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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015

22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1030.1	Amendment
1030.5	Amendment
1030.22	Amendment
1030.60	Amendment
1030.65	Amendment
1030.80	Amendment
1030.81	Amendment
1030.82	Amendment
1030.83	Amendment
1030.85	Amendment
1030.86	Amendment
1030.92	Amendment
1030.94	Amendment
1030.98	Amendment
1030.Appendix B	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: On May 9, 2011, the Federal Motor Carrier Safety Administration published a final rule in the Federal Register regarding the training and testing of applicants for a commercial learner's permit (CLP) and a commercial driver's license (CDL). States must come into compliance with the federal regulations no later than July 8, 2015. Items included in the proposed rules: applicants for a CDL will be required to hold a CLP for a minimum of 14 days prior to applying for a CDL; examination of applicants will be done in accordance with 49 CFR 383; Secretary of State employees, as well as third party testers, will be subject to training, testing and background checks; non-governmental third party entities will be required to post a surety bond; proof of legal presence; issuance of non-domiciled CLPs and CDLs and auditing of skills examiners.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No

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8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1030.75	Amendment	38 Ill. Reg. 23559; December 19, 2014
1030.Appendix C	Amendment	38 Ill. Reg. 23559; December 19, 2014
1030.15	Amendment	39 Ill. Reg. 663; January 9, 2015
1030.16	Amendment	39 Ill. Reg. 663; January 9, 2015
1030.Appendix B	Amendment	39 Ill. Reg. 663; January 9, 2015
1030.Appendix C	Amendment	39 Ill. Reg. 663; January 9, 2015

11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may impact small companies whose drivers are required to hold CDLs and will impact commercial driver training schools, who are regulated by the Secretary of State. Municipalities that participate in the third party testing program will also be impacted.

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- B) Reporting, bookkeeping or other procedures required for compliance: Third party testers will be required to undergo a fingerprint based background check and will need to undergo initial and refresher training given by the Secretary of State. Third party testers will also be required to keep documents relating to the skills tests given to their employees.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CLP or CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.66	Adult Driver Education
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements

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- 1030.82 Charter Bus Driver Endorsement Requirements
 1030.83 Hazardous Material Endorsement
 1030.84 Vehicle Inspection
 1030.85 Driver's License Testing/Road Test
 1030.86 Multiple Attempts – Written and/or Road Tests
 1030.88 Exemption of Facility Administered Road Test
 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
 1030.91 Person with a Disability Identification Card
 1030.92 Restrictions
 1030.93 Restricted Local Licenses
 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
 1030.95 Consular Licenses (Repealed)
 1030.96 Seasonal Restricted Commercial Driver's License
 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
 1030.98 School Bus Endorsement or ~~Learner's Instruction~~ Permit
 1030.100 Anatomical Gift Donor (Repealed)
 1030.110 Emergency Medical Information Card
 1030.115 Change-of-Address
 1030.120 Issuance of a Probationary License
 1030.130 Grounds for Cancellation of a Probationary License
 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective

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February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency

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amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014; amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective

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October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. _____, effective _____.

Section 1030.1 Definitions

Unless otherwise noted, the following definitions shall apply to this Part.

"Acceptable Medical Certificate" – a current medical examiner's certificate that has been completed in its entirety and does not require additional information.

"Adjudication of Disability" – an order by a court of competent jurisdiction declaring a person, unable to fully manage his/her person and/or estate because of mental deterioration or physical incapacity, or mental illness or developmental disability, pursuant to Sections 11a-1, 11a-2 and 11a-3 of the Probate Act of 1975 [755 ILCS 5/11a-1, 11a-2 and 11a-3].

"Adult Driver Education Course" – six hour classroom or online course of driver education for persons age 18, 19 or 20, offered by an adult driver education course provider.

"Adult Driver Education Course Provider" or "Provider" – an entity certified by the Secretary of State to provide an adult driver education course, either in a classroom setting or online.

"Agri-Chemical Business" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural pesticides and/or fertilizers or providing the service of application of these substances in this State.

"Applicant" – a person applying for an Illinois driver's license, permit or identification card.

"Approved Driver Education Course" –

a course of driver education approved by the State Board of Education, offered by public or private schools maintaining grades 9 through 12, and meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8]; or

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a course of driver education offered by a school licensed to give driver education instructions under the Vehicle Code that meets at least the minimum educational requirements of the Driver Education Act and is approved by the State Board of Education; or

any course of driver education given at a Department of Defense Education Activity school that is approved by the Department of Defense Education Activity and taught by an adult driver education instructor or traffic safety officer; or

a course of driver education given in another state to an Illinois resident attending school in that state and approved by the state administrator of the driver education program of the other state [625 ILCS 5/1-103].

"Armed Forces" – the United States Army, Navy, Air Force, Marine Corps or Coast Guard; Illinois National Guard; service in the Merchant Marine that constitutes active duty under Section 401 of the Federal Public Law 95-202 (38 USC 106) shall also be considered service in the Armed Forces of the United States.

"Authorized Secretary of State Employee" – a Secretary of State employee with a supervisory position.

"Authorized Source" –

competent medical specialist

law enforcement official

member of the judiciary

Member of the Board

National Driver Register

authorized Secretary of State employee

employee of the U.S. Department of Transportation, Office of Motor Carriers

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motor vehicle departments of foreign states

driver rehabilitation specialist

problem driver pointer system

"Binocular Visual Acuity" – a visual reading obtained utilizing both eyes at the same time.

"Branch Facility" – a separate training/testing facility operated and directly supervised by a third-party certifying entity at a location different from the principal location of the third-party certifying entity.

"Business Day" – any day on which the Office of the Secretary of State is open; generally, Monday through Saturday, excluding State holidays.

"CDL Skills Test" – a test given to an applicant who is attempting to obtain a Commercial Driver's License (CDL).

"CDLIS Driver Record" – the electronic record of the individual CDL driver's status and history stored by the State-of-Record as part of the Commercial Driver's License Information System, or CDLIS, established under 49 USC 31309. [625 ILCS 5/6-500(5.3)]

"CDLIS Motor Vehicle Record" or "CDLIS MVR" – a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by states to users authorized in 49 CFR 384.225(e)(3) and (4) (20142011), subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(5.5)]

~~"Commercial Driver's License Downgrade" – a state:~~

~~allows the driver to change his or her self certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR 391 (2011), as provided in 49 CFR 390.3(f), 391.2, 391.68 or 398.3 (2011);~~

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~~allows the driver to change his or her self-certification to intrastate only, if the driver qualifies under that state's physical qualification requirements for intrastate only;~~

~~allows the driver to change his or her self-certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver qualification requirements; or~~

~~removes the CDL privilege from the driver's license. [625 ILCS 5/6-500(5.7)]~~

"Cancellation" – the annulment or termination by formal action of the Secretary of a person's driver's license or permit because of some error or defect in the license or because the licensee is no longer entitled to such license or permit, but, with the exception of Sections 6-107, 6-108 and 6-201, the cancellation of a license or permit is without prejudice and application for a new license or permit may be made at any time after such cancellation [625 ILCS 5/1-110 and 5/6-206(c)(3) and 6-201].

"Central Issuance" – the process of printing and mailing a driver's license to an applicant from a secure central production facility.

"Certificate of Completion" – a certificate of completion issued by the Office of the Secretary of State if the student has successfully completed his/her driver education course at an approved commercial driver training school as provided in IVC Chapter 6, Art. IV and 92 Ill. Adm. Code 1060.

"Charter Bus Driver Endorsement" – an indicator on the driver's license that the driver is qualified to transport a group of persons with a common purpose, under a single contract at a fixed rate for their exclusive use of that motor vehicle.

"Cheating on Written Tests" – the receipt or use of unauthorized assistance in the taking of any portion of a written test. This includes, but is not limited to, the use of any notes, books or written information.

"Cited Driver" – a driver who has been requested by the Secretary of State to appear for re-test.

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"Classification" – a designation as to the kind and type of vehicle a driver is entitled to operate, as outlined in Sections 1030.30 and 1030.40.

"Classroom Instruction" – the part of an approved driver education course consisting of learning experiences in the classroom. This instruction must be of the type to satisfy the 30 clock hours of instruction specified in Section 27-23 of the School Code [105 ILCS 5/27-23].

"Cleared Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction, or unsatisfied judgment.

"Commercial Driver's License" or "CDL" – *a license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383 (October 1, 2014), ~~to an individual~~, that authorizes the individual to operate a certain class of commercial motor vehicle* [625 ILCS 5/1-111.6].

"Commercial Driver's License Downgrade" – a state:

allows the driver to change his or her self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR 391 (October 1, 2014), as provided in 49 CFR 390.3(f), 391.2, 391.68 or 398.3 (October 1, 2014);

allows the driver to change his or her self-certification to intrastate only, if the driver qualifies under that state's physical qualification requirements for intrastate only;

allows the driver to change his or her self-certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver qualification requirements; or

removes the CDL privilege from the driver's license. [625 ILCS 5/6-500(5.7)]

"Commercial Driver's License Information System" or "CDLIS" – the information system established pursuant to the Commercial Motor Vehicle Safety

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Act of 1986 (CMVSA) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial ~~Learner's Driver Instruction~~ Permit" or "CLPCIP" – a permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383 (October 1, 2014), which, when carried with a valid driver's license issued by the same state or jurisdiction of domicile, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current CDL is not valid pursuant to IVC Section 6-508.

"Commercial Motor Vehicle" or "CMV" – a motor vehicle or combination of motor vehicles used in commerce designed to transport passengers or property if the motor vehicle:—

has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 ~~0~~ pounds or more), whichever is greater, ~~or more~~ inclusive of any towed units with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds) or more, whichever is greater; or

is designed to transport 16 or more passengers, including the driver; or

is of any size and is used in transporting ~~the transportation of~~ hazardous materials as defined in the Federal Motor Carrier Safety Regulations (49 CFR 383.5 (October 1, 2014~~2012~~)). ~~[625 ILCS 5/6-500(6)]~~

Commercial Motor Vehicle does not include:

recreational vehicles, when operated primarily for personal use;

vehicles owned by or operated under the direction of the United States Department of Defense or the United States Coast Guard only when operated by non-civilian personnel. This includes any operator on active

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military duty; members of the Reserves; National Guard; personnel on part-time training; and National Guard military technicians (civilians who are required to wear military uniforms and are subject to the Code of Military Justice); or

firefighting, police, and other emergency equipment (including, without limitation, equipment owned or operated by a HazMat or technical rescue team authorized by a county board under Section 5-1127 of the Counties Code [55 ILCS 5]), with audible and visual signals, owned or operated by or for a governmental entity, which is necessary to the preservation of life or property or the execution of emergency governmental functions which are normally not subject to general traffic rules and regulations. [625 ILCS 5/6-500(6)]

"Commuter Van" – a motor vehicle designed for the transportation of not less than seven or more than 16 passengers, that is used in a ridesharing arrangement [625 ILCS 5/1-111.9].

"Competent Medical Specialist" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches.

"Confirmed Medical Emergency" – documented medical emergency from a licensed physician specifying the cited driver is unable to appear during the 30 day re-testing period. This includes, but is not necessarily limited to, the following conditions: hospitalization, serious illness, broken limbs.

"Consular Identification Document" – an official identification card issued by a foreign government that meets the criteria set forth in Section 5 of the Consular Identification Document Act [5 ILCS 230/5] and the issuing consulate has filed with the Department of State Police a copy of the consular identification document and a certification of the procedures that are used to satisfy Sections 2 and 3 of the Consular Identification Document Act.

"Conviction" – A final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default [625 ILCS 5/6-100(b)].

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"Conviction-CLP Holder or "Conviction-CDL Holder" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated [625 ILCS 5/6-500(8)].

"Cooperative Driver Certificate" – a certificate prescribed by the Secretary of State indicating a successfully-completed road test, subject to spot check by the Secretary of State, was administered to a driver education student, who has successfully completed driver training by an Illinois State Board of Education approved driver education instructor.

"Cooperative Driver Testing Program" – a program offered by the Department to local school boards with accredited driver education courses, allowing students who receive a grade of A or B in the driver education course and who pass a road test administered by a Department certified high school driver education instructor to be exempted from a road test administered by the Department.

"Court Documents" – the items issued by a court, such as reports, notices, summonses, subpoenas, orders and transcripts.

"Criminal Justice Agencies" – the federal and state courts, a governmental agency or sub-unit that performs the duties of the detection, apprehension or detention of accused persons or criminal offenders pursuant to a statute.

"Current Medical Report" – any medical report completed within 90 days after receipt by the Department that is signed and dated by a competent medical specialist.

"Current Telescopic Lens Vision Specialist Report" – any vision specialist report completed for a telescopic lens user that has been completed within six months prior to receipt by the Department and is signed and dated by a licensed vision specialist.

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"Current Vision Specialist Report" – any vision specialist report completed for a driver that has been completed within six months prior to receipt by the Department and is signed and dated by a vision specialist.

"Custom Harvester" – any individual, partnership, corporation or association engaged in a business operation for the purpose of harvesting agricultural commodities other than their own on a contract basis.

"Dangerous Action" – an act by the applicant that could endanger a person or property.

"Day" – a calendar day.

"Denial" – any entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license or privileges until the conditions set forth by the Department are met (see IVC Section 6-103).

"Denial of Driver's License" – the act of prohibiting or disallowing the privilege to obtain a driver's license while allowing the privilege to obtain an instructional permit and limiting privileges to that of an instructional permit if a driver's license has previously been issued (see IVC Section 6-107(c) and (d)).

"Denial of Driving Privilege" – the act of prohibiting or disallowing the privilege to obtain a driver's license or permit and/or the privilege to operate a motor vehicle (see IVC Sections 6-103, 6-107(c), 6-108.1).

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Administrative Hearings" – the Department of Administrative Hearings of the Office of the Secretary of State.

"Determination of No Security Threat" – an administrative determination by TSA that an individual does not pose a security threat warranting denial of a Hazardous Material Endorsement.

"Disabled Person Identification Card" – a standard identification card as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] issued for no fee to persons who meet the definition of disabled (see IVC Section 1-159.1).

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"Disability" – an individual's physical or mental impairment that substantially limits one or more of the major life activities; a record of such impairment, or when the individual is regarded as having such impairment [625 ILCS 5/6-117.2(f)].

"Disqualification" – a disqualification means any of the following three actions:

the suspension, revocation, or cancellation of a CLP or CDL by the state or jurisdiction of issuance;

any withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations);

a determination by FMCSA that a person is not qualified to operate a commercial motor vehicle under 49 CFR 391 (October 1, ~~2014~~2012). [625 ILCS 5/1-115.3]

"Disseminating Agency" – an agency authorized by the Secretary of State to distribute or share an image received from the Secretary of State for purposes of secondary dissemination.

"Drive" – operate or be in physical control of a motor vehicle [625 ILCS 5/4-115.8].

"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].

"Driver Applicant" – a person who applies to a state or other jurisdiction~~applying~~ to obtain, transfer, upgrade or renew a CDL or to obtain or renew a CLP.

"Driver's License Test" – a test administered by the Secretary of State that consists of a vision test, written test and/or road test.

"Driver's License Issuance Error" – any act or omission by a Secretary of State employee that results in the driver being not qualified to hold the license as it is classified, restricted and/or endorsed.

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"Driver's License Record" – a file maintained by the Secretary of State on each driver in Illinois pursuant to IVC Section 6-117.

"Driver Rehabilitation Specialist" – a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy or related profession (or equivalent of eight years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 hours must be gained from attending ADED approved courses or workshops).

"Driver Remedial Education Course" – an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain suspended drivers. The course shall consist of individual counseling and/or group sessions of instruction and shall not exceed two sessions or a total of nine hours of instruction.

"Driver Services Facility" – the offices located throughout Illinois for the purpose of issuing driver's licenses and providing to the public other necessary services connected with the Secretary of State's Office.

"Driver Services Facility Representative" – an employee of the Department of Driver Services of the Office of Secretary of State.

"Driving Abstract" – a record kept by the Department of Driver Services containing all information required under IVC Section 6-106(b) and all records of violations of traffic laws and administrative actions pertaining to driving privileges.

"Driving Evaluation" – an assessment by a driver education specialist at a rehabilitation institution of an applicant's ability to safely operate a motor vehicle.

"Driving Skills" – the ability of an applicant to perform maneuvers to be demonstrated during a road test.

"Employer" – any individual, corporation, partnership or association that employs charter bus drivers licensed under IVC Section 6-508.

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"Employer Certification" – a form submitted by the employer, as prescribed by the Secretary of State, certifying an applicant has met all conditions for application, or that a driver who is no longer eligible for a charter bus driver endorsement has been removed from service.

"Endorsement" – an authorization to an individual's CLP or CDL required to permit the individual to operate certain types of commercial motor vehicles.~~an indication on a driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.~~

"Enrolled in a Driver Education Course" – active participation in, and the 30 days immediately preceding, the start of regularly scheduled classroom instruction of an approved driver education course.

"Examiner" – an employee of the Secretary of State who is qualified to administer all driver's license tests.

"Excepted Interstate" or "EI" – a person who operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.69 or 398.3 (October 1, ~~2014~~2012) from all or part of the qualification requirements of 49 CFR 391 (October 1, ~~2014~~2012) and is not required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, ~~2014~~2012). [625 ILCS 5/6-500(15.3)]

"Excepted Intrastate" or "EA" – a person who operates in intrastate commerce but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements. [625 ILCS 5/6-500 (15.5)]

"Facility-Administered Road Test" – an actual demonstration of the applicant's ability to exercise ordinary and reasonable control of the operation of a motor vehicle administered by a Driver Services Facility employee.

"Farm" – structures and lands used primarily for the raising of agricultural or horticultural commodities, including livestock, poultry, fur-bearing animals, fruit, vegetables, flowers and other plants; "farm" includes ranches, nurseries, greenhouses, orchards, etc.

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"Farm Retail Outlet and/or Supplier" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural commodities.

"Favorable Medical Report" – a current medical report that has been completed in its entirety and does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional opinion from the competent medical specialist that the driver is medically/mentally fit to safely operate a motor vehicle.

"Favorable Vision Specialist Report" – a current vision specialist report that has been completed in its entirety that does not require additional information and/or clarification.

"Federal Motor Carrier Safety Administration" or "FMCSA" – a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Felony" – an offense under state or federal law that is punishable by death or imprisonment for a term of one year or more.

"Final Determination of Threat Assessment" – a final administrative determination by TSA, including the resolution of related appeals, that an individual poses a security threat warranting denial of a Hazardous Material Endorsement.

"Fingerprint Process" – a method by which an applicant's fingerprints are taken for the purpose of a criminal background investigation for a charter bus driver endorsement and submitted to the Illinois Department of State Police (ISP) and the Federal Bureau of Investigation (FBI).

"First Division Vehicle" – any motor vehicle designed to carry not more than 10 persons [625 ILCS 5/1-217].

"Foreign Jurisdiction" – a sovereign jurisdiction that does not fall within the definition of "state" [625 ILCS 5/6-500(B)(17)].

"Foreign National" – a non-citizen of the United States of America who has been granted temporary, legal entry into this country by the U.S. Citizenship and

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Immigration Services (USCIS), who is temporarily residing in this State and is ineligible to obtain a social security number through the Social Security Administration, and who is not required to obtain a driver's license issued by the U.S. Department of State, Office of Foreign Missions.

"Foreign Speaking Applicant" – any applicant unable to understand oral directions given by the examiner.

"For-Profit Ridesharing Arrangement" – the transportation by motor vehicle of not more than 16 persons, including the driver, for which a fee is charged in accordance with Section 6 of the Ride Sharing Arrangements Act [625 ILCS 30/6]. [625 ILCS 5/1-122.7]

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

"Functional Ability" – the degree of cognitive, mental or emotional sensor motor, and sensory capability in performing activities of daily living, including safely performing driving tasks.

"Good Cause" – examples of dangerous driving or of a physical or mental condition that interferes with safe driving or a situation in which a Secretary of State Driver Services Facility supervisor fails to give a required test or section of a test.

"Gross Combination Weight Rating" or "GCWR" – the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon as specified in 49 CFR 383.5 (October 1, ~~2014~~2012). [625 ILCS 5/1-124.5]

"Gross Vehicle Weight Rating" or "GVWR" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by

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the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit [625 ILCS 5/1-124.5].

"Hazardous Material Endorsement" or "HME" – an indicator on the driver's license that the driver is qualified to transport hazardous materials that require placarding.

"Hazardous Materials" – any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 (October 1, ~~2014~~²⁰¹²) or any quantity of a material listed as a select agent or toxin in 42 CFR 73 (October 1, ~~2014~~²⁰¹²).

"High School Student" – a student who attends a public or private secondary school accredited by the Illinois State Board of Education.

"Illinois Medical Advisory Board" or "Board" – a panel consisting of at least nine physicians appointed by the Secretary [625 ILCS 5/6-902].

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Image" - the digital photo and signature captured in the process of issuing an Illinois driver's license or identification card and retrieved from the Secretary of State database.

"Immediate Family Member" – a parent, child, sibling, grandparent, step-parent, step-child, step-sibling or step-grandparent.

"Immediate Farm Family Member" – a member of the farmer's family is a natural or in-law, spouse, child, parent or sibling as provided in IVC Section 6-507(c).

"Imminent Hazard" – the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment. [625 ILCS 5/6-500(20.5)]

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"Incomplete Medical Report" – a medical report that has not been completed in its entirety, or a medical agreement that has not been signed and dated by the driver.

"Incomplete Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report that has not been completed in its entirety. Examples of an incomplete report include, but are not limited to, omission of name, address, signature or professional license number of the vision specialist or date or one that contains illegible information or fails to answer any of the questions contained within the report.

"Initial Determination of Threat Assessment" – an initial administrative determination by TSA that an individual poses or may pose a security threat warranting denial of a Hazardous Material Endorsement.

"In Loco Parentis" – a person who is acting in place of a minor's parent with a parent's rights, duties and authority.

"Instruction Permit" – a driving permit issued to operate a motor vehicle pursuant to the requirements of IVC Section 6-105 or 6-107.

"Invalidate" – to render invalid any driver's license, permit or driving privileges.

"Invalidation" – the withdrawal, by consent, court order, death of the holder or holder's failure to complete a driver remedial education course of the validation, of a person's license, permit and/or driving privilege under IVC Chapter 6.

"Judicial Driving Permit" – a permit issued granting a driver limited driving privileges as provided in IVC Section 6-206.1.

"Law Enforcement Official" – a federal, state or local police officer, sheriff, coroner, municipal prosecutor, state's attorney or U.S. attorney.

"LEADS" – the Illinois Law Enforcement Agencies Data System.

"Livestock" – any animals such as cattle, sheep, swine, buffalo, cañalo, cattalo, domestic deer, domestic elk, domestic antelope, domestic reindeer, water buffalo and goats.

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"Livestock Feeder" – any individual, partnership, corporation or association engaged in a business operation for the purpose of producing livestock.

"Mandatory Insurance" – The insurance requirements under IVC Chapter 7, Article VI.

