



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2541

by Rep. Kathleen Willis

#### SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.38 new

5 ILCS 100/5-45

from Ch. 127, par. 1005-45

Creates the Gun Dealer Licensing Act. Provides that it is unlawful for a person to engage in the business of selling, leasing, or otherwise transferring firearms without a license issued by the Department of Financial and Professional Regulation. Provides that a dealership agent other than a dealer licensee-in-charge may act on behalf of the licensed dealership without being licensed as a dealer under the Act. Creates the Gun Dealer Licensing Board consisting of 5 members appointed by the Secretary of Financial and Professional Regulation to recommend policies, procedures, and rules relevant to the administration and enforcement of the Act. Provides that the holder of a dealership license issued under the Act may employ in the conduct of his or her business dealership agents. Establishes qualifications for obtaining dealership licenses and for being employed as a dealership agent. Establishes penalties for violations of the Act. Provides for rulemaking, including emergency rulemaking. Amends the Regulatory Sunset Act. Provides that the Act is repealed on January 1, 2028. Amends the Illinois Administrative Procedure Act. Makes conforming changes.

LRB100 08492 RLC 18612 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Gun  
5 Dealer Licensing Act.

6 Section 5. Definitions. As used in this Act:

7 "Address of record" means the designated address recorded  
8 by the Department in the applicant's, dealer's or dealership  
9 agent's application file or license file as maintained by the  
10 Department's licensure maintenance unit. It is the duty of the  
11 applicant or dealer to inform the Department of any change of  
12 address, and those changes must be made either through the  
13 Department's website or by contacting the Department's  
14 licensure maintenance unit.

15 "Applicant" means any person who applies for a dealership  
16 license or dealer license, or the renewal of the dealership  
17 license or dealer license under this Act.

18 "Board" means the Gun Dealer Licensing Board.

19 "Confidential or security information" means information  
20 which identifies the purchasers or other transferees of  
21 firearms from a dealer or dealership.

22 "Dealer" means any person engaged in the business of  
23 selling, leasing, or otherwise transferring firearms or any

1 person within the meanings provided by 18 U.S.C. 921(a)(11) and  
2 27 CFR 478.11 to include any person engaged in the business of  
3 selling firearms at wholesale or retail, or repairing firearms  
4 or making or fitting special barrels, stocks, or trigger  
5 mechanisms to firearms.

6 "Dealership" means a person, firm, corporation, or other  
7 legal entity that engages in the business of selling, leasing,  
8 or otherwise transferring firearms and employs, in addition to  
9 the gun dealer licensee-in-charge, at least one other  
10 dealership agent.

11 "Dealership agent" means an owner, officer, paid or unpaid  
12 agent, volunteer or employee of a licensed dealership who has  
13 access to or control of firearms in the inventory of the  
14 dealership or confidential or security information of the  
15 dealership.

16 "Dealership licensee-in-charge" or "licensee-in-charge"  
17 means a dealer who has been designated by a dealership to be  
18 the licensee-in-charge of the dealership, who is a full-time  
19 management employee or owner who assumes sole responsibility  
20 for maintaining all records required by this Act, and who  
21 assumes sole responsibility for assuring the dealership's  
22 compliance with its responsibilities as stated in this Act. The  
23 Department shall adopt rules mandating licensee-in-charge  
24 participation in dealership affairs.

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

1 "Engaged in the business" means a person who, as provided  
2 in 18 U.S.C. 921(a)(21) and 27 CFR 478.11(a), devotes time,  
3 attention, and labor to engaging in such activity as a regular  
4 course of trade or business with the principal objective of  
5 livelihood and profit, or who:

6 (1) conducts a business selling, leasing, or  
7 transferring firearms;

8 (2) holds himself or herself out as engaged in the  
9 business of selling, leasing, or otherwise transferring  
10 firearms; or

11 (3) sells, leases, or transfers firearms in quantity,  
12 in series, or in any other manner indicative of trade.

13 "Gunsmith" means, as defined in 27 CFR 478.11(d), any  
14 person who receives firearms (frames, receivers, or otherwise)  
15 provided by a customer for the purpose of repairing, modifying,  
16 embellishing, refurbishing, or installing parts in or on those  
17 firearms. A gunsmith is not "engaged in the business" of  
18 manufacturing firearms because the firearms being produced are  
19 not owned by the gunsmith and he does not sell or distribute  
20 the firearms manufactured.

21 "Firearm" has the same meaning as "firearm" in Section 1.1  
22 of the Firearm Owners Identification Card Act.

23 "Licensee" means a dealer or a dealership licensed under  
24 this Act. Anyone who holds himself or herself out as a licensee  
25 or who is accused of unlicensed business is considered a  
26 licensee for purposes of enforcement, investigation, hearings,

1 and the Illinois Administrative Procedure Act.

2 "Manufacturer" means, as defined by 18 U.S.C. 921 (a) (10)  
3 and 27 CFR 478.11, any person engaged in the business of  
4 manufacturing firearms or ammunition for purposes of sale or  
5 distribution.

6 "Person" means a natural person.

7 "Secretary" means the Secretary of Financial and  
8 Professional Regulation.

9 Section 10. License requirement.

10 (a) It is unlawful for a person to engage in the business  
11 of selling, leasing, or otherwise transferring firearms  
12 without a license under this Act. A dealership agent other than  
13 a dealer licensee-in-charge may act on behalf of the licensed  
14 dealership under Section 75 without being licensed as a dealer  
15 under this Act.

16 (b) It is unlawful for a person, firm, corporation, group  
17 of individuals, or other legal entity to act as a dealership  
18 licensed under this Act, to advertise, or to assume to act as a  
19 licensed dealership or to use a title implying that the person,  
20 firm, or other entity is engaged in business as a dealership  
21 without a license under this Act. An individual or sole  
22 proprietor licensed as a dealer who operates without any  
23 dealership agents may act as a dealership without having to  
24 obtain a dealership license, provided the dealer notifies the  
25 Department that he or she is operating in this manner and

1 provides the information required under Section 65, as  
2 determined to be applicable to the dealer by the Department.  
3 The dealer may operate under a "doing business as" or assumed  
4 name certification so long as the assumed name is first  
5 registered with the Department.

6 (c) No dealership shall operate a branch office without  
7 first applying for and receiving a branch office license for  
8 each location. The term "branch office" does not include a  
9 location at which the dealership conducts business  
10 temporarily, such as at a gun show.

11 (d) It is unlawful to obtain or attempt to obtain any  
12 license or authorization issued under this Act by fraudulent  
13 misrepresentation.

14 (e) A person who violates any provision of this Section is  
15 guilty of a Class A misdemeanor for a first violation, and a  
16 Class 4 felony for a second or subsequent violation.

17 (f) In addition to any other penalty provided by law, any  
18 person or entity who violates any provision of this Section  
19 shall pay a civil penalty to the Department in an amount not to  
20 exceed \$10,000 for each offense as determined by the  
21 Department. The civil penalty shall be assessed by the  
22 Department after a hearing is held in accordance with the  
23 provisions set forth in this Act regarding the provision of a  
24 hearing for the discipline of a licensee.

25 (g) The Department has the authority and power to  
26 investigate any and all unlicensed activity.

1           (h) The civil penalty shall be paid within 60 days after  
2 the effective date of the order imposing the civil penalty. The  
3 order shall constitute a judgment and may be filed and  
4 execution had thereon in the same manner as any judgment from  
5 any court of record.

6           Section 15. Exemptions. The provisions of this Act related  
7 to the licensure of dealers and dealerships do not apply to a  
8 person or other entity that engages in the following  
9 activities:

10           (1) transfers of less than 10 firearms within each calendar  
11 year;

12           (2) temporary transfers of firearms solely for use at the  
13 location or on the premises where the transfer takes place,  
14 such as transfers at a shooting range for use at that location;

15           (3) temporary transfers of firearms solely for use while in  
16 the presence of the transferor, such as transfers for the  
17 purposes of firearm safety training by a training instructor;

18           (4) transfers of firearms among immediate family or  
19 household members, as "immediate family or household member" is  
20 defined in Section 3-2.7-10 of the Unified Code of Corrections;

21           (5) transfers by persons or entities acting under operation  
22 of law or a court order;

23           (6) transfers by persons or entities liquidating all or  
24 part of a collection. For purposes of this paragraph (6),  
25 "collection" means 2 or more firearms which are of special

1 interest to collectors by reason of some quality other than is  
2 associated with firearms intended for sporting use or as  
3 offensive or defensive weapons;

4 (7) transfers of firearms that have been rendered  
5 permanently inoperable to a nonprofit historical society,  
6 museum, or institutional collection;

7 (8) transfers by a law enforcement or corrections agency or  
8 a law enforcement or corrections officer acting within the  
9 course and scope of his or her official duties;

10 (9) transfers by a person who has his or her Firearm  
11 Owner's Identification Card revoked to a State or local law  
12 enforcement agency;

13 (10) transfers of curios and relics, as defined under  
14 federal law, between collectors licensed under subsection (b)  
15 of Section 923 of the federal Gun Control Act of 1968;

16 (11) transfers by a person or entity who is licensed as a  
17 manufacturer of firearms under Section 923 of Title 18 of the  
18 United States Code to a person or entity who is licensed as a  
19 dealer or dealership under this Act, or to a person or entity  
20 who is licensed as a manufacturer, dealer, or importer of  
21 firearms under Section 923 of Title 18 of the United States  
22 Code; or

23 (12) transfers of pieces or parts of a firearm that do not  
24 themselves qualify as firearms under paragraph (3) of  
25 subsection (a) of Section 921 of the federal Gun Control Act of  
26 1968 by a person who is actually engaged in manufacturing and



1 selling those pieces or parts but only on the activities which  
2 are within the lawful scope of that business, and who possesses  
3 a license as a manufacturer under subsection (a) of Section 923  
4 of the federal Gun Control Act of 1968.

