- b) The Department shall notify all nursing facilities of their nursing rate quarterly. Appeals shall be submitted to the Department no later than 30 days after the date of the Department's notice to the facility of the rate. The results of an appeal shall become effective the first day of the applicable quarter.
- c) Appeals of rate determinations under this Section shall be submitted in writing to the Chief, Bureau of Long Term Care. The Department shall rule on all appeals within 120 days after the date of appeal, except that if the Department requires additional information from the facility the period shall be extended until such time as the information is provided. Except for the rate identified in subsection (b), appeals for any rate year must be filed before the close of the rate year.

d) Appeals regarding missing Payroll Based Journal (PBJ) data.

1) Certified Nursing Assistant (CNA) Incentive Payments

- A) Facilities participating in the CNA Incentive Program that fail to timely submit Payroll Based Journal (PBJ) data will not be paid the CNA incentive payments for the applicable quarter.
- B) Facilities participating in the CNA Incentive Program who timely submit PBJ data that is ultimately suppressed by the federal Centers for Medicare and Medicaid Services (CMS), will be paid at 90% of their most recent quarter's CNA incentive payment. An additional 10% reduction will be applied to the resulting payment for each sequentially suppressed quarter. (90%, 80%, 70%, etc.) All other quarterly program requirements must still be met to receive the reduced payments on appeal.

2) Nurse Staffing Add-On Payments

- A) Facilities that fail to timely submit PBJ data utilized in the nurse staffing add-on calculation located at 89 Ill. Adm. Code 147.310(c)(3) will receive a staffing percentage of 0% for the quarter.

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B) Facilities who timely submit nurse staffing PBJ data that is ultimately suppressed on the Provider Information File by federal CMS, will be required to submit information on the reason for suppression (facility error or federal audit). Facilities will receive a staffing percentage equal to their most recent quarter's staffing percentage less 10 percentage points, unless the reason for suppression indicates that the percentage of reported hours was overstated by more than 10%, in which case a higher penalty equal to the overstated percentage is justified. An additional reduction of 10 percentage points will be applied to the resulting staffing percentage for each sequentially suppressed quarter.

(Source: Amended at 49 Ill. Reg. 16017, effective December 2, 2025)

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- 1) Heading of the Part: Health Maintenance Organization
- 2) Code Citation: 50 Ill. Adm. Code 4521
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
4521.60	Repealed
4521.100	Amendment
4521.110	Amendment
4521.130	Amendment
4521.131	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-2, 2-1, 2-8, 2-9, 3-1, 4-6.1, 4-7, 4-12, 4-13, 4-17, 4.5-1, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125]; 42 U.S.C. 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- 5) Effective Date of Rule: December 4, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 49 Ill. Reg. 7447; May 30, 2025
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 4521.100(g)(3), 1st line and .100(g)(4), 3rd line, after "subsection" add "(g)".

Section 4521.110(a), 8th line, after "subsection" add "(a)".

Section 4521.110(a), 15th line, change "contractholder" to "contract holder".

Section 4521.131(b), 4th line, after "subsection" add "(b)".

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Section 4521.131(c), 10th line, after "subsection" add "(c)".

Section 4521.131(g), 2nd line, delete "and/".

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to Section 1-2(7) of the Health Maintenance Organization Act ("HMO Act"), the Director may "prescribe by rule the language that must be included in the plan name, marketing, advertising, or other consumer disclosure requirements to differentiate a health care plan that does not use a referral system for such providers from a health care plan that does use a referral system for such providers." 215 ILCS 125/1-2(7). Under a longstanding HMO business model, enrollees must obtain a referral from their primary care physician to obtain covered services from participating specialists. A more recent, more "open" HMO business model allows enrollees to see participating specialists of their choice while maintaining a referral requirement for the enrollee to obtain covered services from nonparticipating providers except under certain circumstances provided by law. Both business models are permitted under current Illinois law, but consumers who are familiar with one model might not always realize they have selected a plan from the other model or what the different requirements are.

To prevent consumer confusion, the amendments to Section 4521.110 require HMOs to include the word 'open' in the plan names of HMO products that do not require an enrollee to obtain a referral for covered services from any participating provider.

Amendments to Section 4521.100 also require HMO plan marketing, advertising, and solicitation materials to include the word "open" whenever such plans are named, to disclose when referrals are not required and when they are, and to distinguish the open plans from the older model plans that still require referrals to see participating providers. To allow time for implementation, these changes will take effect for policies delivered, issued, or renewed on or after July 1, 2026.

Relatedly, to prevent conflicts in interpretation arising from references to the need for medical necessity determined by the primary care physician, Sections 4521.130 and 4521.131 have been amended to add the following sentence: "For a health care plan that does not use a referral system for participating providers, nothing in this Section requires

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an enrollee to obtain a referral from the primary care physician before the plan covers health care services furnished by another participating provider." Because this sentence codifies existing law under 215 ILCS 125/1-2(7) and 125/2-3(d-5), these amendments have no delayed effective date.

Additionally, the amendments change Section 4521.131 to recognize that its provisions and the statute that it implements at 215 ILCS 125/4-17 do not apply during any period when State or federal law requires individual health insurance coverage, other than excepted benefits, to cover the essential health benefits described in 50 Ill. Adm. Code 2001.11. Well before the federal Patient Protection and Affordable Care Act ("ACA") was even proposed, Illinois enacted Section 4-17 of the HMO Act under Pub. Act 90-0376 (eff. Aug. 14, 1997) to allow HMOs to offer a distinctive health care plan for children under age 18, which provided a set of benefits much narrower in scope than the basic health care services that HMOs otherwise are required to cover. These benefits did not include inpatient hospital services care, and they were not required to include maternity or newborn care, rehabilitative or habilitative services, or any dental, vision, or drug coverage. Since the ACA has taken effect, all individual health insurance coverage, other than excepted benefits, has been required to cover a set of essential health benefits that include all of these services. *See* 42 USC 300gg-6(a); 42 USC 300gg-21(b)-(c); 42 USC 18022; 50 Ill. Adm. Code 2001.11. The plans described in Section 4-17 of the HMO Act do not fall under any type of "excepted benefits" defined under the ACA, which is replicated in the Illinois Health Insurance Portability and Accountability Act. *Compare* 42 USC 300gg-91(c) and 45 CFR 148.220 with 215 ILCS 97/20(C)(2). Therefore, as long as the essential health benefit mandate remains in effect in this State, it is impossible for an HMO to lawfully provide the type of narrow scope health care plan previously authorized under Section 4-17 of the HMO Act. The Department has not seen filings submitted under that provision of the HMO Act for several years, but as a formality it seemed appropriate to address the situation in rule until such time as other legislation may remove the conflict.

At the same time as this rulemaking, the Department proposed amendments to 50 Ill. Adm. Code 2026 to implement the requirement for prior approval of premium rates and rate manuals in the large group market enacted by Pub. Act 103-0650 beginning for Plan Year 2026. Those amendments also clarify filing and confidentiality requirements for rate filings that are not subject to the prior approval regimes for the large group, small group, or individual markets. As a result of those amendments, Section 4521.60 would become superfluous, so the Department proposes to repeal that Section in this rulemaking.

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Finally, the Department's proposed amendments include housekeeping changes for style, grammar, and references to other applicable statutes.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275
Shannon.McNally@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ww: HEALTH CARE SERVICE PLANS

PART 4521
HEALTH MAINTENANCE ORGANIZATION

Section

4521.10	Scope
4521.20	Definitions
4521.30	Valuation of Investments
4521.40	Grievance Procedure
4521.50	Contracts, Administrative Arrangements and Material Modifications
4521.60	Rates (<u>Repealed</u>)
4521.70	Subordinated Indebtedness
4521.80	Financial Reporting (Repealed)
4521.90	Conflict of Interest and Required Disclosure
4521.100	Solicitation
4521.110	Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
4521.111	Cancellation
4521.112	Form Filing Requirements
4521.113	Point of Service Plan Requirements
4521.120	Internal Security Standards and Fidelity Bonds
4521.130	Basic Health Care Services
4521.131	Basic Outpatient Preventive and Primary Health Care Services for Children
4521.132	Required Coverage for Reconstructive Surgery Following Mastectomies
4521.140	General Provisions
4521.141	HMO Producer Licensing Requirements
4521.142	Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers
4521.150	Severability

AUTHORITY: Implementing and authorized by Sections 1-2, 2-1, 2-8, 2-9, 3-1, 4-6.1, 4-7, 4-12, 4-13, 4-17, 4.5-1, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125]; 42 U.S.C. 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective July 25,

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1996; recodified at 21 Ill. Reg. 1729; emergency amendment at 21 Ill. Reg. 15262, effective November 18, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6671, effective March 31, 1998; amended at 23 Ill. Reg. 5690, effective May 3, 1999; emergency amendment at 26 Ill. Reg. 5146, effective March 25, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13088, effective August 19, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 28 Ill. Reg. 14412, effective October 19, 2004; amended at 30 Ill. Reg. 4732, effective March 2, 2006; transferred from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-4 on June 1, 2009; amended at 37 Ill. Reg. 14032, effective August 26, 2013; amended at 38 Ill. Reg. 2272, effective January 2, 2014; amended at 38 Ill. Reg. 23437, effective November 25, 2014; amended at 39 Ill. Reg. 6505, effective April 24, 2015; recodified from 50 Ill. Adm. Code 5421 to 50 Ill. Adm. Code 4521 at 41 Ill. Reg. 4985; amended at 43 Ill. Reg. 9386, effective August 26, 2019; amended at 48 Ill. Reg. 7266, effective April 30, 2024; amended at 49 Ill. Reg. 1287, effective January 17, 2025; amended at 49 Ill. Reg. 16042, effective December 4, 2025.

Section 4521.60 Rates (Repealed)

- a) ~~Subject to the requirements of 50 Ill. Adm. Code 2026, the HMO shall file all schedules of base rates to be used in conjunction with enrollee certificates. The schedules shall be filed with the Director prior to the effective date and will be maintained as a public document by the Department.~~
- b) ~~When the schedules of base rates are filed, percentage change from the previous filing for the schedules of base rates shall be included.~~
- e) ~~Upon the request of the Director, the HMO shall submit actuarial documentation for any submitted rates, which shall be stamped "confidential" by the HMO. Documentation shall include, but not be limited to, the major cost components, experience, assumptions and procedures used to develop the submitted rates. The actuarial documentation shall be deemed confidential and proprietary by the Department unless specific authorization is given by the HMO.~~

(Source: Repealed at 49 Ill. Reg. 16042, effective December 4, 2025)

Section 4521.100 Solicitation

- a) No HMO, or representative of the HMO, may cause or knowingly permit the use of advertising, solicitation, or any form of evidence of coverage that is untrue,

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misleading or deceptive.

- 1) All information required to be disclosed pursuant to this Part shall set out conspicuously and in close conjunction with the statements to which the information relates under appropriate captions of the prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the solicitation as to be confusing or misleading.
- 2) The format and context of a solicitation of any HMO's plan or program shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.
- 3) Solicitations shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by employment or by familiarity with insurance, medical terminology or health care plans, shall not be used unless those words or phrases are otherwise explained in the solicitation.
- 4) No solicitation shall omit information or use words, phrases, statements, references, or illustrations if an omission of the information or use of the words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving prospective enrollees as to the nature or extent of any benefit payable, loss covered, premium payable or health care service provided.

b) A detailed description of all training and educational programs provided to solicitors of the health care plan or to any person providing marketing activities shall be submitted to the Director upon application for a Certificate of Authority and any substantive changes in the programs shall be submitted to the Director 15 days prior to the intended effective date of the change.

c) All brochures, media scripts, and any other marketing or advertising materials an HMO applying for Certificate of Authority plans to use must be filed with the Department. The material must be filed before use and, in the event that the

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material can obviously not be filed, such as audiovisual presentations, a description of the solicitation activity must be filed.

- d) An advertisement or solicitation shall not directly or indirectly make unfair or incomplete comparisons of policies, plans, or benefits or comparisons of non-comparable plans or policies of other HMOs or insurers, and shall not disparage competitors, their policies or plans, services or business methods and shall not disparage or unfairly minimize a competing method of marketing insurance or health care services.
- e) No advertisement or marketing material of an HMO shall imply that certification by the Department is an endorsement of the HMO.
- f) An HMO shall provide its enrollees, no later than at the time of enrollment, or the time the individual contract or evidence of coverage is issued, lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. The lists shall disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:

NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone number).

- g) If an HMO offers one or more health care plans that do not require enrollees to use a referral system to access covered health care services from participating providers, then, for individual or group HMO contracts or evidences of coverage delivered, issued, or renewed on or after July 1, 2026, the HMO must, in its marketing, solicitation, and advertising materials:
 - 1) if the materials refer to plans described in this subsection by name, use either the full plan name from Section 4521.110(y) or a shortened form of plan name that includes the word "open"; and

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- 2) for materials described in subsection (g)(1), and for any materials that describe terms of coverage under plans that do not require the use of a referral system for covered services from participating providers:
 - A) disclose that an enrollee does not need a referral from the primary care physician to obtain covered services from a participating provider, but the enrollee will need a referral to see a nonparticipating provider except for emergency services and other limited circumstances provided by law; and
 - B) if the materials also describe terms of coverage under plans that require referrals for participating specialists, distinguish those plans from the plans in subsection (g)(2)(A) by mentioning the requirement to obtain a referral from a primary care physician to see any other health care provider except for participating obstetrical or gynecological health care professionals, participating mental health or substance use disorder providers, emergency services from participating and nonparticipating providers, and other limited circumstances provided by law.
- 3) Nothing in this subsection (g) prohibits an HMO from providing more disclosure or explanation than required.
- 4) Except where inconsistent with subsections (a) or (g)(1), an HMO may use abbreviations or incomplete sentences to convey the minimum substantive information required by this subsection (g).

h_g) Failure to comply with the requirements of this Section shall subject the HMO or its representative to corrective action the Director may order pursuant to Section 4-7 of the Act.