"Mandatory Liability Insurance Policy" – a liability insurance policy issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property (see IVC Section 7-203), and issued in accordance with the requirements of Sections 143a and 143a-2 of the Illinois Insurance Code [215 ILCS 5/143a and 143a-2]. This definition does not include vehicles subject to the provisions of IVC Chapter 18 or 18a, Article III or IVC Section 7-609, 12-607 or 12-707.01; vehicles required to file proof of liability insurance with the Illinois Commerce Commission; vehicles covered by a certificate of self-insurance (see IVC Section 7-502); vehicles owned by the United States Government, State of Illinois or any political subdivision, municipality or local mass transit district; implements of husbandry (see IVC Section 1-130), other vehicles complying with laws that require insurance in amounts meeting or exceeding the minimum amounts required under the IVC; and inoperable or stored vehicles that are not operated.

"Mandatory Law Enforcement Report" – an unsigned message directed to the Department electronically from law enforcement containing the same information as the form designed by the Department.

"Mechanical Aid" – a device added to a motor vehicle that would enhance the operator's ability to safely operate the vehicle.

"Medical Agreement" – an agreement signed and dated by the driver, maintained as part of the medical report, and including the following conditions and/or information:

a condition that the driver remain under the care of his/her competent medical specialist;

a condition that the driver adhere to the treatment and/or medication;

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authorization by the driver to the competent medical specialist to report any change in the driver's condition that would impair the driver's ability to operate a motor vehicle;

possible consequences for failing to abide by any or all of the conditions contained in the medical agreement.

"Medical Examiner" – a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. [625 ILCS 5/6-500(21.1)]

"Medical Examiner's Certificate" – a document prescribed or approved by the Secretary of State that is issued by a medical examiner to a driver to medically qualify him or her to drive. [625 ILCS 5/6-500(21.2)]

"Medical Exemption" – temporary regulatory relief for up to two years from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations in accordance with 49 CFR 381.300 (October 1, 2012).

"Medical Professional" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, a physician assistant who has been delegated the authority to make the required determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make the determination.

"Medical Report" – a confidential medical questionnaire directed to the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department.

"Medical Restriction Card" – a card designed and issued by the Department that describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license.

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"Medical Waiver" – temporary regulatory relief for up to three months from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations in accordance with 49 CFR 381.200 (October 1, [20142012](#)).

"Medical Variance" – a driver has received one of the following from FMCSA, which allows the driver to be issued a medical certificate:

an exemption letter permitting operation of a CMV pursuant to 49 CFR 381 (October 1, [20142012](#)), subpart C or 49 CFR 391.64 (October 1, [20142012](#)); or

a skilled performance evaluation (SPE) certificate permitting operation of a CMV pursuant to 49 CFR 391.49 (October 1, [20142012](#)). [625 ILCS 5/6-500 (21.5)]

"Mental or Physical Disorder or Disability" – a scientifically recognized condition that may medically impair a person's mental and/or physical health to the extent of being unable to safely operate a motor vehicle.

"Military Deferral Card" – a card issued at the expiration of the driver's license to extend the expiration while in the military, of the license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.

"Minor" – a person under 18 years of age.

"Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction or unsatisfied judgement.

"Monocular Vision Acuity" – a visual acuity reading obtained utilizing each individual eye.

"Moped" – a motor-driven cycle, with or without optional power derived from manually operated pedals, whose speed attainable in one mile is at least 20 m.p.h. but not greater than 30 m.p.h., and is equipped with a motor that produces 2

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brake horsepower or less. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeter displacement and the power drive system shall not require the operator to shift gears. [625 ILCS 5/1-148.2]

"Motorcycle" – every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor [625 ILCS 5/1-147].

"Motorcycle Rider Safety Training Course" – a course of instruction in the use and operation of motorcycles and/or motor-driven cycles, including instruction in the safe on-road operation of motorcycles and/or motor-driven cycles, the rules of the road and the laws of this State relating to motor vehicles, which course must meet the requirements set out in 92 Ill. Adm. Code 455.101.

"Motor-Driven Cycle" – every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles [625 ILCS 5/1-145.001].

"Motor Vehicle" – every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. Motor vehicles are divided into two divisions:

First Division: Those motor vehicles that are designed for the carrying of not more than 10 persons.

Second Division: Those motor vehicles that are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles that are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodeled for use and used as motor vehicles of the Second Division. [625 ILCS 5/1-146]

"Motor Vehicle Departments of Foreign States" – the departments in other states that issue driver's licenses.

"Motor Vehicle Record" – a report of the driving status and history of a driver generated from the driver record provided to users, such as drivers or employers,

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and is subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(22.2)]

"Nasal Vision Reading" – a field of vision 35° from the straight ahead.

"National Driver Register" or "NDR" – a computerized database of files on drivers maintained by the U.S. Department of Transportation, National Highway Traffic Safety Administration.

"Night" – the hours during the period from sunset to sunrise.

"Nighttime Drive" – a road test administered during the hours of sunset to sunrise.

"Nighttime Driving Privilege" – a privilege granted to a licensed driver to operate a motor vehicle during nighttime hours while wearing a telescopic lens arrangement.

"Non-CDL" – any other type of motor vehicle license, such as an automobile driver's license or a motorcycle license.

"Non-CDL Skills Test" – any drive test given to an applicant who is attempting to obtain a driver's license except for a Class D, a CDL or a CDL endorsement.

"Non-Excepted Interstate" or "NI" – a person who operates or expects to operate in interstate commerce, is subject to and meets the qualification requirements under 49 CFR 391 (October 1, ~~2014~~2012), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, ~~2014~~2012). [625 ILCS 5/6-500(22.7)]

"Non-Excepted Intrastate" or "NA" – a person who operates only in intrastate commerce and is subject to State driver qualification requirements. [625 ILCS 5/6-500(22.8)]

"Official Investigation" – the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.

"Operator's License" – any driver's license to operate a motor vehicle issued under the laws of any state.

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"Organized Religion" – a group of people with the same or similar beliefs brought together to exercise those beliefs.

"P Endorsement" – a notation on the driver's license that the driver has qualified to operate a vehicle designed to transport 16 or more persons, including the driver.

"Peripheral Vision" – vision from the outside line of direct sight toward the temporal area.

"Preliminary Favorable Medical Report" – a current medical report or a current written statement on official letterhead that is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle; however, additional information and/or clarification or consultation is needed.

"Probationary License" – a special license granting full driving privileges during a period of suspension and is issued upon successful completion of a driver remedial education course.

"Problem Driver Pointer System" or "PDPS" – a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license.

"Proof of Insurance" – acceptable forms of proof of insurance include, but are not limited to, the following:

Illinois insurance card that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year and make and a minimum of the last six characters of the Vehicle Identification Number (VIN);

Combination of proof of purchase of the motor vehicle within 60 days and a current insurance card [625 ILCS 5/7-602(b)];

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Current declaration page of a liability policy [625 ILCS 5/7-602(c)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle description and liability limits of the policy;

Liability insurance binder [625 ILCS 5/7-602(d)];

Certificate of Insurance [625 ILCS 5/7-602(d)];

Payment receipt for a liability insurance premium [625 ILCS 5/7-602(d)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year, make and a minimum of the last six characters of the VIN, date of premium payment and signature of company representative;

Current rental agreement [625 ILCS 5/7-602(e)];

Registration plates, registration sticker or other evidence of registration issued by the Secretary of State's Office only upon submission of proof of liability insurance [625 ILCS 5/7-602(f)];

Certificate, decal or other document or device issued by a governmental agency for a motor vehicle indicating the vehicle is insured for liability [625 ILCS 5/7-602(g)] (or has qualified for an exemption to the liability insurance law).

"Prosthesis" – an artificial limb such as arm or leg.

"Public Safety Worker" – a person employed by this State or a political subdivision thereof that provides firefighting, medical or other emergency services [625 ILCS 5/6-117.2(f)].

"Questionable Medical Report" – a medical report that contains medical information raising some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle, including the following:

A medical report that indicates the driver has experienced an attack of unconsciousness within the past six months;

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The medical report lacks a professional opinion indicating whether the driver is medically fit to safely operate a motor vehicle;

The medical report was signed and/or completed by someone other than a competent medical specialist;

The competent medical specialist recommends the driver has driving privileges, however, expresses reservations about the driver's ability to safely operate a motor vehicle.

"Reckless Driving" – driving a motor vehicle with a willful or wanton disregard for the safety of persons or property or knowingly driving a vehicle using an incline in a roadway, such as a railroad crossing, bridge approach or hill to cause the vehicle to become airborne [625 ILCS 5/11-503].

"Registration Sticker" – a device or devices to be attached to a rear registration plate that will renew the registration and registration plate or plates for a pre-determined period not to exceed one registration year except as provided in IVC Section 3-414(1).

"Regularly Scheduled Classroom Instruction" – the continuous and uninterrupted education course that takes place during the specific time period (i.e., quarter) in which the school has scheduled the student to participate.

"Rehabilitation Institution" – any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.

"Religious Organization Bus" – any vehicle other than a vehicle of the First Division or a school bus as defined by IVC Section 1-182 that is exclusively owned and operated by a religious organization and is used primarily in conducting the official activities of that organization.

"Religious Organization Vehicle Restriction" – the authority to operate a religious organization bus (see IVC Section 6-106.2).

"Representative Vehicle" – a motor vehicle that represents the type an applicant operates or expects to operate.

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"Rescind" – to annul or void a suspension, revocation, cancellation, disqualification or denial.

"Restricted Local License" – a special restricted driver's license issued under IVC Section 6-113 and intended to enable a person to drive a specific route.

"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Department to assure safe operation of a motor vehicle.

"Review of Driving Habits" – a review of the applicant's driving record maintained by the Office of the Secretary of State, or documentation from another licensing entity, that has been certified within 30 days prior to the date of application, to insure that the requirements are met (see IVC Sections 6-104, 6-508).

"Road Test" – an actual demonstration of the applicant's ability to operate a motor vehicle (see IVC Section 6-109).

"S Endorsement" – an endorsement for CDL holders who operate as a school bus driver to transport pre-primary, primary or secondary school students to and from home, from school to home, or to and from school-sponsored events.

"Safety Course" – an explanation provided by a rental agency to an individual during the rental transaction concerning the controls and features of the vehicle and its proper operation.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed by the Department to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to the entities' employees and members. A safety officer is equivalent to a Third Party Skills Test Examiner as defined in 49 CFR 383.5 (October 1, 2014).

~~"Safety Officer" – any individual employed by a third-party certifying entity who is licensed for the purpose of conducting the skills test to determine for certification purposes that an applicant has been tested and meets the same qualifications required by the Secretary of State.~~

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"SAVE" – the Systematic Alien Verification for Entitlements Program that allows electronic inquiries to U.S. Citizenship and Immigration Services (USCIS) by state motor vehicle agencies in the determination of the immigration status of an applicant for a Visa Status Temporary Visitor's Driver's License pursuant to IVC Section 6-105.1(a).

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not less than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not

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more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [625 ILCS 5/1-182]

"School Bus Commercial ~~Learner's Instruction~~ Permit" or "School Bus ~~CLPCIP~~" – ~~a learner's instruction~~ permit that allows an applicant for a school bus permit to operate a school bus, but only when accompanied by a properly classified driver with a school bus ~~driver~~ permit.

"School Bus Driver Permit" – a permit issued to an applicant who has met all the requirements that authorize the individual to drive a school bus (see IVC Section 6-106.1).

"Seasonal Restricted Commercial Driver's License" or "Restricted CDL" – a limited waiver for employees of certain farm-related services to operate specific commercial motor vehicles without a commercial driver's license for a limited period.

"Second Division Vehicle" – any vehicle designed to carry more than 10 persons, those designed or used for living quarters and those vehicles designed to pull or carry property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second division, and those motor vehicles of the first division used and registered as school buses [625 ILCS 5/1-217].

"Secondary Dissemination" – the distributing or sharing of an image by a source other than the primary source (Secretary of State) that has direct access to the image.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"Self-Admission" – a statement or indication from the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair the ability to safely operate a motor vehicle or that is likely to cause a loss of consciousness.

"Self-Certification" – a driver's signed and dated declaration of the type of driving (NI, EI, NA, EA) in which he or she engages or expects to engage while operating a CMV.

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"Senior Citizen Transportation Vehicle" – a vehicle, other than a vehicle of the first division or a school bus, exclusively owned and operated by a senior citizen organization and used primarily in conducting the official activities of the organization.

"Serious Traffic Violation" – a conviction when operating a commercial motor vehicle, or when operating a non-CMV, while holding a [CLP or](#) CDL of: a violation relating to excessive speeding involving a single speeding charge of 15 miles per hour or more above the legal speed limit; a violation relating to reckless driving; a violation of any State law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; a violation, relating to having multiple driver's licenses (see IVC Section 6-501); a violation relating to the requirement to have a valid [CLP or](#) CDL (see IVC Section 6-507(a)); a violation relating to improper or erratic lane changes; a violation relating to following another vehicle too closely; any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines to be [serious](#) pursuant to 92 Ill. Adm. Code 1040.20.

"Skills Performance Evaluation" or "SPE" – a certificate, issued by FMCSA to a driver with a missing limb, in accordance with 49 CFR 391.49 ([October 1, 2014](#)), which allows the driver to operate a CMV.

"Special Needs Individuals" – those individuals who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required be individuals generally [625 ILCS 5/6-117.2(f).

"SSOLV" – the Social Security Online Verification system that allows electronic inquiries to the Social Security Administration by state motor vehicle agencies to verify names and social security numbers of applicants for driver's licenses or identification cards.

"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada [625 ILCS 5/1-195].

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"*Suspension*" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary [625 ILCS 5/1-204].

"*Tank Vehicle*" – any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rate capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Those vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171 (2011). [625 ILCS 5/1-204.4]
~~However, a tanker type vehicle does not include any vehicle in which the tank, that is either permanently or temporarily attached, has a rated capacity of less than 1,000 gallons.~~

"*Telescopic Lens Arrangement*" – a non-standard adaptive device that aids in improving vision deficits.

"*Telescopic Lens Vision Specialist Report*" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"*Temporal Vision Reading*" – a field of vision 70° from the straight ahead.

"*Temporary Driver's License or Instruction Permit*" – a driver's license or instruction permit issued for no longer than 90 days to a person who is temporarily unable to obtain a license or instruction permit.

"*Temporary Visitor's Driver's License*" or "*TVDL*" – a license issued to:

a foreign national who is authorized to temporarily reside in this country allowing the operation of a motor vehicle under the laws of this State (referred to in this Part as "Visa status"); or

an applicant who:

resided in this State for a period in excess of one year;

is ineligible to obtain a social security number; and

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is unable to present documentation issued by the United States Citizenship and Immigration Services authorizing the person's presence in this country [625 ILCS 5/6-105.1(a-5)] referred to in this Part as "non-Visa status".

"Termination of an Adjudication of Disability Order" – an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Section 11a-20 of the Probate Act of 1975 [755 ILCS 5/11a-20].

"Third-Party Certification License" – a license issued by the Secretary of State to a third-party certifying entity that allows the entity to participate in the third-party certification program.

"Third-Party Certification Program" – a Secretary of State program that allows a third-party entity to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to its employees or members.

"Third-Party Certifying Entity" or "Entity" – an entity licensed by the Secretary of State to participate in the third-party certification program. A third-party certifying entity is equivalent to a third party tester as defined in 49 CFR 383.5 (October 1, 2014).

~~"Third Party Certification License" – a license issued by the Secretary of State to conduct a qualified third-party certification program (see IVC Section 6-508).~~

~~"Third-Party Certification Program" – a program designed by the Secretary of State allowing third-party entities to provide to employees or by membership in a qualified training program of classroom and/or behind-the-wheel testing for the purpose of certifying to the Secretary of State that an applicant is qualified to operate a motor vehicle without the Secretary of State having to administer a road test (see IVC Section 6-508 and Section 1030.85).~~

~~"Third Party Certifying Entity" – a third-party entity licensed by the Secretary of State to engage in a third-party certification program.~~

"Transportation Security Administration" or "TSA" – a division of the Department of Homeland Security administering provisions of the Uniting and

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Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act; Public Law 107-56, 115 Stat. 272).

"Traffic Regulation Governing the Movement of Vehicles" – a violation for which points are assigned pursuant to 92 Ill. Adm. Code 1040.20.

"Type A Injury" – an injury that requires immediate professional attention in either a doctor's office or a medical facility and includes severely bleeding wounds, distorted extremities and injuries requiring the injured party to be carried from the scene.

"Traffic Environmental Screening" – a screening designed by the Department that shall consist of the driver demonstrating the ability to recognize actual traffic conditions using the telescopic lens arrangement while riding with and being evaluated by a Driver Services Facility representative.

"Unfavorable Medical Report" – a medical report signed and completed by a competent medical specialist containing a professional opinion that, due to a physical and/or mental disorder/disability, the driver is not medically fit to operate a motor vehicle.

"Unfavorable Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report signed and completed by a licensed vision specialist that indicates a professional opinion that the driver is not capable of safely operating a motor vehicle, or the monocular or binocular acuity readings and/or peripheral readings do not meet Illinois standards, or the peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, or the power of the telescopic lenses does not meet Illinois standards as set forth in Section 1030.75.

"Unfavorable Vision Specialist Report" – a vision specialist report signed and completed by a vision specialist indicating the monocular or binocular acuity and/or peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, the driver would not accept or has refused the recommended correction, and his/her vision readings without this correction are not favorable.

"Unfit to Stand Trial Order" – an order by a court of competent jurisdiction whereby a defendant, because of a mental or physical condition, is unable to understand the nature and purpose of the proceeding against him/her or to assist in

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his/her defense pursuant to Section 104-10 of the Code of Criminal Procedure [725 ILCS 5/Art. 104-10].

"USCIS" – U.S. Citizenship and Immigration Services is a bureau of the U.S. Department of Homeland Security (USDHS) that is in charge of processing immigrant visa petitions, naturalization petitions, and asylum and refugee applications, as well as making adjudicative decisions performed at the services centers and managing all other immigration benefit functions.

"Valid Driver's License or Permit" – a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not expired, been invalidated, denied, canceled, revoked, suspended or disqualified, or been used after a curfew or nighttime driving restriction.

"Vendor" – an authorized fingerprint company approved by the [Illinois State Police \(ISP\)](#) who will transmit fingerprint data to ISP to be forwarded to the FBI.

"Verification of Residency Form" – a form printed by the Secretary of State that non-Visa status temporary visitor's driver's license applicants shall complete and that contains all Illinois addresses at which the applicant has resided for the 12 months immediately prior to application.

"Vision Screening" – the readings obtained by a physician, ophthalmologist, optometrist or Department representative of an applicant's visual acuity and peripheral fields of vision.

"Vision Specialist" – a doctor licensed to practice medicine in optometry under the Illinois Optometric Practice Act [225 ILCS 80] or a competent medical specialist.

"Vision Specialist Report" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"Visual Acuity Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

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"Visual Peripheral Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

"Withdrawal" – the negating of valid driving privileges by a state as the result of sanctions taken against driving privileges.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.5 Procedure for Obtaining a Driver's License

- a) A person who wishes to obtain a driver's license shall go to one of the Secretary of State Driver Services Facilities located throughout the State. An application form provided by the Secretary of State pursuant to IVC Section 6-106 shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. The applicant shall also provide a Driver Services Facility employee with acceptable forms of identification provided in Appendix B establishing the applicant's name, date of birth, signature for comparison, Illinois residency and social security number. A person who wishes to obtain a CDL must provide proof of citizenship or lawful permanent residency or obtain a non-domiciled CDL.
- b) The applicant shall take the following tests as required in IVC Section 6-109:
 - 1) A vision test as provided in Sections 1030.70 and 1030.75;
 - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
 - 3) A written test, if required, as provided in Section 1030.80.
- c) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a driver's license without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and until the applicant has, in accordance with IVC Section 6-107(b):
 - 1) Held a valid instruction permit for a minimum of 9 months;

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- 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
- 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury, that everything contained within the certification is true and correct.
- d) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a driver's license unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.
- e) A driver's license applicant shall have his/her photograph taken unless exempted by Section 1030.90. A driver's license shall be issued upon completion of all the requirements of this Section and IVC Chapter 6.
- f) The fees collected for the issuance of an original, renewal, duplicate or corrected driver's license shall be in accordance with IVC Section 6-118.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.22 Medical Examiner's Certificate – CLP or CDL Holders

- a) Every person who holds a CLP or CDL ~~on or after January 30, 2012~~ must meet the requirements set forth in 49 CFR 383.71(a)(2) through (a)(9) and (h) (October 1, 2014~~2014~~) and self-certify with the Department ~~prior to January 30, 2014~~ as one of the following:

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- 1) Non-excepted interstate (NI) – Operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR 391 (2011), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 ([October 1, 2014](#));
 - 2) Excepted interstate (EI) – Operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3 ([October 1, 2014](#)) from all or parts of the qualification requirements of 49 CFR 391 ([October 1, 2014](#)), and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 ([October 1, 2014](#));
 - 3) Non-excepted intrastate (NA) – Operates or expects to operate only in intrastate commerce and is both subject to and meets the qualification requirements under 49 CFR 391 (October 1, 2014), as incorporated by reference at 92 Ill. Adm. Code 391.2000, and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2014). (See 92 Ill. Adm. Code 391.2000(c) for intrastate exceptions.)~~is subject to State driver qualification requirements and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 (2011); or~~
 - 4) Excepted intrastate (EA) – Operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the State driver qualification requirements and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 ([October 1, 2014](#)).
- b) ~~Every~~Effective January 30, 2012, every applicant for a CLP or CDL ~~or CDL permit~~, including a renewal and upgraded CLP or CDL ~~or CDL permit~~, must self-certify as set forth in subsection (a).
 - c) Failure, by a current CDL holder, to self-certify with the Department by January 30, 2014 will result in the cancellation of the CDL privileges.
 - d) Pursuant to 49 CFR 383.73(a)(5) ([October 1, 2014](#)), the Department shall require a CLP or CDL holder to submit a medical examiner's certificate when the driver self-certifies to non-excepted interstate (NI) driving operations (see subsection (a)(1)).

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- e) Intrastate drivers subject to subsection (a)(3) are not required to submit a medical examiner's certificate to the Secretary when the driver self-certifies to NA driving privileges.
- f) The medical examiner's certificate must be submitted on a form approved by the Department and contain the following information:
- 1) Signature of medical examiner;
 - 2) Medical examiner's telephone number;
 - 3) Date of issuance of the medical examiner's certificate;
 - 4) Medical examiner's full name;
 - 5) Medical examiner's specialty;
 - 6) Medical examiner's license/certificate number and issuing state;
 - 7) Driver's signature;
 - 8) Driver's license number and issuing state;
 - 9) Driver's residence address;
 - 10) Expiration date of the medical examiner's certificate;
 - 11) If the driver changes self-certification status after the original certification, the medical examiner's certificate must also contain the following information:
 - A) Self-certification of driver;
 - B) Driver's signature and date of self-certification;
- gf) The Department shall require a CLP or CDL holder to submit a medical variance when the medical examiner's certificate indicates a medical variance is required.