5 Section 20. Powers and duties of the Department. Subject to  
6 the provisions of this Act, the Department shall exercise the  
7 following powers and duties:

8 (1) Prescribe forms to be issued for the administration  
9 and enforcement of this Act.

10 (2) Prescribe and publish rules for issuance of dealer  
11 licenses and dealership licenses authorizing qualified  
12 applicants to engage in the business of selling, leasing,  
13 or otherwise transferring firearms.

14 (3) Review application to ascertain the qualifications  
15 of applicants for licenses.

16 (4) Examine the records of licensees or investigate any  
17 other aspect of the business of selling, leasing, or  
18 otherwise transferring firearms.

19 (5) Conduct hearings on proceedings to refuse to issue  
20 or renew licenses or to revoke, suspend, place on  
21 probation, reprimand, or take any other disciplinary or  
22 non-disciplinary action against licenses issued under this  
23 Act.

24 (6) Formulate rules required for the administration of  
25 this Act. Notice of proposed rulemaking shall be

1 transmitted to the Board, and the Department shall review  
2 the Board's response and any recommendations made in the  
3 response.

4 (7) Solicit the advice and expert knowledge of the  
5 Board on any matter relating to the administration and  
6 enforcement of this Act.

7 (8) Maintain rosters of the names and addresses of all  
8 licensees and all persons whose licenses have been  
9 suspended, revoked, denied renewal, or otherwise  
10 disciplined within the previous calendar year. These  
11 rosters shall be available upon written request and payment  
12 of the required fee as established by rule.

13 (9) Exercise the powers and duties prescribed by the  
14 Civil Administrative Code of Illinois for the  
15 administration of licensing Acts.

16 (10) Contract with the Department of State Police, as  
17 necessary, to perform inspections of licensees, as  
18 provided under this Act.

19 (11) Authorize examinations to ascertain the  
20 qualifications and fitness of applicants for licensing as a  
21 dealer and pass upon the qualifications of applicants for  
22 licensure.

23 Section 25. The Gun Dealer Licensing Board.

24 (a) The Gun Dealer Licensing Board shall consist of 5  
25 members to be appointed by the Secretary. Each member shall

1 have a reasonable knowledge of the federal and State laws  
2 regarding firearms. Each member shall either be a resident of  
3 this State or shall certify that he or she will become a  
4 resident of this State before taking office. The Board shall  
5 consist of:

6 (1) one member with at least 5 years of service as a  
7 county sheriff or chief of police of a municipal police  
8 department within this State;

9 (2) one representative of the Department State Police  
10 with at least 5 years investigative experience or duties  
11 related to criminal justice;

12 (3) one member with at least 5 years of experience as a  
13 federally licensed firearms dealer in good standing within  
14 this State;

15 (4) one member who is a representative of an advocacy  
16 group for public safety; and

17 (5) one member shall be a lawyer licensed to practice  
18 law in this State. The membership shall reasonably reflect  
19 the different geographic areas in this State.

20 (b) Members shall serve 4 year terms and may serve until  
21 their successors are appointed and qualified. Partial terms of  
22 over 2 years in length shall be considered full terms. No  
23 member shall serve for more than 2 successive terms. Whenever a  
24 vacancy in the Board occurs, the remaining members of the Board  
25 shall notify the Secretary of that vacancy within 5 days after  
26 its occurrence and the Secretary shall fill the vacancy within

1 45 days. Appointments to fill vacancies shall be made in the  
2 same manner as the original appointments for the unexpired  
3 portion of the vacated term.

4 (c) The Secretary may recommend the removal of any member  
5 of the Board for cause at any time before the expiration of his  
6 or her term. A majority vote of the members is required for a  
7 decision to remove any member of the Board. A member subject to  
8 formal disciplinary proceedings shall disqualify himself or  
9 herself from all Board business until the charge is resolved. A  
10 member also shall disqualify himself or herself from any matter  
11 on which the member cannot act objectively.

12 (d) The Board shall annually elect one of its members as  
13 chairperson and one of its members as vice-chair.

14 (e) Members shall receive compensation as set by law. Each  
15 member shall receive reimbursement as set by the Governor's  
16 Travel Control Board for expenses incurred in carrying out the  
17 duties as a Board member.

18 (f) A majority of Board members constitutes a quorum. A  
19 majority vote of the members is required for a decision. A  
20 vacancy in the membership of the Board shall not impair the  
21 right of a quorum to exercise all of the rights and perform all  
22 of the duties of the Board.

23 (g) The Board may recommend policies, procedures, and rules  
24 relevant to the administration and enforcement of this Act.

25 Section 30. Application for license; forms.

1 (a) Each license application shall be on forms provided by  
2 the Department.

3 (b) Every application for an original dealer license shall  
4 include the applicant's social security number, which shall be  
5 retained in the dealership's records pertaining to the license.  
6 As soon as practical, the Department shall assign a customer's  
7 identification number to each applicant for a license.

8 Every application for a renewal or restored license shall  
9 require the applicant's customer identification number.

10 (c) Beginning January 1, 2019, the Department shall accept  
11 applications for dealership licenses and dealer licenses.

12 Section 35. Issuance of license; renewal; fees.

13 (a) The Department shall, upon the applicant's  
14 satisfactory completion of the requirements under this Act and  
15 receipt of the fee, issue the license indicating the name and  
16 business location of the licensee and the date of expiration.  
17 On or before December 31, 2019, the Department shall issue  
18 dealer and dealership licenses to all qualified applicants  
19 whose business existed in that location on the effective date  
20 of this Act, and who submitted the application to the  
21 Department on or after January 1, 2019 but before October 1,  
22 2019. If an applicant submits an application for a license  
23 before October 1, 2019 and the Department does not issue or  
24 deny the license on or before December 31, 2019, or the  
25 Department does not issue or deny a license within 90 days to

1 an applicant who submits an application for a license or  
2 renewal of a license on October 1, 2019 or thereafter, the  
3 applicant or licensee shall not be in violation of this Act on  
4 the basis of continuing to operate the business.

5 (b) The expiration date, renewal period, and conditions for  
6 renewal and restoration of each license shall be set by rule.  
7 The holder may renew the license during the 90 days preceding  
8 its expiration by paying the required fee and by meeting  
9 conditions that the Department may specify. As a condition of  
10 renewal of a dealer's license, the Department shall receive  
11 from the applicant a copy of his or her valid and unexpired  
12 concealed carry license, or shall verify the validity of the  
13 applicant's Firearm Owner's Identification Card through the  
14 Department of State Police in a manner prescribed by rule by  
15 the Department of State Police. A dealership or dealer  
16 operating on an expired license is considered to be practicing  
17 without a license.

18 (c) A dealership that has permitted a license to expire may  
19 have it restored by submitting an application to the  
20 Department, successfully completing an inspection by the  
21 Department, and by paying the required restoration fee and all  
22 lapsed renewal fees.

23 (d) A dealer that has permitted a license to expire may  
24 have it restored by submitting an application to the  
25 Department, paying the required restoration fee and all lapsed  
26 renewal fees and by providing evidence of competence to resume

1 practice satisfactory to the Department and the Board, which  
2 shall include a copy of the license holder's valid and  
3 unexpired concealed carry license, or verification of the  
4 continued validity of the license holder's Firearm Owner's  
5 Identification Card through the Department of State Police in a  
6 manner prescribed by rule by the Department of State Police,  
7 and may include passing a written examination.

8 (e) Any dealer whose license has expired while he or she  
9 has been engaged (1) in the federal service in active duty with  
10 the Army of the United States, the United States Navy, the  
11 Marine Corps, the Air Force, the Coast Guard, or the State  
12 Militia called into the service or training of the United  
13 States of America, or (2) in training or education under the  
14 supervision of the United States preliminary to induction into  
15 the military service, may have his or her license restored  
16 without paying any lapsed renewal fees or restoration fee, if  
17 within 2 years after termination of that service, training or  
18 education, other than by dishonorable discharge, he or she  
19 furnishes the Department with an affidavit to the effect that  
20 he or she has been so engaged and that his or her service,  
21 training or education has been so terminated.