(Source: Amended at 49 Ill. Reg. 16042, effective December 4, 2025)

Section 4521.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts

- a) Any group contract, evidence of coverage, individual contract, enrollee handbook, enrollment application, identification card or other form that affects the terms and conditions applicable to the subscriber or enrollee in the provision of health care

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services must be filed with and approved by the Director prior to use in accordance with the filing requirements of Section 4521.112 of this Part and Section 4-13 of the Act. The HMO must~~shall~~ issue to each subscriber or enrollee a group contract, evidence of coverage, or individual contract. Any conflicting information between the valid current document referenced in this subsection (a) issued to the subscriber or enrollee and the current group contract must~~shall~~ be interpreted according to whichever is most beneficial to the subscriber or enrollee. Any group contract, evidence of coverage, or individual contract must~~shall~~ provide for the rendering of health care services as defined in that document for either a specific period of not less than 12 months from the date of issuance or for another period mutually agreed to by the HMO and the group or individual contract holder except as prohibited by Section 352c of the Code. The group contract, evidence of coverage, or individual contract must~~, and shall~~ provide for renewal on a basis mutually agreed to by both parties, unless the HMO has given 31 days' written notice of nonrenewal prior to the renewal date of the contract and the nonrenewal is otherwise permitted under the Illinois Health Insurance Portability and Accountability Act [215 ILCS 97].

- b) A detailed statement of any exceptions, exclusions, or limitations must~~shall~~ be set forth in the group contract, evidence of coverage, and individual contract for any type of health care service to be excepted. Exception, exclusions, or limitations must~~shall~~ appear with the same prominence in the group contract, evidence of coverage, and individual contract as any benefit.
- c) The group contract, evidence of coverage, and individual contract must~~shall~~ set forth a detailed statement of the terms and conditions of maternity benefits and any related exceptions, exclusions, limitations, copayments, and deductibles. Exceptions, exclusions, limitations, copayments, and deductibles applicable to prenatal and postnatal care must~~shall~~ be covered no differently than any other covered health care services provided pursuant to the contract, with the exception of a limitation for coverage of routine prenatal care or delivery when the enrollee is outside the service area against medical advice (except when the enrollee is outside of the service area due to circumstances beyond the enrollee's control) may be included in the group contract and evidence of coverage.
- d) Entire Contract. The group contract, evidence of coverage, and individual contract must~~shall~~ contain a statement that the group contract evidence of coverage and individual contract, all applications, and any amendments shall constitute the entire agreement between the parties. No portion of the charter,

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bylaws or other document of the HMO may~~shall~~ be part of a contract or evidence of coverage unless set forth in full in the document or attached to it.

- e) Eligibility Requirements. The group contract, evidence of coverage, and individual contract must~~shall~~ contain eligibility requirements indicating the conditions that must be met to enroll in a health care plan, the limiting age for enrollees and eligible dependents including the effects of Medicare eligibility, and a clear statement regarding coverage of newborn children as set forth in Sections 4-8 and 4-9 of the Act.
- f) Benefits and Services Within the Service Area. The group contract, evidence of coverage, and individual contract must~~shall~~ contain a specific description of benefits and services available within the HMO's designated service area.
- g) Emergency Care Services. The group contract, evidence of coverage, and individual contract must~~shall~~ contain a specific description of benefits and services available for emergencies 24 hours per day, 7 days per week, including disclosure of any restrictions on emergency care services. No group contract, evidence of coverage, or individual contract may~~shall~~ limit the coverage of emergency services within the service area to those providers having a contract with the HMO.
- h) Out-of-area Benefits and Services. The group contract, evidence of coverage, and individual contract must~~shall~~ contain a specific description of benefits and services available out of the HMO's designated service area.
- i) Deductibles and Copayments
 - 1) An HMO may require deductibles and copayments from enrollees as a condition for the receipt of specific health care services, including basic health care services. Deductibles and copayments are~~shall~~~~be~~ the only allowable charge, other than premiums, assessed enrollees. Nothing within this subsection (i) precludes~~shall preclude~~ the provider from charging reasonable administrative fees, such as service fees for checks returned for non-sufficient funds and missed appointments.
 - 2) Copayments and deductibles appearing in the policy must~~shall~~ be for specific dollar amounts or for specific percentages of the cost of the health care services.

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- 3) No combination of deductibles and copayments for basic health care services may exceed the annual maximum out-of-pocket expenses of a high-deductible health plan as defined in 26 U.S.C. 223.
- 4) Deductibles and copayments applicable to supplemental health care services or catastrophic-only plans as defined under the federal Patient Protection and Affordable Care Act (Pub. L. 111-148), are not subject to the annual limitations described in this Section.
- 5) This subsection (i) applies to enrollees and does not limit the health care plan payment for services provided by non-participating providers.

j) Cancellation. The group contract, evidence of coverage, and individual contract must~~shall~~ contain the conditions upon which they can be cancelled by the HMO or the enrollee as set forth in Section 4521.111.

k) Reinstatement. The group contract, evidence of coverage, and individual contract must~~shall~~ contain the conditions of the enrollee's right to reinstatement.

l) Grace Period

- 1) A group contract or individual contract not involving the use of a premium tax credit must~~shall~~ provide for a grace period for the payment of any premium, except the first, during which coverage must~~shall~~ remain in effect if payment is made during the grace period. The grace period for a group contract must~~shall~~ not be less than 10 days. The grace period for an individual contract must~~shall~~ not be less than 31 days. During the grace period, the HMO must~~shall~~ remain liable for providing the services and benefits contracted for. The subscriber must~~shall~~ remain liable for the payment of the premium for the time coverage was in effect during the grace period and the enrollee must~~shall~~ remain liable for the payment of any applicable share of the premium for the time coverage was in effect, as well as for any copayments owed.
- 2) Termination of coverage for individuals receiving advance payments of premium tax credits must~~shall~~ comply with the requirements of 45 CFR 155 and 45 CFR 156.270 (2020).

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- m) No group contract, evidence of coverage, or individual contract may be delivered in this State unless the subscriber or enrollee is provided written notice required by Section 143c of the Illinois Insurance Code [215 ILCS 5/143c].
- n) Right to Examine Contract. An individual contract, with the exception of an HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act (42 U.S.C. 1395 through 1395III), as amended from time to time, must~~shall~~ contain a provision stating that an enrollee who has entered into an agreement with an HMO must~~shall~~ be permitted to return the individual contract within ten days after receiving it and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason. If the individual contract is returned to the HMO or to its representative through whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for the enrollee or dependent by the HMO during the 10-day examination period, the enrollee need~~shall~~ not be permitted to return the contract and receive a refund of the premium paid.
- o) An HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, must~~shall~~ be delivered to the enrollee at least 15 days prior to the effective date of the contract. The enrollee must~~shall~~ be permitted to return the HMO Medicare contract prior to the effective date and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason, provided the enrollee complies with the disenrollment procedures of Title XVIII of the Social Security Act, as amended from time to time.
- p) Every HMO must~~will~~ provide to every enrollee of the HMO information that generally describes the philosophy, functions, and organization of the HMO and related institutions, and specific information that describes the appropriate use of the HMO's services, including a general description of benefits and limitations. The HMO must~~shall~~ include in its enrollee information a description of the HMO's grievance procedure, directions for filing a grievance, and a Notice of Availability of the Department.
- q) Every HMO must~~shall~~ provide enrollees with an identification card that must prominently display the following information:
 - 1) the words "Health Maintenance Organization" or "HMO" and, if the health

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care plan is described in subsection (y), the word "open";

- 2) disclaimer language concerning an enrollee's unauthorized use of providers not selected by the HMO;
- 3) a current telephone number for the enrollees to use when health care services are required outside of normal office hours; and
- 4) the name of all enrollees entitled to coverage, along with all other mandated information, if the HMO does not issue a card to each enrollee who is entitled to coverage. In these situations, at least two cards must be issued to the primary enrollee upon enrollment and the HMO must issue additional cards to all enrollees at the request of the enrollee for no additional charge. Notification of the right to order additional cards for no additional charge must be included with information required to be disseminated to enrollees under subsection (p).

r) Enrollment Application. No individual contract may~~shall~~ be issued except upon the signed enrollment application of the enrollee for whom coverage is being sought. Any information or statement of the applicant must~~shall~~ appear on the application in the form of interrogatories by the HMO and answers by the applicant. The enrollee must~~shall~~ not be bound by any statement made within an application for health care coverage unless a copy of the application is attached to the individual contract. Group enrollment applications must be maintained on file by the HMO; otherwise, disputes arising from statements made within the applications will be resolved in the enrollee's favor. Except for those instances involving fraud or material misrepresentation, an HMO's failure to investigate incomplete or conflicting answers on an enrollment application must~~shall~~ estop the HMO from subsequently denying coverage on the basis of those responses.

s) Coordination of Benefits

- 1) HMOs are permitted, but not required, to adopt coordination of benefits provisions for group contracts, evidence of coverage, or individual contracts to avoid over insurance and to provide for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.
- 2) If an HMO adopts coordination of benefits, the provision must be

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consistent with the coordination of benefits requirements set forth in 50 Ill. Adm. Code 2009.

3) To the extent necessary for an HMO to meet its obligations as a secondary carrier under 50 Ill. Adm. Code 2009, and when an enrollee has established a credit within the reserve bank, the HMO must~~shall~~ make payments for services that are:

- A) received from non-participating providers;
- B) provided outside its services areas; or
- C) not covered under the terms of health care plan.

t) Dependents-termination of coverage-disability and dependency, proof-application. Every group contract, evidence of coverage, or individual contract providing that coverage of a dependent person of an enrollee terminates upon attainment of the limiting age for dependent persons must~~shall~~ comply with the requirements of Section 4-9.1 of the Act.

u) Conversion of Coverage

1) The group contract and evidence of coverage shall contain a conversion provision that provides that each enrollee has the right to convert coverage to an individual or group HMO contract in the following circumstances:

- A) upon cancellation of eligibility for coverage under a group contract;
- B) upon cancellation of the group contract; or
- C) upon non-renewal of the group contract.

2) The conversion contract must~~shall~~ cover the enrollee and the enrollee's eligible dependents who were covered by the group contract on the date of cancellation or non-renewal of coverage. To obtain the conversion contract, an enrollee must~~shall~~ submit a written application, along with the application premium payment, within 31 days after the date the enrollee's coverage is cancelled.

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- 3) The HMO may require copayments and deductibles under a conversion contract that differ from the group contract.
- 4) A conversion contract is not~~shall not be~~ required to be made available if:
 - A) The cancellation of the enrollee's coverage occurred for any of the reasons listed in Section 4521.111(a);
 - B) The enrollee is covered by or is eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. 1395-1395lll);
 - C) The enrollee is covered by similar hospital, medical, or surgical benefits under State or federal law;
 - D) The enrollee is covered by similar hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis;
 - E) The enrollee is covered for similar benefits through individual coverage;
 - F) The enrollee has not been continuously covered during the three-month period immediately preceding cancellation of that person's coverage;
 - G) The enrollee has moved outside of the service area of the health maintenance organization;
 - H) The cancellation of the enrollee's coverage occurred in relation to the HMO being placed in rehabilitation or liquidation proceedings pursuant to Section 5-6 of the Act; or
 - I) The group contract has been discontinued in its entirety and there is a succeeding carrier providing coverage to the group in its entirety.
- 5) Benefits or coverage must~~shall~~ be considered "similar" if coverage is provided for at least 12 months under comprehensive type medical

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coverage.

- 6) At a minimum, the conversion contract must~~shall~~ provide basic health care services.
- 7) The conversion contract shall begin coverage of the enrollee and any dependents formerly covered under the group contract on the date of termination from the group or the former individual contract.
- 8) Coverage must~~shall~~ be provided without requiring evidence of insurability and must~~shall~~ not impose any pre-existing condition limitations or exclusions.
- v) Discrimination between individuals of the same class in the terms and conditions of the health care plan, or in the amount charged for coverage under a health care plan except when the rate differential is based on sound actuarial principles, or in any other manner whatsoever, is prohibited.
- w) Grievance Procedure
The group contract, evidence of coverage, and individual contract must~~shall~~ set forth a full description of the HMO grievance procedure required by Section 4521.40.
- x) The provisions of 50 Ill. Adm. Code 2001, Subparts A and C, ~~shall~~ apply to this Part.
- y) For any group or individual HMO contract or evidence of coverage delivered, issued, or renewed on or after July 1, 2026, a health care plan that does not require enrollees to use a referral system to access covered health care services from participating providers must include the word "open" in its plan name as shown on the contract or evidence of coverage.

