

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Adopted Rules

■ PARKING TAX

The DEPARTMENT OF REVENUE adopted a new Part titled Parking Excise Tax (86 IAC 195; 43 Ill Reg 13242) effective 5/13/20, implementing provisions of Public Act 101-31 that impose a tax on the use of paid parking spaces in parking areas or garages. Effective 1/1/20, a tax of 6% of the purchase price of spaces paid for on an hourly, daily, or weekly basis and 9% of the purchase price for spaces paid for on a monthly or annual basis is imposed. All non-governmental entities that collect payment for parking or storage of motor vehicles, recreational vehicles or other self-propelled vehicles are subject to this tax, unless they operate 3 or fewer spaces. Third parties who contract with governmental entities to operate parking areas or garages are subject to the tax, as are property owners who regularly sell more

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

than 3 parking spaces at a time to attendees of events (e.g., fairs, sporting events) unless these sales are "isolated or occasional". Examples of the application of the tax are outlined. Since 1st Notice, DOR has added language clarifying various definitions and provisions of this rule, including how the tax applies to operators,

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Emergency Rulemakings

DPH PANDEMIC RULES

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Control of Communicable Diseases Code (77 IAC 690; 44 Ill Reg 9282) effective 5/15/20. **(NOTE: This amendment was repealed by an emergency rulemaking effective 5/20/20 that will appear in next week's *Illinois Register*.)** The now-repealed emergency rule invoked DPH's statutory authority to control "dangerously contagious or infectious disease outbreaks" by imposing restrictions upon food and beverage service businesses, businesses/establishments offering indoor fitness or non-medical wellness services, and business/establishments offering cosmetology, esthetics, tanning, body art or other non-medical personal care services, for the

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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purchasers, storage unit owners, and entities that only process or collect payments for parking. Those affected by this rulemaking include small businesses and nonprofit entities who sell or lease parking spaces for any purpose or event, including annual events.

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

■ DRIVER EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to Driver Education (23 IAC 252; 43 Ill Reg 13384) effective 5/12/20, implementing two Public Acts. The rulemaking allows school districts to utilize distance learning programs that provide driver education (other than behind-the-wheel instruction) via the internet, e-mail, or other methods outside of a traditional classroom. School districts must determine on a case-by-case basis whether to allow a student to take any portion of a driver's ed course via distance learning and may only do so with approval of the student's parent/guardian, the student's driver education teacher, and the school administration. An entire driver education course cannot, under any circumstances, be completed via distance learning. Additionally, the rulemaking requires school districts that contract with commercial driving schools to ensure that the driver education

teacher, if he or she is not a Certified Driver Rehabilitation Specialist, meets SBE educator licensure and endorsement requirements and is subject to the same evaluation and observation requirements as a non-tenured teacher. Those affected by this rulemaking include commercial driving schools that contract with school districts to provide driver's ed instruction.

■ EDUCATOR LICENSURE

SBE adopted amendments to Standards for Endorsements in Specific Teaching Fields (23 IAC 27; 43 Ill Reg 12246), Standards for Endorsements in Special Education (23 IAC 28; 43 Ill Reg 12600), and Standards for Administrative Endorsement (23 IAC 29; 43 Ill Reg 12727), all effective 5/12/20. The Part 27 and 29 rulemakings align the educator and administrator licensure/endorsement standards for various positions and fields of study with national standards prescribed by the Council for the Accreditation of Educator Preparation (CAEP). Amendments to Part 28 implement revisions to special education endorsements recommended by the national Collaboration for Educator Effectiveness, Development, Accountability and Reform (CEEDAR) and the Council for Exceptional Children (CEC). Those affected by these rulemakings include candidates for educator and administrator licensure and educator preparation programs.

SCHOOLS

SBE also adopted amendments to Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 IAC 100; 43 Ill Reg 13700) effective 5/12/20 that update procedures for school district accounting of various funds. The rulemaking allows tort expenditures to be recorded under categories other than general administration and adds provisions for reporting student activity funds, in accordance with Governmental Accounting Standards Board (GASB) rules, within district educational funds instead of separately.