22 (f) A license shall not be denied any applicant because of  
23 the race, religion, creed, national origin, political beliefs  
24 or activities, age, sex, sexual orientation, or physical  
25 disability that does not affect a person's ability to practice  
26 with reasonable judgment, skill, or safety.

1           Section 40. Continuing education. The Department may adopt  
2 rules of continuing education for persons licensed under this  
3 Act. The Department shall consider the recommendations of the  
4 Board in establishing guidelines for the continuing education  
5 requirements.

6           Section 45. Examination of applicants; fee forfeiture.

7           (a) Applicants for licensure as a dealer shall be examined  
8 as provided by this Section if they are qualified to be  
9 examined under this Act. All applicants taking the examination  
10 shall be evaluated using the same standards as others who are  
11 examined for the respective license.

12           (b) Examinations for licensure shall be held at the time  
13 and place as the Department may determine, but shall be held at  
14 least twice a year.

15           (c) Examinations shall test the amount of knowledge and  
16 skill needed to perform the duties set under this Act and  
17 comply with other provisions of federal and State law  
18 applicable to the sale and transfer of firearms. The Department  
19 may contract with a testing service for the preparation and  
20 conduct of the examination.

21           (d) If an applicant neglects, fails, or refuses to take an  
22 examination within one year after filing an application, the  
23 fee shall be forfeited. However, an applicant may, after a  
24 1-year period, make a new application for examination



1 accompanied by the required fee. If an applicant fails to pass  
2 the examination within 3 years after filing an application, the  
3 application shall be denied. An applicant may make a new  
4 application after the 3-year period.

5 (e) This Section does not apply to an applicant who was  
6 properly licensed as a firearms dealer under Section 923 of the  
7 federal Gun Control Act of 1968 (18 U.S.C. 923) on the  
8 effective date of this Act, in operation in this State.

9 Section 50. Qualifications for licensure as a dealer.

10 (a) A person is qualified for licensure as a dealer if he  
11 or she meets all of the following requirements:

12 (1) is at least 21 years of age;

13 (2) has a currently valid and unexpired concealed carry  
14 license or Firearm Owner's Identification Card. The  
15 Department shall verify the validity of the applicant's  
16 Firearm Owner's Identification Card through the Department  
17 of State Police in a manner prescribed by rule by the  
18 Department of State Police. The Department of State Police  
19 shall provide the Department with an approval number if the  
20 Firearm Owner's Identification Card is currently valid;

21 (3) has not had a license or permit to sell, lease,  
22 transfer, purchase, or possess firearms from the federal  
23 government or the government of any state or subdivision of  
24 any state revoked or suspended for good cause within the  
25 preceding 3 years, or been terminated from employment with

1 a licensee or former licensee for good cause within the  
2 preceding 3 years;

3 (4) has a minimum of one year of experience, with a  
4 minimum of 100 hours per year, during the 5 years  
5 immediately preceding the application: (i) as a dealership  
6 agent under this Act; or (ii) as a federal firearms dealer  
7 licensed under Section 923 of the federal Gun Control Act  
8 of 1968 (18 U.S.C. 923) or an employee of the business who  
9 had access to firearms;

10 (5) has paid the fees required by this Act; and

11 (6) has passed an examination authorized by the  
12 Department.

13 (b) The Department may request a personal interview of an  
14 applicant before the Board to further evaluate his or her  
15 qualifications for a license.

16 Section 55. Qualifications for licensure as a dealership.

17 (a) Upon receipt of the required fee and the information  
18 listed in subsection (b) of this Section, the Department shall  
19 issue a license as a dealership to any of the following:

20 (1) An individual who submits an application and is a  
21 licensed dealer under this Act.

22 (2) A firm that submits an application and all of the  
23 members of the firm are licensed dealers under this Act.

24 (3) A corporation or limited liability company doing  
25 business in this State that is authorized by its articles

1 of incorporation or organization to engage in the business  
2 of conducting a dealership if at least one executive  
3 employee is licensed as a dealer under this Act.

4 (b) The Department shall require all of the following  
5 information from each applicant for licensure as a dealership  
6 under this Act:

7 (1) The name, full business address, and telephone  
8 number of the dealership. The business address for the  
9 dealership shall be the complete street address where  
10 firearms in the inventory of the dealership are regularly  
11 stored, shall be located within the State, and may not be a  
12 Post Office Box. The applicant shall submit proof that the  
13 business location is or will be used to conduct the  
14 dealership's business.

15 (2) All trade or business names used by the licensee.

16 (3) The type of ownership or operation, such as a  
17 partnership, corporation, or sole proprietorship.

18 (4) The name of the owner or operator of the  
19 dealership, including:

20 (A) if a person, then the name and address of  
21 record of the person;

22 (B) if a partnership, then the name and address of  
23 record of each partner and the name of the partnership;

24 (C) if a corporation, then the name, address of  
25 record, and title of each corporate officer and  
26 director, the corporate names, and the name of the

1 state of incorporation; and

2 (D) if a sole proprietorship, then the full name  
3 and address of record of the sole proprietor and the  
4 name of the business entity.

5 (5) The name and license number of the  
6 licensee-in-charge for the dealership.

7 (6) Proof that the applicant has applied for or  
8 received a certificate of registration under the  
9 Retailers' Occupation Tax Act.

10 (7) From the sheriff of the county in which the  
11 business address is located written confirmation stating  
12 that, to the best of the sheriff's knowledge, the applicant  
13 is in compliance with applicable federal, State, and local  
14 laws. A sheriff that refuses to provide this confirmation  
15 within 30 days after the date of the application shall  
16 instead submit an objection in writing to the Department  
17 and the license applicant based upon a reasonable suspicion  
18 that the applicant is not in compliance with applicable  
19 federal, State, and local laws. If no written confirmation  
20 or objection is made under this paragraph (7) within 30  
21 days after the date of the application, the Department  
22 shall proceed as if the sheriff had provided confirmation.  
23 A municipality or county may impose additional  
24 requirements for the operation of gun dealers and  
25 dealerships beyond the requirements of this Act and  
26 consistent with the United States Constitution and the

1 Constitution of the State of Illinois, including local  
2 license requirements. It shall be the duty of local  
3 authorities to investigate and enforce any failure of a  
4 dealer or dealership to meet these requirements and to  
5 notify the Department of these investigations and  
6 enforcement actions. This paragraph (7) supersedes Section  
7 13.1 of the Firearm Owners Identification Card Act and  
8 Section 90 of the Firearm Concealed Carry Act as applied to  
9 the local regulation of dealers and dealerships.

10 (8) Proof that the dealership is properly licensed as a  
11 firearms dealer under federal law.

12 (9) A final inspection report demonstrating that the  
13 Department has determined upon inspection that the  
14 proposed business premises comply with Section 70 of this  
15 Act.

16 (c) No dealer may be the licensee-in-charge for more than  
17 one dealership. Upon written request by a representative of a  
18 dealership, within 10 days after the loss of a  
19 licensee-in-charge of a dealership because of the death of that  
20 individual or because of the termination of the employment of  
21 that individual, the Department shall issue a temporary  
22 certificate of authority allowing the continuing operation of  
23 the licensed dealership. No temporary certificate of authority  
24 shall be valid for more than 90 days. An extension of an  
25 additional 90 days may be granted upon written request by the  
26 representative of the dealership. Not more than 2 extensions

1 may be granted to any dealership. No temporary permit shall be  
2 issued for loss of the licensee-in-charge because of  
3 disciplinary action by the Department related to his or her  
4 conduct on behalf of the dealership.

5 (d) The Department may request a personal interview of a  
6 gun dealership licensee-in-charge to evaluate the dealership's  
7 qualifications for a license.

8 Section 60. Training of dealership agents. The Department  
9 shall adopt rules requiring dealership agents to undergo  
10 training regarding legal requirements and responsible business  
11 practices as applicable to the sale or transfer of firearms.  
12 Before a dealership agent has unsupervised access to or control  
13 over firearms in the dealership's inventory or confidential or  
14 security information, the dealership shall ensure that the  
15 dealership agent receives the training that the Department may  
16 require.

17 Section 65. Display of license. Each licensee shall  
18 prominently display his or her individual, agency, or branch  
19 office license at each place where business is being conducted,  
20 as required under this Act. A licensee-in-charge is required to  
21 post his or her license only at the dealership office.

22 Section 70. Requirements; prohibitions.

23 (a) The Department of Financial and Professional

1 Regulation shall implement the provisions of this Section by  
2 rule.

3 (b) A licensee shall maintain operating documents which  
4 shall include procedures for the oversight of the licensee and  
5 procedures to ensure accurate recordkeeping.