(Source: Amended at 49 Ill. Reg. 16042, effective December 4, 2025)

Section 4521.130 Basic Health Care Services

The provision of Basic Health Care Services must~~shall~~ not discriminate against any class of physician. The following minimum standards describe~~shall meet~~ the requirements for Basic Health Care Services, provided that services are medically necessary as determined by the

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enrollee's primary care physician and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director. For a health care plan that does not use a referral system for participating providers, nothing in this Section requires an enrollee to obtain a referral from the primary care physician before the plan covers health care services furnished by another participating provider:

- a) Physician services, including primary care, consultation, referral, surgical, anesthesia or other as needed by the enrollee in any level of service delivery. Physician services need not include organ transplants unless specifically authorized by a primary care physician and approved by the HMO's Medical Director;
- b) Outpatient diagnostic imaging, pathology services and radiation therapy;
- c) Non-mental health inpatient services, including all professional services, medications, surgically implanted devices and supplies used by the enrollee while an inpatient;
- d) Emergency services for accidental injury or emergency illness 24 hours per day, and 7 days per week. Emergency services are covered benefits inside and out of the plan's service area. Emergency treatment shall include outpatient visits and referrals for emergency mental health problems;
- e) Maternity care, including prenatal and post-natal care and care for complication of pregnancy of mother and care with respect to a newborn child from the moment of birth, which shall include the care and treatment of illness, injury, congenital defects, birth abnormalities and premature birth;
- f) Blood transfusion services, processing and the administration of whole blood and blood components and derivatives;
- g) Preventive health services as appropriate for the patient population, including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including, but not limited to, allergy injections and allergy serum. A health evaluation program shall include at least periodic physical examinations and medical history, hearing and vision testing or screening, routine laboratory testing or screening, blood pressure testing, and uterine cervical cytological testing, and low dose mammography testing as required by Section 4-6.1 of the Act;

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- h) 45 days inpatient mental health care per year. Care in a day hospital, residential non-hospital or intensive outpatient mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. 60 individual outpatient mental health care visits per enrollee per year, as appropriate for evaluation, short-term treatment and crisis intervention services. Group outpatient mental health care visits may be substituted on a two-to-one basis for individual mental health care visits as deemed appropriate by the primary care physician;
- i) Alcoholism and Drug Abuse
 - 1) Diagnosis, detoxification and treatment of the medical complications of the abuse of or addiction to alcohol or drugs on either an inpatient or outpatient basis.
 - 2) Rehabilitation services on an inpatient basis, for up to 45 days inpatient care per year. Care in a day hospital, residential non-hospital or intensive outpatient treatment mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. 60 individual outpatient care visits per enrollee per year as appropriate for evaluation, short-term treatment, and crisis intervention services. Group outpatient care visits may be substituted on a two-to-one basis for individual outpatient visits as deemed appropriate by the primary care physician. Prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of Basic Health Care Services;
- j) Outpatient Rehabilitative therapy (including, but not limited to: speech therapy, physical therapy, and occupational therapy directed at improving physical functioning of the member) up to 60 treatments per year for conditions which are expected to result in significant improvement within two months as determined by the primary care physician and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director;
- k) Preventive services required pursuant to 42 [U.S.C. USC](#) 300gg-13 and Section 356z.62 of the Code;
- l) Essential health benefits as provided in 50 Ill. Adm. Code 2001.11;

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m) Additional minimum standards may apply under the ACA, including but not limited to plans required to provide Essential Health Benefits under sections 1302(a) and (b) and the Mental Health Parity and Addiction Equity Act (P.L. 110-343).

(Source: Amended at 49 Ill. Reg. 16042, effective December 4, 2025)

Section 4521.131 Basic Outpatient Preventive and Primary Health Care Services for Children

a) Eligibility.

1) A health maintenance organization may undertake to provide or arrange for and to pay for or reimburse the cost of basic outpatient preventive and primary health care services for children in Illinois who:

A) are without health care coverage:

i) through a parent's employment;

ii) through failure to qualify for medical assistance under the Illinois Public Aid Code or failure to qualify for coverage under the State Children's Health Insurance Program of the Social Security Act as amended by the Balanced Budget Act of 1997, P.L. 105-33;

iii) through any other health plan. For purposes of this Section, health plan means a policy, contract, certificate or agreement offered by a carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services. Health plan does not include accident-only, credit, dental, vision, Medicare supplement, partnership or traditional long-term care, or disability income insurance coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance or ~~short-term and~~ catastrophic health insurance policies, or a policy that pays on a cost-incurred basis, or student insurance; or

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- iv) due to a loss of medical assistance when a parent has moved from welfare to work and does not find employment that offers health care coverage;
- B) are 18 years of age or under; and
- C) have resided in the State of Illinois for at least 30 days and continue to reside in the State of Illinois.

2) The coverage must~~will~~ be made available to an adult on behalf of an enrollee. For purposes of this Section, "enrollee" is defined as an eligible child on whose behalf the policy is purchased. The financially responsible party ("FRP") is the person or entity paying the premium on behalf of the enrollee. The certificate and/or policy must~~will~~ be issued to the parent or legal guardian of the enrollee. If the FRP and parent or legal guardian are different, both must~~shall~~ be listed on the face page of the certificate and/or policy. The name of the enrollee must~~shall~~ also be listed on the face page of the certificate and/or policy.

b) Required Basic Minimum Outpatient Preventive and Primary Health Care Services for Children to be Provided. The following minimum standards describes~~shall meet~~ the requirements for basic outpatient preventive and primary health care services to be provided under this subsection (b), provided that the services are medically necessary as determined by the enrollee's primary care physician, and if required by the HMO, are authorized on a prospective and timely basis by the HMO's medical director. For a health care plan that does not use a referral system for participating providers, nothing in this Section requires an enrollee to obtain a referral from the primary care physician before the plan covers health care services furnished by another participating provider.

1) Preventive health services provided by the enrollee's primary care physician in the office, as appropriate for the patient population, including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including, but not limited to, allergy injections and allergy serum. The health evaluation program shall include at least periodic physical examinations and medical history, blood pressure testing, and uterine cervical cytological testing as required by Section 356u of the Illinois Insurance Code ~~[215 ILCS 5/356u]~~ as well as health education concerning appropriate health care practices;

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- 2) Basic or general physician services for illness or injury, provided by the enrollee's primary care physician in the office;
- 3) Emergency services for accidental injury or emergency illness 24 hours per day, 7 days per week. Emergency services are covered benefits inside and out of the plan's service area;
- 4) Outpatient diagnostic x-rays and laboratory services provided, arranged or authorized by the enrollee's primary care physician.

c) Supplemental Basic Health Care Services that may be Provided in Addition to Basic Outpatient Preventive and Primary Health Care Services for Children. In addition to the minimum required health services listed in subsection (b), the HMO may offer Supplemental Basic Health Care Services, provided that the services are medically necessary as determined by the enrollee's primary care physician and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director. Supplemental Basic Health Care Services includes any services listed in Section 4521.130-~~of this Part~~. To the extent that Supplemental Basic Health Care Services are provided under this subsection (c), the minimum requirements of Section 4521.130-~~of this Part~~ must be met for those services.

d) Supplemental Services that may be Provided in Addition to Basic Outpatient Preventive and Primary Health Care Services for Children. In addition to the Supplemental Basic Health Care Services provided in ~~subsection (c) Section 4521.131(c) of this Section~~, the HMO may offer the following Supplemental Services:

- 1) preventive dental services, including diagnostic services, x-rays and restorations (fillings);
- 2) vision screening, including one pair of eyeglasses per year; or
- 3) prescription drugs.

e) Copayments, Deductibles and Benefit Maximums for Basic Outpatient Preventive Services, Primary Health Care Services, Supplemental Basic Health Care Services and Supplemental Services for Children. An HMO may require copayments of

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enrollees as a condition for the receipt of specific health care services under this Part. Deductibles and copayments are~~shall~~be the only allowable charge, other than premiums. Copayments shall be for a specific dollar amount. Deductibles must~~shall~~ be either for a specific dollar amount or for a specific percentage of the cost of the health care service. No single deductible or copayment for health services may exceed 25% of the usual and customary fee of the service to the HMO and must be waived when, in a calendar year, deductibles and copayments paid for the receipt of health care services exceed \$500 per enrollee. This subsection does not preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments.

f) Necessary Disclosure Requirements.

- 1) The policy or certificate issued under this Section must~~shall~~ prominently disclose all limitations, exclusions, copayments and deductibles. Such disclosure must~~shall~~ include, but is not limited to:
 - A) A prominent statement on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size of type used for policy captions, as follows:

"Notice to Buyer. This is a limited benefit (policy) (certificate). Benefits provided are not intended to cover all of your medical expenses."
 - B) Exclusion of inpatient hospital services.
 - C) Statement that pre-existing conditions may not be excluded or limited.
 - D) Exclusion of services that are not provided, arranged or authorized by the primary care physician, and if required by the HMO, are subject to authorization on a prospective and timely basis by the HMO's medical director, except for emergency services.
- 2) In the event services are offered under this Section by the HMO and purchased on behalf of the enrollee, full disclosure of the scope of those limited benefits must~~shall~~ be prominently stated within the policy or

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certificate.

- 3) Eligibility requirements must~~shall~~ be prominently disclosed in the policy or certificate.
- 4) Terms of cancellation must~~shall~~ be prominently disclosed pursuant to Section 4521.111 of this Part.

g) Advertising. All advertising materials used to market policies pursuant to 50 Ill. Adm. Code 916 ~~and~~/or certificates pursuant to this Part must~~shall~~ be filed and accepted by the Director in accordance with the requirements of Section 4-17 of the Act prior to use.

h) Grace Period Extension. For purposes of this Part, the grace periods of Section 4521.110(m) of this Part apply. In the event an FRP, other than the parent or guardian, fails to pay the premium within the grace period, the parent or guardian must~~will~~ be so notified and be given an additional 30 days in which to pay the premium or obtain another FRP.

i) The provisions of this Section and Section 4-17 of the HMO Act do not apply during any period when State or federal law requires individual health insurance coverage, other than excepted benefits, to cover the essential health benefits described in 50 Ill. Adm. Code 2001.11. As used in this subsection, "individual health insurance coverage" and "excepted benefits", respectively, have the meanings ascribed in Sections 5 and 20 of the Illinois Health Insurance Portability and Accountability Act [215 ILCS 97].

(Source: Amended at 49 Ill. Reg. 16042, effective December 4, 2025)

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- 1) Heading of the Part: Amnesty Regulations
- 2) Code Citation: 86 Ill. Adm. Code 520
- 3) Section Numbers: 520.101, 520.105 Adopted Actions: Amendment, Amendment
- 4) Statutory Authority: Implementing and authorized by the Tax Delinquency Amnesty Act [35 ILCS 745].
- 5) Effective Date of Rule: December 8, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 49 Ill. Reg. 10717, August 22, 2025
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: In section 520.105(h)(4), the following language was stricken: "No collection agency fee is due on amounts paid directly to the Department under the Amnesty Program. However, if a taxpayer makes any payment of any portion of an eligible liability to a collection agency, the fee due the collection agency will be added to and included in the eligible liability that must be paid during the Amnesty Program period for the taxpayer to qualify for amnesty."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rule: This rulemaking updates sections 101 and 105 of the Amnesty Program rules to accommodate the new amnesty program running October 1 through November 17, 2025
- 16) Information and questions regarding this adopted rule shall be directed to:

Brian Fliflet
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 524-4821
REV.GCO@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 520
AMNESTY REGULATIONS

Section	
520.101	Amnesty Program In General
520.105	Amnesty Program Requirements

AUTHORITY: Implementing and authorized by the Tax Delinquency Amnesty Act [35 ILCS 745].

SOURCE: Emergency rules adopted at 34 Ill. Reg. 15515, effective September 24, 2010, for a maximum of 150 days; emergency expired February 20, 2011; adopted at 35 Ill. Reg. 4248, effective February 25, 2011; amended at 44 Ill. Reg. 13714, effective August 6, 2020; amended at 49 Ill. Reg. 16066, effective December 8, 2025.

Section 520.101 Amnesty Program In General

- a) Pursuant to the Illinois Tax Delinquency Amnesty Act (ITDAA), as amended by P.A. 104-0006~~101-0009~~, the Department will conduct an amnesty program ("the Amnesty Program"). As more fully described in Section 520.105, the Amnesty Program will apply to payments of contested and uncontested tax liabilities received by the Department from October 1, 2025~~October 1, 2019~~ through November 17, 2025~~November 15, 2019~~. If a taxpayer participates in the Amnesty Program and complies with all the requirements of this Part, the Department *shall abate and not seek to collect any interest or penalties that may be applicable and the Department shall not seek civil or criminal prosecution for any taxpayer for the period of time for which amnesty has been granted to the taxpayer.* (ITDAA Section 10)
- b) Definitions and special provisions. For purposes of this Part:

"Amnesty Issue" means an issue taken into account in determining an eligible liability, including all issues of law that must be resolved in making the determination and all facts relevant to the determination, as in existence as of the end of the Amnesty Program period. (See Section 520.105(k)(1).)

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"Amnesty Program Period" means the period from October 1, 2025~~October 1, 2019~~ through November 17, 2025~~November 15, 2019~~.

"Eligible Liability" means a tax liability with respect to which a taxpayer may participate in the Amnesty Program. (See Section 520.105(h) and (i).)