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- hg) Within 10 calendar days after the receipt of a medical examiner's certificate, medical variance or notification from FMCSA that a medical variance was removed or rescinded, the Department shall update the CDLIS driver record.
- ih) If the Department receives notification that a CLP or CDL holder has been granted a medical variance and the most recent medical certificate on file with the Department does not contain a medical variance, the CLP or CDL holder shall be required to submit a current medical examiner's certificate reflecting the variance and to appear at a CDL facility to have a corrected CLP or CDL issued. If, within 20 days after notification by the Department, the CLP or CDL holder fails to submit an updated medical examiner's certificate or to have a corrected CLP or CDL issued, the driver's CLP or CDL privileges will be cancelled pursuant to IVC Section 6-201(a)(12).
- ji) All CLP or CDL holders who have certified to non-excepted interstate (NI) driving must maintain on file with the Department a current medical examiner's certificate and, if applicable, a medical variance.
- 1) The Department shall notify the driver in writing at least 90 days prior to the expiration of his or her medical examiner's certificate and/or medical variance that a new certificate and/or variance must be filed with the Department. The notice may include a blank medical examiner's certificate.
 - 2) The Department shall, within 10 days after the expiration of the driver's medical examiner's certificate and/or medical variance, update the medical certification status to "not certified".
 - 3) Failure of the CLP or CDL holder to submit a new medical examiner's certificate and/or medical variance within 30 days after the expiration date of the most recent medical examiner's certificate and/or medical variance on file will result in the cancellation of the CLP or CDL privileges pursuant to IVC Section 6-201(a)(12).
 - A) The cancellation shall take effect on the 31st day after the expiration of the medical examiner's certificate and/or medical variance.
 - B) The cancellation order shall remain in effect until the driver:

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- i) Provides a current and completed medical examiner's certificate and, if applicable, a medical variance; or
 - ii) Appears at a CDL facility, downgrades to a non-CDL license and has a corrected driver's license issued; or
 - iii) Changes the self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.
 - 4) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and/or medical variance is subsequently received, the cancellation shall be rescinded.
- [kj](#)) If the Department receives notification from FMCSA that it has removed or rescinded a medical variance, the Department shall change the medical certification status to "not certified" on the CDLIS driving record and immediately cancel the [CLP or](#) CDL privileges.
- 1) The Department shall notify the driver that one of the following requirements must be met in order to clear the cancellation:
 - A) Provide a current and completed medical examiner's certificate that indicates a variance is no longer necessary; or
 - B) Appear at a CDL facility, downgrade to a non-CDL license and have a corrected driver's license issued; or
 - C) Change self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.
 - 2) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and medical variance is subsequently received, the cancellation shall be rescinded.
- [lk](#)) If the Department receives notification from FMCSA that it has removed or rescinded a medical examiner's certificate, the Department shall change the medical certification status to "not certified" on the CDLIS driving record and immediately cancel the [CLP or](#) CDL privileges.

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- 1) The Department shall notify the driver that one of the following requirements must be met in order to clear the cancellation:
 - A) Provide a current and completed medical examiner's certificate; or
 - B) Appear at a CDL facility, downgrade to a non-CDL license and have a corrected driver's license issued; or
 - C) Change self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.
 - 2) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and, if applicable, medical variance is subsequently received, the cancellation shall be rescinded.
- m) The Department shall not accept an incomplete medical examiner's certificate. If a driver submits an incomplete medical examiner's certificate, the Department shall notify the driver, in writing, that the submitted medical examiner's certificate was incomplete and direct the driver to provide a completed medical examiner's certificate. Failure of the CLP or CDL holder to submit a completed medical examiner's certificate to the Department within 30 days will result in the cancellation of the CLP or CDL privileges pursuant to IVC Section 6-201(a)(12). The cancellation order shall take effect on the 31st day and shall remain in effect until the driver:
- 1) Provides a current and completed medical examiner's certificate and, if applicable, a medical variance; or
 - 2) Appears at a CDL facility, downgrades to a non-CDL license and has a corrected driver's license issued; or
 - 3) Changes the self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.
- nm) The Department shall require a CLP or CDL holder to obtain a corrected driver's license with a restriction if the CLP or CDL holder submits a medical examiner's certificate that indicates the driver is medically approved to operate a CMV conditioned upon a restriction.

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- 1) Failure to appear at a CDL ~~facility~~Facility within 20 days to add the proper restriction to the CLP or CDL and pay the appropriate fee for a corrected driver's license will result in the cancellation of CLP or CDL privileges pursuant to IVC Section 6-201(a)(11).
- 2) If the CLP or CDL privileges are canceled and the driver subsequently appears at a CDL facility, has the restriction added to the driver's license and has a corrected CLP or CDL issued, the cancellation shall be cleared.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.60 Third-Party Certification Program

- a) For purposes of this Section, the following definitions shall apply:

"Cancellation of Third-Party Certifying Entity License" – the annulment or termination by formal action of the Secretary of State of a Third-Party Certifying Entity License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Cancellation of Third-Party Certification Safety Officer License" – the annulment or termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Certify" – transmittal to the Department by a third-party certifying entity that an employee or member of the entity has successfully passed the CDL skills tests.

"Denial of Third-Party Certifying Entity License" – to prohibit or disallow the privilege to obtain a Third-Party Certifying Entity License by the Secretary of State.

"Denial of Third-Party Certification Safety Officer License" – to prohibit or disallow the privilege to obtain a Third-Party Certification Safety Officer License by the Secretary of State.

"Department" – the Department of Driver Services within the Office of the Secretary of State.

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"Federal Motor Carrier Safety Administration" or "FMCSA" – a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Revocation of Third-Party Certifying Entity License" – the termination by formal action of the Secretary of State of a Third-Party Certifying Entity License; the termination shall not be subject to renewal or restoration.

"Revocation of Third-Party Certification Safety Officer License" – the termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License; the termination shall not be subject to renewal or restoration.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed by the Department to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to the entities' employees and members. A safety officer is equivalent to a Third Party Skills Test Examiner as defined in 49 CFR 383.5 (October 1, 2014).

"Skills Tests" – Those tests specified in subparts G and H of 49 CFR 383 (October 1, 2014).

"Suspension of Third-Party Certifying Entity License" – the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certifying Entity License for a period specifically designated by the Secretary.

"Suspension of Third-Party Certification Safety Officer License" – the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certification Safety Officer License for a period specifically designated by the Secretary.

"Third-Party Certification License" – a license issued by the Secretary of State to a third-party certifying entity that allows the entity to participate in the third-party certification program.

"Third-Party Certification Program" – a Secretary of State program that allows a third-party entity to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to its employees or members.

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"Third-Party Certifying Entity" or "Entity" – an entity licensed by the Secretary of State to participate in the third-party certification program. A third-party certifying entity is equivalent to a third party tester as defined in 49 CFR 383.5 (October 1, 2014).

- b) The Department shall not require an actual demonstration of the ability of the driver applicant to operate and exercise ordinary and reasonable control of a motor vehicle when the driver applicant has successfully completed the CDL skills tests administered by a safety officer of a third-party certifying entity~~for purposes of third party certification programs~~, if the ~~third party certifying~~ entity complies with the following requirements:
- 1) License Required – No person, firm, association, partnership or corporation shall operate a third-party certification program unless a license has been issued by the Secretary of State. When an application is submitted for an original third-party certification license or Safety Officer License, the applicant or applicants shall not conduct any business as a third-party certifying entity or safety officer until a license is issued by the Department pursuant to the requirements of subsections (d) and (i).
 - 2) Certify Only Employees or Members – A third-party certifying entity shall certify only those driver applicants who are employed by and on the payroll of the entity at the time of certification. Third-party entities that are unions or fire departments shall certify only those driver applicants who are members at the time of certification.
 - 3) A third-party ~~certifying certification~~ entity shall not enter into any agreement with employees/members it certifies~~they certify~~ that provides for compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, payable to the third-party entity, in exchange for training and/or testing from the employee/member who is certified.
 - 4) A third-party ~~certifying certification~~ entity shall not accept compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from any employee/member who is certified.

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- 5) A third-party ~~certifying certification~~ entity shall not engage in or permit any type of fraudulent activity, with reference to either any certified individual or the Secretary of State.
- 6) A third-party certifying entity must enter into a written agreement with the Secretary of State that delineates the responsibilities and requirements the entity must meet and adhere to.
- c) Licenses May Not Be Assigned. No individual, partnership, association or corporation may sell, assign, barter or trade a third-party certification license or ~~Safety Officer Licensesafety officer license~~ issued by the Department. ~~When an application is submitted for an original third-party certification license or safety officer license, the applicant or applicants shall not conduct any business as a third-party certifying entity or safety officer until a license is issued by the Department pursuant to the requirements contained in subsections (d) and (i).~~
- d) Requirements – Third-Party ~~Certifying Certification~~ Entities
- 1) The entity shall have at least one employee who is licensed as a safety officer for the ~~entitythird-party certification program~~. A ~~Safety Officer Licensesafety officer~~ may only test and certify ~~employees or membersindividuals~~ in the ~~classificationclass that is~~ indicated on the ~~Safety Officer Licensesafety officer license~~.
- 2) The entity shall have a regularly established place of business in the State of Illinois, with the exception of ~~entitiessponsors~~ having a regular place of business in a contiguous state, ~~i.e., (Indiana, Missouri, Wisconsin, Iowa and Kentucky)~~. Any entity having its headquarters in a ~~contiguousborder~~ state ~~that wishesand requesting~~ to participate in the third-party certification program shall have an appointed agent, for purposes of this program, who is licensed as a safety officer and holds a valid Illinois driver's license or a CDL issued by a contiguous state.
- A) The established place of business of each ~~third-party certifying~~ entity must consist of at least the following permanent facilities:
- i) an office facility;

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- ii) appropriate space (an area at least 15 feet wide by 100 feet long) to conduct all basic control skills tests pursuant to Section 1030.85.
 - B) ~~An~~A third-party certifying entity that has an established place of business may operate a branch facility, provided the branch facility meets all requirements of the main facility pursuant to subsections (d)(2)(A) and (d)(2)(D).
 - C) Upon receipt by the Secretary of State of a written request to open a branch facility, an authorized representative of the Secretary of State shall inspect the branch facility and, if ~~the facility meets~~it complies with the provisions of this Section, shall issue the appropriate license that must be displayed in a visibly prominent place in the branch facility.
 - D) Each location must comply with public health and safety standards contained in the Public Building Egress Act [415 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and the Environmental Barriers Act [410 ILCS 25].
- 3) The entity shall submit to the Department a copy of any subcontract of services described in this Part.
 - 4) The entity shall have a prescribed physical driving course for each location and be required to meet a driving skills test with the same minimum standards as the course used for testing by the Department pursuant to Section 1030.85.
 - 5) The entity shall have access to a properly registered motor vehicle ~~that meets the definition of the vehicle group~~ of the representative classification that the employee/member operates or expects to operate.
 - 6) The entity shall provide the employee/member who takes and passes the skills tests with a fully completed Certification of Drive Test By Third Party Certifying Entity~~documented proof (Secretary of State's Road Test Score Sheet form)~~ that certifies~~shall be evidence to the Department that~~ the individual has successfully passed the skills tests administered by the safety officer of the third-party certifying entity.

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- 7) The entity shall collectively submit completed application forms to the Department for each main office, branch office and safety officer.
- 8) The entity shall have and use a business telephone listing for all business purposes.
- 9) If a licensed safety officer is temporarily suspended, laid-off or discharged by a third-party certifying entity, the entity shall immediately notify the Department, on forms furnished by the Department, of the name, address and license number of the safety officer, the officer's termination date and reason for termination. In all cases in which a safety officer has ceased working for the third-party certifying entity, the safety officer must surrender the third party ~~Safety Officer Licenses~~safety-officer license to the Department.
- 10) Records – All ~~third-party certifying~~ entities licensed by the Secretary of State must maintain the following records for a period of four years, at the licensed location where the testing took place:
 - A) The name and address of each employee/member certified by the entity, the instruction permit or driver's license number of every employee/member, the results of the final skills test, including endorsements, given to each employee/member, the name of the safety officer who administered the skills test, and the license plate number of the vehicle used ~~into conduct~~ the test.
 - B) Proof of eligibility for certification of each employee/member certified.
 - C) Proof of proper training for each CDL certified employee/member, who did not hold a valid CDL at the time of testing or has never held a valid CDL, including dates of training and the names of all trainers that provided training, shown on the form provided by the Department or an equivalent form approved by the Department.
 - D) Documentation, including dates of training and the names of the trainers, of any training provided to each CDL certified employee/member who holds a valid CDL at the time of testing or

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has previously held a CDL

- 11) Auditing – CDL ~~Driving~~ Skills Test
- A) Entities shall~~All third-party certifying entities must~~ allow the Department and FMCSA or its representatives to conduct random examinations, inspections and audits without prior notice pursuant to 49 CFR 385.75 and 384.229 (October 1, 2013), including audits of employment records of individuals certified by the third-party certification entity and any and all agreements or contracts governing the employer/employee relationship or entity/member relationship as it pertains to training or testing.
- B) Entities shall~~All third-party certifying entities must~~ allow the Department to conduct on-site inspections at least annually.
- C) Entities shall allow Department employees to covertly take the skills tests administered by the entity's safety officer as if the Department employee were an employee or member of the entity.
- D) Entities shall allow Department employees to co-score, along with the safety officer, during skills tests administered to the entity's employees or members to compare pass/fail results.
- EE) The Department shall annually re-examine a ~~sample~~ percentage of the certified employees/members to compare pass/fail results and determine the percentage of certified individuals employed by, or who are members of, the third-party certifying entity.
- i) If the results of the random examination reflect a failure rate greater than the Department's current acceptable failure rate of 20 percent, the third-party entity will be notified in writing of the need to retrain the failed applicants.
- ii) The retraining must be completed within 30 days after the random examination, at which time the trainee must be referred to the Secretary of State to be skills tested.
- iii) The Commercial Driver Training School Section will

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determine the location and time of the re-testing.

- ~~FD~~) The Department may re-examine any individual who was tested and certified by a third-party ~~certifying~~certification entity.
- 12) ~~Entities~~Display of Licenses—~~Each third-party certifying entity~~ shall display in a prominent place at the established place of business the following:
- A) The ~~State~~ license issued by the Department to the ~~third-party certifying~~ entity; and
- B) ~~The Safety Officer Licenses~~Safety officer licenses of all safety officers employed by the ~~third-party certifying~~ entity.
- 13) Prior to administering the skills tests~~CDL certification~~, the ~~third-party certification~~ entity must provide training on the CDL skills tests as specified in Section 1030.85~~subparts G and H of 49 CFR 383~~ to each employee/member who does not currently hold, or has never held, a valid CDL. The training shall be given in equally scheduled intervals, over a period of not less than 14 days.
- 14) The ~~third-party certification~~ entity must provide the Department with the names of all employees or members~~individuals~~ it tested and certified from a non-CDL classification to a CDL classification whose employment/membership terminated within six months after the date of certification.
- A) The Department ~~shall~~will cite these individuals to be retested by the Secretary of State in a properly classified vehicle. If the individual passes the skills test, the individual may in order for the individual to maintain the driver's license classification originally certified by the entity. If the individual fails any part of the skills test, the individual shall be downgraded to the non-CDL classification he/she held prior to being certified.
- B) The Department ~~shall~~will provide each entity with a Verification of Continual Employment form to assist the ~~third-party certification~~ entity in determining the names of the employees or

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~~members~~individuals who have terminated their employment/membership within six months after being certified.

- 15) The entity may not have a current unsatisfactory rating from FMCSA as defined in 49 CFR 385.3 (October 1, 2014).
- 16) The entity must submit a schedule of CDL skills tests appointments, in a manner prescribed by the Department, to the Department, no later than two business days prior to each test.
- 17) Unless the entity is a governmental agency, the entity must secure and maintain a continuous surety bond in the Principal sum of \$10,000, underwritten by a company authorized to do business in the State of Illinois, which represents a sufficient amount to pay for re-testing drivers in the event that the entity or one or more of its safety officers is involved in fraudulent activities related to the skills testing of its employees or members. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the Principal sum of \$10,000. The surety on any bond may cancel the bond on giving 30 days notice in writing to the Secretary of State and shall be relieved of liability for any breach of any conditions of the bond that occurs after the effective date of cancellation. All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, _____, of _____,

hereinafter referred to as Principal and _____, a corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of \$10,000, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the Principal has made application to the Illinois Secretary of State for licensure as a third-party certifying entity for the purpose of administering CDL skills tests to employees or members of the Principal. Therefore, if the Principal faithfully complies with the Illinois Vehicle Code and all State and federal rules and

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regulations that have been or may hereafter be in force concerning the license, and shall save and keep harmless the Illinois Secretary of State, the Obligee, from all loss or damage that may be sustained as a result of re-testing drivers in the event that the Principal or one or more of its safety officers is involved in fraudulent activities related to conducting skills testing of applicants for a commercial driver's license this obligation shall be void; otherwise, this obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the SOS Commercial Driver Training Section, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after that 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20 _____

Principal _____

Surety _____

By _____

Attorney-in-fact

18) Within three days after an employee or member passes the CDL skills tests administered by the entity, the entity shall transmit the score sheet to the Department through secure electronic means prescribed by the Department.

e) Skills Tests

1) Any CDL or school bus skills tests administered by ~~an the third party certifying~~ entity must be conducted by a ~~licensed~~ safety officer as specified in ~~subparts G and H of~~ 49 CFR 383.75 (October 1, 2014). A safety officer licensed to administer skills tests is prohibited from administering a skills test to an individual who received skills training from that safety officer.

2) Driving Skills – The entity shall have a prescribed physical driving course for each location and is required to administer a skills test with the same

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minimum standards used by the Department as provided in Section 1030.85.

- 3) Pre-Trip Inspection – When applicable, the entity shall test and the employee/member shall demonstrate skills necessary to conduct a pre-trip inspection, which include the ability to:
 - A) locate and verbally identify air brake operating controls and monitoring devices;
 - B) determine the motor vehicle's brake system condition for proper adjustments and that the air system connections between vehicles have been properly made and secured;
 - C) inspect low pressure warning devices to ensure they will activate in emergency situations;
 - D) ascertain, with the engine running, that the system contains an adequate supply of compressed air;
 - E) determine that the required minimum air pressure build up at the time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and
 - F) operationally check the brake system for proper performance.
- 4) Restrictions and/or Endorsements – ~~Entities – Third party certification entities~~ conducting ~~skills road~~ tests for restrictions, passenger endorsements and/or school bus endorsements must ~~administer~~ ~~meet~~ a skills test with the same minimum standards as a test administered by the Department as provided in Section 1030.92.
- 5) ~~Entities~~ ~~Third party certifying entities~~ conducting road tests for motorcycle and non-CDL A, B or C classifications are not bound by subsections (e)(1) through (4), but instead must meet a road test prescribed by the Department as provided in Section 1030.85.
 - A) Motorcycle skills tests must include at least the following:

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- i) basic vehicle control skills;
 - ii) safe driving skills;
 - iii) visual search;
 - iv) speed and space management; and
 - v) mounting and dismounting.
- B) Non-CDL A, B or C classification road tests must include at least the following:
- i) basic vehicle operation;
 - ii) safe driving skills;
 - iii) speed and attention;
 - iv) lane and right of way observance;
 - v) obeying traffic control devices;
 - vi) use of special equipment.
- 6) Require Instruction Permit – Before an employee/member may be skills tested and certified by ~~ana third party~~ entity, the employee/member must obtain an instruction permit from the Department for the specific vehicle classification in which he/she intends to be licensed. The employee/member must hold a valid instruction permit for a period of at least two weeks prior to being skills tested and certified by ~~ana third party~~ entity, if not currently licensed in the classification representative of the vehicle the employee/member intends to drive.
- f) Issuance of Third-Party Certifying Entity Licenses
- 1) The Department shall issue a license to conduct business as a third-party certification program when satisfied the entity applying for a third-party

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certification license has met the requirements.

- 2) All licenses issued to any third-party certifying entity shall remain valid unless canceled, suspended or revoked. The Department shall send affidavits to, and conduct audits of, each licensee annually to determine that the licensee remains in compliance with the requirements.
- g) Denial, Cancellation, Suspension and Revocation of Third-Party Certifying Entity Licenses
- 1) The Secretary of State shall deny an application for a third-party certifying entity license:
 - A) to any entity that submits a fraudulent application.
 - B) to any entity that currently employs individuals currently employed by the Secretary of State.
 - C) to any entity that owes outstanding fees to the Secretary of State.
 - D) to any third-party certifying entity that lacks a safety officer.
 - E) ~~when an~~ ~~for any third party certifying~~ entity's physical location ~~that~~:
 - i) fails to comply with public health and safety standards contained in the Public Building Egress Act [45 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and ~~or~~ the Environmental Barriers Act [410 ILCS 25].
 - ii) fails to have a telephone that is registered to the ~~third party certification~~ entity.
 - F) to any ~~third party certifying~~ entity with a current unsatisfactory rating from FMCSA.
 - G) to any commercial driver training school.
 - H) to any ~~third party certification~~ entity that enters into any agreement

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with employees/members ~~it certifies~~~~they certify~~ that provides for compensation or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from the certified employee/member.

D) to any ~~third-party certification~~ entity that accepts compensation or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from any certified employee/member who is certified.

J) to any entity that fails to maintain a continuous surety bond.

2) The Department ~~may shall~~ cancel a third-party certifying entity license for failing to correct, after five business days, any of the following violations~~violation of the following~~:

A) the entity employs individuals currently employed by the Secretary of State.

B) the entity owes outstanding fees to the Secretary of State.

C) the ~~third-party certifying~~ entity lacks a safety officer.

D) the ~~third-party certifying~~ entity fails to meet location standards by:

i) failing to comply with public health and safety standards contained in the Public Building Egress Act [45 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and the Environmental Barriers Act [410 ILCS 25].

ii) failing to have a telephone that registers to the third-party certification entity.

E) the entity currently has an unsatisfactory rating from FMCSA.

F) the entity is a commercial driver training school.

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G) the entity fails to maintain a continuous surety bond.

3) The Department ~~may~~ shall suspend for up to one year or revoke a ~~third-party certifying~~ entity's license for any violation of this Section.

h) Issuance of Safety Officer License

1) The Department shall issue a license to each safety officer when satisfied that the person has met the qualifications required under this Section. Each ~~Safety Officer License~~ ~~third-party certification~~ ~~safety officer license~~ shall authorize the licensee to ~~administer tests solely~~ ~~test~~ for ~~only~~ the employer indicated on the license, except when the safety officer is employed by an entity providing contractual services to the third-party certification entity.

2) An individual may be issued two safety officer licenses in the following combinations:

A) as a safety officer for two governmental agencies; or

B) as a safety officer for a private entity and a governmental agency.

3) All licenses issued to any safety officer shall remain valid unless canceled, suspended or revoked.

i) Safety Officer

1) Requirements-

A) A safety officer may only test and certify ~~employees or members~~ ~~individuals~~ in the class that is indicated on his/her ~~Safety Officer License~~ ~~safety officer license~~.

B) A safety officer who ~~applies~~ ~~intends~~ to ~~administer~~ skills ~~tests~~ ~~to~~ ~~test~~ individuals for CDLs ~~or school bus permits~~ must: complete a CDL skills test examiner training course and examination in accordance with 49 CFR 384.228(d) and (e) (October 1, 2014) and submit to a nationwide criminal background check in accordance with 49 CFR 384.228 (October 1, 2014). Fingerprints shall be submitted to the

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Illinois State Police in accordance with 20 Ill. Adm. Code 1265.30.