6 (c) By the date of application, a licensee shall implement  
7 appropriate security measures, as provided by rule, to deter  
8 and prevent the theft of firearms and unauthorized entrance  
9 into areas containing firearms. The rules may provide for:

10 (1) the manner of securing firearms when the location  
11 is both open and closed for business;

12 (2) alarm systems for licensees; and

13 (3) other reasonable requirements to deter illegal  
14 sales and reduce the risk of burglaries and other crimes or  
15 accidents at licensees' business establishments.

16 (d) If a licensee operates the business at a permanent  
17 physical location that is open to the public, that location  
18 shall be equipped with a video surveillance system sufficient  
19 to monitor the critical areas of the business premises,  
20 including, but not limited to, all places where firearms are  
21 stored, handled, sold, transferred, or carried. The video  
22 surveillance system shall operate without interruption  
23 whenever the licensee is open for business. Whenever the  
24 licensee is not open for business, the system shall be  
25 triggered by a motion detector and begin recording immediately  
26 upon detection of any motion within the monitored area. The

1 stored images shall be maintained on the business premises of  
2 the licensee for a period of not less than 90 days from the  
3 date of recording and shall only be available for inspection on  
4 the premises by the licensee, the licensee's dealership agents,  
5 the Department, or federal, State, and local law enforcement  
6 upon request, and neither the stored images, copies, records,  
7 or reproductions of the stored images shall leave the custody  
8 of the licensee except under a court order, subpoena, or search  
9 warrant. The licensee shall post a sign in a conspicuous place  
10 at each entrance to the premises that states in block letters  
11 not less than one inch in height:

12 "THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE  
13 MAY BE RECORDED."

14 (e) The area where the licensee stores firearms that are  
15 inventory of the licensee shall only be accessed by dealership  
16 agents, Department of Financial and Professional Regulation  
17 staff performing inspections, law enforcement or other  
18 emergency personnel, and contractors working on jobs unrelated  
19 to firearms, such as installing or maintaining security devices  
20 or performing electrical wiring.

21 (f) A licensee shall operate its business and conduct all  
22 sales and transfers of firearms or in compliance with all  
23 federal and State laws, and maintain all records as required by  
24 federal and State laws.

25 (g) A licensee shall make a photo copy of a buyer's or  
26 transferee's valid photo I.D. card whenever a sale transaction



1 takes places. The photo copy shall be attached to the  
2 documentation detailing the record of sale.

3 (h) A licensee shall post in a conspicuous position on the  
4 premises where the licensee conducts business a sign that  
5 contains the following warning in block letters not less than  
6 one inch in height:

7 "With few exceptions, it is unlawful for you to:

8 (1) store or leave an unsecured firearm in a place  
9 where a child can obtain access to it,

10 (2) sell or transfer your firearm to someone else  
11 without receiving approval for the transfer from the  
12 Department of State Police, or

13 (3) fail to report the loss or theft of your  
14 firearm to local law enforcement within 72 hours."

15 A licensee shall post any additional warnings or provide  
16 any other information regarding firearms laws and the safe  
17 storage of firearms to consumers as required by the Department  
18 by rule.

19 (i) Before issuance, renewal, or restoration of a  
20 dealership license, the Department shall inspect the premises  
21 of the proposed business to ensure compliance with this Act.  
22 Licensees shall have their places of business open for  
23 inspection by the Department and law enforcement during all  
24 hours of operation, provided that the Department may conduct no  
25 more than one unannounced inspection per dealer or dealership  
26 per year without good cause. Licensees shall make all records,

1 documents, and firearms accessible for inspection upon the  
2 request of law enforcement and the Department.

3 (j) The premises where the licensee conducts business shall  
4 not be located in any district or area that is within 500 feet  
5 of any school, pre-school, or day-care facility. This  
6 subsection (j) does not apply to a licensee whose business  
7 existed in that location on the effective date of this Act, and  
8 does not limit the authority of a local government to impose  
9 and enforce additional limits on the location of a business  
10 regulated under this Act.

11 Section 75. Dealership agent requirements. A licensed  
12 dealership may employ in the conduct of his or her business  
13 dealership agents under the following provisions:

14 (1) A dealership shall not knowingly allow a person to have  
15 unsupervised access to firearms in the inventory of the  
16 dealership or confidential or security information who:

17 (A) is younger than 21 years of age;

18 (B) does not have a valid and unexpired concealed carry  
19 license or Firearm Owner's Identification Card; or

20 (C) has had a license denied, suspended, or revoked  
21 under this Act, or been terminated from employment as a  
22 dealership agent:

23 (i) within one year before the date the person's  
24 application for employment with the dealership; and

25 (ii) that refusal, denial, suspension, revocation,

1 or termination was based on any provision of this Act.

2 (2) No person may act as a dealership agent under this  
3 Section until he or she has executed and furnished to the  
4 employer, on forms furnished by the Department, a verified  
5 statement to be known as "Dealership Agent's Statement" setting  
6 forth:

7 (A) The person's full name, age, and residence address.

8 (B) That the person has not had a license denied,  
9 revoked, or suspended under this Act, or been terminated  
10 from employment as a dealership agent:

11 (i) within one year before the date the person's  
12 application for employment with the dealership; and

13 (ii) that refusal, denial, suspension, revocation,  
14 or termination was based on any provision of this Act.

15 (C) That the person will notify the dealership  
16 immediately if his or her Firearm Owner's Identification  
17 Card or concealed carry license is revoked for any reason.

18 (D) That the person will not divert firearms in  
19 violation of the law.

20 (3) Each applicant for employment as a dealership agent  
21 shall provide a copy of his or her valid and unexpired  
22 concealed carry license, or have the validity of his or her  
23 Firearm Owner's Identification Card confirmed by the  
24 dealership through the Department of State Police in a manner  
25 prescribed by rule by the Department of State Police. The  
26 Department of State Police shall provide the dealership with an

1 approval number if the Firearm Owner's Identification Card is  
2 currently valid.

3 (4) As part of an application for renewal or restoration of  
4 a dealership license, the dealership shall confirm the validity  
5 of the Firearm Owner's Identification Card of each dealership  
6 agent employed by the dealership, and record the unique  
7 approval number provided by the Department of State Police in  
8 the record maintained under paragraph (5) of this Section,  
9 provided that a dealership shall not be required to confirm the  
10 validity of the Firearm Owner's Identification Card of a  
11 dealership agent if the dealership has already confirmed the  
12 validity of the dealership agent's Firearm Owner's  
13 Identification Card within the last 6 months or the dealership  
14 agent has provided the dealership with a copy of his or her  
15 valid and unexpired concealed carry license within the last 6  
16 months.

17 (5) Each dealership shall maintain a record of each  
18 dealership agent that is accessible to the Department. The  
19 record shall contain the following information:

20 (A) The Dealership Agent's Statement specified in  
21 paragraph (2) of this Section; and

22 (B) A copy of the dealership agent's concealed carry  
23 license or Firearm Owner's Identification Card, and the  
24 approval number provided by the Department of State Police  
25 when the dealership last confirmed the validity of the  
26 dealership agent's Firearm Owner's Identification Card.

1           The Department may, by rule, prescribe further record  
2           requirements.

3           (6) Every dealership shall maintain a separate roster of  
4           the names of all dealership agents and submit the roster to the  
5           Department on request.

6           (7) No dealership may employ any person to perform a  
7           licensed activity under this Act unless the person possesses a  
8           valid dealer license under this Act or the requirements of this  
9           Section are met, or the person is exempt under paragraph (8) of  
10          this Section.

11          (8) Peace officers shall be exempt from the requirements of  
12          this Section relating to Firearm Owner's Identification Cards  
13          and concealed carry licenses. The dealership shall remain  
14          responsible for any peace officer employed under this  
15          exemption, regardless of whether the peace officer is  
16          compensated as an employee or as an independent contractor and  
17          as further defined by rule.

18          (9) Persons who have no unsupervised access to firearms in  
19          the inventory of a dealership or confidential or security  
20          information are exempt from the requirements of a dealership  
21          agent.

22          (10) This Section shall apply to unpaid or paid volunteers  
23          or other agents of the dealership who will have access to or  
24          control over firearms in the inventory of the dealership or  
25          confidential or security information, just as it applies to  
26          paid employees.

1           Section 80. Employment requirement. A dealership licensed  
2 under this Act is prohibited from evading or attempting to  
3 evade the requirements for dealership agents under this Act by  
4 engaging a contractor or independent contractor to perform the  
5 activities of a dealer or dealership agent, unless that person  
6 is licensed under this Act.