"Established Liability" means an eligible liability that has been assessed or become final prior to the beginning of the Amnesty Program period; any amount paid under the Protest Act prior to the beginning of the Amnesty Program period; or any amount of tax shown on a notice of deficiency, notice of assessment or notice of tax liability that was issued prior to the beginning of the Amnesty Program period or on an amended return or waiver of restrictions on assessment presented by the Department to the taxpayer prior to the beginning of the Amnesty Program period after the conclusion of an audit (including any proceedings before the Informal Conference Board).

"Estimated Federal Change Liability" means the eligible liability that a taxpayer estimates will result from a federal change that has not become final under IITA Section 506(b) as of the end of the Amnesty Program period.

"Federal Change" means a change affecting the taxpayer's federal income tax liability that must be reported to the Department under IITA Section 506(b).

"Notice and Demand" means any demand for payment issued by the Department that is eligible for the 30-day interest-free grace period under Section 3-2(c-5) of the Uniform Penalty and Interest Act (UPIA) [35 ILCS 735].

"Protest Act" means the State Officers and Employees Money Disposition Act [30 ILCS 230].

"Taxable Period" means *the period of time for which any tax is imposed by and owed to the State of Illinois.* (ITDAA Section 5)

(Source: Amended at 49 Ill. Reg. 16066, effective December 8, 2025)

Section 520.105 Amnesty Program Requirements

- a) The Department has no duty to notify taxpayers of liabilities that may make them eligible for participation in the Amnesty Program. Failure of the Department to

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notify a taxpayer of the existence or correct amount of a liability eligible for amnesty shall not preclude the taxpayer from participating in the Amnesty Program.

- b) Participation in the Amnesty Program
 - 1) A taxpayer may participate in the Amnesty Program selectively, provided that the taxpayer completely satisfies its eligible liability for the tax type and tax period for which amnesty is sought. Thus, a taxpayer may participate in the Amnesty Program with respect to:
 - A) particular types of tax liability, but not others (e.g., Illinois Income Tax, but not Illinois Retailers' Occupation Tax); or
 - B) particular tax periods but not others (e.g., 20192013 Illinois Income Tax but not 20202014 Illinois Income Tax, or July 2020 to December 2020 Retailers' Occupation Tax but not January 2021 to June 2021 Retailers' Occupation Tax).
 - 2) Except as otherwise expressly provided in this Section:
 - A) In the case of an eligible liability that has been assessed or has otherwise become subject to collection action by the Department, the taxpayer participates in the Amnesty Program by paying the eligible~~eligibility~~ liability during the Amnesty Program period.
 - B) In the case of an eligible liability that has not been assessed or otherwise become subject to collection action by the Department, the taxpayer participates in the Amnesty Program by filing the appropriate return or amended tax return to report the

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~~eligible~~eligibility liability and making payment of the eligible liability to the Department during the Amnesty Program period. Unless a special form or schedule is provided by the Department for filing an original or amended return to report an ~~eligible~~eligibility liability, the taxpayer must use the form ordinarily prescribed by the Department for that return or amended return.

- 3) Separate payments should be made for each eligible liability to ~~ensure~~insure proper application by the Department. A single payment that is made for multiple eligible liabilities must be accompanied by a clear identification of the liabilities to which the payment is to be applied, and in what amounts it is to be applied. Any portion of any payment that is not expressly designated by the taxpayer as applicable to a specifically-identified liability will be applied against liabilities of the taxpayer in accordance with 86 Ill. Adm. Code 700.500, which may result in failure of the taxpayer to pay all eligible liabilities it intended to pay.
- c) Form of Payment. *Payments must be made by cash, check, guaranteed remittance, or ACH debit.* (ITDAA Section 10)
 - 1) The reduction of a liability that results from claiming a credit or the carryover of a credit under IITA Article 2 or Section 601(b)(3) or (b)(4), from claiming a federal capital or net operating loss or Illinois net loss under IITA Section 207, or from the use of a Manufacturer's Purchase Credit under Section 3-85 of the Use Tax Act [35 ILCS 105], is not a payment of tax. Therefore, if the taxpayer is entitled to an income tax credit or loss or to a Manufacturer's Purchase Credit that reduces the taxpayer's unpaid liability for a tax in a particular period to zero, the application of the credit or loss is not a payment that may qualify under amnesty.
 - 2) Payments by check that are returned due to insufficient funds in the taxpayer's account do not qualify as payments during the Amnesty Program period.
 - 3) Payments of amounts due from individuals under the IITA may be made by credit card, provided that the *taxpayer must pay any discount fee charged by the credit card issuer.* (IITA Section 605)

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- 4) Other forms of payment:
 - A) The Department will treat the following items as payments qualifying under the Amnesty Program:
 - i) Offset of a verified overpayment or credit memorandum relating to sales and excise taxes, to the extent available to the taxpayer prior to the end of the Amnesty Program period; or
 - ii) For a taxpayer under audit (including matters pending in the Fast Track Resolution Program or before the Informal Conference Board), an overpayment tentatively determined by the Department for a tax period in the audit may be offset against an eligible liability for another tax period in the same audit.
 - B) The return, amended return or other allowable amnesty filing reporting the eligible liability to be offset must identify each verified overpayment, credit memorandum, or overpayment tentatively determined by the Department in an audit to be used as an Amnesty Program payment by tax type, period and amount.
- 5) The Department will not offset an unrefunded~~unpaid~~ overpayment of income tax shown on a return or refund claim filed by a taxpayer prior to the beginning of the Amnesty Program period against an eligible liability. Except as otherwise provided in this Section if a taxpayer has reported an income tax overpayment for a taxable year that has not been paid or denied as of the beginning of the Amnesty Program period, and wishes to report and pay an eligible liability for the same taxable year, the taxpayer must file an amended return, reporting its corrected liability taking into account all adjustments that must be made to its original return, including any adjustments reported on its refund claim and any additional adjustments creating the eligible liability, and pay the increase in tax reported on the amended return, as if it had already received a refund of the previously-reported overpayment. The taxpayer may preserve its claim for refund of that overpayment by writing in the explanation section of its amended return it files under the ITDAA, "This amended return is

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filed for purposes of Amnesty, and does not take into account an overpayment in the amount of [dollar amount] reported on [date]. This amended return shall be treated as a claim for refund of this amount, and as a confirmation of any outstanding claim for refund." The refund claim will be allowable to the same extent it would have been allowed had no Amnesty Program report and payment been made, and shall accrue interest without regard to the provisions in subsection (k)(5).

- d) Civil Cases Pending in State Courts. ITDAA Section 10 provides that *amnesty shall not be granted to a taxpayer that is a party to any civil litigation that is pending in any circuit court or appellate court or the Supreme Court of this State* with respect to an otherwise eligible liability.
 - 1) A payment made under the Protest Act initiates a civil suit in circuit court. Accordingly, payment of a liability under the Protest Act disqualifies the taxpayer from participation in the Amnesty Program with respect to that liability, even if the liability would otherwise be an eligible liability and the payment is made during the Amnesty Program period.
 - 2) A taxpayer that is ineligible for the Amnesty Program under this Section becomes eligible if the taxpayer ceases to be a party to a civil action by dismissing the action prior to the end of the Amnesty Program period. The action is dismissed on or before the November 17, 2025~~November 15, 2019~~, deadline if the taxpayer has executed an agreed order stipulating to judgment in favor of the Department, and during the Amnesty Program period has either paid the eligible liability that is the subject of the action, or, in a Protest Act case, agreed to a dissolution of the injunction and a court order that directs the amount of the eligible liability to be released to the Department. A taxpayer participating in the Amnesty Program under this subsection (d)(2) need not file a return or amended return under subsection (b) with respect to the liability that is the subject of the litigation, but must specify in its motion to dismiss the action that it is doing so in order to participate in the Amnesty Program and its payment of the eligible liability must be accompanied by a statement that the payment is being made under the Amnesty Program and must identify the eligible liability being paid.
 - 3) Bankruptcy proceedings take place in federal courts, and a taxpayer in bankruptcy may be eligible to participate in the Amnesty Program.

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4) While a taxpayer that is a party to civil litigation in an Illinois court is not eligible to participate in the Amnesty Program with respect to a liability in dispute in that litigation, that taxpayer may still participate in the Amnesty Program with respect to other liabilities.

e) Matters Pending in the Department's Office of Administrative Hearings or at the Illinois Independent Tax Tribunal. Matters pending in the Department's Office of Administrative Hearings or at the Illinois Independent Tax Tribunal are not *pending in any circuit court or appellate court or the Supreme Court of this State.* (ITDAA Section 10) Therefore, a tax liability that is being contested before one of the Department's or Tribunal's Administrative Law Judges is eligible for the Amnesty Program.

1) A taxpayer who wishes to participate in the Amnesty Program with respect to an eligible liability at issue in a matter pending in the Office of Administrative Hearings or Illinois Independent Tax Tribunal must stipulate to judgment in favor of the Department with respect to that liability on or before November 17, 2025~~November 15, 2019~~ and pay that liability during the Amnesty Program Period.

2) A taxpayer participating in the Amnesty Program under this subsection (e)(2) need not file a return or amended return under subsection (b) with respect to the liability that is the subject of the proceeding, but must specify in the stipulation that it is participating in the Amnesty Program and pay the eligible liability to the Department during the Amnesty Program period.

3) A liability being contested in the Office of Administrative Hearings or at the Illinois Independent Tax Tribunal is an established liability, and no refund of the payment is allowed with respect to an amnesty issue.

f) Matters Under Audit or Pending in the Fast Track Resolution Program or Before the Informal Conference Board. A tax liability under audit (including audits under review in the Fast Track Resolution Program or before the Informal Conference Board) is eligible for the Amnesty Program.

1) After an audit has been concluded, by the issuance of an amended return or waiver of restrictions on assessment that becomes final prior to the

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beginning of the Amnesty Program period, the liability determined by the Department is an established liability so that no refund with respect to an amnesty issue will be allowed.

- 2) Prior to the issuance of an amended return or waiver of restrictions on assessment after the conclusion of an audit, a taxpayer may participate in the Amnesty Program by reporting the amount of eligible liability that it estimates will result from the audit on an original or amended return, and paying that amount during the Amnesty Program period. The Department will continue with the audit (including any proceedings in the Fast Track Resolution Program or before the Informal Conference Board) in the same manner as if no amnesty payment had been made, except that the interest and penalties related to the amnesty payment will be abated.
- 3) Examples. The principles for participating in the Amnesty Program for an eligible liability that is currently under audit may be illustrated as follows:

EXAMPLE 1. As of the beginning of the Amnesty Program Period, the Department is auditing Taxpayer for occupation and use taxes due for the periods July 1, 2021~~July 1, 2015~~ through June 30, 2023~~June 30, 2017~~. The audit will not be completed before the end of the Amnesty Program period. After consulting with the Department's auditor, Taxpayer estimates that it owes an additional Use Tax obligation of \$300 for each of the months of July, August and September of 2022~~2016~~. During the Amnesty Program period, Taxpayer files amended returns and pays the additional \$300 in tax for each month. After the audit is completed (including any proceedings in the Fast Track Resolution Program or before the Informal Conference Board) in 2026~~2021~~, the Department determines that, taking into account the \$300 payments made during the Amnesty Program period, Taxpayer has overpaid its Use Tax obligation for July of 2022~~2016~~ by \$150 and owes an additional \$50 in Use Tax for August of 2022~~2016~~. As provided in subsection (k), Taxpayer may receive a refund of the overpayment for July of 2022~~2016~~. Also, if Taxpayer unsuccessfully contests any portion of the \$50 underpayment after the conclusion of the audit, or fails to pay in full the \$50 no later than the due date for payment of the demand for payment made by the Department, amnesty will be denied on the \$300 amount paid during the

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Amnesty Program period with respect to August of 2022~~2016~~, as provided in subsection (j)(3). The abatement of penalties and interest with respect to the \$300 paid for September of 2022~~2016~~ is not affected by any changes or proceedings related to the liabilities for July or August of 2022~~2016~~. The Department will offset the \$50 in additional tax for August of 2022~~2016~~ against the overpayment for July of 2022~~2016~~ and allow a refund or credit of the remaining overpayment for July of 2022~~2016~~, to the extent the refund or credit is not otherwise barred. Taxpayer may also claim a refund or credit for some or all of the \$50 additional tax for August of 2022~~2016~~, or for any other amount for July or August of 2022~~2016~~, providing the refund or credit would otherwise be allowable.

EXAMPLE 2: During an audit of Taxpayer's corporate income tax returns, the Department issued a Notice of Proposed Deficiency to Taxpayer, proposing deficiencies of \$500 with respect to its 2021~~2015~~ liability and \$800 with respect to 2022~~2016~~. Taxpayer timely requested review of both deficiencies by the Informal Conference Board under 35 Ill. Adm. Code 215.115, and the review had not been completed as of the beginning of the Amnesty Program period. Taxpayer decides to participate in the Amnesty Program by paying the entire \$500 for 2021~~2015~~ in full, but only pays \$600 for 2022~~2016~~ during the Amnesty Program period. After the Department receives the payment for 2021~~2015~~, penalties and interest related to the 2021~~2015~~ deficiency will be abated. The Informal Conference Board review and the remaining audit processes for 2022~~2016~~ will continue. If, at the conclusion of the audit, the Department determines that the 2022~~2016~~ deficiency was the \$600 paid by Taxpayer during the Amnesty Program period, penalties and interest related to 2022~~2016~~ will be abated. If the Department determines that the 2022~~2016~~ deficiency was greater than the \$600 paid by Taxpayer, amnesty will be denied for 2022~~2016~~, as provided in subsection (j)(3). If the Department determines that the 2022~~2016~~ deficiency was less than the \$600 paid by Taxpayer, a refund or credit will be granted, providing the refund or credit would otherwise be allowable.