- i) ~~complete the third-party CDL training sessions administered by the Department's Commercial Driver Training Section. The written test will consist of 30 questions pertaining to the Secretary of State Examiners Guide for CDL and will be offered by the Department's Commercial Driver Training Section at periodic intervals. In order to pass the written test, an individual shall answer at least 24 questions correctly. The third-party school bus program will have an additional 10 questions and the individual must answer eight questions correctly in order to pass.~~
 - ii) ~~pass a CDL skills test in the classification and/or endorsements in which the individual intends to skills test. The Department's Commercial Driver Training Section will offer this test at periodic intervals. Each individual will be given a maximum of three opportunities in a 12-month period to pass the CDL safety officer test. An individual applying for a CDL safety officer license may be allowed to attempt the road test a second time in the same day during normal business hours of the Driver Services Facility if he/she fails the first attempt to pass the road test. However, an individual who demonstrates a danger to public safety during the first attempt to pass a road test will not be allowed to make a second or subsequent attempt during the same day. An individual will not be allowed to make a third attempt to pass a road test on the same day in which he/she failed the previous attempt. Individuals who have failed the third test must wait at least one year from the date of the third failure before making a new application.~~
- C) A safety officer must conduct skills testing in accordance with subsection (e).
- D) A safety officer shall not engage in or permit any type of fraudulent activity, either with reference to any certified employee

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or member individual or the Secretary of State.

- E) A safety officer must maintain records in accordance with subsection (d)(10).
 - F) If a safety officer that does not administer at least 10 separate skills tests per calendar year, the entity shall allow a Department employee to accompany the safety officer to observe the safety officer successfully administer at least one skills test.
 - G) If a safety officer licensed to administer CDL skills tests to employees or members must successfully complete a refresher training course and written examination every four years to maintain his/her CDL Safety Officer License.
- 2) Denial of License. The Department shall deny a safety officer's license upon evidence the individual:
- A) has been convicted of driving under the influence of alcohol and/or other drugs (see IVC Section 11-501), leaving the scene of a fatal accident (see IVC Section 11-401), reckless homicide (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3]), reckless driving (see IVC Section 11-503), or similar out-of-state offenses within 10 years prior to the date of application; or has been convicted two or more times of any of these offenses or combination of these offenses within 20 years prior to the date of application.
 - B) fails to properly make application for the license.
 - C) is not employed by a third-party certifying entity.
 - D) is currently a salaried employee of the Secretary of State.
 - E) is not at least 21 years of age.
 - F) submits a fraudulent application.
 - G) owes outstanding fees to the Secretary of State.

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- H) holds~~held~~ a driver's license that is currently canceled, suspended or revoked.
 - I) holds~~held~~ a driver's license that was suspended or revoked within a period of five years prior to the date of application. However, suspensions related to auto emissions, failure to pay child support and parking will not be considered.
 - J) has not held, for at least two years immediately preceding application, a valid Illinois driver's license or a driver's license from a contiguous state in the classification and/or endorsement in which he/she intends to administer skills tests~~test~~.
 - K) does not meet the requirements of subsection (i)(1)(B).
 - L) is an owner or instructor of a commercial driver training school.
 - M) has been suspended pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8 within the 10 years prior to the date of application, or has had two or more suspensions pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8, or combination thereof, within the 20 years prior to the date of application.
 - N) violated any subsection of this Section.
 - O) has any felony conviction within the last 10 years (applies only to persons applying to administer CDL skills tests).
 - P) has any conviction involving fraudulent activities (applies only to persons applying to administer CDL skills tests).
- 3) The Department shall immediately cancel a safety officer's license upon evidence that the individual:
- A) holds~~held~~ a driver's license that is currently canceled, suspended or revoked.
 - B) has not held, for at least two years immediately preceding

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application, a valid license in the classification and/or endorsement in which the individual intends to test.

- C) ~~administers CDL~~~~intends to~~ skills ~~tests to test CDL~~ employees/members, but has not completed the training and testing specified in subsection (i)(1)(B).~~received training equivalent to Driver Services Facility employees administering CDL skills tests.~~
 - D) is no longer employed by the third-party certification entity or no longer has a valid license.
 - E) is currently a salaried employee of the Secretary of State.
 - F) owes outstanding fees to the Secretary of State.
 - G) is an owner or instructor of a commercial driver training school.
 - H) has a felony conviction within the last 10 years (applies only to persons administering CDL skills tests).
 - I) has any conviction involving fraudulent activities (applies only to persons administering CDL skills tests).
 - J) fails to successfully complete a refresher training course and examination every four years (applies only to persons administering CDL skills tests).
- 4) The Department ~~may~~shall suspend for up to one year or revoke a safety officer's license for any violation of this Section.
 - 5) The Department shall have the discretionary authority to issue warning letters to third-party certifying entities or safety officers for violations of this Section.
- j) Hearings
- 1) Prior to the denial of a third-party certifying entity and/or safety officer's license, the Department shall send written notice to the entity and/or that person ~~and/or entity~~. The third-party entity and/or safety officer may

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request a formal hearing ~~to contest~~ ~~contesting~~ the denial. The basis for denial of a license is stated in subsections (g)(1) through (3) and (i)(2)(A) through (O).

- 2) Prior to the suspension or revocation of the license or accreditation of a third-party certifying entity or safety officer, the Department will conduct a hearing in accordance with 92 Ill. Adm. Code 1001, Subpart A and IVC Section 2-118, in which the Department will present competent evidence to establish violations of any regulations or laws governing third-party entities and/or safety officers and seek the appropriate sanctions.
- k) Review Under Administrative Law. Judicial Review – The action of the Secretary of State in canceling, suspending, revoking or denying any license under this Act shall be subject to judicial review in accordance with IVC Section 2-118 and the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.65 Instruction Permits

- a) A person who wishes to practice driving before obtaining a driver's license shall obtain an instruction permit from a Driver Services Facility.
- b) Any foreign national who wishes to practice driving before obtaining a Visa status, temporary visitor's driver's license pursuant to IVC Section 6-105.1(a) shall obtain a temporary visitor's instruction permit from one of the selected Driver Services Facilities located throughout the State.
- c) Any person over the age of 18 or any person under the age of 18 who is enrolled in driver education at a commercial driver training school regulated by the Secretary of State who wishes to practice driving before obtaining a non-Visa status temporary visitor's driver's license pursuant to IVC Section 6-105.1(a-5) shall make an appointment, via telephone or the Secretary of State's official website, to visit one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State to obtain a temporary visitor's instruction permit. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. An applicant for a non-Visa status temporary visitor's instruction permit shall provide acceptable forms of

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identification as provided in Appendix C to establish the applicant's name, date of birth, signature for comparison, current Illinois residence address and residency in Illinois for a period in excess of one year. The applicant shall also submit a completed Verification of Residency form and either a valid, unexpired passport for the applicant's country of citizenship or a valid, unexpired consular identification document, as defined by Section 5 of the Consular Identification Document Act [5 ILCS 230/5], issued by the consulate of the applicant's country of citizenship and shall be required to submit a verification of residency form. Applicants over the age of 18 must also affirm under penalty of perjury that they are ineligible, at the time of application, for to obtain a social security number.

- d) Any person under the age of 18 enrolled in an approved driver education course at a public high school who wishes to practice driving before obtaining a non-Visa status temporary visitor's driver's license shall complete an application form, provided by the Secretary of State pursuant to IVC Section 6-106. The questions contained on the application form are provided in Appendix A. The applicant will be required to submit the acceptable forms of identification, as defined in Appendix C, at the time of application for a non-Visa status TVDL for a driver's license at a Driver Services Facility.
- e) Upon receipt of an instruction permit or temporary visitor's instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member or person in loco parentis who is 21 years of age or more and has a license classification to operate the vehicle and at least one year of driving experience, and is occupying a seat beside the driver.
- f) A temporary visitor's instruction permit shall only be issued in a Class D, L or M as established in Section 1030.30.
- g) The fees collected for the issuance of an original, renewal, duplicate or corrected instruction permit, ~~or~~ temporary visitor's instruction permit or CLP shall be in accordance with IVC Section 6-118(a).
- h) A minor who wishes to receive an instruction permit shall be at least 15 years old and enrolled in a driver education course. Any minor who has been enrolled in an approved driver education program out-of-state shall provide proof of that enrollment before an Illinois instruction permit will be issued. Proof shall consist

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of a letter from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State. The minor shall complete a driver education course prior to applying for a driver's license before the minor is 18 years of age. If the minor is 16 years of age or older and possesses a certificate of completion or the equivalent from another state's driver education program, the minor shall be eligible to receive an Illinois driver's license upon successful completion of the vision, written and/or road tests. The equivalent of an Illinois certificate of completion from an out-of-state driver education course shall include, but is not limited to, transcripts from the out-of-state attendance center indicating successful completion of the course of instruction or a letter from the state's driver's licensing authority on agency letterhead, attesting to the minor's successful completion of a driver education course approved by the office that regulates education.

- i) A minor who is at least 15 years and 6 months of age may obtain an Illinois instruction permit prior to being enrolled in a driver education course, provided the minor:
 - 1) Submits written documentation, on a form prepared or approved by the Secretary of State, stating that the minor is enrolled in school; meets the educational requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8] and IVC Section 6-103(1) and signed by a superintendent or chief administrator that states, through no fault of the minor, the minor will be unable to be enrolled in a driver education course until after the minor's 16th birthday and the school would have no objection to the issuance of the instruction permit; and
 - 2) Successfully completes the written and vision examinations administered either by an approved driver education instructor or the Secretary of State.
- j) An instruction permit issued to a minor under subsection (i) may be canceled upon receipt of a report from the minor's school on the school letterhead, or other proof deemed acceptable by the Secretary of State, stating the minor has failed to enroll in a driver education course.
- k) The minor who is not legally emancipated by marriage or court order shall have the application signed by a parent, guardian or person in loco parentis and the driver education instructor. The minor shall then be allowed to take the vision and written exams.

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- l) The instruction permit shall be issued to a minor for a period of 24 months upon successful completion of the written and vision exams. If an instruction permit has expired prior to the applicant completing the road test, a second fee established for instruction permits in IVC Section 6-118(a) must be submitted and the written and vision exams must be successfully completed. The applicant shall present another application to the Secretary of State signed by the parent, guardian or person in loco parentis. The driver education instructor shall also sign the application unless the applicant presents a certificate of completion.
- m) An Illinois instruction permit issued to a minor may be canceled if the student is certified as a chronic or habitual truant or has dropped out of school. The report shall be received from the Illinois State Board of Education in a form acceptable to the Secretary of State.
- n) Applicants who are not minors shall also be issued instruction permits by the Secretary of State. The permit shall be issued for 12 months upon successful completion of the written and vision exams. [Commercial Learner's Permits shall be issued for 180 days upon successful completion of the written and vision exams.](#)
- o) Applicants whose driving privileges have been canceled based upon receipt by the Department of a medical report indicating the applicant has a medical condition that impairs the applicant's ability to safely operate a motor vehicle may apply for an instruction permit. The Department shall receive a favorable medical report from a competent medical specialist describing the applicant's needs to undergo a driving evaluation with a driver rehabilitation specialist. The Department shall issue to the applicant an authorization for examination to appear at a Driver Services Facility to take the written test and vision test and submit the fee required by IVC Section 6-118(a). Upon successful completion of the written and vision tests, the applicant shall be issued, if not otherwise prohibited, an instruction permit that shall be canceled upon receipt of a written statement from a competent medical specialist that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle. A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution and a competent medical specialist shall notify the Department. The Department shall send the applicant an authorization form instructing the applicant to appear at a

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Driver Services Facility to take the drive portion of the test. Upon the applicant's successful completion of the drive examination, a driver license shall be issued.

- p) An applicant must be at least 16 years old to obtain a Class L instruction permit and must possess a certificate of completion at the time of application.
- q) A Class M instruction permit may be issued by the Secretary of State to an applicant 18 or older for a period of 12 months. A Class M instruction permit may be issued for a period of 24 months to applicants 16 or 17 years old who have obtained a certificate of completion at the time of application and have completed a motorcycle training course approved by the Illinois Department of Transportation (see 92 Ill. Adm. Code 455). A certificate of completion card issued by the Illinois Department of Transportation must be furnished to the Secretary of State's Office before an instruction permit will be issued.
- r) An applicant who is 17 years and 3 months of age or older may obtain an Illinois instruction permit without being enrolled in a driver education course, provided the applicant has successfully completed the vision and written exams.
- s) An applicant 18, 19 or 20 years of age may obtain an Illinois instruction permit without being enrolled in an adult driver education course.
- t) A person who wishes to obtain a CLP must provide proof of citizenship or lawful permanent residency or must obtain a non-domiciled CLP. The holder of a CLP may apply to renew a CLP up to 30 days prior to and up to 5 days after the expiration of the original CLP without any written testing. If the initial CLP has expired more than 5 days or upon expiration of a renewed CLP, the applicant must re-take all applicable testing. Prior to renewing a commercial driver instruction permit, an applicant is required to successfully complete the appropriate CDL knowledge tests specific to the classification of permit being renewed.
- u) Prior to renewing a non-commercial instruction permit, an applicant is required to successfully complete vision screening and a written test.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.80 Driver's License Testing/Written Test

Any applicant for an initial or renewal driver's license who is required to take a written test

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pursuant to IVC Section 6-109 shall comply with the following provisions:

- a) Classification of licenses is established in Sections 1030.30 through 1030.40.
- b) An applicant for a Class D license shall be required to take a written test consisting of a minimum of 35 questions, of which 80% percent must be answered correctly in order to be eligible for a Class D license.
- c) An applicant for a Class C, B, A or L-M license shall be required to take the written test as set forth in subsection (b). The applicant shall also take a written test established by the Secretary of State for the classifications and/or endorsements applied for. The number of questions required to be answered is dependent upon the classifications and/or endorsements applied for. Each written classification and/or endorsement test shall consist of a minimum of 35 questions, of which 80% percent must be answered correctly in order for the applicant to be eligible for the classifications and/or endorsements applied for.
- d) The written tests set forth in subsections (b) and (c) shall be in the English language, and may be in any other languages deemed necessary by the Secretary of State, based upon an identifiable demand.
- e) An applicant who is illiterate may be given the written test orally.
- f) An applicant who cannot read or write in the English language, or other available foreign language, shall be eligible to take the written test. The Driver Services Facility supervisor or designee may provide or recommend use of an interpreter for the applicant's language if an interpreter is readily available. If an interpreter is not readily available, it will be the responsibility of the applicant to obtain the services of an interpreter. The CDL knowledge test shall be administered only in the English language. An interpreter shall not be used when the applicant is attempting to complete the CDL knowledge tests.
- g) An applicant shall demonstrate the ability to read and understand official traffic control devices.
- h) Any licensee who wants to change a classification and/or endorsements prior to renewal of a license shall be required to take the written test for the classification or classifications and/or endorsements the applicant wants to obtain.

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- i) Prior to obtaining a ~~Commercial Learner's Permit~~~~commercial driver instruction permit~~, an applicant must successfully complete the appropriate CDL knowledge tests specific to the ~~learner's instruction~~ permit classification.
- j) An applicant for a permit to operate a school bus must have in his/her possession an application for Illinois School Bus Driver's Permit Letter of Intent or its superseding form. The applicant shall be given a special test consisting of not more than 24 questions, of which 22 or 90% must be answered correctly in order to be eligible for a permit.
- k) Any person found cheating on any portion of a written test will be deemed to have failed that portion of the test. In addition, that person will be prohibited from retaking the written test for a period of 30 days. For purposes of this subsection, "cheating" shall be defined as receiving or using unauthorized assistance in the taking of any portion of a test. This includes, but is not limited to, the use of any notes, books or written information.
- l) All persons with a valid out-of-state CDL applying for an Illinois CDL shall be required to successfully complete the written tests set forth in subsections (b) and (c), pursuant to IVC Section 6-508(a)(1).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.81 Endorsements

To obtain any of the following endorsements, a CDL holder must correctly answer 80% of the questions comprising a written knowledge test based on the Illinois Vehicle Code and the federal Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704). An applicant for a CLP may obtain a Tank (N), Passenger (P) and/or School Bus (S) endorsement once the applicant has taken and passed the knowledge test for each endorsement.:

- a) (T) Double or triple trailers (20 questions).
- b) (P) Passenger carrying vehicles (16 or more passengers, including the driver) (20 questions). A skills test in a representative vehicle is required.
- c) (N) Tank vehicles (20 questions).
- d) (H) Any vehicle carrying hazardous materials that requires placarding (30

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questions).

- e) (X) Combination tank vehicle and hazardous materials endorsement. A knowledge test for tank vehicles (N) and hazardous materials (H) must both be successfully completed prior to obtaining this endorsement (20 questions).
- f) (C) Charter bus driver endorsement. Successfully complete a knowledge test on transporting students grade 12 or below to and from school related functions (20 questions).
- g) (S) School bus. Successful completion of a written test (20 questions) and a skills test in a representative vehicle is required. However, current CDL holders who meet the requirements set forth in 49 CFR 383.123 ([October 1, 2014](#)~~2007~~) are exempt from the written and skills tests for this endorsement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.82 Charter Bus Driver Endorsement Requirements

- a) Requirements of Driver Applicants for a Charter Bus Driver Endorsement
In order for the Department to issue a charter bus driver endorsement, all driver applicants must:
 - 1) Be 21 years of age or older;
 - 2) Possess a valid and properly classified driver's license issued by the Department;
 - 3) Submit to and successfully pass an Illinois specific criminal background check and Federal Bureau of Investigation criminal background check with current and future information through an approved vendor (A consent form must be signed by the driver applicant/CDL holder that allows the Department to release the fingerprint information to the driver applicant's employer.);
 - 4) Pass a written test on charter bus operation, charter bus safety, and special traffic laws relating to charter buses and submit to a review of the driver applicant's driving habits by the Department at the time the written test is given;

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- 5) Demonstrate the ability to exercise reasonable care in the operation of the charter bus pursuant to the requirements of IVC Section 6-508;
 - 6) A driver applicant must demonstrate physical fitness to safely operate charter buses by undergoing a medical examination in accordance with the provisions of IVC Section 6-508;
 - 7) Affirm under penalty of perjury that he/she has not made a false statement or knowingly concealed a material fact in any application for the endorsement;
 - 8) Not have been convicted of committing or attempting to commit any one or more of the offenses set forth in IVC Section 6-508(c-1)(4).
- b) Endorsement Application Process
- 1) A driver applicant seeking employment as a charter bus driver must obtain from the prospective employer an Application/Certification form for Illinois charter bus driver endorsement and then complete both the form and the fingerprint process.
 - 2) The driver applicant shall then submit the completed Charter Bus Application/Certification form for the charter bus driver endorsement and the appropriate fee to the Driver Services Facility.
 - 3) The Department shall review the driver applicant's driving history to determine if it is acceptable pursuant to IVC Sections 6-104 and 6-508. The driver applicant must:
 - A) pass a written test administered by the Department in accordance with IVC Section 6-508(c-1)(2).
 - B) successfully complete a road test, if applicable, administered by the Department or a third-party certifying entity ~~licensed third-party tester~~ in the class of vehicle to be used in accordance with IVC Section 6-508(a)(1). These tests must be successfully completed within three attempts.

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- 4) On renewal/reapplication for a charter bus driver endorsement, the driver applicant shall be required to submit an Application/Certification form for the Illinois charter bus driver endorsement verifying the completion of all requirements. On renewal/reapplication for the charter bus driver endorsement, the driver applicant will not be subject to the fingerprint process.
- c) Denial, Cancellation or Suspension of a CDL with a Charter Bus Driver Endorsement
- 1) The Department shall deny or cancel a CDL holder's charter bus driver endorsement:
 - A) If the criminal background investigation discloses the individual is noncompliant with any of the provisions of IVC Section 6-104 or 6-508;
 - B) Upon receiving notice that the endorsement holder failed to comply with any provision of this Part;
 - C) Upon receiving notice that the endorsement holder's commercial driving privileges are withdrawn or otherwise invalidated.
 - 2) The Department shall deny a driver applicant for a charter bus driver endorsement upon an indication on a driving record of the failure to pay any fines, costs or fees that deny the renewal or reissuance of a driver's license or any other indication on a driving record that denies the renewal or reissuance of a driver's license.
 - 3) A cancellation of a CDL with a charter bus driver endorsement shall remain in effect pending the outcome of a hearing pursuant to IVC Section 2-118.
 - 4) An order may be rescinded provided the cause is removed and the driver applicant or CDL holder continues to meet the requirements outlined in IVC Sections 6-104 and 6-508.
- d) Employer Responsibility

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It shall be the responsibility of a prospective or current employer of a driver applicant or CDL holder of a charter bus driver endorsement to:

- 1) Request an employer seven digit assigned number by faxing to the Department a request on company letterhead indicating a contact person and telephone/fax number.
 - 2) Distribute charter bus driver endorsement applications.
 - 3) Ensure that driver applicants submit to a fingerprint based criminal background investigation.
 - 4) Certify to the Department in writing that a driver applicant has successfully completed all employment conditions.
 - 5) Notify the Department in writing that the employer has certified the removal from service of the CDL holder with the charter bus driver endorsement whose endorsement has been withdrawn by the Department, prior to the start of that CDL holder's next work shift.
 - 6) Notify the Department in writing that the CDL holder with the charter bus driver endorsement is no longer employed as a charter bus driver by the reporting employer.
 - 7) Notify the Department in writing that, while holding a previously issued valid charter bus driver endorsement, the CDL holder has now been accepted as a charter bus driver for the reporting employer.
 - 8) Immediately upon receipt of a positive drug test, notify the Department in writing . This information shall be privileged and maintained for the use of the Department.
 - 9) Maintain records of certifications that must be available for inspection by the Secretary of State.
- e) Notice
The Department shall notify the driver applicant or the CDL holder and his/her current employer in writing that he/she:

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- 1) is ineligible based on information provided by an ISP or FBI criminal background investigation; or
 - 2) is no longer eligible for a charter bus driver endorsement; or
 - 3) has related cancellations, suspensions or denials of the applicant's charter bus driver endorsement.
- f) Hearings
- 1) Upon the request of a driver applicant or CDL holder whose charter bus driver endorsement has been denied, canceled or suspended, the Secretary of State shall conduct a hearing pursuant to IVC Section 2-118.
 - 2) The petition requesting a hearing shall be in writing and contain the reason the driver applicant or CDL holder believes he/she is entitled to a charter bus driver endorsement.
 - 3) The scope of the hearing shall be limited to the issuance criteria contained in IVC Sections 6-104 and 6-508.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.83 Hazardous Material Endorsement

- a) The Department must notify a holder of an HME at least 90 days, ~~as currently required by 49 CFR 1572.13,~~ before the expiration date of the HME that the applicant must initiate a security threat assessment from the TSA as soon as possible, but no later than ~~60~~30 days before the expiration of the applicant's HME, and that the applicant's HME cannot be renewed if TSA has not issued to the Department a Determination of No Security Threat. The Department must require that an HME be renewed no more than five years after issuance.
- b) In order for the Department to issue an HME, all applicants must successfully comply with the following:
 - 1) possess a valid and properly classified driver's license with ~~a CIP or~~ a CDL issued by the Department.