7           Section 85. Disciplinary sanctions.

8           (a) The Department may deny issuance, refuse to renew, or  
9 restore or may reprimand, place on probation, suspend, revoke,  
10 or take other disciplinary or non-disciplinary action against  
11 any license, may impose a fine not to exceed \$10,000 for each  
12 violation, and may assess costs as provided for under Section  
13 150, for any of the following, consistent with the Protection  
14 of Lawful Commerce in Arms Act, 15 U.S.C. 7901 through 7903 or  
15 amendments thereto:

16           (1) Material misstatement in furnishing information to  
17 the Department or to any other State or federal agency.

18           (2) Violations of this Act, any of the rules adopted  
19 under this Act, or any law applicable to the sale or  
20 transfer of firearms.

21           (3) Making any misrepresentation for the purpose of  
22 obtaining licenses or cards.

23           (4) A pattern of practice or other behavior which  
24 demonstrates incapacity or incompetency to practice under

1           this Act.

2           (5) Aiding or assisting another person in violating any  
3 provision of this Act or rules adopted under this Act.

4           (6) Failing, within 60 days, to provide information in  
5 response to a written request made by the Department.

6           (7) Conviction of or plea of guilty or plea of nolo  
7 contendere to any crime that disqualifies the person from  
8 obtaining a valid Firearm Owner's Identification Card.

9           (8) Continued practice, although the person has become  
10 unfit to practice due to any of the following:

11           (A) Physical illness, mental illness, or other  
12 impairment, including, but not limited to,  
13 deterioration through the aging process or loss of  
14 motor skills that results in the inability to serve the  
15 public with reasonable judgment, skill, or safety.

16           (B) Any circumstance that disqualifies the person  
17 from obtaining a valid Firearm Owner's Identification  
18 Card.

19           (C) Habitual or excessive use or abuse of drugs  
20 defined in law as controlled substances, alcohol, or  
21 any other substance that results in the inability to  
22 practice with reasonable judgment, skill, or safety.

23           (9) Receiving, directly or indirectly, compensation  
24 for any firearms sold or transferred illegally.

25           (10) Discipline by another United States jurisdiction,  
26 foreign nation, or governmental agency, if at least one of

1 the grounds for the discipline is the same or substantially  
2 equivalent to those set forth in this Act.

3 (11) Giving differential treatment to a person that is  
4 to that person's detriment because of race, color, creed,  
5 sex, sexual orientation, religion, or national origin.

6 (12) Violation of any disciplinary order imposed on a  
7 licensee by the Department.

8 (13) Conducting a dealership without a valid license.

9 (14) Revealing confidential or security information,  
10 except as specifically authorized by law, including but not  
11 limited to information about purchasers and transferees of  
12 firearms, provided that a licensee or dealership agent may  
13 disclose this information under a court order, subpoena, or  
14 search warrant or to the Department or federal, State, or  
15 local law enforcement agencies upon request.

16 (15) Purporting to be a licensee-in-charge of an agency  
17 without active participation in the agency.

18 (16) A finding by the Department that the licensee,  
19 after having his or her license placed on probationary  
20 status, has violated the terms of probation.

21 (17) Failure to report in writing to the Department,  
22 within 60 days of an entry of a settlement or a verdict in  
23 excess of \$10,000, any legal action in which the business  
24 of the dealer, dealership, or dealership agent was the  
25 subject of the legal action.

26 (b) All fines imposed under this Section shall be paid



1 within 60 days after the effective date of the order imposing  
2 the fine.

3 Section 90. Suspension or revocation of dealership agent  
4 authority.

5 (a) Dealership agents shall be subject to the disciplinary  
6 sanctions of this Act and shall otherwise comply with this Act  
7 and the rules adopted under it. Notwithstanding any other  
8 provision in this Act to the contrary, dealership agents shall  
9 not be responsible for compliance with any requirement that  
10 this Act assigns to the dealership or the licensee-in-charge  
11 regardless of the agent's job title, job duties, or position in  
12 the dealership. The procedures for disciplining a licensee  
13 shall also apply in taking action against a dealership agent.

14 (b) The revocation of a dealer's or dealership agent's  
15 Firearm Owner's Identification Card or concealed carry  
16 license, if applicable, operates as an automatic suspension of  
17 the dealer license or dealership agent's authority under this  
18 Act. The suspension shall end only upon the issuance by the  
19 Department of State Police of a new Firearm Owner's  
20 Identification Card or concealed carry license to the dealer or  
21 dealership agent.

22 Section 95. Returned checks; fines. Any person who delivers  
23 a check or other payment to the Department that is returned to  
24 the Department unpaid by the financial institution upon which

1 it is drawn shall pay to the Department, in addition to the  
2 amount already owed to the Department, a fine of \$50. The fines  
3 imposed by this Section are in addition to any other discipline  
4 provided under this Act for unlicensed business or business on  
5 a nonrenewed license. The Department shall notify the person  
6 that payment of fees and fines shall be paid to the Department  
7 by certified check or money order within 30 calendar days of  
8 the notification. If, after the expiration of 30 days from the  
9 date of the notification, the person has failed to submit the  
10 necessary remittance, the Department shall automatically  
11 terminate the license or deny the application, without hearing.  
12 If, after termination or denial, the person seeks a license, he  
13 or she shall apply to the Department for restoration or  
14 issuance of the license and pay all fees and fines due to the  
15 Department. The Department may establish a fee for the  
16 processing of an application for restoration of a license to  
17 pay all expenses of processing this application. The Secretary  
18 may waive the fines due under this Section in individual cases  
19 if the Secretary finds that the fines would be unreasonable or  
20 unnecessarily burdensome.

21 Section 100. Statute of limitations. No action may be taken  
22 under this Act against a person or entity licensed under this  
23 Act unless the action is commenced within 5 years after the  
24 occurrence of the alleged violations. A continuing violation  
25 shall be deemed to have occurred on the date when the

1 circumstances last existed that give rise to the alleged  
2 violation.

3 Section 105. Complaints; investigations; hearings.

4 (a) The Department may investigate the actions of any  
5 applicant or of any person or persons holding or claiming to  
6 hold a license or registration under this Act.

7 (b) The Department shall, before disciplining a licensee  
8 under Section 130 or refusing to issue or license, at least 30  
9 days before the date set for the hearing, (i) notify the  
10 accused in writing of the charges made and the time and place  
11 for the hearing on the charges, (ii) direct him or her to file  
12 a written answer to the charges under oath within 20 days after  
13 service, and (iii) inform the applicant or licensee that  
14 failure to answer will result in a default being entered  
15 against the applicant or licensee.

16 (c) At the time and place fixed in the notice, the Board or  
17 the hearing officer appointed by the Secretary shall proceed to  
18 hear the charges, and the parties or their counsel shall be  
19 accorded ample opportunity to present any pertinent  
20 statements, testimony, evidence, and arguments. The Board or  
21 hearing officer may continue the hearing from time to time. In  
22 case the person, after receiving the notice, fails to file an  
23 answer, his or her license may, in the discretion of the  
24 Secretary, having first received the recommendation of the  
25 Board, be suspended, revoked, or placed on probationary status,

1 or be subject to whatever disciplinary action the Secretary  
2 considers proper, including limiting the scope, nature, or  
3 extent of the person's business or the imposition of a fine,  
4 without hearing, if the act or acts charged constitute  
5 sufficient grounds for that action under this Act.

6 (d) The written notice and any notice in the subsequent  
7 proceeding may be served by certified mail to the licensee's  
8 address of record.

9 (e) The Secretary has the authority to appoint any attorney  
10 licensed to practice law in this State to serve as the hearing  
11 officer in any action for refusal to issue, restore, or renew a  
12 license or to discipline a licensee. The hearing officer has  
13 full authority to conduct the hearing.

14 Section 110. Hearing; rehearing.

15 (a) The Board or the hearing officer authorized by the  
16 Department shall hear evidence in support of the formal charges  
17 and evidence produced by the licensee. At the conclusion of the  
18 hearing, the Board shall present to the Secretary a written  
19 report of its findings of fact, conclusions of law, and  
20 recommendations. The report shall contain a finding of whether  
21 the accused person violated this Act or failed to comply with  
22 the conditions required in this Act. The Board shall specify  
23 the nature of the violation or failure to comply and shall make  
24 its recommendation to the Secretary.

25 (b) At the conclusion of the hearing, a copy of the Board

1 or hearing officer's report shall be served upon the applicant  
2 or licensee by the Department, either personally or as provided  
3 in this Act for the service of a notice of hearing. Within 20  
4 calendar days after service, the applicant or licensee may  
5 present to the Department a motion in writing for a rehearing,  
6 which shall specify the particular grounds for rehearing. The  
7 Department may respond to the motion for rehearing within 20  
8 calendar days after its service on the Department. If no motion  
9 for rehearing is filed, then upon the expiration of the time  
10 specified for filing such a motion, or upon denial of a motion  
11 for rehearing, the Secretary may enter an order in accordance  
12 with the recommendations of the Board or hearing officer. If  
13 the applicant or licensee orders from the reporting service and  
14 pays for a transcript of the record within the time for filing  
15 a motion for rehearing, the 20-day period within which a motion  
16 may be filed shall commence upon the delivery of the transcript  
17 to the applicant or licensee.