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g) Criminal Investigation or Case. ITDAA Section 10 provides that amnesty may not be granted to taxpayers that are a party to *any criminal investigation for nonpayment, delinquency or fraud in relation to any State tax imposed by any law of the State of Illinois* with respect to an otherwise eligible liability. A taxpayer who is a party to a pending investigation or case is ineligible to participate in the Amnesty Program with respect to the specific taxes and tax periods under investigation or contained in the complaint, information, or indictment.

h) Eligible Liabilities. Under ITDAA Section 10, the Amnesty Program applies to *any tax, except for the motor fuel use tax imposed under Section 13a of the Motor Fuel Tax Law [35 ILCS 505], imposed by reason of or pursuant to authorization by any law of the State of Illinois and collected by the Department*. Each liability that comes within this definition and meets the other criteria for a taxpayer to participate in the Amnesty Program is generally divisible into two parts: the eligible liability that must be paid during the Amnesty Program and the penalty and interest that may be abated under the Amnesty Program. An exception to this rule is the reimbursement of collection expenses incurred by the Department, when those expenses are not deemed by statute to be part of the related tax liabilities. The obligation to pay these expenses is not a penalty that may be abated by participation in the Amnesty Program, nor does failure to pay one of these expenses during the Amnesty Program period disqualify the taxpayer from the benefits of amnesty. The following examples are illustrative of items that may be characterized as eligible liabilities or as penalties or interest that may be abated, or as expenses that are neither eligible liabilities nor penalties:

1) A taxpayer who has paid all of the tax due for a period, but has not yet paid all of the penalty and interest associated with the liability, may not participate in the Amnesty Program with respect to the penalty or interest. This subsection (h)(1) applies regardless of the reason the tax has been paid, but not the penalty or interest, including instances when the taxpayer filed a return and paid its tax late, and so incurred late filing and late payment penalties, or because amounts paid by or collected from the taxpayer were applied against tax before being applied against penalty and interest pursuant to 86 Ill. Adm. Code~~UPIA Section~~ 700.500. A taxpayer may not seek to retroactively reapply payments previously made to the Department for the purpose of creating eligible liabilities eligible for the Amnesty Program or increasing the amount of penalties and interest that will be abated as the result of the taxpayer's participation in the Amnesty Program.

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- 2) Over-collections of Use Tax that are required to be remitted to the Department by reason of Section 2-40 of the Retailers' Occupation Tax Act are tax liabilities that may be eligible liabilities rather than penalties that may be abated if the related eligible liability is paid during the Amnesty Program period.
- 3) The vendor's discount from tax allowed in Section 3 of the Retailers' Occupation Tax for the expenses of collecting and remitting is forfeited when the tax is not properly and timely paid. Any lost discount is a tax liability that may be an eligible liability rather than a penalty that may be abated if the related eligible liability is paid during the Amnesty Program period.
- 4) A collection agency fee that is added to a taxpayer's tax liability under Section 2505-400(a) of the Department of Revenue Law [20 ILCS 2505] is not a penalty, but is a tax liability that may be an eligible liability. If an eligible liability has been referred to a collection agency and the fee is owed to the collection agency, the fee related to the eligible liability must be paid during the Amnesty Program period in order for the taxpayer to qualify for abatement of penalties and interest. ~~No collection agency fee is due on amounts paid directly to the Department under the Amnesty Program. However, if a taxpayer makes any payment of any portion of an eligible liability to a collection agency, the fee due the collection agency will be added to and included in the eligible liability that must be paid during the Amnesty Program period for the taxpayer to qualify for amnesty.~~
- 5) The recording fees that must be paid by a taxpayer before a lien for unpaid taxes may be released under Section 1105(a) of the Illinois Income Tax Act [35 ILCS 5] or under Section 5a, 5b or 5c of the Retailers' Occupation Tax Act [35 ILCS 120] are not added to the tax liability of the taxpayer, and are neither tax liabilities nor penalties. A taxpayer's obligation to pay these fees is not abated by participation in the Amnesty Program, nor is failure to pay one of these fees grounds for denying the abatement of penalties and interest under the Amnesty Program.
- 6) Responsible officer penalties imposed pursuant to UPIA Section 3-7~~of the~~ for failure to collect, account for and pay over trust taxes are penalties

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imposed on the responsible officer, even though the penalty includes unpaid tax, and therefore cannot be eligible liabilities of the responsible officer. However, a responsible officer's employer may participate in the Amnesty Program. If the underlying trust tax liability of the employer is paid under the Amnesty Program, the related penalties and interest, and therefore the responsible officer penalty, will be abated.

- i) Eligible Periods. Only taxes due for a taxable period ending after June 30, 2018~~June 30, 2011~~ and prior to July 1, 2024~~July 1, 2018~~ are eligible for amnesty. The following examples are illustrative:
 - 1) The usual taxable period for Retailers' Occupation Tax purposes is the calendar month. A taxpayer reporting and paying Retailers' Occupation Tax on a monthly basis may participate in the Amnesty Program with respect to a liability based on taxable receipts received after June 30, 2018~~June 30, 2011~~ and prior to July 1, 2024~~July 1, 2018~~.
 - A) One exception to this general rule is the case of a taxpayer authorized to pay and who does pay Retailers' Occupation Tax liability on an annual or quarterly basis. The taxable period for annual taxpayers of Retailers' Occupation Tax is the calendar year during which gross receipts from retail sales were received. Consequently, annual taxpayers of Retailers' Occupation Tax may participate in the Amnesty Program with respect to a liability based on receipts received on and before December 31, 2023~~December 31, 2017~~, but not with respect to a liability based on receipts received on and after January 1, 2024~~January 1, 2018~~. Liabilities for receipts received by an annual taxpayer at any time during the 2018~~2012~~ taxable year are eligible for amnesty. The taxable period for quarterly taxpayers is the quarterly period in which gross receipts from retail sales were received.
 - B) Another exception to this general rule is the case of a taxpayer required to file and pay occupation or use tax liabilities from the sale or use of an aircraft, watercraft, motor vehicle or trailer on a separate transaction reporting return. Each liability required to be reported on a separate transaction reporting return is a separate liability for purposes of the ITDAA, and the taxable period for that

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liability is the date of delivery or date the vehicle is brought into this State.

- 2) The taxable period for Illinois Income Tax purposes is the taxable year. Taxpayers whose taxable year is the calendar year may participate in the Amnesty Program with respect to a liability based on income earned or received after December 31, 2017~~December 31, 2010~~ and on and before December 31, 2023~~December 31, 2017~~, but not with respect to a liability based on income earned or received on and after January 1, 2024~~January 1, 2018~~. Taxpayers whose taxable year is a fiscal year may participate in the Amnesty Program for taxable years ending after June 30, 2018~~June 30, 2011~~ and prior to July 1, 2024~~July 1, 2018~~.
- j) Payment of All Taxes Due for a Taxable Period. ITDAA Section 10 provides that *failure to pay all taxes due to the State for a taxable period shall invalidate any amnesty granted under the Act.* In order to participate in the Amnesty Program a taxpayer must pay the entire eligible liability for a tax type and tax period, irrespective of whether that liability is known to the Department or the taxpayer, or whether the Department has assessed it.
 - 1) The requirement that the eligible liability be paid in full precludes a taxpayer from receiving abatement of penalties and interest by entering into an installment payment agreement with the Department under which the eligible liability will not be paid until after the end of the Amnesty Program period. A taxpayer who has been making installment payments under an agreement with the Department may participate in the Amnesty Program by paying during Amnesty Program period any eligible liability that remains unpaid.
 - 2) A taxpayer may participate in the Amnesty Program with respect to an established liability only by paying during the Amnesty Program period the full amount of the established liability that is actually due. If a taxpayer pays only a portion of an established liability during the Amnesty Program period, and it is subsequently determined that the taxpayer has not paid the full amount of the eligible liability, abatement of penalties and interest for that tax period will be revoked.
 - 3) Except in the case of an established liability, the taxpayer should make a good faith estimate of the eligible liability, report that amount on an

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original or amended return as required under subsection (b)(2)(B), and pay the reported amount in full. A taxpayer that fails to pay the reported amount of eligible liability in full during the Amnesty Program period does not qualify for amnesty.

- A) If the taxpayer later determines that its Amnesty Program payment was less than the total eligible liability, and voluntarily reports and pays the additional amount due, penalties and interest will be assessed only with respect to the additional amount of tax due.
- B) If the Department later determines that a payment made during the Amnesty Program period is insufficient to completely satisfy the eligible liability, and the applicable statute of limitations has not yet expired, the Department will assess the additional liability and issue a demand for payment to the taxpayer for the remaining taxes due, following the procedures applicable to that liability. If the taxpayer does not contest the assessment and pays the additional tax due no later than the due date shown on the demand for payment, the Department will assess penalties and interest only with respect to the portion of the eligible liability that was not paid during the Amnesty Program period. A taxpayer who unsuccessfully contests any portion of the additional liability (whether by protesting the notice of deficiency or notice of tax liability by filing an action under the Protest Act, by paying the liability and filing a claim for refund, or by any other means) or who fails to pay any portion of the additional liability by the due date on the demand for payment will be liable for penalties and interest as if no payment had been made during the Amnesty Program period. For purposes of this subsection (j)(3)(B)~~(j)(3)(b)~~, requesting review by the Informal Conference Board is not contesting an additional liability. Also, a taxpayer may contest the imposition or the amount of interest or penalty due with respect to a tax liability. However, failure to pay any assessed amount of interest or penalty within 30 days after receiving a notice and demand for payment of that amount will subject the taxpayer to penalties and interest as if no payment had been made during the Amnesty Program period.

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- C) Subsections (j)(3)(A) and (B) do not apply to an underpayment of an established liability, which must be paid in full, except in the case where the underpayment is caused solely by the disallowance of some or all of an offset requested by the taxpayer in good faith under subsection (c)(4).
- D) If the payment made during the Amnesty Program period is less than the eligible liability because the taxpayer failed to report and pay a liability resulting from a federal change that was not final as of the end of the Amnesty Program period, and if the taxpayer fails to timely report and pay the liability as required under IITA Section 506(b), or to pay any related interest and penalties no later than 30 days after receiving a notice and demand from the Department for payment of those amounts, the abatement of penalties and interest originally allowed under the Amnesty Program for that income tax liability will be forfeited and the abated amounts will be deemed assessed and payable.

- 4) The following examples are illustrative:

EXAMPLE 1: During the Amnesty Program period, Taxpayer files an amended Illinois income tax return reporting an estimated federal change liability of \$10,000 it believes it will owe once an IRS audit of its 2023~~2017~~ federal income tax return is completed. When the IRS audit is completed in 2026~~2021~~, the changes determined by the IRS increase Taxpayer's Illinois income tax liability by an additional \$1,000. If Taxpayer timely reports the \$1,000 under IITA Section 506(b) and pays the tax and any related interest and penalties resulting from the federal change no later than 30 days after the Department has issued a notice and demand for payment, any interest and penalties abated as a result of the Taxpayer's participation in the Amnesty Program will remain abated. If, however, Taxpayer fails to timely report and pay the \$1,000 or fails to pay any related interest or penalties within 30 days after the Department issues a notice and demand for payment, any Amnesty Program abatement interest and penalties related to Taxpayer's 2023~~2017~~ income tax liability will be forfeited, and those amounts will be deemed assessed and immediately collectible by the Department. If Taxpayer believes the interest or penalties in the notice and demand are incorrect for any reason, it may pay those amounts within 30 days after the issuance of the notice

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and demand and file a refund claim in order to contest those amounts without forfeiting the original abatement of interest or penalties.

EXAMPLE 2: An individual files his original income tax return for 2023~~2017~~ during the Amnesty Program period, and pays the full amount of tax reported on the return. The Department determines that the individual erroneously transcribed the amount of Illinois income tax withholding reported on his Form W-2, and issues a notice and demand for payment of the resulting underpayment, plus interest and penalty for late payment computed on the underpayment. If the individual pays the entire amount shown on the notice and demand by the due date for payment shown in the notice and demand, no penalty or interest will be imposed on the amount paid with the return.

- k) Overpayments of Eligible Liabilities. *Participation in the Amnesty Program shall not preclude a taxpayer from claiming a refund for an overpayment of an established liability based on an issue that is not an amnesty issue, an overpayment of an eligible liability that is not an established liability, or an overpayment of an estimated federal change liability.* (ITDAA Section 10)
 - 1) Amnesty Issues. An issue is an amnesty issue unless it is *unrelated to the issues for which the taxpayer claimed amnesty.* (ITDAA Section 10) An amnesty issue is therefore every issue of law that must be resolved in determining the amount of an eligible liability paid during the Amnesty Program and all facts relevant to those issues, as in existence as of the time the amnesty payment is made.
 - A) The amount and nature of any item of income, gross receipt or other positive item included in the tax base in computing the amount paid by the taxpayer under the Amnesty Program is an amnesty issue, except to the extent that item is properly reduced after taking into account only facts not in existence as of the time the amnesty payment is made.
 - B) The taxpayer's entitlement to any deduction, exclusion, credit or other item reducing the amount of tax paid by the taxpayer under the Amnesty Program, and the amount of that item, is an amnesty issue, except to the extent that item is properly allowable or altered

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after taking into account only facts not in existence as of the time the amnesty payment is made.