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- 2) pay all related application and fingerprinting fees as established by 49 CFR 1572 ([October 1, 2014](#)) and submit the fingerprints to the authorized TSA vendor who will transmit fingerprint data to the Federal Bureau of Investigation for a fingerprint-based criminal history background record check for a threat assessment.
 - 3) ~~effective January 31, 2005~~, the Department shall not issue a new HME in compliance with subsection (c) until the Department has received a Determination of No Security Threat from TSA.
 - 4) upon the receipt of the Determination of No Security Threat from TSA, the Department will notify the driver in writing of an indication on the driving record authorizing the applicant to apply for the written HME test.
 - 5) passes a written test administered by the Department on the transporting of hazardous materials.
 - 6) affirm under penalty of perjury that he/she has not made a false statement or knowingly concealed a material fact in any application for the HME.
- c) Upon receipt of an Initial or Final Determination of Threat Assessment from TSA on an applicant that does not currently hold an HME on his/her CDL, the Department shall place an indication on the driving record of the applicant indicating he/she is not eligible for an HME. Correspondence notifying the applicant of the failed threat assessment shall be sent by TSA directly to the applicant, along with information regarding the applicant's right to due process.
 - d) Upon receipt of Determination of No Security Threat from TSA on an applicant that currently holds a CDL with an HME, the Department shall place an indication on the driving record and notify the applicant in writing of the Determination of No Security Threat from TSA and direct the applicant to return to a driver license facility to complete the requirements to renew or transfer from another state his/her CDL with an HME.
 - e) Upon receipt of an Initial or Final Determination of Threat Assessment from TSA on an applicant that currently holds a CDL with an HME, Department shall place a tag on the driving record and send written notice to the applicant explaining that he/she has failed the Threat Assessment and, therefore, must appear at a driver

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license facility to have the HME removed from his/her CDL. The applicant will be given at least five days, but no more than 15 days, from the date of the notice to appear at a driver license facility and have the HME removed from his/her CDL. A corrected CDL will then be issued without the HME at no charge to the driver.

- f) Refusal or neglect of an applicant to have the HME removed and obtain a corrected CDL, pursuant to subsection (e), shall result in the cancellation of the driver's CDL privileges pursuant to IVC Sections 6-201(a)(11) and 6-207. An applicant whose CDL privileges were canceled may request an administrative hearing to contest the cancellation. The scope of the hearing shall be limited to the reason for the cancellation and shall not address the Threat Assessment conducted by TSA.
- g) If, after a driver's CDL privileges have been canceled pursuant to subsection (f) for failing to have the HME removed from the license after the Department received an Initial or Final Determination of Threat Assessment from TSA as set forth in subsection (e), the Department receives a Determination of No Security Threat from TSA on the driver, an order rescinding the cancellation shall be entered and the driver's CDL privileges and the HME will be valid.
- h) An applicant who obtains a corrected CDL shall be deemed to be in compliance with the Department's request and shall be allowed to retain CDL driving privileges.
- i) If the Department receives a Determination of No Security Threat after a driver has previously been deemed a security threat by TSA and has had the HME removed from the CDL in compliance with subsection (e), the Department shall send written notice to the driver that he/she is now eligible to have the HME added back to his/her CDL. The written notice shall advise the driver to visit a driver license facility to have a corrected CDL issued reflecting the HME at no cost.
- j) An applicant who possesses a CDL with an HME and who will be applying for renewal of the CDL-HME after May 31, 2005 may complete the TSA process as defined in subsection (b). An applicant who possesses a CDL with an HME and who will be applying for renewal of the CDL-HME after May 31, 2005 may complete the TSA process as defined in subsection (b). Effective May 31, 2005, the Department shall not renew or transfer from another state an HME in

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compliance with subsection (d) until the Secretary of State has received a Determination of No Security Threat from TSA. However, the Secretary of State may extend the expiration date of the time for 90 days if TSA has not provided a Determination of No Security Threat or a Final Determination of Threat Assessment before the expiration date of the HME. Any additional extension must be approved in advance by the Director of the Department of Homeland Security.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.85 Driver's License Testing/Road Test

- a) Classification of licenses is established in Section 1030.30.
- b) Persons applying for a Class C or Class D (CDL or Non-CDL) driver's license, a religious organization restriction, for-profit ridesharing arrangement restriction, or senior citizen transportation restriction in a First Division vehicle who are required by IVC Section 6-109 to complete a road test shall be evaluated on the following driving skills: start, posture, use of mirrors, steering, lane observance, right-of-way, left and right turns (signal, speed, lane, turn), attention (distraction level), following (too closely), speed (too fast/too slow), parking (up and/or down hill), starting (up and/or down hill), final park, signal (pulling into and away from curb, changing lanes), stop signs, other signs (yield, school, railroad, regulatory, warning, special), traffic lights, backing, turn about, and use of clutch or automatic transmission.
- c) In addition to those maneuvers listed in subsection (b), persons applying for a Class A or B driver's license (CDL) shall also be evaluated on the following:
 - 1) Pre-Trip Inspection – the applicant shall demonstrate skills necessary to conduct a pre-trip inspection, which include the ability to:
 - A) locate and verbally identify air brake operating controls and monitoring devices;
 - B) determine the motor vehicle's brake system condition for proper adjustments and that the air system connections between vehicles have been properly made and secured;

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- C) inspect low pressure warning devices to ensure they will activate in emergency situations;
 - D) ascertain, with the engine running, that the system contains an adequate supply of compressed air;
 - E) determine that the required minimum air pressure build up at the time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and
 - F) operationally check the brake system for proper performance.
- 2) Vehicle skills test that shall include dock parking, straight line backing, stop at marked line, and predetermined right turn.
 - 3) Additional road test driving skills of use of gears, railroad crossing, expressway, bridge and underpass.
- d) In addition to those maneuvers listed in subsection (b), persons applying for a Class A or B driver's license (non-CDL) shall also be evaluated on straight line backing.
 - e) In addition to those maneuvers listed in subsection (c), persons applying for a school bus driver permit must complete a road test in a representative vehicle, which shall consist of the following: use of gears, railroad crossing (stop and observation), curb bus (simulate loading/unloading passengers), use of stop arm, and use of flasher lights.
 - f) Applicants for a Class L or Class M driver's license who are required to complete a road test shall be evaluated by using of the following drive tests: ALMOST – Alternate Motorcycle Operator Skill Test; 5 dot test; and Offstreet Illinois Department of Transportation Motorcycle Operator Skill Test.
- 1) Test exercises for the ALMOST and Offstreet Illinois Department of Transportation Motorcycle Operation Skill Test, for both Class L and Class M, shall consist of the following: stalling (improper shift, failure to shift), sharp turn (path, foot down), normal stop (skid, position), cone weave (skips, hits, foot down), U-Turn (path, foot down), quick stop

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(distance), obstacle turn (path), slow drive (time, path, foot down).

- 2) Test exercises for the 5 dot test, for both Class L and Class M, shall consist of the following: knowledge of controls, figure U Walk (walk vehicle without engine running), start from rest, slow drive, gear shifting skill, figure 8 ride, serpentine ride (balanced cone weave), posture, mounting/dismounting.
- g) Test exercises and skills are evaluated on a point system. When the applicant commits an error, a point or points are assessed based upon the severity of the error. Applicants for a CDL or Non-CDL Class A, B, C or D license or a religious organization vehicle restriction, for-profit ridesharing arrangement restriction or senior citizen transportation restriction are allowed 36 points. Applicants for a Second Division school bus permit are allowed 40 points. Applicants for a First Division school bus permit are allowed 36 points. Applicants for a Class L or M license taking the ALMOST or Offstreet Illinois Department of Transportation Motorcycle Operation Skill Test evaluation shall be allowed 11 points. Applicants for an L or M license taking the 5 dot test shall be allowed seven points.
- h) The following acts will result in immediate disqualification: violation in which an applicant receives a ticket; dangerous action; lack of cooperation or refusal to perform; or letting the cycle fall or falling off a cycle.
- i) A road test will be considered incomplete for the following reasons: the applicant becomes ill or disabled and is unable to continue the road test; the vehicle develops mechanical problems after the road test has begun; weather conditions make the continuation of the road test hazardous; or an accident occurs for which the applicant does not receive a ticket.
- j) No persons are allowed to accompany the applicant and examiner on the road test. When necessary, exceptions may be made for any applicants who may require a translator and for the training and evaluation of facility personnel.
- k) Any applicant who is suspected by a Driver Services Facility employee of having consumed alcohol and/or drugs must seek the approval of a Driver Services Facility manager prior to being administered the road test. If a Driver Services Facility manager has reasonable cause to believe that an applicant has consumed alcohol and/or drugs, the applicant shall not be administered the road test.

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Evidence of alcohol and/or drug consumption shall include, but not be limited to, one or more of the following conditions:

- 1) the applicant admits he/she has consumed alcohol and/or drugs;
 - 2) the applicant has a strong odor of alcohol on his/her breath;
 - 3) the applicant's eyes are red and the pupils are dilated;
 - 4) the applicant's speech is slurred; or
 - 5) the applicant is unsteady when walking.
- l) All persons applying for a CDL, with the exception of those persons renewing their Illinois CDL, or those persons holding an Illinois CLP who successfully completed federally approved CDL training and testing in another CDL certified state, shall be required to successfully complete the examinations set forth in subsections (c) and (d) pursuant to IVC Section 6-508(a)(1).
- m) Military personnel are exempt from the CDL administered pre-trip, skills and road test (excluding school bus and passenger endorsements) if:
- 1) In the two-year period immediately prior to application for a CDL the applicant has not:
 - A) had more than one license, except for a military-issued driver's license;
 - B) had any driver's license suspended, revoked or cancelled;
 - C) had any convictions in any type of motor vehicle for the disqualifying offenses contained in 49 CFR 383.51(b) (October 1, 2012);
 - D) had more than one conviction in any type of motor vehicle for a serious traffic violation contained in 49 CFR 383.51(c) (October 1, 2012); and

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- E) had any conviction for a violation of military, State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault.
- 2) The applicant certifies that:
 - A) he/she is regularly employed or was regularly employed within the last 90 days in a military position requiring operation of a commercial motor vehicle;
 - B) he/she was exempted from the CDL requirements of 49 CFR 383.3(c) (October 1, 2012); and
 - C) he/she was operating a vehicle representative of the commercial motor vehicle the applicant operates or expects to operate for at least the two years immediately preceding discharge from the military.
 - 3) The applicant submits a completed Secretary of State CDL-ST WVR form, including signature of the applicant's commanding officer.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.86 Multiple Attempts – Written and/or Road Tests

- a) The fee to obtain a driver's license required by IVC Section 6-118 shall entitle a person to a total of three attempts to pass the written and/or road tests within a one year period starting from the date of the first attempt. The first attempt is counted as one of the three attempts as provided for in IVC Section 6-106.
- b) An applicant for an Illinois CLP or CDL who fails the written and/or road tests after a third attempt shall be prohibited from re-testing for a period of 30 days.
- c) An applicant for a CLP or CDL who submits a new application after the 30-day waiting period specified in subsection (b) shall be allowed three attempts to successfully complete the written and/or road tests. Failure to successfully pass the written and/or road tests shall result in a waiting period of 90 days.

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- d) An applicant for a [CLP](#) or CDL who submits a new application after the 90-day waiting period specified in subsection (c) ~~of this Section~~ shall be allowed three attempts to successfully complete the written and/or road tests. Failure to successfully pass the written and/or road tests shall result in a waiting period of one year from the date of the first fail.
- e) An applicant for an Illinois driver's license may be allowed to attempt the written and/or road tests a second time after a failure in the same day during normal business hours of the Driver Services Facility after failing the first attempt to pass the written and/or road tests. An applicant for a non-Visa status TVDL may be allowed to attempt the written or road test a second time after a failure in the same day, during normal business hours of the Driver Services Facility, if the Facility manager determines that sufficient personnel and time are available. However, if the applicant demonstrates a danger to public safety during the first attempt to pass a written and/or road tests, a second attempt during the same day will not be allowed. An applicant will not be allowed to make a third attempt to pass a road test on the same day in which the previous attempt was failed. If an applicant fails the road test six times, the individual will not be permitted to attempt the road test a seventh time until a current favorable completed medical report form is submitted to the Department pursuant to IVC Sections 6-103(8) and 6-109(b). An applicant shall be exempt from the requirement of filing a medical report if, within the previous 90 days, a favorable medical report has been filed with the Department.
- f) The provisions of this Section do apply to applicants who are upgrading their driver's license classification.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.92 Restrictions

- a) A driver services facility representative shall have the authority to determine license restrictions. No restriction shall be added until the driving test, if required, is given unless the restriction is due to a vision or hearing defect.
- b) If a change in a person's physical and/or visual condition is discovered by a facility representative, the representative has the authority to add, delete or change the restrictions.

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- c) A Type B restriction requires corrective eye lenses. This restriction is added when a person needs corrective eye lenses to meet visual acuity standards as provided in Section 1030.70. This restriction includes eye glasses and contact lenses in one or both eyes, pursuant to Section 1030.75.
- d) A Type C restriction requires the driver to use one or more mechanical aids (e.g., hand operated brake, gearshift extension, shoulder harness, or foot operated steering wheel) to assist with the proper and safe operation of the vehicle.
- e) A Type D restriction requires the driver to use one or more prosthetic aids (e.g., artificial legs, artificial hands, hook on right or left arm, or brace on each leg) while operating a motor vehicle.
- f) A Type E restriction requires automatic transmission. An automatic transmission restriction is added when a driver of a commercial motor vehicle uses an automatic transmission during the pre-trip, skills and road portions of a commercial driver's license test as provided in FMCSR (49 CFR 383.95(c); October 1, 2014). ~~when a driver is unable to operate a standard shift vehicle due to the minimal use of one or both arms and/or legs.~~
- g) A Type F restriction requires left and right outside rearview mirrors when a driver is hearing impaired, has a monocular visual acuity reading of 20/100 or worse in either eye, requires a right outside rearview mirror because of problems turning the head while backing, cannot meet the peripheral vision requirements of Section 1030.70(a), and/or takes the road test in a right hand-driven vehicle with the steering wheel on the right side. A driver may be restricted to both left and right rearview mirrors if minimum peripheral standards are met by the use of only one eye in accordance with Sections 1030.70 and 1030.75.
- h) A Type G restriction requires the driver to drive only in the daylight. This restriction is added when a driver has binocular visual acuity that does not meet the 20/40 minimum in accordance with Section 1030.70(a), but is not worse than 20/70. People who want to drive utilizing a non-standard lens arrangement pursuant to Section 1030.75 are restricted to daylight driving only.
- i) A Type J restriction with appropriate numerical indicators includes other restrictions not listed in this Section. These Type J restrictions and numerical indicators are as follows:

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- 1) J01 Driver has been issued an Illinois Medical Restriction Card, which must be carried in addition to a valid Illinois driver's license/permit.
- 2) J02 Driver authorized to operate a religious organization bus within classification, as provided in IVC Section 6-106.2.
- 3) J03 Driver authorized to operate a religious organization bus or van within Class D only. The driver took the religious organization bus test in a Class D vehicle, but may hold a Class A, B or C license.
- 4) J04 Driver authorized to operate a religious organization bus or van within Class C or a lesser classification vehicle only. The driver took the religious organization bus test in a Class C vehicle, but may hold a Class A or B license.
- 5) J05 Driver authorized to operate a senior citizen transportation vehicle within classification. The driver operates a vehicle that is utilized solely for the purpose of providing transportation for senior citizens, as provided in IVC Section 6-106.3.
- 6) J06 Driver authorized to operate a senior citizen transportation vehicle within Class D only. The driver took the senior citizen transportation vehicle test in a Class D vehicle, but may hold a Class A, B or C license.
- 7) J07 Driver authorized to operate a senior citizen transportation vehicle within written Class C vehicle, or a lesser classification vehicle only. The driver took the senior citizen transportation vehicle test in a Class C vehicle, but may hold a Class A or B license.
- 8) J08 Driver authorized to operate a commuter van in a for-profit ridesharing arrangement within classification, as provided in IVC Section 6-106.4.
- 9) J09 Driver who is 16 or 17 years of age authorized to operate either Class L motor-driven cycles or Class M motorcycles, as provided in IVC Section 6-103(2).

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- 10) J10 Driver restricted to the operation of a vehicle with a GVWR of 16,000 pounds or less.
- 11) J11 Indicates the driver took the road test on a three-wheel motorcycle (Class M) or three-wheel motor-driven cycle (Class L) and is restricted to a three-wheel cycle of the proper class.
- 12) J14 Restricted to the use of a non-standard lens arrangement pursuant to Section 1030.75 when operating a motor vehicle. (Lens arrangement may be designed for monocular or binocular vision.)
- 13) J15 Special Restrictions – An applicant may have special restrictions applied specifically to the vehicle the applicant is operating at the time a road test is being administered by a facility examiner. These special restrictions may apply only when the applicant is operating that particular motor vehicle. This J15 restriction only applies to variations of C, D or E restrictions. To remove a special restriction or to operate another motor vehicle would require the applicant to be administered another road test in the new vehicle.
- 14) J16 Moped Only – Authorizes an applicant holding a Class L license to operate a moped only.
- 15) J17 Authorizes a person holding a Class L or M license to operate a motorcycle or motor driven cycle with rear wheel extensions while maintaining a single front wheel.
- 16) J33 Driver authorized to operate a Class D vehicle using a non-standard lens arrangement, pursuant to Section 1030.75, during nighttime hours.
- 17) J50 Farm ~~Waived Non-CDL~~ ~~waived non-CDL~~ (Class A only) – Allows farmers or a member of the farmer's family who is 21 years of age or older and has completed all of the applicable exams (core, combination, air brake, and all three parts of the road test) to drive a farm waived non-CDL (Class A only) vehicle. Those eligible may operate the truck/tractor semi-trailer to transport farm products, equipment or supplies to or from a farm, if used within 150 air miles

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of the farm, and not used in the operations of a common or contract carrier.

- 18) J60 Automatic Transmission – An automatic transmission restriction is added when a driver is unable to operate a standard shift non-commercial vehicle due to the minimal use of one or both arms and/or legs.
- 1948) J71 No Photo or Signature~~photo or signature~~ – out of state at renewal – license issued to driver who is temporarily absent from State of Illinois at expiration date of his/her driver's license.
- 2049) J72 No Photo or Signature~~photo or signature~~ – out of country at renewal – license issued to driver who is temporarily residing outside the United States of America at the expiration date of his/her driver's license.
- 2120) J73 No Photo or Signature~~photo or signature~~ – military or military dependent – license issued at the expiration of the driver's license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.
- 2224) J74 Military deferral card issued at the expiration of the driver's license to extend the expiration while in the military of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.
- 2322) J75 No Photo or Signature~~photo or signature~~ – administrative approval license to driver who having his/her photograph taken is against his/her religious convictions or has a serious facial disfigurement.
- 2423) J88 Deaf/Hard of Hearing – requires alternative forms of communication.
- 2524) J89 Aphasia – an impairment of language ability.
- 2625) J90 BAIID Only – requires the driver to operate only motor vehicles

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equipped with a Breath Alcohol Ignition Interlock Device (BAIID).

- ~~2726~~) J99 Indicates more than two J restrictions have been placed on the license.
- j) A Type K restriction indicates the driver is authorized to operate a commercial motor vehicle intrastate only.
- k) A Type L restriction indicates that the person is not authorized to operate vehicles equipped with air brakes.
- l) A Type M restriction indicates P endorsement only valid in a Class B or lesser classification vehicle.
- m) A Type N restriction indicates P endorsement only valid in a Class C or lesser classification vehicle.
- n) A Type O restriction prohibits a commercial motor vehicle driver from operating a combination vehicle with a fifth wheel assembly as provided by 49 CFR 383.153(a)(10) (October 1, 2014).
- o) A Type P restriction allows a commercial learner's permit holder to operate a vehicle designed to carry passengers, without passengers aboard, exempting a company trainer or State or federal examiner as provided by 49 CFR 383.153(b)(9) (October 1, 2014).
- ~~pn~~) A type V restriction indicates FMCSA has granted a medical variance to operate a CMV within the boundaries of the United States as provided by in accordance with 49 CFR 391.41 (October 1, 20142014).
- q) A Type X restriction allows a commercial learner's permit holder to operate a tank truck or tank truck tractor/trailer combination void of any type of liquid and/or gaseous materials in the tank as provided by 49 CFR 383.153(b)(9) (October 1, 2014).
- r) A Type Z restriction limits a commercial motor vehicle driver to operating a commercial motor vehicle with air over hydraulic braking system as provided by 49 CFR 383.153(b)(10) (October 1, 2014).

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- s⊕) An applicant who wants to appeal a type of restriction that has been added to a driver's license, depending on the type of restriction, shall:
- 1) For Type B, C, D, ~~E~~, F, G, J01, J60 or any other medical restriction that has been added to the driver's license pursuant to the restrictions contained in subsection (i), follow the manner prescribed by this Part.
 - 2) For any other types of restrictions that have been added to the driver's license pursuant to this Section, appeal to the Department of Administrative Hearings pursuant to IVC Section 2-118.
 - 3) Further review of all restrictions shall be conducted by the courts pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.94 Duplicate or Corrected Driver's License or Instruction Permit

- a) A duplicate driver's license or instruction permit shall be issued by the Department when a driver's license or instruction permit has been lost, stolen, or mutilated.
- b) Upon an applicant's request or the Department's determination that an error was made or the license or permit was mutilated, a corrected driver's license or instruction permit shall be issued by the Department if a change of information is necessary on a driver's license or instruction permit that is being surrendered. The license or permit shall indicate that it has been corrected by displaying "COR" as the type of license.
- c) When there is no driver's license or instruction permit to be surrendered to the Department, the license or permit issued shall be a duplicate. This shall be indicated on the license or permit by displaying "DUP" as the type of license.
- d) The applicant shall pay a fee in accordance with IVC Section 6-118 for a duplicate driver's license, corrected driver's license or instruction permit. For a six month period after the issuance of a driver's license or permit, there shall be no fee charged to correct an error made by personnel at the Driver Services Facility. There shall be no fee charged for a duplicate if the license or permit was lost by the Department. If a license or permit is lost by a state, local or federal

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law enforcement agency or state or federal court, there shall be no fee charged for a duplicate upon written notification from that agency or court.