18 (c) Whenever the Secretary is not satisfied that  
19 substantial justice has been done, the Secretary may order a  
20 rehearing by the same or another hearing officer.

21 (d) All proceedings under this Section are matters of  
22 public record and shall be preserved.

23 (e) The dealer or dealership may continue to operate as a  
24 dealer or dealership during the course of an investigation or  
25 hearing, unless the Secretary finds that the public interest,  
26 safety, or welfare requires an emergency action.

1           (f) Upon the suspension or revocation of a license, the  
2           licensee shall surrender the license to the Department and,  
3           upon failure to do so, the Department shall seize the same.

4           Section 115. Disposition by consent order. At any point in  
5           any investigation or disciplinary proceeding provided for in  
6           the Act, both parties may agree to a negotiated consent order.  
7           The consent order shall be final upon signature of the  
8           Secretary.

9           Section 120. Restoration of license after disciplinary  
10          proceedings. At any time after the successful completion of a  
11          term of indefinite probation, indefinite suspension, or  
12          revocation of a license, the Department may restore it to the  
13          licensee, unless, after an investigation and a hearing, the  
14          Secretary determines that restoration is not in the public  
15          interest. No person or entity whose license, card, or authority  
16          has been revoked as authorized in this Act may apply for  
17          restoration of that license, registration, or authority until  
18          such time as provided for in the Civil Administrative Code of  
19          Illinois.

20          Section 125. Injunction; cease and desist orders.

21          (a) Upon the filing of a verified petition in court, if  
22          satisfied by affidavit or otherwise that the person, firm,  
23          corporation, or other legal entity is or has been conducting

1 activities in violation of this Act, the court may enter a  
2 temporary restraining order or preliminary injunction, without  
3 bond, enjoining the defendant from further activity. A copy of  
4 the verified complaint shall be served upon the defendant and  
5 the proceedings shall be conducted as in civil cases. If it is  
6 established the defendant has been or is conducting activities  
7 in violation of this Act, the court may enter a judgment  
8 enjoining the defendant from that activity. In case of  
9 violation of any injunctive order or judgment entered under  
10 this Section, the court may punish the offender for contempt of  
11 court. Injunctive proceedings shall be in addition to all other  
12 penalties under this Act.

13 (b) If any person has engaged in the business of selling,  
14 leasing, or otherwise transferring firearms without having a  
15 valid license under this Act, then any licensee, any interested  
16 party, or any person injured thereby may, in addition to the  
17 Secretary, petition for relief as provided in subsection (a) of  
18 this Section.

19 (c) Whenever the Department has reason to believe a person,  
20 firm, corporation, or other legal entity has violated any  
21 provision of this Act, the Department may issue a rule to show  
22 cause why an order to cease and desist should not be entered  
23 against that person, firm, corporation, or other legal entity.  
24 The rule shall clearly set forth the grounds relied upon by the  
25 Department and shall provide a period of 7 days from the date  
26 of the rule to file an answer to the satisfaction of the

1 Department. Failure to answer to the satisfaction of the  
2 Department shall cause an order to cease and desist to be  
3 issued immediately.

4 Section 130. Administrative review. All final  
5 administrative decisions of the Department are subject to  
6 judicial review under Article III of the Code of Civil  
7 Procedure. The term "administrative decision" is defined as in  
8 Section 3-101 of the Code of Civil Procedure. The proceedings  
9 for judicial review shall be commenced in the circuit court of  
10 the county in which the party applying for review resides; but  
11 if the party is not a resident of this State, the venue shall  
12 be in Sangamon County. The Department shall not be required to  
13 certify any record to the court or file any answer in court or  
14 otherwise appear in any court in a judicial review proceeding,  
15 unless and until the Department has received from the plaintiff  
16 payment of the costs of furnishing and certifying the record,  
17 which costs shall be determined by the Department. Exhibits  
18 shall be certified without cost. Failure on the part of the  
19 applicant or licensee to file a receipt in court is grounds for  
20 dismissal of the action.

21 Section 135. Prima facie proof.

22 (a) An order or a certified copy thereof, over the seal of  
23 the Department and purporting to be signed by the Secretary, is  
24 prima facie proof that the signature is that of the Secretary,



1 and the Secretary is qualified to act.

2 (b) A certified copy of a record of the Department shall,  
3 without further proof, be admitted into evidence in any legal  
4 proceeding, and shall be prima facie correct and prima facie  
5 evidence of the information contained therein.

6 Section 140. Subpoenas.

7 (a) The Department may subpoena and bring before it any  
8 person to take the oral or written testimony or compel the  
9 production of any books, papers, records, or any other  
10 documents that the Secretary or his or her designee deems  
11 relevant or material to any such investigation or hearing  
12 conducted by the Department with the same fees and in the same  
13 manner as prescribed in civil cases in the courts of this  
14 State.

15 (b) Any circuit court, upon the application of the  
16 applicant, licensee, or Department, may order the attendance  
17 and testimony of witnesses and the production of relevant  
18 documents, files, records, books, and papers in connection with  
19 any hearing or investigation. The circuit court may compel  
20 obedience to its order by proceedings for contempt.

21 (c) The Secretary, the hearing officer, any member of the  
22 Board, or a certified shorthand court reporter may administer  
23 oaths at any hearing the Department conducts. Notwithstanding  
24 any other statute or Department rule to the contrary, all  
25 requests for testimony, production of documents or records

1 shall be in accordance with this Act.

2 Section 145. Stenographers. The Department, at its  
3 expense, shall preserve the record of all proceedings at a  
4 formal hearing of any case. The notice of hearing, complaint,  
5 all other documents in the nature of pleadings and written  
6 motions filed in the proceedings, the transcript of testimony,  
7 the report of the Board and orders of the Department shall be  
8 in the record of the proceedings.

9 Section 150. Fees; deposit of fees and fines. The  
10 Department shall by rule provide for fees for the  
11 administration and enforcement of this Act, and those fees are  
12 nonrefundable. All of the fees, penalties, and fines collected  
13 under this Act shall be deposited into the General Professions  
14 Dedicated Fund and shall be appropriated to the Department for  
15 the ordinary and contingent expenses of the Department in the  
16 administration and enforcement of this Act.

17 Section 155. Illinois Administrative Procedure Act;  
18 application.

19 (a) All rules required under this Act shall be adopted in  
20 accordance with Article 5 of the Illinois Administrative  
21 Procedure Act.

22 (b) Article 10 of the Illinois Administrative Procedure Act  
23 is expressly adopted and incorporated in this Act as if all of

1 the provisions of that Article were included in this Act,  
2 except that the provision of paragraph (d) of Section 10-65 of  
3 the Illinois Administrative Procedure Act, which provides that  
4 at hearings the registrant or licensee has the right to show  
5 compliance with all lawful requirements for retention or  
6 continuation or renewal of the license, is specifically  
7 excluded. For the purpose of this Act, the notice required  
8 under Section 10-25 of the Illinois Administrative Procedure  
9 Act is considered sufficient when mailed to the address of  
10 record of a party.

11 Section 160. Confidentiality. All information collected by  
12 the Department in the course of an examination or investigation  
13 of a licensee or applicant, including, but not limited to, any  
14 complaint against a licensee filed with the Department and  
15 information collected to investigate any such complaint, shall  
16 be maintained for the confidential use of the Department and  
17 shall not be disclosed. The Department shall not disclose the  
18 information to anyone other than law enforcement officials,  
19 regulatory agencies that have an appropriate regulatory  
20 interest as determined by the Secretary, or a party presenting  
21 a lawful subpoena to the Department. Information and documents  
22 disclosed to a federal, State, county, or local law enforcement  
23 agency shall not be disclosed by the agency for any purpose to  
24 any other agency or person. A formal complaint filed against a  
25 licensee by the Department or any order issued by the

1 Department against a licensee or applicant shall be a public  
2 record, except as otherwise prohibited by law.

3 Section 165. Rules. The Department shall adopt rules  
4 necessary to implement the provisions of this Act no later than  
5 180 days after the effective date of this Act. The Department  
6 may adopt rules necessary to implement the provisions of this  
7 Act through the use of emergency rulemaking in accordance with  
8 Section 5-45 of the Illinois Administrative Procedure Act for a  
9 period not to exceed 180 days after the effective date of this  
10 Act.