- C) An overpayment of tax does not result from an amnesty issue to the extent the overpayment results from the taxpayer's payment during the Amnesty Program period of the amount of a liability shown in a statement issued by the Department that failed to take into account either a payment made by the taxpayer prior to the issuance of the statement or an amount collected by the Department by garnishment, levy, offset or other collection action.
- D) An overpayment of tax does not result from an amnesty issue to the extent the overpayment results from a clerical or transcription error made by the taxpayer on a return or amended return filed as part of the Amnesty Program or in completing the check or other method of payment of an eligible liability during the Amnesty Program period.
- E) In order to qualify for a refund or credit of an overpayment, a taxpayer must provide clear and convincing evidence that the overpayment did not result from an amnesty issue.
- F) Examples. The principles for determining whether an item is an amnesty issue may be illustrated as follows:

EXAMPLE 1: On its Illinois income tax return for calendar 2023~~2017~~, Taxpayer claimed \$2,000 in enterprise zone investment credits under IITA Section 203(f) that were earned in 2022~~2016~~ and carried forward to 2023~~2017~~ because Taxpayer had credits in excess of its liability for 2022~~2016~~. Taxpayer determines that, because of an error in computing its 2023~~2017~~ sales factor, it has underpaid its 2023~~2017~~ Illinois income tax liability by \$1,000, and it pays that amount under the Amnesty Program. Taxpayer subsequently determines that it had failed to claim a subtraction for interest on federal obligations for 2022~~2016~~. Taking the subtraction reduces its pre-credit liability by \$400 and increases its allowable enterprise zone investment credit carryover to 2023~~2017~~ by \$400. No refund for 2023~~2017~~ is allowed, because the

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reduction in base income for 2022~~2016~~ is based on facts that were in existence as of the time the amnesty payment is made.

EXAMPLE 2: If, in Example 1, Taxpayer is an individual whose 2023~~2016~~ base income is reduced by a carryback to 2023~~2016~~ of a federal net operating loss incurred in calendar 2025~~2018~~, the refund from carrying forward the additional credit results from the fact of the 2025~~2018~~ loss, which was not in existence as of the time the amnesty payment is made, and the 2023~~2017~~ refund is allowable.

EXAMPLE 3: If Taxpayer in Example 1 receives a Schedule K-1-P from a partnership in 2026~~2020~~ reporting that Taxpayer was entitled to a credit for 2023~~2017~~ or for 2022~~2016~~ and the credit may be carried forward to 2023~~2017~~, and the credit had not previously been reported to Taxpayer, Taxpayer may claim a refund based on that credit.

EXAMPLE 4: On its Retailers' Occupation Tax return for January 2024~~2018~~, Taxpayer reports \$1,000,000 in taxable gross receipts. During the Amnesty Program period, Taxpayer pays an established liability equal to the tax on an additional \$50,000 in taxable receipts that had been included in an amended return filed after the conclusion of an audit. Taxpayer subsequently discovers that its records contain a resale certificate for a sale of \$20,000 in January 2024~~2018~~, which it had erroneously reported as taxable. No refund is allowed in this instance, whether the \$20,000 in receipts were included in the original return or only in the amended return, because the facts in existence as of the time the amnesty payment is made indicated that the receipts were not taxable.

EXAMPLE 5: If, subsequent to the end of the Amnesty Program period, one of the customers of the Taxpayer in Example 4~~3~~ presents a resale certificate for a purchase made during January 2024~~2018~~ for which Taxpayer had collected Use Tax because no resale certificate had been provided at that time, Taxpayer may refund the Use Tax to the customer and claim a refund for its Retailers' Occupation Tax. The reduction in Taxpayer's liability

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results from a fact that was not in existence as of the time the amnesty payment is made.

EXAMPLE 6: On September 15, 2025~~September 15, 2019~~, the Department issues a statement to Taxpayer indicating that it has an outstanding tax liability of \$2,000. On September 20, 2025~~September 20, 2019~~, the Department collects \$300 of the liability by offsetting against it an overpayment of a different tax. If Taxpayer pays the entire \$2,000 shown in the statement during the Amnesty Program period, the resulting \$300 overpayment of the liability is not the result of an amnesty issue.

EXAMPLE 7: During the Amnesty Program period, Taxpayer files a return reporting an eligible liability. Due to an arithmetic error made in completing the return, Taxpayer reports an eligible liability of \$2,530 rather than \$2,350. The \$180 overpayment resulting from this error is not the result of an amnesty issue. Similarly, if the return reported a \$2,350 liability, but Taxpayer paid \$2,530 with the return, the \$180 overpayment is not the result of an amnesty issue.

- 2) Estimated Federal Change Liabilities. A taxpayer may file a claim for refund of the overpayment that results from the finalization of a federal change that was not final as of the end of the Amnesty Program period, even if the taxpayer participated in the Amnesty Program based on an estimated federal change liability and the facts related to the determination of its federal change were in existence before the end of the Amnesty Program period.
- 3) If a taxpayer participates in the Amnesty Program with respect to an eligible liability that is under audit during the Amnesty Program period, the refund or credit allowable for the taxable period may not exceed the amount determined by the audit, except to the extent the refund results from an issue that is not an amnesty issue or from the finalization of a federal change after the Amnesty Program period. For example:

EXAMPLE 1: Taxpayer's income tax return for the calendar year 2021~~2015~~ is under audit during the Amnesty Program period, but no established liability has been created. Taxpayer participates in the

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Amnesty Program for 2021~~2015~~. After the audit is concluded, the Department determines that Taxpayer has overpaid its 2021~~2015~~ liability by \$300. Taxpayer may receive a refund of that \$300, but no additional refund is allowable unless the additional refund results from an issue that is not an amnesty issue or from the finalization of a federal change after the Amnesty Program period.

EXAMPLE 2: If Taxpayer in Example 1 also participates in the Amnesty Program for 2022~~2016~~, a year that is not under audit during the Amnesty Program period and for which there is no established liability, Taxpayer's participation in the Amnesty Program for 2021~~2015~~ does not limit Taxpayer's right to a refund for 2022~~2016~~.

- 4) No refunds are allowed for any tax liability and period with respect to which the taxpayer participated in amnesty other than as allowed under this subsection (k).
- 5) No interest is payable by the Department on any refund or credit allowed for a tax and period for which the taxpayer participated in the Amnesty Program. (See UPIA Section 3-2(h).) However, interest will be allowed on any refund or credit based on a refund claim that was outstanding as of the beginning of the Amnesty Program period, as described in subsection (c)(5).

l) Statutes of Limitation and Other Filing Periods. Participation in the Amnesty Program does not toll or extend any applicable statute of limitations or other time period for the filing of refund claims, protests with the Department, or actions in circuit court under the Protest Act. The Taxpayers' Bill of Rights does not toll or extend any applicable statute of limitations. A statute of limitations or other time period that expires during or after the Amnesty Program period cannot be revived, even if the taxpayer has failed to satisfy all the requirements of the Amnesty Program. The Department's procedures for obtaining waivers of statutes of limitations for taxpayers under audit shall continue to apply.

- 1) The following examples are illustrative:
 - A) Corporation A reported federal taxable income of \$1,000,000 on its calendar 2022~~2016~~ federal and Illinois income tax returns. During November 2025~~2019~~, Corporation A is undergoing a

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federal income tax audit of its 2022~~2016~~ federal income tax return, which it expects will result in an increase in its federal taxable income to as much as \$1,500,000. In order to participate in the Amnesty Program, Corporation A files an amended Illinois income tax return on November 14, 2025~~November 15, 2019~~ that reports federal taxable income of \$1,500,000, and pays the estimated federal change liability resulting from the increase in its federal taxable income.

- B) If, as a result of the federal audit, its federal taxable income is determined to be \$1,300,000, Corporation A will be allowed to file a refund claim under subsection (k) for the amount it paid under the Amnesty Program in excess of the tax liability computed using \$1,300,000 in federal taxable income. However, because participation in the Amnesty Program does not toll or extend the statute of limitations for filing the refund claim, the claim must be denied unless it was filed within one year after the date of the Amnesty Program payment under IITA Section 911(a)(2) or the Corporation A and the Department have entered into an agreement under IITA Section 911(c) extending the period for filing a refund claim. Although the statute of limitations for filing a refund claim is reopened under IITA Section 911(b) as a result of the conclusion of the federal audit, IITA Section 911(b)(1) provides that the claim is limited to the overpayment that results from the federal change. In this case, the federal change is an increase in federal taxable income of \$300,000, and the overpayment attributable to that increase is zero. The difference between the \$1,500,000 in federal taxable income reported on the amended return filed in the Amnesty Program and the \$1,300,000 finally determined is not a federal change that reopens the limitations period for filing a refund claim because, for federal income tax purposes, the \$1,500,000 was never reported or finally determined to be Corporation A's federal taxable income.
- C) If, as a result of the federal audit, its federal taxable income is determined to be \$900,000, Corporation A will be entitled to file a refund claim for the overpayment that results from the \$100,000 reduction in its federal taxable income from the \$1,000,000 amount reported on its original federal income tax return, provided

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that its claim is filed within the period set by IITA Section 911(b). The difference between the \$1,500,000 in federal taxable income reported on the amended return filed in the Amnesty Program and the \$1,000,000 reported on its original federal income tax return is not a federal change that reopens the limitations period for filing a refund claim, and the overpayment resulting from that \$500,000 difference must be claimed within one year after the payment date unless Corporation A and the Department have entered into an agreement extending the limitations period.

- 2) A taxpayer who reports and pays an estimated federal change liability under the IITA may claim a refund of any excess of the estimated federal change liability over the liability resulting from the final federal change by writing in the explanation section of its amended return it files under the ITDAA, "This amended return reports an estimated federal change liability for purposes of amnesty, and is a claim for refund of any excess of the estimated federal change liability over the liability resulting from the final federal change." When the federal change becomes final under IITA Section 506(a), the taxpayer should then file another amended return, reporting the difference between the final federal change and the estimated federal change liability, and paying any increased liability reported or requesting a refund of any decreased liability.
- 3) A taxpayer who reports and pays an estimated federal change liability under the IITA and fails to follow the procedures in subsection (1)(2) should file a claim for refund no later than one year after making the amnesty payment in order to protect its rights to any refund resulting from the finalized federal change. If the federal change has not become final by the time the claim is filed, the taxpayer should include in the explanation section language stating, "This amended return modifies an amended return filed during the Amnesty Program period to report an estimated federal change liability, and is a claim for refund of any excess of the estimated federal change liability over the liability resulting from the federal change, which has not yet become final."

m) Reasonable Cause

- 1) Nothing in the ITDAA or this Section is intended to change the meaning of "reasonable cause" as that term is used in UPIA Section 3-8. Taxpayers

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needng clarification of "reasonable cause" should consult 86 Ill. Adm. Code 700.400.

- 2) A taxpayer who would be entitled to abatement of a penalty due to "reasonable cause" for its delinquency remains entitled to abatement of that penalty even if it failed to participate in the Amnesty Program with respect to any unpaid liability associated with that penalty.
- 3) A taxpayer who has "reasonable cause" for its failure to participate in the Amnesty Program with respect to an eligible liability will remain subject to any penalties otherwise applicable to that liability. "Reasonable cause" abatement under UPIA Section 3-8 does not apply to interest, so any underpayment interest on the eligible liability will accrue even if the taxpayer had reasonable cause for failing to participate in the amnesty. The inability of a taxpayer in bankruptcy to obtain permission from the federal courts to participate in the Amnesty Program shall constitute reasonable cause for not participating. Failure of the Department to notify a taxpayer of its eligibility to participate in the Amnesty Program or of the correct amount of its eligible liability does not constitute reasonable cause for the taxpayer's failure to participate in the Amnesty Program.

(Source: Amended at 49 Ill. Reg. 16066, effective December 8, 2025)

CHIEF PROCUREMENT OFFICER FOR
THE DEPARTMENT OF TRANSPORTATION

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Chief Procurement Officer for the Department of Transportation – Contract Procurement

2) Code Citation: 44 Ill. Adm. Code 6

3) Section Numbers: Proposed Actions:

6.1100	New Section
6.1110	New Section
6.1120	New Section
6.1130	New Section
6.1140	New Section
6.1150	New Section
6.1160	New Section
6.1170	New Section
6.1180	New Section
6.1190	New Section
6.1200	New Section
6.1210	New Section
6.1220	New Section
6.1230	New Section
6.1240	New Section
6.1250	New Section
6.1260	New Section

4) Date Notice of Proposed Amendments: 49 Ill. Reg. 12287; October 3, 2025

5) Reason for the withdrawal: An incorrect email address was provided on the Notice of Proposed Amendments. A corrected Notice of Proposed Amendments will be refiled.