- e) The fee for a duplicate driver's license or identification card shall be waived if the applicant resides in a declared disaster area, as proclaimed by the Governor of Illinois, if the applicant submits the Secretary of State's Waiver of Fees for Disaster Victims form. This waiver shall only apply for a period of 30 days after the Governor files the disaster proclamation.
- f) In order to obtain a duplicate or corrected license or permit, an application form provided by the Department as described in IVC Section 6-106(b) shall be completed by a Driver Services Facility employee. The Non-CDL applicant shall answer the first 3 questions on the application and the CLP or CDL applicant shall answer the first 3 questions, in addition to questions ~~8, 9, and 10~~ and 11 on the application (see Appendix A). After the form has been completed and the fee paid, the applicant, if necessary, shall have a photograph taken as provided in Section 1030.90.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1030.98 School Bus Endorsement or Learner's Instruction Permit

- a) In order to obtain a CDL with an "S" endorsement, the driver applicant must:
 - 1) be eligible and have applied for an Illinois school bus permit pursuant to IVC Section 6-106.1 and 92 Ill. Adm. Code 1035;
 - 2) pass the required written school bus core knowledge, passenger and "S" endorsement written tests;
 - 3) pass the skills test in a representative vehicle.
- b) In order to obtain a school bus commercial learner's instruction permit, the driver applicant must pass the written school bus core knowledge test.
- c) The Secretary of State shall issue a school bus CLP or IP in accordance with Section 1030.65 and IVC Section 6-105.
- d) The Department shall deny issuance of a CDL with an "S" endorsement and/or a

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school bus ~~CLP~~~~CDL~~:

- 1) for failure to meet the provisions of IVC Section 6-508;
 - 2) for failure to meet any eligibility requirements in this Section.
- e) Prior to the issuance of a ~~CLP or~~ CDL with an "S" endorsement and/or a school bus ~~CLP~~~~CDL~~, the Department shall perform a records check through the Problem Driver Pointer System (PDPS) and CDLIS, comply with all requirements in 49 CFR 384 (~~October 1, 2014~~2014), and enter each ~~CLP or~~ CDL holder's record into CDLIS pursuant to IVC ~~Sections 6-512.5 and Section~~6-513.
- f) A person applying for and operating on a school bus ~~CLP~~~~CDL~~ shall be exempt from obtaining and holding an Illinois school bus driver permit, but must be accompanied by an individual holding the proper license classification and a school bus driver permit but may not operate a school bus with any passengers other than federal/State auditors and inspectors, test examiners, and other trainees.
- g) A CDL with an "S" endorsement shall expire in accordance with the provisions of IVC Section 6-115. A CLP with an "S" endorsement shall expire in accordance with the provisions of IVC Section 6-507.5.
- h) The fees for a CDL with an "S" endorsement/~~CLP~~~~CDL~~ shall be as outlined in IVC Section 6-118.
- i) A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus ~~CLP~~~~CDL~~ shall be subject to the disqualification provisions of IVC Section 6-514.
- j) A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus ~~CLP~~~~CDL~~ shall be subject to the prohibitions against driving a commercial motor vehicle while having any alcohol, other drugs or both in the applicant's system as outlined in IVC Section 6-515.
- k) A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus ~~CLP~~~~CDL~~ shall be subject to the implied consent requirements for commercial motor vehicle drivers outlined in IVC Section 6-516.
- l) A driver applicant who possesses a CDL with an "S" endorsement and/or a school

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bus ~~CLPCIP~~ shall be subject to the implied consent warnings outlined in IVC Section 6-517.

- m) A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus ~~CLPCIP~~ shall be subject to the cancellation provisions of IVC Section 6-201.
- n) A driver applicant whose CDL with an "S" endorsement and/or a school bus ~~CLPCIP~~ has been canceled, withdrawn or disqualified may contest the sanction by requesting a hearing with the Secretary of State Department of Administrative Hearings pursuant to IVC Section 2-118 or 6-520. The cancellation, withdrawal or disqualification shall remain in effect pending the outcome of the hearing.
- ~~o) A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus CIP shall be subject to the cancellation provisions of IVC Section 6-201.~~
- ~~op)~~ A driver applicant who possesses a CDL with an "S" endorsement and/or a school bus ~~CLPCIP~~ shall be subject to all provisions of IVC Chapter 6, Article V.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit

- a) Except as provided for in subsections (~~om~~) and (~~pn~~), an applicant applying for a driver's license or identification card for the first time in the State of Illinois must present one document from each of Group A, B and C and two documents from Group D as outlined in subsection (~~hf~~).
- b) A foreign national applying for a temporary visitor's driver's license shall submit one document from Groups A and B and two documents from Group D to prove name, date of birth, temporary residency, legal presence and verification of signature. Temporary visitor's driver's license applicants are not required to present documents verifying social security numbers. Instead, they shall affirm under penalty of perjury that they are ineligible to obtain a social security number. Acceptance of documents not listed in Groups A, B and D must be approved through the Director of Driver Services or his/her designee.
- c) An applicant applying for a CLP or CDL shall submit one of the following documents as proof of citizenship or lawful permanent resident status:
- 1) valid, unexpired U.S. passport;
 - 2) certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's state of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands;
 - 3) Consular Reports of Birth Abroad (CRBA) issued by the U.S. Department of State;
 - 4) Certificate of Naturalization issued by the U.S. Department of Homeland Security (DHS);
 - 5) Certificate of Citizenship issued by DHS; or
 - 6) Valid, unexpired Permanent Resident Card issued by USCIS or INS.
- d) An applicant applying for a Non-Domiciled CLP or CDL shall submit an

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unexpired employment authorization document (EAD) issued by USCIS or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States.

- ee) Except as provided for in subsections (~~om~~), (~~pn~~) and (~~qe~~), an applicant applying for either a duplicate or corrected driver's license or identification card must present one form of identification from Group A and at least one form from Group B and C or two from Group D if requesting an address change to appear on the documents, as outlined in subsection (~~hf~~). An applicant who requests a change in name, date of birth, social security number or gender must provide acceptable identification to create a link pertaining to the change between the previous information and the new information.
- fd) A foreign national applying for a duplicate or corrected temporary visitor's driver's license shall submit one document from Groups A and B and two documents from Group D to prove name, date of birth, temporary residency, legal presence and verification of signature. An applicant who requests a change in name, date of birth or gender must provide acceptable identification to create a link pertaining to the change between the previous information and the new information. An applicant requesting an address change to appear on the document must provide two forms of acceptable documents from Group D. Acceptance of documents not listed in Groups A, B and D must be approved through the Director of Driver Services or his/her designee.
- ge) Applicants renewing a current Illinois driver's license or identification card need only present a current valid license or ID card. If they do not have a current driver's license or ID card, they must present one form of identification from Group A and at least one form from Group B, C or D, as outlined in subsection (~~hf~~). Except as provided for in subsections (~~om~~) and (~~pn~~), applicants who are requesting an address change to appear on the documents are required to provide two documents from Group D as outlined in subsection (~~hf~~).
- hf) Documents of identification that are acceptable for the purpose of obtaining a driver's license, permit and/or identification card are listed by group. Photocopies will not be accepted. **All acceptable documents presented for verification or proof must be valid (current and not expired).** Photocopies will not be accepted.
- 1) GROUP A (Written Signature)

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Canceled Check (dated within 90 days prior to application)

Cooperative Driver Certificate

Court Order

Credit Card/Debit Card – Major Brand

Driver Education Certificate

Government Driver's License

Government Identification Card

Illinois Driver's License – current

Illinois Identification Card – current

U.S. Citizenship and Immigration Services (USCIS)
forms:

I-551 (Alien Registration Card)

I-766 (Employment Authorization Card)

I-94 (Arrival/Departure Record) with Valid Passport

Medicare Card – with suffix A, J, H, M or T

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

Mortgage or Installment Loan Documents

Out-of-state Driver's License/ID Card – current

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Passport – Valid US or Foreign

Social Security Card

2) GROUP B (Proof of Date of Birth)

Adoption Records

Birth Certificate

Court Order – Change of Birth Date

Certified Grade/High School/College/University Transcript

Illinois Driver's License – current

Illinois Identification Card – current

U.S. Citizenship and Immigration Services (USCIS) forms:

I-551 (Alien Registration Card)

I-571 (Refugee Travel Document)

I-766 (Employment Authorization Card)

I-797 (Notice of Action Status Change)

I-94 (Arrival/Departure Record) with Valid Passport

U.S. Visa

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

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Naturalization Certificate

Passport – Valid with Complete Date of Birth

U.S. Passport Card – Valid with Complete Date of Birth

Social Security Award Letter (Primary Beneficiary Only)

3) GROUP C (Social Security Number)

Illinois Driver's License Record

Illinois Identification Card Record

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

Social Security Award Letter (Primary Beneficiary Only)

Social Security Card – issued by Social Security Administration

4) GROUP D (Residency)

Affidavit – Certificate of Residency

Bank Statement (dated within 90 days prior to application)

Canceled Check (dated within 90 days prior to application)

Certified Grade/High School/College/University Transcript

Credit Report issued by Experian, Equifax or TransUnion – dated within 12 months prior to application

Deed/Title, Mortgage, Rental/Lease Agreement

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Insurance Policy (Homeowner's or Renter's)

Letter on Official School Letterhead – dated within 90 days prior to application

Medical claim or statement of benefits from private insurance company or public (government) agency, dated within 90 days prior to application

Official mail received from a State, County, City or Village or a Federal Government agency that includes first and last name of the applicant and complete current address. This may include, but is not limited to:

Homestead Exemption Receipt

Illinois FOID Card

Jury Duty Notice issued within 90 days prior to application

Selective Service Card

Social Security Annual Statement

Social Security Disability Insurance (SSDI) Statement

Supplemental Security Income (SSI) Benefits Statement

Voter Registration Card

Pay Stub or Electronic Deposit Receipt

Pension or Retirement Statement

Phone book, current, produced by a phone book publisher

Report Card from Grade/High School or College/University

Tuition invoice or other official mail from a college or university dated within the 12 months prior to application

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Utility Bill – Electric, water, refuse, telephone (land or cell), cable or gas, issued within 90 days prior to application

- ig) Documents listed in Group A, B or C, as outlined in subsection (hf), that contains the full residence address may also be used for Group D, as outlined in subsection (hf).
- jh) For a name change, the identification must be a document that provides a link to the established driver's license/ID Card file.
- ki) Group B documents, as outlined in subsection (hf), must contain the applicant's full name and complete date of birth and must be verifiable. To be verifiable, it must be possible to contact the regulatory authority to confirm the authenticity of the document. Birth certificate must be the original or certified by a Board of Health or Bureau of Vital Statistics within the US or by the US State Department, US Territories or Canada. A certified copy is a document produced by the issuing jurisdiction that has an embossed seal or an original stamped impression. Foreign passports and foreign birth certificates are accepted as "proof" if accompanied by any other item listed in Group B.
- lj) Group C documents, as outlined in subsection (hf), must contain the applicant's name and full social security number.
- mk) Group D documents, as outlined in subsection (hf), must contain the applicant's full residence address.
- nl) After review of all identification presented, Driver Services or Secretary of State management has the right to accept or refuse any document.
- om) An applicant applying for a no-fee identification card who is homeless must present one document from each of Group A, B and C, as outlined in subsection (hf), and a homeless status certification, as described in Section 1030.12, to satisfy the requirements for Group D, as outlined in subsection (hf).
- pn) An applicant for an identification card who is under the age of five years old must present one document from each of Group A, B and C, as outlined in subsection (hf), and one document from Group D, as outlined in subsection (fh).

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- g)** A judicial officer who wishes to change his or her residence address or mailing address to his or her business address, pursuant to the Judicial Privacy Act [705 ILCS 90], is required to present only a Secretary of State Request to Suppress Personal Information form as proof of residency.
- h)** A peace officer who wishes to change his or her residence address or mailing address to his or her business address is required to present only a Secretary of State Request to Change Residence/Mailing Address form and his or her peace officer badge.
- s)** Unacceptable identification documents include, but are not limited to:
- Bond Receipt or Bail/Bond Card
 - Business Cards
 - Check Cashing Cards
 - Club or Fraternal Membership Cards
 - College or University Identification Cards
 - Commercially Produced (non-State or unofficial) ID Cards
 - Fishing License
 - HFS (Healthcare and Family Services) Cards
 - Handwritten ID or Employment Cards
 - Hunting License
 - Instruction Permit/Receipts
 - Insurance
 - Library Card
 - Personal Mail

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Temporary Driver's License

Traffic Citation (Arrest Ticket)

Video Club Membership Cards

Wallet IDs

Unlicensed Financial Institution Loan Papers

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: School Bus Driver Permit
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1035.10	Amendment
1035.25	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-106.1
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates citations to federal rules, updates a reference to "licensed third party tester" and adds a definition of physician.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1035.45	Amendment	38 Ill. Reg. 23577; December 19, 2014
- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State

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Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

- 13) Initial Regulatory Flexibility Analysis:
- i) Types of small businesses, small municipalities and not-for-profit corporations affected: None, as all school bus companies and school districts already comply with the correctly cited federal rule.
 - ii) Reporting, bookkeeping or other procedures required for compliance: None
 - iii) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1035
SCHOOL BUS DRIVER PERMIT

Section	
1035.10	Definitions
1035.15	Requirements of Applicants for a School Bus Driver Permit
1035.20	Annual Medical Examination and Certificate
1035.25	Permit Application Process
1035.30	Training
1035.32	Random Drug Testing for Alcohol and Controlled Substances
1035.35	Denial, Cancellation, or Suspension of a School Bus Driver Permit
1035.40	Notice
1035.45	Employer Responsibility
1035.46	Military Deferrals
1035.50	Hearings

AUTHORITY: Implementing Section 6-106.1 and authorized by Section 6-521 of the Illinois Vehicle Code [625 ILCS 5/6-521].

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 11, 1995; amended at 24 Ill. Reg. 1269, effective January 10, 2000; amended at 24 Ill. Reg. 12092, effective July 31, 2000; amended at 26 Ill. Reg. 12045, effective July 22, 2002; amended at 33 Ill. Reg. 17093, effective December 1, 2009; amended at 34 Ill. Reg. 7750, effective May 20, 2010; amended at 34 Ill. Reg. 19082, effective November 22, 2010; amended at 35 Ill. Reg. 7412, effective April 21, 2011; amended at 36 Ill. Reg. 2384, effective January 30, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 1035.10 Definitions

For purposes of this Part, the following definitions shall apply:

"Active Duty" – *active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor* (IVC Section 6-106.1(j)).

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"Adulterated Specimen" – a urine specimen that contains a substance not expected to be present in human urine, or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine (see 49 CFR 40.3 ([20142008](#))).

"Cancellation" – the cancellation of a school bus driver permit – the annulment or termination by formal action of the Secretary of State of a person's school bus driver permit because of some error or defect in the permit, because the permit holder is no longer entitled to the permit, refusal or neglect of the person to submit to an alcohol and drug evaluation or submit to or fail to successfully complete the examination, in accordance with IVC Sections 1-110, 6-106.1 and 6-207.

"Cellular Radio Communication Device" – a device capable of sending or receiving telephone communications without an access line for service and that requires the operator to dial a number manually. It does not include citizens band radios or citizens band radio hybrids.

"Chain of Custody" – a procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (see 49 CFR 40 ([October 1, 20142008](#))).

"Chain of Custody Form" or "CCF" – an employer copy of the Federal Drug Testing Custody and Control Form used to notify the employer that the applicant has taken a split specimen test and the results of that test.

"Collector" – a person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates and completes the CCF.

"Conviction" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, by a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost, regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether the penalty is rebated,

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suspended or probated pursuant to IVC Section 6-500(8).

"Curriculum-Related School Activity" – includes from home to school or from school to home, tripper or shuttle service between school attendance centers, transportation to vocational or career center or other trade-skill development site or regional safe school or other school-sponsored alternative learning program, or a trip that is directly related to the regular curriculum of a student for which he or she earns credit.

"Denial" – to prohibit or disallow the privilege to obtain a school bus driver permit and/or the privilege to operate a school bus in accordance with IVC Section 6-106.1.

"Dilute Specimen" – a urine specimen with creatinine and specific gravity values that are lower than expected for human urine pursuant to 49 CFR 40.3.

"Disqualification" – *a withdrawal of the privilege to drive a commercial motor vehicle* [625 ILCS 5/1-115.3].

"Driver" – *every person who drives or is in actual physical control of a vehicle* [625 ILCS 5/1-116].

"Employer" – any public or private school district, individual, corporation, partnership or association who employs school bus drivers licensed pursuant to IVC Section 6-106.1.

"Employer Certification/Notification" – a form prescribed by the Secretary of State and submitted by the employer that certifies an applicant has met all pre-employment conditions and all conditions for reapplication, or that a driver who is no longer eligible for a school bus driver permit has been removed from service.

"Fingerprint Process" – a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a school bus driver permit and submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI).

"Hearing" – a hearing conducted by the Secretary of State, pursuant to IVC Sections 2-118 and 6-106.1, upon written request of the driver or applicant.

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"Home State" – the States of Indiana, Michigan, Wisconsin, Iowa, Missouri and Kentucky, when they have issued a valid and properly classified driver's license.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Initial Training" – an initial training class, including first aid procedures, in school bus safety administered by the Illinois State Board of Education through the Regional Office of Education and approved by the Secretary of State pursuant to IVC Section 6-106.1. Initial training will provide sufficient practical behind-the-wheel instruction.

"Lapse" – a period of time following the expiration of a driver's license or school bus driver permit in which the driver can renew or reapply without penalty.

"Medical Examination" – a physical examination by a medical examiner that includes tests for drug and alcohol use and the medical qualifications needed to drive a school bus.

"Medical Examiner" – a person who is a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician.

"Medical Examiner's Certificate" – a form, developed by the Secretary of State, upon which a medical examiner records the results of a physical examination and certifies whether a person is qualified to apply for a school bus driver permit.

"Medical Review Officer" or "MRO" – a person who is a licensed physician and is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results (see 49 CFR 40.3 ([October 1, 2014](#)~~2008~~)).

"Military Order" – official military documents that indicate the date the school bus driver permit holder will be called to active duty and the expected date the permit holder will return from active duty.

"Miscellaneous Suspension" – a safety and family financial responsibility suspension, unsatisfied judgment suspension, auto emissions suspensions, parking

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ticket suspension, failure to appear suspension, failure to pay toll suspension, nighttime driving restriction suspension, and all suspensions that are rescinded and are no longer in effect.

"Multifunction School Activity Bus" or "MFSAB" – a school bus manufactured for the purpose of transporting 11 or more persons, including the driver, whose purposes do not include transporting students to and from school or school bus stops.

"Physician" – a person licensed to practice medicine in all its branches.

"Possession of a School Bus" – the period of time from which a school bus driver takes possession until the school bus driver returns possession of the school bus, whether or not the school bus driver is operating the school bus.

"Pre-Employment Conditions" – an applicant must have been interviewed by the prospective employer; completed a school bus driver permit application and prescribed medical report form; successfully passed a physical examination; successfully completed a fingerprint-based Illinois specific background check with fingerprints forwarded to the FBI for a national background check; and received the required initial training.

"Pre-Trip and/or Post-Trip Inspection" – requires the school bus driver to test the cellular radio telecommunication device or two-way radio and ensure it is functioning properly before the bus is operated and before leaving the bus at the end of each route, work shift or work day, to walk to the rear of the bus, and to check the bus for children or other passengers in the bus.

"Provisional Status" – the temporary privilege to operate a school bus pending completion of the FBI criminal background check.

"Random Testing" – a drug and/or alcohol test having no specific time pattern.

"Refresher Course" – a classroom course in school bus safety approved by the Secretary of State. Refresher training courses shall be a minimum of 2 hours in length, part of which must be first aid training, taught by an instructor certified by the Illinois State Board of Education under 23 Ill. Adm. Code 1.515.

"Repeatedly Convicted of Offenses against Laws and Ordinances Regulating the

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Movement of Traffic" – a driver for whom an order has been entered to suspend or revoke a license or permit under IVC Section 6-206(a)(3).

"Repeatedly Involved as a Driver in Motor Vehicle Collisions" – a driver for whom an order has been entered to suspend or revoke a license or permit under IVC Section 6-206(a)(3).

"Rescind Order" – a removal by formal action of an order canceling, suspending or denying issuance of a school bus permit.

"Review of Driving Records" – a review of the applicant's driving record maintained by the Secretary of State or documentation from another licensing jurisdiction, which has been certified within 30 days prior to the date of application, to insure that the requirements of IVC Sections 6-106(1), (2), (3), (9), (10), (11), (12), (13) and (14) have been met.

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

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Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not fewer than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [625 ILCS 5/1-182]

"School Bus Driver Active Duty Form" – the form submitted by an employer as notification of the date the school bus permit holder is placed on active military duty.

"School Bus Driver Inactive Status" – status of school bus permit while the school bus permit holder is on active military duty.

"School Bus Driver Permit" – permit issued for a period of one year to school bus drivers by the Office of the Secretary of State pursuant to IVC Section 6-106.1.

"School Bus Driver Permit Application" – the form or document prescribed by the Secretary of State upon which a request for a school bus driver permit is made.

"School Bus Driver Return From Active Duty Form" – the form submitted by employer as notification of the date the school bus driver permit holder returned from active duty.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"Serious Traffic Violation" – notwithstanding convictions that in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, shall be considered a serious traffic violation:

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A conviction, when operating a motor vehicle, for a violation of or relating to:

IVC Section 11-402(a) – a motor vehicle accident involving damage to a vehicle;

IVC Section 11-403 – failure to stop and exchange information after a motor vehicle collision, property damage only;

IVC Section 11-502(a) – illegal transportation, possession or carrying of alcoholic liquor within the passenger area of any vehicle;

IVC Section 6-101 – operating a motor vehicle without a valid license or permit;

IVC Section 11-403 – failure to stop and exchange information or give aid after a motor vehicle collision involving personal injury or death;

Excessive speeding – a single speeding charge of 15 miles per hour or more above the legal speed limit;

IVC Section 11-503 – Reckless driving;

IVC Section 11-707(d) – passing in a no-passing zone; or IVC Section 11-1414 – passing a stopped school bus;

IVC Section 11-1402(b) – limitations on backing upon a controlled access highway;

IVC Section 11-707(b) – driving on the left side of a roadway in a no-passing zone;

IVC Section 11-1002(e) – failure to yield the right-of-way to a pedestrian at an intersection;

IVC Section 11-1008 – failure to yield to a pedestrian on a sidewalk;

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IVC Sections 11-1201 and 11-1202 – failure to stop for an approaching railroad train or signal;

Any State law or local ordinance relating to motor vehicle traffic control, other than parking violations, arising in connection with a fatal traffic accident;

IVC Section 6-501 – having multiple driver's licenses;

IVC Section 6-507(a) – the requirement to have a valid CDL;

Improper or erratic traffic lane changes;

Following another vehicle too closely;

IVC Section 6-104(d) – possession of a valid school bus permit;

IVC Section 11-605 – school speed zones;

Any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than parking violations, that the Secretary of State determines by administrative rule to be serious.

"Service Member" – *a member of the Armed Services or reserve forces of the United States or a member of the Illinois National Guard* (IVC Section 6-106.1(j)).

"Specimen Bottle" – the bottle that, after being sealed and labeled according to the procedures in this Part, is used to hold the urine specimen during transportation to the laboratory (see 49 CFR 40.3 ([October 1, 2014](#)~~2008~~)).

"Split Specimen" – in drug testing, a part of the urine specimen sent to a first laboratory and retained unopened, and that is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result (see 49 CFR 40.3 ([October 1, 2014](#)~~2008~~)).

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"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Substituted Specimen" – a specimen with creatinine and specific gravity values so diminished that they are not consistent with human urine.

"Suspension of Driver's License" – the temporary withdrawal by formal action of the Secretary of State of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary of State [625 ILCS 5/1-204].

"Suspension of School Bus Driver Permit" – the temporary withdrawal, by formal action by the Secretary of State, of a person's permit that grants and specifies limited privileges to operate a school bus on the public highways, for a period specifically designated by the Secretary of State.