11 Section 900. The Regulatory Sunset Act is amended by adding  
12 Section 4.38 as follows:

13 (5 ILCS 80/4.38 new)

14 Sec. 4.38. Act repealed on January 1, 2028. The following  
15 Act is repealed on January 1, 2028:

16 The Gun Dealer Licensing Act.

17 Section 905. The Illinois Administrative Procedure Act is  
18 amended by changing Section 5-45 as follows:

19 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

20 (Text of Section after amendment by P.A. 99-906)

21 Sec. 5-45. Emergency rulemaking.

1           (a) "Emergency" means the existence of any situation that  
2 any agency finds reasonably constitutes a threat to the public  
3 interest, safety, or welfare.

4           (b) If any agency finds that an emergency exists that  
5 requires adoption of a rule upon fewer days than is required by  
6 Section 5-40 and states in writing its reasons for that  
7 finding, the agency may adopt an emergency rule without prior  
8 notice or hearing upon filing a notice of emergency rulemaking  
9 with the Secretary of State under Section 5-70. The notice  
10 shall include the text of the emergency rule and shall be  
11 published in the Illinois Register. Consent orders or other  
12 court orders adopting settlements negotiated by an agency may  
13 be adopted under this Section. Subject to applicable  
14 constitutional or statutory provisions, an emergency rule  
15 becomes effective immediately upon filing under Section 5-65 or  
16 at a stated date less than 10 days thereafter. The agency's  
17 finding and a statement of the specific reasons for the finding  
18 shall be filed with the rule. The agency shall take reasonable  
19 and appropriate measures to make emergency rules known to the  
20 persons who may be affected by them.

21           (c) An emergency rule may be effective for a period of not  
22 longer than 150 days, but the agency's authority to adopt an  
23 identical rule under Section 5-40 is not precluded. No  
24 emergency rule may be adopted more than once in any 24-month  
25 period, except that this limitation on the number of emergency  
26 rules that may be adopted in a 24-month period does not apply

1 to (i) emergency rules that make additions to and deletions  
2 from the Drug Manual under Section 5-5.16 of the Illinois  
3 Public Aid Code or the generic drug formulary under Section  
4 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)  
5 emergency rules adopted by the Pollution Control Board before  
6 July 1, 1997 to implement portions of the Livestock Management  
7 Facilities Act, (iii) emergency rules adopted by the Illinois  
8 Department of Public Health under subsections (a) through (i)  
9 of Section 2 of the Department of Public Health Act when  
10 necessary to protect the public's health, (iv) emergency rules  
11 adopted pursuant to subsection (n) of this Section, (v)  
12 emergency rules adopted pursuant to subsection (o) of this  
13 Section, or (vi) emergency rules adopted pursuant to subsection  
14 (c-5) of this Section. Two or more emergency rules having  
15 substantially the same purpose and effect shall be deemed to be  
16 a single rule for purposes of this Section.

17 (c-5) To facilitate the maintenance of the program of group  
18 health benefits provided to annuitants, survivors, and retired  
19 employees under the State Employees Group Insurance Act of  
20 1971, rules to alter the contributions to be paid by the State,  
21 annuitants, survivors, retired employees, or any combination  
22 of those entities, for that program of group health benefits,  
23 shall be adopted as emergency rules. The adoption of those  
24 rules shall be considered an emergency and necessary for the  
25 public interest, safety, and welfare.

26 (d) In order to provide for the expeditious and timely

1 implementation of the State's fiscal year 1999 budget,  
2 emergency rules to implement any provision of Public Act 90-587  
3 or 90-588 or any other budget initiative for fiscal year 1999  
4 may be adopted in accordance with this Section by the agency  
5 charged with administering that provision or initiative,  
6 except that the 24-month limitation on the adoption of  
7 emergency rules and the provisions of Sections 5-115 and 5-125  
8 do not apply to rules adopted under this subsection (d). The  
9 adoption of emergency rules authorized by this subsection (d)  
10 shall be deemed to be necessary for the public interest,  
11 safety, and welfare.

12 (e) In order to provide for the expeditious and timely  
13 implementation of the State's fiscal year 2000 budget,  
14 emergency rules to implement any provision of Public Act 91-24  
15 or any other budget initiative for fiscal year 2000 may be  
16 adopted in accordance with this Section by the agency charged  
17 with administering that provision or initiative, except that  
18 the 24-month limitation on the adoption of emergency rules and  
19 the provisions of Sections 5-115 and 5-125 do not apply to  
20 rules adopted under this subsection (e). The adoption of  
21 emergency rules authorized by this subsection (e) shall be  
22 deemed to be necessary for the public interest, safety, and  
23 welfare.

24 (f) In order to provide for the expeditious and timely  
25 implementation of the State's fiscal year 2001 budget,  
26 emergency rules to implement any provision of Public Act 91-712

1 or any other budget initiative for fiscal year 2001 may be  
2 adopted in accordance with this Section by the agency charged  
3 with administering that provision or initiative, except that  
4 the 24-month limitation on the adoption of emergency rules and  
5 the provisions of Sections 5-115 and 5-125 do not apply to  
6 rules adopted under this subsection (f). The adoption of  
7 emergency rules authorized by this subsection (f) shall be  
8 deemed to be necessary for the public interest, safety, and  
9 welfare.

10 (g) In order to provide for the expeditious and timely  
11 implementation of the State's fiscal year 2002 budget,  
12 emergency rules to implement any provision of Public Act 92-10  
13 or any other budget initiative for fiscal year 2002 may be  
14 adopted in accordance with this Section by the agency charged  
15 with administering that provision or initiative, except that  
16 the 24-month limitation on the adoption of emergency rules and  
17 the provisions of Sections 5-115 and 5-125 do not apply to  
18 rules adopted under this subsection (g). The adoption of  
19 emergency rules authorized by this subsection (g) shall be  
20 deemed to be necessary for the public interest, safety, and  
21 welfare.

22 (h) In order to provide for the expeditious and timely  
23 implementation of the State's fiscal year 2003 budget,  
24 emergency rules to implement any provision of Public Act 92-597  
25 or any other budget initiative for fiscal year 2003 may be  
26 adopted in accordance with this Section by the agency charged



1 with administering that provision or initiative, except that  
2 the 24-month limitation on the adoption of emergency rules and  
3 the provisions of Sections 5-115 and 5-125 do not apply to  
4 rules adopted under this subsection (h). The adoption of  
5 emergency rules authorized by this subsection (h) shall be  
6 deemed to be necessary for the public interest, safety, and  
7 welfare.

8 (i) In order to provide for the expeditious and timely  
9 implementation of the State's fiscal year 2004 budget,  
10 emergency rules to implement any provision of Public Act 93-20  
11 or any other budget initiative for fiscal year 2004 may be  
12 adopted in accordance with this Section by the agency charged  
13 with administering that provision or initiative, except that  
14 the 24-month limitation on the adoption of emergency rules and  
15 the provisions of Sections 5-115 and 5-125 do not apply to  
16 rules adopted under this subsection (i). The adoption of  
17 emergency rules authorized by this subsection (i) shall be  
18 deemed to be necessary for the public interest, safety, and  
19 welfare.

20 (j) In order to provide for the expeditious and timely  
21 implementation of the provisions of the State's fiscal year  
22 2005 budget as provided under the Fiscal Year 2005 Budget  
23 Implementation (Human Services) Act, emergency rules to  
24 implement any provision of the Fiscal Year 2005 Budget  
25 Implementation (Human Services) Act may be adopted in  
26 accordance with this Section by the agency charged with

1 administering that provision, except that the 24-month  
2 limitation on the adoption of emergency rules and the  
3 provisions of Sections 5-115 and 5-125 do not apply to rules  
4 adopted under this subsection (j). The Department of Public Aid  
5 may also adopt rules under this subsection (j) necessary to  
6 administer the Illinois Public Aid Code and the Children's  
7 Health Insurance Program Act. The adoption of emergency rules  
8 authorized by this subsection (j) shall be deemed to be  
9 necessary for the public interest, safety, and welfare.

10 (k) In order to provide for the expeditious and timely  
11 implementation of the provisions of the State's fiscal year  
12 2006 budget, emergency rules to implement any provision of  
13 Public Act 94-48 or any other budget initiative for fiscal year  
14 2006 may be adopted in accordance with this Section by the  
15 agency charged with administering that provision or  
16 initiative, except that the 24-month limitation on the adoption  
17 of emergency rules and the provisions of Sections 5-115 and  
18 5-125 do not apply to rules adopted under this subsection (k).  
19 The Department of Healthcare and Family Services may also adopt  
20 rules under this subsection (k) necessary to administer the  
21 Illinois Public Aid Code, the Senior Citizens and Persons with  
22 Disabilities Property Tax Relief Act, the Senior Citizens and  
23 Disabled Persons Prescription Drug Discount Program Act (now  
24 the Illinois Prescription Drug Discount Program Act), and the  
25 Children's Health Insurance Program Act. The adoption of  
26 emergency rules authorized by this subsection (k) shall be

1 deemed to be necessary for the public interest, safety, and  
2 welfare.