ILLINOIS EMERGENCY MANAGEMENT AGENCY AND
OFFICE OF HOMELAND SECURITY

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
OBJECTION

Date: November 26, 2025

Agency: Illinois Emergency Management Agency and Office of Homeland Security

Heading of the Part: Political Subdivision Emergency Services and Disaster Agencies

Code Citation: 29 Ill. Adm. Code 301

Register Citation: 49 Ill. Reg. 9116; July 11, 2025

If rulemaking will be initiated, date notice of rulemaking was, or is expected to be, published in the *Illinois Register*: _____

Agency Response to Joint Committee Statement of Objection to Emergency Rulemaking: On August 13, 2025, the Joint Committee on Administrative Rules objected to the Illinois Emergency Management Agency and Office of Homeland Security's use of emergency rulemaking to adopt rules titled Political Subdivision Emergency Services and Disaster Agencies (29 Ill. Adm. Code 301; 49 Ill. Reg. 9116), citing the rulemaking does not meet the criteria of 1 Ill. Adm. Code 230.400(a)(1)(C), which requires the emergency situation that necessitates the emergency rule to have arisen through no fault of the Agency.

To the Committee's point that the rulemaking does not meet the criteria under 1 Ill. Adm. Code 230.400(a)(1)(C), the Agency respectfully refers the Committee to the next sentence of its objection where it notes that the Agency has been diligently working on amendments to this Part since August of 2021, including numerous conversations with JCAR staff, and filing for the permanent rule through first notice on February 28, 2025 at 49 Ill. Reg. 2252.

The broader issue is that public health and safety would be at risk if the emergency rule was not granted and the accreditation of local Emergency Services and Disaster Agencies (ESDAs) lapses. Accreditation from the Agency is an eligibility requirement under Part 301 for ESDAs to receive funding from the Agency. The Agency uses some of its funding from its grant issued under the federal Emergency Management Performance Grant program (EMPG) to fund accredited ESDAs. With the uncertainty of the federal program, it is necessary to ensure that ESDAs meet Agency eligibility requirements so that when funding is finally released to the Agency under their grant, there is no delay or lapse in ESDAs funding.

ILLINOIS EMERGENCY MANAGEMENT AGENCY AND
OFFICE OF HOMELAND SECURITY

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
OBJECTION

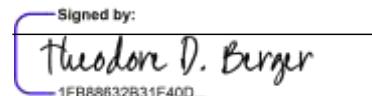
The current accreditation cycle expired June 30, 2025, and the Agency exhausted its extension authority under the existing Part 301 while it has been working on the proposed rule. The Agency's proposed rule is being prepared for Second Notice which would extend the accreditation period; however, it was not possible for it to be adopted before the current accreditation expires, the purpose of this emergency rule is to ensure there is no lapse in funding allowing for ESDAs to continue to apply for and receive funding under the Agency's program.

Due to the requirements for accreditation, a lapse in the current accreditation will further delay the funds being issued once the Agency receives the funding. As the delay in funding has already caused hardships, further delay could possibly lead to ESDAs having difficulty maintaining their emergency management programs until accreditation can be issued and funding disbursed.

Moreover, this is not an attempt to circumvent the process, but simply to extend this limited, time-sensitive portion of the rule to ensure ESDAs continue to be eligible for resources while the remainder of the Part 301 proposed amendments continue through the rulemaking process.

To that end, and in addition to the comments received during the first notice comment period, the Agency has conducted five public listening sessions since the August 13th JCAR hearing on the broader rule change with more than 126 participants across the state of Illinois, including 41 counties, and 11 separate municipalities and townships.

The result of these sessions has resulted in further changes to the proposal for Part 301, to create a more flexible and collaborative approach, including simplifying the accreditation process. These changes will help ensure that such need for an emergency rule should not occur in the future. Also, in the interim period, this State and its political subdivisions will be prepared to, and will adequately deal with, any disasters and preserve the lives and property of the people of this State and protect the public peace, health, and safety in the event of a disaster.

Signed by:

1FB88632B31F40D...

Theodore D. Berger
Acting Director

GUARDIANSHIP AND ADVOCACY COMMISSION

JANUARY 2026 REGULATORY AGENDA

a) Part (Heading and Code Citation): Americans with Disabilities Act Grievance Procedure (4 Ill. Adm. Code 850)

1) Rulemaking:

A) Description: Update regulations to conform to statutory changes contained in Title II of the Americans With Disabilities Act of 1990 (42 U.S.C. 12101), as amended by the Americans with Disabilities Act Amendments Act of 2008, with regard to notice of non-discrimination and grievance procedure.

B) Statutory Authority: Implementing and authorized by Sections 5-5 and 5-20 of the Illinois Administrative Procedure Act [5 ILCS 100/5-5 and 5-20] and Section 5 of the Guardianship and Advocacy Act [20 ILCS 3955/5].

C) Scheduled meeting/hearing dates: None scheduled.

D) Date agency anticipates First Notice: Winter 2025

E) Affect on small businesses, small municipalities, or not-for-profit corporations: No effect.

F) Agency contact person for information:

Taneka Jennings
Director of Legislative and External Affairs
Illinois Guardianship and Advocacy Commission
160 N. LaSalle, S500
Chicago, IL 60601

(312) 793-5900
Taneka.Jennings2@illinois.gov

G) Related rulemakings and other pertinent information: None.

b) Part (Heading and Code Citation): Legal Advocacy Service (59 Ill. Adm. Code 350)

1) Rulemaking:

GUARDIANSHIP AND ADVOCACY COMMISSION

JANUARY 2026 REGULATORY AGENDA

A) Description: Update Legal Advocacy Service definitions and procedures to align with statute and best practice. Provides clarification with regard to sliding scale fee schedule, confidentiality policy, availability to represent eligible persons, discharge of an attorney after appointment of private counsel, and rights of an attorney to view and copy records and consult privately with an eligible person.

B) Statutory Authority: Implementing and authorized by Section 5 of the Guardianship and Advocacy Act [20 ILCS 3955/5].

C) Scheduled meeting/hearing dates: None scheduled.

D) Date agency anticipates First Notice: Winter 2025

E) Affect on small businesses, small municipalities, or not-for-profit corporations: No effect.

F) Agency contact person for information:

Taneka Jennings
Director of Legislative and External Affairs
Illinois Guardianship and Advocacy Commission
160 N. LaSalle, S500
Chicago, IL 60601

(312) 793-5900
Taneka.Jennings2@illinois.gov

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF INNOVATION AND TECHNOLOGY

JANUARY 2026 REGULATORY AGENDA

a) Part (Heading and Code Citation): Rulemaking and Organization (2 Ill. Adm. Code 1530)

1) Rulemaking:

A) Description: The Department of Innovation and Technology will file rules to address any changes in State law that the General Assembly enacts that obligate the Department to act.

B) Statutory Authority: Department of Innovation and Technology Act [20 ILCS 1370]

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: August 1, 2026

E) Affect on small businesses, small municipalities or not for profit corporations: The changes will have no effect on small businesses, small municipalities, and not-for-profit corporations.

F) Agency contact person for information:

Adam Bourdette
Legal Counsel
Department of Innovation and Technology
555 W Monroe, 200 N
Chicago, IL 60661

(773) 909-8887
Adam.Bourdette@Illinois.gov

G) Related rulemakings and other pertinent information: None

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

a) Part (Heading and Code Citation): Infertility Coverage (50 Ill. Adm. Code 2015)

1) Rulemaking:

A) Description: Public Act 103-0751 (eff. Jan 1, 2026) amends Section 356m of the Illinois Insurance Code so that, regardless of the number of employees, all group accident and health insurance policies must cover infertility benefits. The legislation also deletes statutory provisions that allow coverage limitations for fertility procedures based on the number of completed oocyte retrievals. The legislation also requires coverage for surgical sperm extraction procedures and various preimplantation screening and diagnostic procedures for fertilized eggs, and it makes other changes.

The Department will amend its implementing rules at 50 Ill. Adm. Code 2015 to conform to the new statute, and it may clarify existing statutory or rule provisions as deemed appropriate.

B) Statutory Authority: Implementing Sections 356m and 356z.32 of the Illinois Insurance Code [215 ILCS 5] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: Spring 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

Shannon.McNally@illinois.gov

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Pharmacy Benefit Managers (50 Ill. Adm. Code 3145)

1) Rulemaking:

A) Description: The Department will amend this rule to implement the Prescription Drug Affordability and Accountability Act, Pub. Act 104-0027, and subsequent clarifying legislation. The rule amendments will provide more detailed parameters for the annual reports, summaries, and disclosures that pharmacy benefit managers will be required to file with the Department beginning in 2026. The amendments also may address implementation of statutory provisions affecting specialty drug designations, steering, spread pricing, or audits.

B) Statutory Authority: Implementing Article XXXIIB, and authorized by Sections 401 and 513b2(e) of the Illinois Insurance Code [215 ILCS 5].

C) Scheduled meeting/hearing dates: None are scheduled.

D) Date agency anticipates First Notice: January 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Adam Flores
Chief of Staff
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(312) 814-5415
Adam.Flores2@illinois.gov

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Uniform Electronic Transactions in Dental Care Billing (50 Ill. Adm. Code 3210)

1) Rulemaking:

A) Description: The Department will promulgate a rule to identify the required standardized information that must be included for electronic transactions pertaining to eligibility, claims and payments submissions involving dental care, considering what types of circumstances may afford an individual or entity subject to the Uniform Electronic Transactions in Dental Care Billing Act to be exempt from the requirement of using the standard electronic process.

B) Statutory Authority: Implementing and authorized by the Uniform Electronic Transactions in Dental Care Billing Act [215 ILCS 111/1 et seq.].

C) Scheduled meeting/hearing dates: None are scheduled.

D) Date agency anticipates First Notice: Spring 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275
Shannon.McNally@illinois.gov

G) Related rulemakings and other pertinent information: None

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

d) Part (Heading and Code Citation): Managed Care Reform & Patient Rights (50 Ill. Adm. Code 4520)

1) Rulemaking:

A) Description: Currently the definition of "Utilization Review Organization" in Section 4520.30 indicates persons conducting UR reviews for self-funded plans are not subject to the registration requirements. This conflicts with the provisions of [215 ILCS 134.85(c)] regarding URO program registration requirements. The statute clearly indicates persons conducting UR on behalf of self-funded plans are required to register with the Department. Part 4520 will be amended to eliminate this conflict.

Also, Public Act 102-0391 establishes requirements for flat-dollar copayment structures for prescription drug benefits. This rulemaking will clarify the types of plans subject to the statutory requirements and implement a filing requirement to ensure compliance. It will set requirements for the naming convention and marketing of plans that are designed to satisfy the requirements of [215 ILCS 134/45.3].

Separately, this Part needs to be updated to reflect recent statutory changes to the applicability of certain sections of the Managed Care Reform and Patient Rights Act to policies issued under Class 1(b) and 2(a) of Section 4 of the Illinois Insurance Code [215 ILCS 5/4].

Section 4520.100 concerns "health care plans that allow enrollees to access health care services from contractual providers without a referral or authorization from the primary care physician (PCP)" and includes a requirement that the plans' "centralized record keeping system for access and quality of care" be approved by the Director of IDPH. This section will be amended to ensure there are no inconsistencies in the current text of the rule regarding referrals and [215 ILCS 125/2-3(d-5)] as amended by Public Act 103-0104.

Additionally, amendments are needed to align with statutory changes under Public Act 103-0656, including changes to registration requirements and fees associated with obtaining approval as an approved registered

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

URO in Illinois, and new registration standards requiring accreditation established in Public Act 103-0650.

B) Statutory Authority: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401], 42 USC 300gg-22, and 45 CFR 150.101(b)(2) and 150.201.

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Spring 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275
Shannon.McNally@illinois.gov

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 4521 and 4530

e) Part (Heading and Code Citation): Health Carrier External Review (50 Ill. Adm. Code 4530)

1) Rulemaking:

A) Description: Amendments are needed to align changes to definitions in statute pursuant to P.A. 103-0656 with those currently in the rule.

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

B) Statutory Authority: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of that Act and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

C) Scheduled meeting/hearing dates: None scheduled.

D) Date agency anticipates First Notice: Spring 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275
Shannon.McNally@illinois.gov

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 4520

f) Part (Heading and Code Citation): Network Adequacy and Transparency (50 Ill. Adm. Code 4540)

1) Rulemaking:

A) Description: Part 4540 will be amended to update year-specific filing procedures and provider ratios. The provider directory audit section of the rule will be amended to incorporate the provider directory bulletins 2024-06 and 2025-05. Also, a new Provider Directory Consumer Accessibility section will be added to provide guidance on directory appearance and navigation to reduce consumer confusion.

Also, P.A. 103-0650 includes updates to the Network Adequacy and Transparency Act which will require amendments to this rule.

ILLINOIS DEPARTMENT OF INSURANCE

JANUARY 2026 REGULATORY AGENDA

Additionally, the obsolete term "woman's principal health care provider" will be deleted from the rule, in conformance with the removal of the term from statute pursuant to P.A. 103-0718.

B) Statutory Authority: Implementing Sections 5, 10, 15, and 25 of the Network Adequacy and Transparency Act [215 ILCS 124] and Section 404 of the Illinois Insurance Code [215 ILCS 5], and authorized by Section 401 of the Illinois Insurance Code and Section 30 of the Network Adequacy and Transparency Act.

C) Scheduled meeting/hearing dates: None are scheduled.

D) Date agency anticipates First Notice: January 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shannon McNally
Deputy Director, Health Products
Illinois Department of Insurance
320 West Washington
Springfield, Illinois 62767

(217) 836-3275
Shannon.McNally@illinois.gov

G) Related rulemakings and other pertinent information: None

PROPERTY TAX APPEAL BOARD

JANUARY 2026 REGULATORY AGENDA

a) Part (Heading and Code Citation): Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)

1) Rulemaking:

A) Description: The Property Tax Appeal Board proposes amendments to its administrative rules to enhance clarity, efficiency, and accessibility. The anticipated changes include: refining procedures for electronic document filing; updating the address and contact information for the Board's regional office; establishing a filing fee; incorporating the Board's language access policy; amending rules of procedure, and making technical revisions to promote consistency and streamline operations.