Questions/requests for copies of the 5 SBE rulemakings: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ COMMUNITY CARE

The DEPARTMENT ON AGING adopted amendments to Community Care Program (89 IAC 240; 44 Ill Reg 1724) effective 5/13/20, clarifying requirements for certification as providers of in-home services, adult day services, emergency home response services or automated medication dispensing services. Agencies seeking certification as adult day service providers must have at least 2 years' experience providing direct social services programming (formerly, 2 years' experience in "business operations" providing adult day

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Emergency Rulemakings

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duration of the public health emergency. Businesses/ establishments listed in the emergency rule were prohibited from offering indoor on-site services or customer access to on-site facilities. Only delivery, drive-through, curbside or pickup services or sales of retail goods or recording/streaming of online classes and instructional videos were permitted. Any persons violating these provisions were subject to the penalties set forth in Section 8.1 of the Department of Public Health Act, which makes disobedience to DPH rules and orders a Class A misdemeanor with maximum penalties of up to 364 days imprisonment and fines of up to \$2,500.

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

UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted emergency amendments to the Parts titled Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 44 Ill Reg 9262), Employment (56 IAC 2732; 44 Ill Reg 9269) and Recovery of Benefits (56 IAC 2835; 44 Ill Reg 9274) all effective 5/15/20 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 44 Ill Reg 8601, 8604 and 8607. These emergency rules implement

provisions of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act that concern Pandemic Unemployment Assistance (PUA). Amendments to Part 2720 allow DES to post correspondence to claimants' online accounts and notify them of these communications by e-mail. Notices will be sent by U.S. Mail to claimants who do not provide an e-mail address or who request notification by mail. The Part 2732 rulemaking establishes that when DES determines a claimant's eligibility for PUA, it will review the claimant's reported wages for the period for which a claim is being made. If DES determines that the claimant is eligible for PUA, that does not constitute a determination that the services performed during that period are excluded from the CARES Act's definition of employment. A determination of eligibility for PUA also does not preclude DES, or a court of competent jurisdiction, from determining in the future that these services did constitute "employment" under the Act (which may affect PUA claims for that period). Finally, amendments to Part 2835 establish the percentage of overpaid benefits that may be reclaimed from various State and federal unemployment programs (25% or 50% in non-fraud cases, 100% in cases of fraud), and the statute of limitations for DES to recoup overpaid benefits (2-5 years in non-fraud cases, indefinite in cases of fraud). Persons claiming PUA benefits are affected by these emergency rules.

Questions/requests for copies/ comments on the 3 proposed DES rulemakings through 7/13/20: Kevin Lovellette, DES, 33 S. State St., Room 930, Chicago IL 60603, 312/793-1224, Kevin.Lovellette@illinois.gov

SCHOOL CONSTRUCTION

The STATE BOARD OF EDUCATION adopted an emergency amendment to School Construction Program (23 IAC 151; 44 Ill Reg 9256) effective 5/15/20 for a maximum of 150 days. The amendment allows schools that applied for maintenance grants after the previously announced FY 20 application deadline but before 4/21/20 to have their applications reviewed and remain eligible for grants. Schools that submitted the risk assessment required by the Grant Accountability and Transparency Act before the application deadline, but that did not submit an application at that time, are also eligible to apply through 6/15/20. School districts seeking SBE construction grants are affected by this emergency rule.

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

Adopted Rules

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

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

Questions/requests for copies: Jason Jordan, DonA, One Natural Resources Way, #100, Springfield IL 62702-1271, 217/7 8 5 - 3 3 7 0 , Aging.Rulemaking@illinois.gov

■ COMMERCIAL VEHICLES

The DEPARTMENT OF TRANSPORTATION adopted an amendment to Procedures (92 IAC 107; 44 Ill Reg 1814), effective 5/14/20, incorporating by reference federal regulations (in effect as of 10/1/19) regarding registration of hazardous materials transporters and registration of manufacturers, inspectors and repairers of cargo tanks or cargo vehicles. Hazardous material haulers and commercial vehicle inspectors and repairers may be affected by this rulemaking.

Questions/requests for copies: Greg Stucka, DOT, 2300 S. Dirksen Pkwy., Rm. 317, Springfield IL 62764.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the June 16, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

POLLUTION CONTROL BOARD

Special Waste Hauling (35 IAC 809; 43 Ill Reg 13361) proposed 11/22/19

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 44 Ill Reg 3869) proposed 3/13/20