3 (l) In order to provide for the expeditious and timely  
4 implementation of the provisions of the State's fiscal year  
5 2007 budget, the Department of Healthcare and Family Services  
6 may adopt emergency rules during fiscal year 2007, including  
7 rules effective July 1, 2007, in accordance with this  
8 subsection to the extent necessary to administer the  
9 Department's responsibilities with respect to amendments to  
10 the State plans and Illinois waivers approved by the federal  
11 Centers for Medicare and Medicaid Services necessitated by the  
12 requirements of Title XIX and Title XXI of the federal Social  
13 Security Act. The adoption of emergency rules authorized by  
14 this subsection (l) shall be deemed to be necessary for the  
15 public interest, safety, and welfare.

16 (m) In order to provide for the expeditious and timely  
17 implementation of the provisions of the State's fiscal year  
18 2008 budget, the Department of Healthcare and Family Services  
19 may adopt emergency rules during fiscal year 2008, including  
20 rules effective July 1, 2008, in accordance with this  
21 subsection to the extent necessary to administer the  
22 Department's responsibilities with respect to amendments to  
23 the State plans and Illinois waivers approved by the federal  
24 Centers for Medicare and Medicaid Services necessitated by the  
25 requirements of Title XIX and Title XXI of the federal Social  
26 Security Act. The adoption of emergency rules authorized by

1 this subsection (m) shall be deemed to be necessary for the  
2 public interest, safety, and welfare.

3 (n) In order to provide for the expeditious and timely  
4 implementation of the provisions of the State's fiscal year  
5 2010 budget, emergency rules to implement any provision of  
6 Public Act 96-45 or any other budget initiative authorized by  
7 the 96th General Assembly for fiscal year 2010 may be adopted  
8 in accordance with this Section by the agency charged with  
9 administering that provision or initiative. The adoption of  
10 emergency rules authorized by this subsection (n) shall be  
11 deemed to be necessary for the public interest, safety, and  
12 welfare. The rulemaking authority granted in this subsection  
13 (n) shall apply only to rules promulgated during Fiscal Year  
14 2010.

15 (o) In order to provide for the expeditious and timely  
16 implementation of the provisions of the State's fiscal year  
17 2011 budget, emergency rules to implement any provision of  
18 Public Act 96-958 or any other budget initiative authorized by  
19 the 96th General Assembly for fiscal year 2011 may be adopted  
20 in accordance with this Section by the agency charged with  
21 administering that provision or initiative. The adoption of  
22 emergency rules authorized by this subsection (o) is deemed to  
23 be necessary for the public interest, safety, and welfare. The  
24 rulemaking authority granted in this subsection (o) applies  
25 only to rules promulgated on or after July 1, 2010 (the  
26 effective date of Public Act 96-958) through June 30, 2011.

1           (p) In order to provide for the expeditious and timely  
2 implementation of the provisions of Public Act 97-689,  
3 emergency rules to implement any provision of Public Act 97-689  
4 may be adopted in accordance with this subsection (p) by the  
5 agency charged with administering that provision or  
6 initiative. The 150-day limitation of the effective period of  
7 emergency rules does not apply to rules adopted under this  
8 subsection (p), and the effective period may continue through  
9 June 30, 2013. The 24-month limitation on the adoption of  
10 emergency rules does not apply to rules adopted under this  
11 subsection (p). The adoption of emergency rules authorized by  
12 this subsection (p) is deemed to be necessary for the public  
13 interest, safety, and welfare.

14           (q) In order to provide for the expeditious and timely  
15 implementation of the provisions of Articles 7, 8, 9, 11, and  
16 12 of Public Act 98-104, emergency rules to implement any  
17 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104  
18 may be adopted in accordance with this subsection (q) by the  
19 agency charged with administering that provision or  
20 initiative. The 24-month limitation on the adoption of  
21 emergency rules does not apply to rules adopted under this  
22 subsection (q). The adoption of emergency rules authorized by  
23 this subsection (q) is deemed to be necessary for the public  
24 interest, safety, and welfare.

25           (r) In order to provide for the expeditious and timely  
26 implementation of the provisions of Public Act 98-651,

1 emergency rules to implement Public Act 98-651 may be adopted  
2 in accordance with this subsection (r) by the Department of  
3 Healthcare and Family Services. The 24-month limitation on the  
4 adoption of emergency rules does not apply to rules adopted  
5 under this subsection (r). The adoption of emergency rules  
6 authorized by this subsection (r) is deemed to be necessary for  
7 the public interest, safety, and welfare.

8 (s) In order to provide for the expeditious and timely  
9 implementation of the provisions of Sections 5-5b.1 and 5A-2 of  
10 the Illinois Public Aid Code, emergency rules to implement any  
11 provision of Section 5-5b.1 or Section 5A-2 of the Illinois  
12 Public Aid Code may be adopted in accordance with this  
13 subsection (s) by the Department of Healthcare and Family  
14 Services. The rulemaking authority granted in this subsection  
15 (s) shall apply only to those rules adopted prior to July 1,  
16 2015. Notwithstanding any other provision of this Section, any  
17 emergency rule adopted under this subsection (s) shall only  
18 apply to payments made for State fiscal year 2015. The adoption  
19 of emergency rules authorized by this subsection (s) is deemed  
20 to be necessary for the public interest, safety, and welfare.

21 (t) In order to provide for the expeditious and timely  
22 implementation of the provisions of Article II of Public Act  
23 99-6, emergency rules to implement the changes made by Article  
24 II of Public Act 99-6 to the Emergency Telephone System Act may  
25 be adopted in accordance with this subsection (t) by the  
26 Department of State Police. The rulemaking authority granted in

1 this subsection (t) shall apply only to those rules adopted  
2 prior to July 1, 2016. The 24-month limitation on the adoption  
3 of emergency rules does not apply to rules adopted under this  
4 subsection (t). The adoption of emergency rules authorized by  
5 this subsection (t) is deemed to be necessary for the public  
6 interest, safety, and welfare.

7 (u) In order to provide for the expeditious and timely  
8 implementation of the provisions of the Burn Victims Relief  
9 Act, emergency rules to implement any provision of the Act may  
10 be adopted in accordance with this subsection (u) by the  
11 Department of Insurance. The rulemaking authority granted in  
12 this subsection (u) shall apply only to those rules adopted  
13 prior to December 31, 2015. The adoption of emergency rules  
14 authorized by this subsection (u) is deemed to be necessary for  
15 the public interest, safety, and welfare.

16 (v) In order to provide for the expeditious and timely  
17 implementation of the provisions of Public Act 99-516,  
18 emergency rules to implement Public Act 99-516 may be adopted  
19 in accordance with this subsection (v) by the Department of  
20 Healthcare and Family Services. The 24-month limitation on the  
21 adoption of emergency rules does not apply to rules adopted  
22 under this subsection (v). The adoption of emergency rules  
23 authorized by this subsection (v) is deemed to be necessary for  
24 the public interest, safety, and welfare.

25 (w) In order to provide for the expeditious and timely  
26 implementation of the provisions of Public Act 99-796,

1 emergency rules to implement the changes made by Public Act  
2 99-796 may be adopted in accordance with this subsection (w) by  
3 the Adjutant General. The adoption of emergency rules  
4 authorized by this subsection (w) is deemed to be necessary for  
5 the public interest, safety, and welfare.

6 (x) In order to provide for the expeditious and timely  
7 implementation of the provisions of Public Act 99-906 ~~this~~  
8 ~~amendatory Act of the 99th General Assembly~~, emergency rules to  
9 implement subsection (i) of Section 16-115D, subsection (g) of  
10 Section 16-128A, and subsection (a) of Section 16-128B of the  
11 Public Utilities Act may be adopted in accordance with this  
12 subsection (x) by the Illinois Commerce Commission. The  
13 rulemaking authority granted in this subsection (x) shall apply  
14 only to those rules adopted within 180 days after June 1, 2017  
15 (the effective date of Public Act 99-906) ~~this amendatory Act~~  
16 ~~of the 99th General Assembly~~. The adoption of emergency rules  
17 authorized by this subsection (x) is deemed to be necessary for  
18 the public interest, safety, and welfare.

19 (y) In order to provide for the expeditious and timely  
20 implementation of the provisions of the Gun Dealer Licensing  
21 Act, emergency rules to implement any provision of the Act may  
22 be adopted in accordance with this subsection (y) by the  
23 Department of Financial and Professional Regulation. The  
24 rulemaking authority granted in this subsection (y) shall apply  
25 only to those rules adopted no later than one year after the  
26 effective date of this amendatory Act of the 100th General



1 Assembly. The adoption of emergency rules authorized by this  
2 subsection (y) is deemed to be necessary for the public  
3 interest, safety, and welfare.

4 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;  
5 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;  
6 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff.  
7 6-30-16; 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906,  
8 eff. 6-1-17; revised 1-1-17.)