B) Statutory Authority: Implementing and authorized by Article 7 of the Property Tax Code [35 ILCS 200/Art. 7] and Sections 16-160 through 16-195 of the Property Tax Code [35 ILCS 200/16-160 through 16-195]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Fall 2026

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Michael O'Malley
Executive Director & General Counsel
Property Tax Appeal Board
Suburban North Regional Office
9511 W. Harrison St., Suite LL-54
Des Plaines, IL 60016

(847) 294-4121
Fax: (847) 294-4799
Michael.OMalley@illinois.gov

G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

a) Part (Heading and Code Citation): Fire Prevention and Safety (41 Ill. Adm. Code 100)

1) Rulemaking:

A) Description: These rules contain a list of means by which local jurisdictions subject to these rules may establish that different codes provide equivalent fire safety to this Part. The OSFM intends to add newer published editions of codes which were not available at the time of the last rulemaking.

B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: The changes would impact small municipalities which choose to adopt a code that the OSFM recognizes as equivalent and small businesses or not-for-profit corporations with a covered occupancy in those municipalities.

F) Agency contact person for information:

Cathy Stashak
Section Chief
Technical Services Division
Office of the State Fire Marshal
555 W. Monroe Street, Suite 1300-N
Chicago, IL 60661

312-814-2425
Catherine.Stashak@Illinois.gov

G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

b) Part (Heading and Code Citation): Fire Sprinkler Contractor and Inspector Licensing Rules (41 Ill. Adm. Code 109)

1) Rulemaking:

A) Description: The rulemaking would update the OSFM's administrative process when licensed fire sprinkler contractors change their business name or business structure. The rulemaking would also make other minor updates and clarifications.

B) Statutory Authority: Implementing and authorized by Section 50 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Summer 2026

E) Affect on small businesses, small municipalities or not for profit corporations: The changes would affect licensed fire sprinkler contractors and licensed fire sprinkler inspectors.

F) Agency contact person for information:

Garry Grugan
Fire Safety Compliance Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62704

217-558-0328
Garry.Grugan@illinois.gov

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): School Inspections (41 Ill. Adm. Code 111)

1) Rulemaking:

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

A) Description: These rules contain the requirements for qualified fire officials to inspect public schools outside of the City of Chicago. The OSFM intends to update requirements for eligibility and clarify responsibilities of qualified fire officials.

B) Statutory Authority: Implementing and authorized by Sections 2-3.12 and 3-14.21 of the School Code [105 ILCS 5/2-3.12 and 3-14.21].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: The changes would impact the fire departments and members of small municipalities which choose to participate in the program.

F) Agency contact person for information:

Cathy Stashak
Section Chief
Technical Services Division
Office of the State Fire Marshal
555 W. Monroe Street, Suite 1300-N
Chicago, IL 60661

312-814-2425
Catherine.Stashak@Illinois.gov

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Requirements for the Participation and Certification of Fire Protection Personnel (41 Ill. Adm. Code 141)

1) Rulemaking:

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

A) Description: These proposed changes would involve updates to the fire fighter training certification and recertification requirements, including updates to incorporated standards. Makes other updates as needed.

B) Statutory Authority: Implementing and authorized by Sections 8 and 11 of the Illinois Fire Protection Training Act [50 ILCS 740] and the Peace Officer Fire Investigation Act [20 ILCS 2910].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Summer 2026

E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking may impact small municipalities or fire protection districts that elect to participate in the Office of the State Fire Marshal's voluntary certification program.

F) Agency contact person for information:

Mitzi Woodson
Manager, Division of Personnel Standards and Education
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62703

217-785-1003
Mitzi.Woodson@Illinois.gov

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Permanently Moored Craft Fire Prevention and Safety (41 Ill. Adm. Code 149)

1) Rulemaking:

A) Description: The rulemaking would amend rules to better align with current federal safety regulations related to permanently moored crafts (PMCs), including consideration of an alternate inspection cycle.

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: Small businesses, small municipalities, or not for profit corporations could be affected by this rulemaking if they are owners of PMCs located in the State. Possible changes would likely allow for more flexibility than allowed by the current rules.

F) Agency contact person for information:

Cathy Stashak
Section Chief
Technical Services Division
Office of the State Fire Marshal
555 W. Monroe Street, Suite 1300-N
Chicago, IL 60661

312-814-2425
Catherine.Stashak@Illinois.gov

G) Related rulemakings and other pertinent information: None

f) Parts (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils: Rules and Regulations Relating to General Storage (41 Ill. Adm. Code 160); Storage, Transportation, Sale and Use of Gasoline and Volatile Oils (41 Ill. Adm. Code 180)

1) Rulemaking:

A) Description: This rulemaking will update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule Parts:

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 160 rules primarily address the use of ASTs for bulk storage of flammable or combustible liquids (storage for other than dispensing purposes). Part 180 rules primarily address the use of ASTs for flammable or combustible liquids used to dispense fuel into vehicles or portable containers. The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs and the storage and handling of flammable and combustible liquids.

- B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: It has not been determined at this time.
- E) Affect on small businesses, small municipalities or not for profit corporations: The rules will impact any small business, municipality or not-for-profit corporations that install or relocate an AST containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs than are already in-place. It is estimated these changes will make the storage and handling of flammable and combustible liquids, including ASTs, more cost effective and safer.
- F) Agency contact person for information:

Cathy Stashak
Section Chief
Technical Services Division
Office of the State Fire Marshal
555 W. Monroe Street, Suite 1300-N
Chicago, IL 60661

312-814-2425
Catherine.Stashak@Illinois.gov

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: The proposed changes to Part 160 (41 Ill. Adm. Code 160) are related to the proposed changes to Part 180 (41 Ill. Adm. Code 180).

2) Rulemaking:

A) Description: This rulemaking may be filed separately from the one described in (f)(1)(A) above and will amend the agency's rules applicable to aboveground storage tanks (ASTs) in two primary rule Parts: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180. The primary focus of the rulemaking will be to amend the provisions pertaining to the maximum number of storage or dispensing ASTs and maximum allowable capacity for storage or dispensing ASTs at facilities used for fleet dispensing as described in Section 180.20(a)(2).

B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: The rules will impact any small business, municipality, or not-for-profit corporation that installs or relocates an AST containing flammable or combustible liquids. The proposed rules are not expected to create more stringent restrictions upon ASTs. It is estimated that these changes will make the dispensing of flammable and combustible liquids using ASTs more cost effective and safer.

F) Agency contact person for information:

Cathy Stashak
Section Chief
Technical Services Division
Office of the State Fire Marshal
555 W. Monroe Street, Suite 1300-N

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2026 REGULATORY AGENDA

Chicago, IL 60661

312-814-2425

Catherine.Stashak@Illinois.gov

G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 160 are related to the proposed changes to 41 Ill. Adm. Code 180.

g) Part (Heading and Code Citation): Underground Storage Tank Fund Eligibility and Deductible Determinations by the Office of the State Fire Marshal (41 Ill. Adm. Code 178)

1) Rulemaking:

- A) Description: This rulemaking will align the language of the rules with statutory changes anticipated to be effective January 1, 2026.
- B) Statutory Authority: Implementing Title XVI of the Illinois Environmental Protection Act [415 ILCS 5/57] and authorized by Section 57.9 of the Illinois Environmental Protection Act [415 ILCS 15/57.9].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: It has not been determined at this time.
- E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is anticipated to reflect statutory changes regarding deductible amounts which may impact small businesses, small municipalities, or not-for-profit corporations that own or operate USTs.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Storage, Transportation, Sale and Use of Liquefied Petroleum Gas (41 Ill. Adm. Code 200)

1 Rulemaking:

A) Description: This rulemaking will update the agency's rules applicable to liquefied petroleum gas (LPG) tanks. The primary focus of the rules will be to update the reference to a national standard: NFPA 58 *Liquefied Petroleum Gas Code*. The rule currently references to the 2011 edition of NFPA 58 and the OSFM intends to update that reference to the latest published edition of NFPA 58 in order to remain current with industry practices. The statute requires that OSFM's rules on this topic be in substantial conformity with the national codes published by the National Fire Protection Association (NFPA).

B) Statutory Authority: Authorized by and implementing Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: The rules will impact any small business, municipality, or not-for-profit corporation that installs or relocates an LPG (including propane) storage tank. The proposed rules are not anticipated to impose further restrictions upon existing LPG tanks.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Appeals and Enforcement Proceedings (41 Ill. Adm. Code 210)

1 Rulemaking:

A) Description: This Part will be amended to delineate and clarify the appeal process utilized during certain OSFM administrative enforcement proceedings. Amendments will include, among other things, clarification concerning the duties of the respective parties, the initiation of contested hearings, pleadings, motions, discovery, the burden and standard of proof, the applicable rules of evidence, the consequences of failing to appear, and default procedures.

B) Statutory Authority: Implementing and authorized by Section 10-5 of the Illinois Administrative Procedures Act [5 ILCS 100/10-5].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Pyrotechnic Distributor and Operator Licensing Rules (41 Ill. Adm. Code 230)

1) Rulemaking:

A) Description: This rulemaking is for the purpose of clarifying and updating pyrotechnic licensing requirements, processes and insurance requirements, incorporation of more current technical and federal regulatory standards, deleting references to the Music Entertainment Task Force, updating fee structures, including the addition of a fee for pyrotechnic assistants, and clarifying licensing requirements for out of state production companies to support the film/entertainment industry.

B) Statutory Authority: Implementing and authorized by Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30] and Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4.1].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: This change will require all Pyrotechnic Distributors to maintain product and general liability insurance at all times their license is in effect. This will also add a fee per pyrotechnic assistant at time of registration or renewal (every three years).

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F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235).k) Part (Heading and Code Citation): Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235)1) Rulemaking:

A) Description: This rulemaking will update referenced industry technical standards, incorporate recent federal requirements, amend local permit requirements, amend Consumer Distributor Retailer fees and requirements, and better align with Part 230 Pyrotechnic Distributor and Operator Licensing Rules.

B) Statutory Authority: Implementing and authorized by Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4.1] and Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: The rules may impact any small business, municipality, or

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not for profit corporation that possesses or applies for a Pyrotechnic or Consumer Display permit.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Proposed revisions to 41 Ill. Adm. Code 230's requirements for Pyrotechnic Distributor and Operator Licensing Rules.I) Part (Heading and Code Citation): Fire Equipment Distributor and Employee Standards (41 Ill. Adm. Code 251)1) Rulemaking:

A) Description: The rulemaking would update the OSFM's administrative process that is triggered when licensed fire equipment distributors change their business name or business structure, would add fees for a duplicate or corrected license, and would make other minor updates and clarifications.

B) Statutory Authority: Implementing and authorized by the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Summer 2026

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E) Affect on small businesses, small municipalities or not for profit corporations: The changes would impact licensed fire equipment distributors and licensed fire equipment employees.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Fire Truck Revolving Loan Program (41 Ill. Adm. Code 290)

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administer a program to provide loans for the purchase of fire trucks or brush trucks by units of local government (fire department, fire protection district, or township fire department) in Illinois that provide fire suppression within a geographical area. This rulemaking will update the administrative requirements to match rule amendments recently adopted by the IFA. It will also update eligibility requirements and may make other amendments.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act [20 ILCS 3501/825-80].

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

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D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: Fire departments of small municipalities may be eligible for loans under this program. Depending on what specific changes are proposed, some changes may affect these entities.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citation): Ambulance Revolving Loan Program (41 Ill. Adm. Code 292)

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administer a program to provide loans for the purchase of ambulances by not-for-profit emergency medical service providers or units of local government (fire departments, fire protection districts, or township fire departments) in Illinois that provide emergency medical services within a geographical area. This rulemaking will update the administrative requirements to match rule amendments recently adopted by the IFA. It will also update eligibility requirements and may make other amendments.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act [20 ILCS 3501/825-85].

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C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: Fire departments of small municipalities and not-for-profit ambulance services may be eligible for loans under this program. Depending on what specific changes are proposed, some changes may affect these entities.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Fire Station Revolving Loan Program (41 Ill. Adm. Code 294)

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administer a program to provide loans for the construction, rehabilitation, remodeling, or expansion of a fire station or the acquisition of land for the construction or expansion of a fire station by a fire department, fire protection district, or a township fire department. This rulemaking will update the administrative requirements to match rule amendments recently adopted by the IFA. It will also update eligibility requirements and may make other amendments.

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- B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act [20 ILCS 3501/825-81].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: It has not been determined at this time.
- E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking is not anticipated to have a fiscal impact.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000)

- 1) Rulemaking:
 - A) Description: Incorporate nationally recognized safety codes which were recently published. Pursuant to statute, the Elevator Safety Board is given 12 months after the effective date of a new standard to adopt any new safety code cited in the statute.
 - B) Statutory Authority: Authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].

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C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: It has not been determined at this time.

E) Affect on small businesses, small municipalities or not for profit corporations: All new conveyances and conveyances being modernized will be required to conform to the new codes. Municipalities would also be required to enforce these new codes locally, per their municipal elevator agreements with OSFM.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

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