"Waiver" – an exemption allowed under certain conditions rendering an ineligible applicant eligible.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1035.25 Permit Application Process

- a) Each applicant for a school bus driver permit must first successfully complete a pre-employment interview with the prospective employer to determine the acceptability of the applicant in terms of the requirements of this Part and those outlined in IVC Section 6-106.1.
- b) The applicant seeking employment as a school bus driver must complete an Application for Illinois School Bus Driver Permit obtained from the prospective employer and then complete the following:
 - 1) Physical examination, obtaining the medical examiner's certificate, in accordance with Section 1035.20;
 - 2) Fingerprint process;
 - 3) initial training.

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- c) The employer shall certify in writing to the Secretary of State on a form prepared or approved by the Secretary of State that all the required pre-employment conditions have been successfully completed.
- d) The applicant shall then submit the employer certification, the school bus driver permit application, and a fee of \$4.00 to the Secretary of State.
- e) The Secretary of State shall review the applicant's driving history to determine if it is acceptable under the provisions of this Part and IVC Section 6-106.1.
 - 1) The applicant must:
 - A) pass written examinations administered by the Secretary of State's Office in accordance with 92 Ill. Adm. Code 1030.80;
 - B) successfully complete a road test administered by the Secretary of State's Office or a third party certifying entity~~licensed third party tester~~ in the class of vehicle to be used, in accordance with 92 Ill. Adm. Code 1030.85.
 - 2) Written examinations must be successfully completed prior to the road test. Each examination must be completed in no more than 3 attempts and within 90 days after the date of certification by the employer under subsection (c) in order for the current physical examination date to be used. Examinations taken 90 days after the certification date will require a new physical examination. The written examinations are valid for one year upon completion. After 3 failed attempts on any examination, the applicant must wait 30 days to again test.
- f) Upon successful completion of all pre-employment conditions and examination requirements for the school bus driver permit, the Secretary of State shall issue a school bus driver permit with a provisional status. Upon successfully passing the FBI criminal background investigation, the Secretary of State shall remove the school bus driver permit from provisional status. The permit shall expire one year from the issuance date.
- g) Current Permit Holders:

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- 1) Individuals who, as of July 1, 1995, possessed a valid school bus driver permit that was previously issued by the appropriate regional superintendent are not subject to the fingerprinting provisions as long as the permit remains valid and does not lapse. If an applicant re-applies for a school bus driver permit 30 days or less after the date of expiration of the current permit, it shall not constitute a lapse.
- 2) Current school bus drivers need not be retested by the Secretary of State except when a change in license classification is required.
- h) A re-applicant for a school bus driver permit shall be required to submit an employer certification verifying completion of a yearly physical and refresher training, as well as a \$4.00 re-application fee. Re-applications will not be accepted more than 60 days prior to the expiration date of the current permit.
- i) The fee for a school bus driver permit shall be as follows:
 - 1) Original school bus driver permit.....\$4.00
 - 2) Re-application for school bus driver permit.....\$4.00
 - 3) Duplicate or corrected school bus driver permit.....\$4.00
- j) Any individual who allows his/her school bus driver permit to expire for more than 30 days shall be required to submit to all the requirements set forth for a new applicant.
- k) Substitute Drivers: Any individual who drives when a regular school bus driver is not available must have a permit. Athletic coaches, teachers and other school employees who occasionally drive school buses that transport students to and from school or school-related activities must be qualified and have a school bus driver permit.
- l) Out-of-State Applicants: Any person residing in a state other than Illinois who seeks employment as a school bus driver must possess a properly classified license from his or her home state. The applicant must follow the procedure outlined in this Part for new applicants.
- m) New Resident Applicants: Any person who has relocated to the State of Illinois

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who seeks employment as a school bus driver must provide documentation from his or her former state of residence, prior to application, that the requirements of IVC Sections 6-106.1(a)(3), (9) and (10) have been met. This documentation must be attached to the school bus driver application form prior to appearing at a Secretary of State's Driver Services Facility. The documentation must have been issued within 90 days prior to the date of application. The applicant must follow the procedure outlined for new applicants as set forth in this Part.

- n) An applicant for a school bus driver permit must have a 3 year continuous driving history. This requirement may be met by a combination of in-state and out-of-state driving records. An exception may be allowed under the following criteria:
- 1) a written request for an exemption must be submitted, with the reason for the break in the 3 year driving history;
 - 2) a break of 30 days or less in the 3 year driving history may be waived by the Secretary of State;
 - 3) a break of more than 30 days, but less than 6 months, in the driving history may be approved by the Secretary of State if the record is clear or if listed convictions do not affect driving.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Number: 1040.1 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/6-500 and 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: This rule updates references to the Code of Federal Regulations, adds a definition of commercial learner's permit and amends the definition of commercial motor vehicle.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Number</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
1040.20	Amendment	39 Ill. Reg. 3457; March 13, 2015
- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department

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2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

- 13) Initial Regulatory Flexibility Analysis:
- i) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - ii) Reporting, bookkeeping or other procedures required for compliance: None
 - iii) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1040
CANCELLATION, REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS

Section	
1040.1	Definitions
1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.28	Suspension or Revocation for Traffic Offense Committed by a Person Under the Age of 21 Years After a Prior Suspension Under Part 1040.29
1040.29	Suspension or Revocation for Two or More Traffic Offenses Committed Within 24 Months by a Person Under the Age of 21
1040.30	Suspension or Revocation for Three or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Disability License Plate or Parking Decal or Device or Fraudulent Disability License Plate or Parking Decal or Device
1040.34	Suspension or Revocation for Conviction for Possession/Consumption of Alcohol for Persons Under Age 21
1040.35	Administrative Revocation for Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Based Upon a Local Ordinance Conviction
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Suspension or Revocation for Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew or Night Time Driving Restriction Violations
1040.42	Suspension or Revocation for Fleeing and Eluding
1040.43	Suspension or Revocation for Illegal Transportation
1040.46	Suspension or Revocation for Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions (Repealed)

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- 1040.50 Occupational Driving Permit
- 1040.52 Driver Remedial Education Course
- 1040.55 Suspension or Revocation for Driver's License Classification Violations
- 1040.60 Release of Information Regarding a Disposition of Court Supervision
- 1040.65 Offenses Occurring on Military Bases
- 1040.66 Invalidation of a Restricted Driving Permit
- 1040.70 Problem Driver Pointer System
- 1040.80 Cancellation of Driver's License Upon Issuance of a Disabled Person Identification Card
- 1040.100 Rescissions
- 1040.101 Reinstatement Fees
- 1040.102 Bankruptcy Rule for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
- 1040.105 Suspension for Five or More Tollway Violations and/or Evasions
- 1040.107 Suspension for Violation of Improperly Approaching a Stationary Emergency Vehicle
- 1040.108 Suspension for Failure to Make Report of Vehicle Accident Violations
- 1040.109 Suspension for Two or More Convictions for Railroad Crossing Violations
- 1040.110 Bribery
- 1040.111 Suspension for Failure to Yield upon Entering a Construction or Maintenance Zone when Workers Are Present
- 1040.115 Suspension for Theft of Motor Fuel
- 1040.116 Discretionary Suspension/Revocation; Committing Perjury; Submitting False/Fraudulent Documents; Notification by Department of Administrative Hearings
- 1040.117 Suspension for Concealment or Obstruction of Registration to Hinder Law Enforcement

AUTHORITY: Implementing Articles II and VII of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148,

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effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 1896, effective January 26, 2006; amended at 30 Ill. Reg. 2557, effective February 10, 2006; amended at 30 Ill. Reg. 11299, effective June 12, 2006; amended at 31 Ill. Reg. 4792, effective March 12, 2007; amended at 31 Ill. Reg. 5647, effective March 20, 2007; amended at 31 Ill. Reg. 7296, effective May 3, 2007; amended at 31 Ill. Reg. 7656, effective May 21, 2007; amended at 31 Ill. Reg. 11356, effective July 19, 2007; amended at 31 Ill. Reg. 14559, effective October 9, 2007; amended at 31 Ill. Reg. 16880, effective January 1, 2008; amended at 33 Ill. Reg. 2603, effective January 22, 2009; amended at 33 Ill. Reg. 9801, effective June 25, 2009; amended at 33 Ill. Reg.

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15073, effective October 21, 2009; amended at 34 Ill. Reg. 570, effective December 22, 2009; amended at 35 Ill. Reg. 1667, effective January 13, 2011; amended at 35 Ill. Reg. 8512, effective May 31, 2011; amended at 36 Ill. Reg. 10055, effective June 29, 2012; amended at 36 Ill. Reg. 11211, effective July 5, 2012; amended at 37 Ill. Reg. 1762, effective January 25, 2013; amended at 37 Ill. Reg. 8832, effective June 17, 2013; amended at 38 Ill. Reg. 9591, effective April 15, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 1040.1 Definitions

Unless otherwise noted, the following definitions shall apply to this Part.

"Alcohol Related Suspension" – a suspension in accordance with IVC Sections 6-206(a)(6), (a)(17), (a)(23) and (a)(33), 11-501.1, 11-501.6 (only when the driver has a positive test for alcohol or drugs) and 11-501.8.

"Amnesty" – a sovereign act of forgiveness for past acts granted by a government to all persons (or to certain persons) generally conditioned upon their return to obedience and duty within a prescribed time as recognized by the Immigration Reform and Control Act of 1986 (P.L. 99-603).

"Applicant" – a person applying for an Illinois driver's license or permit.

"Authority" – Illinois State Toll Highway Authority.

"Authorized Holder" – an individual issued a disability license plate pursuant to IVC Section 3-616, an individual issued a parking decal or device pursuant to IVC Section 11-1301.2 or an individual issued a disabled veteran's license plate pursuant to IVC Section 3-609 or 3-609.01.

"Authorized Personnel" – the Director, a manager or administrator of the Driver Services Department or an instructor, Secretary of State Police or Inspector General.

"Auto Emissions Suspension" – a suspension for failing to have a vehicle tested pursuant to the Vehicle Emissions Inspection Law of the Illinois Vehicle Code.

"Automated Traffic Law Violation Suspension" – a suspension in accordance with IVC Section 6-306.5 for failure to satisfy fines or penalties for five or more automated traffic law violations.

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"BAIID" – Breath Alcohol Ignition Interlock Device.

"Bankruptcy Debtor" – a debtor under any chapter of the federal Bankruptcy Code (11 USC).

"Bribe" – any item or thing of value, payment, or other personal advantage that an employee of the Office of the Secretary of State, the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer any part of a driver's license examination is not authorized by law or administrative rule to accept, knowing or reasonably believing that the item, thing of value, payment or advantage was promised or tendered with the intent to influence or change the performance of any act or duty related to the issuance of a driver's license.

"Bribery" – the solicitation or accepting of any bribe or improper offering.

"Cancellation" – the annulment or termination by formal action of the Secretary of a person's driver's license or permit because of some error or defect in the license or because the licensee is no longer entitled to the license or permit.

"Chapter 13 Plan" – an order by a United States Bankruptcy Court requiring a monthly payment from the wages of a debtor.

"Clean File" – an electronic file that a state submits to the National Driver Register (NDR) containing all appropriate records from the state as of a given date, which will replace all prior records on the NDR database.

"Clearance Letter" – any document received from another state dated within 30 days prior to the current process date verifying that an individual has had his/her driving privileges restored in that state.

"Cleared Suspension or Revocation" – a suspension or revocation of driving privileges that has terminated.

"Commercial Driver's License" or "CDL" – a license issued [to an individual](#) by a state or other jurisdiction [of domicile](#), in accordance with the standards contained

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in 49 CFR 383 (October 1, 2014), ~~to an individual~~, that authorizes the individual to operate a class of commercial motor vehicle as defined in IVC Section 1-111.6.

"Commercial Driver License Information System" or "CDLIS" – the information system established, pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 USC 2701 et seq.), to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers [625 ILCS 5/1-111.7].

"Commercial Learner's Permit" or "CLP" – a permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383 (October 1, 2014), which, when carried with a valid driver's license issued by the same state or jurisdiction of domicile, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current CDL is not valid.

"Commercial Motor Vehicle" or "CMV" – a motor vehicle or combination of motor vehicles used in commerce designed to transport passengers or property if the motor vehicle:

has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit with a gross vehicle weight rating or a gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds) or more, whichever is greater; or

is designed to transport 16 or more passengers, including the driver; or

is of any size and is used in transporting hazardous materials as defined in 49 CFR 383.5 (October 1, 2014).

Commercial Motor Vehicle does not include:

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recreational vehicles, when operated primarily for personal use;

vehicles owned by or operated under the direction of the United States Department of Defense or the United States Coast Guard, only when operated by non-civilian personnel. This includes any operator on active military duty; members of the Reserves; National Guard; personnel on part-time training; and National Guard military technicians (civilians who are required to wear military uniforms and are subject to the Code of Military Justice); or

firefighting, police, and other emergency equipment (including, without limitation, equipment owned or operated by a HazMat or technical rescue team authorized by a county board under Section 5-1127 of the Counties Code [55 ILCS 5]), with audible and visual signals, owned or operated by or for a governmental entity, which is necessary to the preservation of life or property or the execution of emergency governmental functions which are normally not subject to general traffic rules and regulations. [625 ILCS 5/6-500(6)]

~~"Commercial Motor Vehicle" or "CMV" — a motor vehicle, used in commerce, except those referred to in IVC Section 6-500(6)(B), designed to transport passengers or property if:~~

~~the vehicle has a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more or such a lesser GVWR as subsequently determined by federal regulations (49 CFR 383); or~~

~~any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the GVWR of any vehicle or vehicles being towed is 10,001 pounds or more; or~~

~~the vehicle is designed to transport 16 or more persons, including the driver; or~~

~~the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR 172, subpart F.~~

"Commercial Vehicle" – any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, For-Hire

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or Not-For-Hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially [625 ILCS 5/1-111.8].

"Concurrent Actions Requiring Reinstatement Fees" – a situation in which a driver has either two or more suspensions, except miscellaneous suspensions, or two or more revocations or a combination of suspensions and revocations, on the driving record that were in effect at the same time.

"Conviction" – a final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default [625 ILCS 5/6-100(b)].

"Conviction-CLP Holder" or "Conviction-CDL Holder" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. [625 ILCS 5/6-500(8)]

"Creditor" – a person to whom a debt is owed by another.

"Curfew" – the hours by which any person under 17 years of age may not lawfully be present at or upon any public assembly, building, place, street or highway as provided in Section 1 of the Child Curfew Act [720 ILCS 555/1].

"Curfew Violation Suspension" – a suspension when a minor operates a vehicle on a highway during the prescribed hours without an adult or as otherwise provided for in Section 1 of the Child Curfew Act in accordance with IVC Section 6-206(a)(13).

"Debtor" – a person who owes a debt.

"Delayed Search" – the NDR will perform a delayed search of its Pointer File periodically for a duration of at least 104 days following an original inquiry. This

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search is done in order to insure that if an action occurs following an inquiry, that action will be sent to the SOI in the form of a Delayed Search Response (see 23 CFR 1325 and 1327).

"Deletion" – the permanent removal of an entry from a driving record.

"Denial of Driver's License" – to prohibit or disallow the privilege to obtain a driver's license while allowing the privilege to obtain an instruction permit and limiting privileges to that of an instruction permit, if a driver's license has previously been issued in accordance with IVC Sections 6-107(c) and 6-107(d).

"Denial of Driving Privilege" – to prohibit or disallow the privilege to obtain a driver's license or permit and/or the privilege to operate a motor vehicle in accordance with IVC Sections 6-107(c) and 6-108.1.

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Administrative Hearings" – Department of Administrative Hearings within the Office of the Secretary of State.

"Department of Vehicle Services" – Department of Vehicle Services within the Office of the Secretary of State.

"Disability License Plate or Parking Decal or Device-Making Implement" – any implement specially designed or primarily used in the manufacture, assembly or authentication of a disability license plate or parking decal or device, or a license plate issued to a disabled veteran under IVC Section 3-609 or 3-609.01 issued by the Secretary of State or a unit of local government [625 ILCS 5/11-1301.6(a)].

"Disabled Person Identification Card" – a standard identification card as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] issued for no fee to persons who meet the definition of disabled as defined in IVC Section 1-159.1 or who have a disability so severe that it precludes him/her from obtaining an Illinois driver's license (see Section 4A(b)).

"Disqualification" – the suspension, revocation, or cancellation of a [CLP](#) or [CDL](#) by the state or jurisdiction of issuance; any withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as a result of a

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violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations); a determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial vehicle under 49 CFR 391 [625 ILCS 5/1-115.3].

"Disqualified" – the denial of the issuance of a license or permit or the invalidation of any license or permit.

"Driving Abstract" – a record kept by the Department of Driver Services containing all information required by IVC Section 6-106(b) and all records of violations of traffic laws and administrative actions pertaining to driving privileges.

"Driver's License or Permit" – a document that permits a person to legally operate a motor vehicle, including a restricted driving permit, judicial driving permit, instruction permit, traffic ticket issued when the person's driver's license is deposited in lieu of bail, suspension notice in which the suspension is not yet effective, duplicate or corrected driver's license, temporary instruction permit, temporary driver's license, temporary visitor instruction permit, temporary visitor driver's license, or probationary driver's license.

"Driver History Record" – a standardized form of limited information obtained from the SOR when an SOI makes a history request.

"Driver Remedial Education Course" – an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain suspended drivers. The course shall consist of individual counseling and/or group sessions of instruction and shall not exceed two sessions or a total of nine hours of instruction.

"Driver Status" – the current status of a driver's license in the SOR, indicating whether the license is currently valid, revoked, suspended or withdrawn, that is supplied via computer automation when an SOI makes a request to an SOR.

"Facility Administered Test" – an actual demonstration of the driver's license applicant's ability to successfully pass a vision, written and/or drive test administered by a Driver Services Facility employee or individual or entity approved by the Department to administer such tests.

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"Failure to Appear Suspension" – a suspension for failing to pay a fine or appear in court following the issuance of a traffic ticket as defined in IVC Section 6-306.3.

"Failure to Pay" – an indication on a driving record that an individual has failed to pay fines and costs in full on a traffic ticket, which prohibits the renewal, reissuance, or reinstatement of driving privileges pursuant to IVC Section 6-306.6.

"False Information" – any information concerning an individual's legal name, address, sex, date of birth, social security number or any photograph that:

falsifies all or in part the actual identity of the individual issued the license, permit or identification card;

in the case of information concerning an address, is information concerning a non-existent address that is used to obtain a license, permit or identification card; or

is any combination of a false identity and a non-existent address. [625 ILCS 5/6-301.1(a)(2) and 15 ILCS 335/14A(a)(2)]

"False Information – Disability Plate or Parking Placard Decal or Device" – any incorrect or inaccurate information concerning the name, date of birth, social security number, driver's license number, physician certification, or any other information required on the Persons with Disabilities Certification for Plate or Parking Placard, on the Application for Replacement Disability Parking Placard, or on the application for license plates issued to disabled veterans pursuant to IVC Section 3-609 or 3-609.01 that falsifies the content of the application.

"Family Financial Responsibility Suspension" – a suspension in accordance with IVC Section 7-702.

"Farm Tractor" – every motor vehicle designed and used primarily as a farm implement for drawing wagons, plows, mowing machines and other implements of husbandry, and every implement of husbandry that is self-propelled, excluding all-terrain vehicles and off-highway motorcycles [625 ILCS 5/1-120].

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"Fictitious Driver's License or Permit" – any issued license or permit for which a computerized number and file have been created by the Secretary of State or other official driver's license agency in another jurisdiction that contains false information concerning the identity of the individual issued the license or permit [625 ILCS 5/6-301.1(a)(1)].

"Fictitious Disability License Plate or Parking Decal or Device" – any issued disability license plate or parking decal or device, or any license plate issued to a disabled veteran under IVC Section 3-609 or 3-609.01, that has been issued by the Secretary of State or an authorized unit of local government that was issued based upon false information contained on the required application [625 ILCS 5/11-1301.5(a)].

"Fictitious Identification Card" – any issued identification card for which a computerized number and file have been created by the Secretary of State, the United States Government, or any other state or political subdivision thereof, or any governmental or quasi-governmental organization that contains false information concerning the identity of the individual issued the identification card [15 ILCS 335/14A(a)(1)].

"Financial Responsibility Suspension" – a suspension in accordance with IVC Section 7-304 and/or 7-305.

"Fraudulent Disability License Plate or Parking Decal or Device" – any disability license plate or parking decal or device that purports to be an official disability license plate or parking decal or device and that has not been issued by the Secretary of State or an authorized unit of local government [625 ILCS 5/11-1301.6(a)].

"Fraudulent Documents" or "Falsified Documents" – any documents submitted by or on behalf of a petitioner to the Secretary that purport or are represented to be prepared or composed by another person, agency or entity that did not actually prepare or compose the documents, or documents that were prepared for a person acting as the petitioner.

"Fraudulent Driver's License or Permit" – any license or permit that purports to be an official driver's license or permit for which a computerized number and file have not been created by the Secretary of State or other official driver's license agency in another jurisdiction [625 ILCS 5/1-123.4].

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"Fraudulent Identification Card" – any identification card that purports to be an official identification card for which a computerized number and file have not been created by the Secretary of State, the United States Government or any state or political subdivision thereof, or any governmental or quasi-governmental organization. For the purpose of this definition, any identification card that resembles an official identification card in size, color, photograph location, or design, or uses the word "official", "State", "Illinois", or the name of any other state or political subdivision thereof, or any governmental or quasi-governmental organization individually or in any combination thereof to describe or modify the term "identification card" or "I.D. card" anywhere on the card, or uses a shape in the likeness of Illinois or any other state on the photograph side of the card, is deemed to be a fraudulent identification card. [15 ILCS 335/1A]

"Hearing Officer" – any person designated by the Secretary of State to preside at any hearing conducted pursuant to the rules established by the Office of the Secretary of State (92 Ill. Adm. Code 1001).

"Hospital" – an institution that provides medical or surgical care and treatment for the sick and injured.

"Identification Card" – any document made or issued by or under the authority of the United States Government, the State of Illinois, or any other state or political subdivision thereof, or any other governmental or quasi-governmental organization that, when completed with information concerning the individual, is of a type intended or commonly accepted for the purpose of identification of an individual [15 ILCS 335/14A(a)(5)].

"Illinois Vehicle Code" or "Code" or "IVC" means the Illinois Vehicle Code [625 ILCS 5].

"Implement of Husbandry" – every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry, provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds shall be included under this definition [625 ILCS 5/1-130].

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"Instruction Permit" – a driving permit issued to operate a motor vehicle pursuant to the requirements of IVC Section 6-105 or 6-107.1.

"Invalidate" – to render invalid any driver's license, permit or driving privileges.

"Judicial Driving Permit" – a driving permit issued to grant a driver limited driving privileges as provided in IVC Section 6-206.1.

"Law Enforcement Officials" – police agencies, state's attorneys' offices or court officials.

"Law Enforcement Sworn Report" – a confirmation of correctness and truth by an affidavit, oath or deposition, or a verification by certification, executed by a police officer in accordance with Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109] and pursuant to IVC Section 11-501.1(d).

"License Classification" – a notation on a driver's license or permit indicating the type of vehicle a person is qualified to operate.

"Like Period of Time" – an equal amount of time as the original suspension specified.

"Mandatory Conviction Suspension" – a suspension in accordance with IVC Section 3-707.

"Materially Altered Documents" – any documents submitted by or on behalf of a petitioner to the Secretary that have been physically altered or changed by someone other than the author of the documents.

"Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, night time driving restriction, or unsatisfied judgment.

"Motor Carrier" – any person engaged in the transport of property or passengers, or both, for hire, over the public roads of this State, by motor vehicle [625 ILCS 5/18C-1104(19)].

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"National Driver Register" or "NDR" – a computerized database of files on drivers maintained by the U.S. Department of Transportation, National Highway Traffic Safety Administration.

"Night Time Driving Restriction" – the hours during which a driver's privileges are not valid pursuant to IVC Sections 6-107.1(b), 6-110(a-1) or 6-110(a-3).

"Night Time Driving Restriction Suspension" – a suspension when a minor operates a vehicle on a highway during the prescribed hours without an adult or as otherwise provided for in accordance with IVC Sections 6-107.1(b) and 6-110(a-1).

"Notice of Automatic Stay" – any notice received by the Department that indicates a debtor has filed a petition in bankruptcy, which automatically stays any proceedings against him or her pursuant to Section 362 of the Bankruptcy Reform Act of 1978 (11 USC 362).

"Notice of Meeting of Creditors" – a notice from the United States Bankruptcy Court informing the entities that have a claim against the debtor that the debtor has filed bankruptcy.

"Occupational Driving Permit" – the document that grants and specifies limited privileges to drivers of commercial vehicles as an occupation who have had their full driving privileges suspended. The occupational driving permit is valid only when in the immediate possession of the driver to whom it is issued.

"Office" means the Office of the Secretary of State.

"Open Cancellation or Disqualification" – a cancellation or disqualification that appears on the driving record and is in effect.

"Open Suspension or Revocation" – a suspension or revocation that appears on the driving record and is in effect.

"Parking Suspension" – a suspension imposed for failure to pay fines or penalties for standing or parking violations pursuant to IVC Section 6-306.5.

"Pending Cancellation or Disqualification" – a cancellation or disqualification that appears on the driving record and is not yet in effect.

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"Pending Suspension or Revocation" – a suspension or revocation that appears on the driving record and is not yet in effect.

"Petition for Discharge Filed in Bankruptcy" – an order by a United States Bankruptcy Court relieving an individual from all of his/her debts that are provable in bankruptcy, except those excluded by the federal Bankruptcy Code.

"Petition in Bankruptcy" – a petition filed in Bankruptcy Court, or with the Clerk, by a debtor seeking the protection of the federal Bankruptcy Code.

"Petitioner" – any person or party who is the subject of an administrative hearing before the Secretary under the provisions of the Illinois Vehicle Code (see 92 Ill. Adm. Code 1001).

"Prior Suspension or Revocation" – a suspension or revocation or extension of a suspension or revocation that appears on the driving record.

"Probationary License" – a conditional license granting full driving privileges during a period of suspension [625 ILCS 5/1-164.1].

"Problem Driver Pointer System" or "PDPS" – a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license.

"Reckless Driving" – driving a motor vehicle with a willful or wanton disregard for the safety of persons or property or knowingly driving a vehicle using an incline in a roadway, such as a railroad crossing, bridge approach or hill to cause the vehicle to become airborne [625 ILCS 5/11-503].

"Record of Judgment" – an adjudication by the court that the defendant is guilty, including the sentence pronounced by the court.

"Reinstatement Fee" – the fee required by IVC Section 6-118(b) to restore a person's driving privileges after driving privileges have been suspended or revoked.

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"Request" – the written application upon the designated form, an approved electronic format, or an acceptable alternative for obtaining a driving abstract and supervision history record.

"Rescind" – to annul or void a suspension, revocation, cancellation, disqualification or denial.

"Restricted Driving Permit" or "RDP" – a document that grants and specifies limited privileges to drivers of motor vehicles who have had their full driving privileges suspended, revoked or cancelled [625 ILCS 5/1-173.1].

"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Secretary of State to assure safe operation of a motor vehicle.

"Returned Check" – a check delivered to the Office of the Secretary of State as payment of any fee when the check is not honored due to non-sufficient funds.

"Revocation" – the termination by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the Secretary after the expiration of at least one year after the date of revocation [625 ILCS 5/1-176].

"Safety Responsibility Suspension" – a suspension in accordance with IVC Section 7-205 or 7-208.

"Schedule A-3" – a schedule of liabilities.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"State of Inquiry" or "SOI" – a licensing jurisdiction that originated the inquiry for a driver history record or driver status.

"State of Record" or "SOR" – a licensing jurisdiction that originally took action against a problem driver and reported that driver to the NDR.

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"Statutory Summary Revocation" – the revocation by the Secretary of State of a person's license or privilege to operate a motor vehicle on the public highways for the period provided in IVC Section 6-208.1. Reinstatement after the revocation period shall occur after the person has been approved for reinstatement through an administrative hearing with the Secretary of State, has filed proof of financial responsibility, has paid the reinstatement fee as provided in IVC Section 6-118, and has successfully completed all necessary examinations. The basis for this revocation of driving privileges shall be the individual's refusal to submit to or failure to complete a chemical test or tests following an arrest for the offense of driving under the influence of alcohol, other drugs, or intoxicating compounds, or any combination thereof, involving a motor vehicle accident. [625 ILCS 5/1-197.6]

"Statutory Summary Suspension" – a withdrawal of a person's license or privilege to operate a motor vehicle on the public highways due to refusal to submit to or failure to complete or pass a chemical test or tests following an arrest for driving under the influence of alcohol, other drugs, or intoxicating compounds, or any combination thereof, for the periods provided in IVC Section 6-208.1.

"Stricken on Leave" or "SOL" – stricken from court docket with permission for charges to be reinstated at a later date.

"Supervision" – a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered [730 ILCS 5/5-1-21].

"Supervision History Record" – a record kept by the Department of Driver Services on each driver containing supervision disposition information provided in accordance with IVC Section 6-204(d).

"Suspension" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary [625 ILCS 5/1-204].

"Suspension or Revocation in Effect" – a suspension or revocation that appears on the driving record and has not terminated.

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"Terminated Suspension or Revocation" – a suspension or revocation that appears on the driving record and is no longer in effect.

"Tollway Suspension" – a suspension of a driver's license and/or driving privileges for failure to satisfy fines or penalties for five or more tollway violations, tollway evasions or any combination thereof, in accordance with IVC Section 6-306.7.

"Type A Injury" – an injury that requires immediate professional attention in either a doctor's office or a medical facility and includes severely bleeding wounds, distorted extremities and injuries that require the injured party to be carried from the scene.

"Trustee Report of No Assets" – a report from the trustee of the United States Bankruptcy Court indicating the debtor has no assets.

"Unlawfully Altered Disability License Plate or Parking Permit or Device" – any disability license plate or parking permit or device, or any license plate issued to a disabled veteran under IVC Section 3-609 or 3-609.01, issued by the Secretary of State or an authorized unit of local government that has been physically altered or changed in such manner that false information appears on the license plate or parking decal or device [625 ILCS 5/11-1301.5(a)].

"Unlawfully Altered Driver's License or Permit" – any issued license or permit for which a computerized number and file have been created by the Secretary of State or other official driver's license agency in another jurisdiction that has been physically altered or changed in such a manner that false information appears upon the license or permit [625 ILCS 5/6-301.1(a)(3)].

"Unlawfully Altered Identification Card" – any issued identification card for which a computerized number and file have been created by the Secretary of State, the United States Government, any other state or political subdivision thereof, or any governmental or quasi-governmental organization that has been physically altered or changed in such a manner that false information appears upon the identification card [15 ILCS 335/14A(a)(3)].

"Unsatisfied Judgment Suspension" – a suspension in accordance with IVC Section 7-303 or 7-313.

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"Vacate" – to set aside, annul, rescind, render void, or cancel an order.

"Valid Driver's License or Permit" – a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not been invalidated, denied, cancelled, revoked, suspended, disqualified or used after curfew or during a night time driving restriction.

"Warrant Parking/Traffic Suspension" – a suspension for arrest warrants issued for failure to pay fines for traffic or parking violations in accordance with Section 6-306.6 of the Illinois Vehicle Code or for failure to pay a fine or penalty for 10 or more standing, parking or compliance regulations in accordance with IVC Section 6-306.5.

"Withdrawal" – the negating of valid driving privileges by a state as the result of sanctions taken against driving privileges.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Airport Hazard Zoning
- 2) Code Citation: 92 Ill. Adm. Code 16
- 3) Section Number: 16.APPENDIX A Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this Part is to administer and enforce requirements that restrict the height of structures, equipment, and vegetation, and to regulate the use of property, on or in the vicinity of any publicly-owned airport whose owner or operator requests enforcement of airport hazard zoning by the Illinois Department of Transportation, Division of Aeronautics for any airport hazard area.

This Part applies to the airport facilities and surrounding areas that are identified and described in Section 16.Appendix A. For those airports listed in Section 16.Appendix A, any growth, construction, or maintenance of any vegetation or structure to a height 50 feet above natural ground level will be required to meet the standards of this Part.

Rantoul National Aviation Center and Fairfield Municipal Airport have elected to adopt this Part. Thus, at Section 16.APPENDIX A, two applicable airports are being added:

Rantoul National Aviation Center (TIP)
Fairfield Municipal Airport (FWC)

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

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Mr. Robert Hahn
Illinois Department of Transportation
Division of Aeronautics, Airspace Specialist
1 Langhorne Bond Dr.
Springfield IL 62707

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: No impact to small businesses, small municipalities and not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015 Regulatory Agenda, published in the January 16, 2015 issue of the *Illinois Register*.

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

DEPARTMENT OF TRANSPORTATION

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 16
AIRPORT HAZARD ZONING

Section

16.10	Purpose and Scope
16.20	Applicability
16.30	Definitions
16.35	Public Hearings
16.40	Surfaces and Height Limitations
16.50	Horizontal Surface
16.60	Conical Surface
16.70	Primary Surface
16.80	Approach Surface
16.90	Transitional Surfaces
16.100	Circling Approach Surface
16.110	Instrument Approach Obstruction Clearance Surface
16.120	Heliport/Vertiport Surfaces
16.130	Use Restrictions
16.140	Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150	Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160	Notice of Construction or Alteration of Any Structure
16.170	Permits
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16.ILLUSTRATION A	Airports Imaginary Surfaces
16.ILLUSTRATION B	Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C	Obstruction Standards (\leq 6 Nautical Miles)
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AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. 3191, effective February 9, 2007; amended at 32 Ill. Reg. 7806, effective May 1, 2008; amended at 33 Ill. Reg. 5474, effective March 30, 2009; amended at 33 Ill. Reg. 17371, effective December 8, 2009; amended at 35 Ill. Reg. 4393, effective February 23, 2011; amended at 39 Ill. Reg. _____, effective _____.

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Section 16.APPENDIX A Applicable Airports

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006
VYS	Peru	LaSalle	41-21.11	89-09.19	X		Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X		Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X		Sept. 15, 2006
K06	Beardstown	Cass	39-58.40	90-24.22	X		Feb. 28, 2007
OLY	Olney	Richland	38-43.31	88-10.59	X		Feb. 28, 2007
LWV	Lawrenceville	Lawrence	38-45.86	87-36.33	X		Feb. 28, 2007
CUL	Carmi	White	38-05.38	88-07.38	X		Feb. 28, 2007
C73	Dixon	Lee	41-50.02	89-26.77	X		Feb. 28, 2007
ORD	Chicago	Cook	41-58.72	87-54.29	X		Feb. 28, 2007

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TAZ	Taylorville	Christian	39-31.95	89-19.84	X	May 1, 2008
	Belleville/ Mascoutah	St. Clair	38-32.71	89-50.11	X	May 1, 2008
BLV	Lincoln	Logan	40-09.52	89-20.10	X	May 1, 2008
AAA	Vandalia	Fayette	38-59.49	89-09.97	X	May 1, 2008
VLA	Waukegan	Lake	42-25.33	87-52.07	X	May 1, 2008
UGN	Carbondale	Jackson	37-46.69	89-15.12	X	May 1, 2008
MDH	Cahokia/Sauget	St. Clair	38-34.24	90-09.37	X	May 1, 2008
CPS	Macomb	McDonough	40-31.21	90-39.14	X	May 1, 2008
MQB	Wheeling/ Prospect Heights	Cook	42-06.85	87-54.09	X	May 1, 2008
PWK	Havana	Mason	40-13.32	90-01.37	X	May 1, 2008
9I0	Morris	Grundy	41-25.53	88-25.12	X	May 1, 2008
C09	Effingham	Effingham	39-04.23	88-32.01	X	May 1, 2008
1H2	Champaign/Savoy	Champaign	40-02.36	88-16.68	X	May 1, 2008
CMI	Mt. Sterling	Brown	39-59.25	90-48.25	X	May 1, 2008
I63	Robinson	Crawford	39-00.96	87-38.99	X	May 1, 2008
RSV	East Alton/Bethalto	Madison	38-53.42	90-02.76	X	May 1, 2009
ALN	Pontiac	Livingston	40-55.47	88-37.44	X	May 1, 2009
PNT	Mt. Carmel/ St. Francisville	Lawrence	38-36.39	87-43.60	X	May 1, 2009
AJG	Rochelle	Ogle	41-53.58	89-04.70	X	May 1, 2009
RPJ	Casey	Clark	39-18.15	88-00.24	X	May 1, 2009
1H8	Mt. Vernon	Jefferson	38-19.40	88-51.51	X	May 1, 2009
MVN	Aurora/ Sugar Grove	Kane	41-46.32	88-28.54	X	May 1, 2009
ARR	Shelbyville	Shelby	39-24.63	88-50.73	X	May 1, 2009
2H0	Kankakee	Kankakee	41-04.28	87-50.78	X	May 1, 2009
IKK	Flora	Clay	38-39.90	88-27.18	X	May 1, 2009
FOA	Quincy	Adams	39-56.58	91-11.67	X	May 1, 2009
UIN	Greenville	Bond	38-50.17	89-22.70	X	Jan. 1, 2010
GRE	Metropolis	Massac	37-11.15	88-45.04	X	Jan. 1, 2010
M30	Danville	Vermilion	40-11.98	87-35.73	X	Jan. 1, 2010
DNV	Rockford	Winnebago	42-11.72	89-05.83	X	Jan. 1, 2010
RFD						

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1C5	Bolingbrook	Will	41-41.76	88-07.75	X	Jan. 1, 2010
PPQ	Pittsfield	Pike	39-38.33	90-46.71	X	Jan. 1, 2010
SAR	Sparta	Randolph	38-08.94	89-41.92	X	Jan. 1, 2010
	Pinckneyville-					
PJY	DuQuoin	Perry	37-58.67	89-21.63	X	Mar. 1, 2011
FEP	Freeport	Stephenson	42-14.77	89-34.92	X	Mar. 1, 2011
ENL	Centralia	Marion	38-30.91	89-05.47	X	Mar. 1, 2011
SFY	Savanna	Carroll	42-02.75	90-06.48	X	Mar. 1, 2011
C15	Pekin	Tazewell	40-29.29	89-40.55	X	Mar. 1, 2011
BMI	Bloomington	McLean	40-28.63	88-54.96	X	Mar. 1, 2011
3LF	Litchfield	Montgomery	39-09.75	89-40.48	X	Mar. 1, 2011
<u>TIP</u>	<u>Rantoul</u>	<u>Champaign</u>	<u>40-17.61</u>	<u>88-08.54</u>	<u>X</u>	
<u>FWC</u>	<u>Fairfield</u>	<u>Wayne</u>	<u>39-22.72</u>	<u>89-24.76</u>	<u>X</u>	

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Fairfield Municipal Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 41
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
41.10	Repealed
41.20	Repealed
41.30	Repealed
41.40	Repealed
41.50	Repealed
41.60	Repealed
41.70	Repealed
41.80	Repealed
41.90	Repealed
41.100	Repealed
41.110	Repealed
41.120	Repealed
41.130	Repealed
41.140	Repealed
41.EXHIBIT A	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17)
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because Fairfield Municipal Airport is being added to (92 Ill. Adm. Code 16). Specifically, Fairfield Municipal Airport is being added to applicable airports under Section 16.APPENDIX A.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Mr. Robert Hahn
Illinois Department of Transportation
Division of Aeronautics, Airspace Specialist
1 Langhorne Bond Dr.
Springfield IL 62707

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: No impact to small businesses, small municipalities and not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015 Regulatory Agenda, published in the January 16, 2015 issue of the *Illinois Register*.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 41
FAIRFIELD MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

41.10	Introduction
41.20	Definitions
41.30	Surfaces and Height Limitations
41.40	Use Restrictions
41.50	Non-Conforming Uses
41.60	Permits
41.70	Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
41.80	Variances
41.90	Notice of Construction or Alteration
41.100	Enforcement
41.110	Appeal and Judicial Review
41.120	Penalties
41.130	Conflicting Regulations
41.140	Severability

41.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

SOURCE: Adopted at 11 Ill. Reg. 6529, effective March 30, 1987; repealed at 39 Ill. Reg. _____, effective _____.

Section 41.10 Introduction

- a) Zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Fairfield Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Fairfield Municipal Airport zoning map

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(Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of City of Fairfield, as owner and operator of Fairfield Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1985, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of Fairfield Municipal Airport and of occupants of land or property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of Fairfield Municipal Airport and the public investment therein.*
- 1) *Accordingly, it is declared:*
- A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Fairfield Municipal Airport;*
- B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*
- C) *that the prevention of these hazards should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*
- 2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land. (Section 11 of the Act)*
- c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Fairfield Municipal Airport be adopted.

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Section 41.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" – The Fairfield Municipal Airport located near Fairfield, in the North ½ of Section 3, Township 2 South, Range 7 East of the Third Principal Meridian, Wayne County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 427 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 22' 44" N and Longitude 88° 24' 40" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 41.30 of this Part.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

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"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 41.60 of this Part.

"Person" – An *individual, firm partnership, corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this state* and the Division of Aeronautics.

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 41.30 hereof.

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of

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Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" - An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois.*

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 41.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 41.30 Surfaces and Height Limitations

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a) Establishment and Creation

- 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.
- 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C) for Fairfield Municipal Airport prepared by William J. Murray and Associates, Inc., Springfield, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

- 1) A horizontal plane 150 feet above the established airport elevation of 427 feet AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

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- A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
- 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.
- c) Conical Surface
- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
 - 2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.
- d) Primary Surface
- 1) A surface longitudinally centered on a runway.
- When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
- A) 250 feet for utility runways having only visual approaches;
 - B) 500 feet for utility runways having non-precision instrument approaches;

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- C) For other than utility runways, the width is:
 - i) 500 feet for visual runways having only visual approaches;
 - ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;
 - iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
 - 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - A) 1,250 feet for that end of a utility runway with only visual approaches;
 - B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
 - C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
 - E) 4,000 feet for that end of a non-precision instrument runway, other

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than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

- F) 16,000 feet for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
 - A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and
 - C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
 - 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 427 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
 - g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Fairfield Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

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- h) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up 50 feet above the ground.

Section 41.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

- a) Electrical or Electronic Interference
 - 1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.
 - 2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.
- b) Flashing of Illuminated Structures
 - 1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.
 - 2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.
- c) Smoke
 - 1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which

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would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

- 2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 41.50 Non-Conforming Uses

- a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.
- b) Marking and Lighting
 - 1) Notwithstanding the provisions of Section 41.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Fairfield.
 - 2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 41.60 Permits

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- a) Future Uses – Except as specifically provided in subsections (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
- 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.
 - 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
 - 3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 41.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

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Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure or use or tree has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated, or decayed:*

- a) *No permit shall be granted by the Department that would allow such structure or use or tree to exceed the applicable height limit or otherwise deviate from these zoning regulations; and*
- b) *Whether application is made for a permit, or not, the Department may issue an order pursuant to Section 41.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling the owner of the non-conforming structure or use or tree, at his own expense, to lower, remove, reconstruct, or equip such structure or use or tree as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or tree shall neglect or refuse to comply with such order within ten (10) days after notice thereof, the Department may proceed to have such structure or use or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens. (Section 23 of the Act)*
- c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 41.80 Variances

- a) *General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these zoning regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations. (Section 24 of the Act)*

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- b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.
- c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 41.90 Notice of Construction of Alteration

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 41.30 hereof with respect to Fairfield Municipal Airport:
 - 1) Any construction or alteration of more than 200 feet in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
 - A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.
 - B) 50 to 1 for horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.
 - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15

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feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (1) or (2) of this Section.

- 4) Any construction or alteration that would exceed a standard of the Act or this Part.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Fairfield Municipal Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.
 - 3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.
 - 2) Such notice must be submitted at least 30 days before the date the

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proposed construction or alteration is to begin.

- 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.
- d) Acknowledgment of Notice
 - 1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such notice.
 - 2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
 - A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11 (b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or
 - B) Would not exceed any standard of the Act or this Part; or
 - C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or
 - D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 41.100 Enforcement

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It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 41.110 Appeal and Judicial Review

- a) Appeal – Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1985, ch. 15½, par. 48.29)
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Wayne County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101 et seq.).

Section 41.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense*. *In addition, the Department may institute in the Circuit Court of Wayne County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 41.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

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Section 41.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

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The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Chapter 15½ paragraph 48 1 of the Airport Hazard Zoning Act. Disclosure of this information is **REQUIRED**. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.

DA-39 (Rev. 1-87) IL 494-0765

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- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) Section Number: 3000.286 Proposed Action:
New Section
- 4) Statutory Authority: The rule is required under the provisions of Section 7.6 of the Riverboat Gambling Act [230 ILCS 10/7.6], added by PA 98-490, effective August 16, 2013
- 5) Effective Date of Rule: March 10, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 21267; November 14, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version:

The First Notice Changes amend the rulemaking as follows:

Define "contract" as "an agreement for the provision of goods or services to an owners licensee" (new subsection (a)(2)).

Define "emergency" as "a situation in which one or more of the following have occurred or are at imminent risk of occurring: A) damage or disruption to all or part of a riverboat gambling operation; or B) danger to the health, safety, comfort, or welfare of patrons or employees" (new subsection (a)(6)).

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Add a provision that, when setting the goals for the award of contracts, the Board shall not include contracts in which "the contract is entered into in response to an emergency" (new subsection (b)(2)(E)).

Make various grammatical and renumbering changes.

The Second Notice Changes include only technical and renumbering corrections.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this part? No
- 15) Summary and Purpose of Rulemaking: Under this rulemaking, the Illinois Gaming Board ("Board") shall establish goals for the award of contracts by owners licensees to businesses owned by minorities, females, and persons with disabilities. These goals shall be expressed as percentages of an owners licensee's total dollar amount of contracts awarded during a calendar year. Licensees shall make a good faith effort to comply with the contracting goals. There are exceptions to the contracting goals in situations of supplier unavailability, publicly traded companies, and response to an emergency. As part of a good faith effort to meet a contracting goal, a licensee shall give consideration to those minority, female, and disabled-owned companies which are located in Illinois.

"Good faith effort" is defined to include outreach efforts to local associations of minority owned, female owned, and disabled owned contractors, requesting their assistance in identifying and contacting potential contractors. An owners licensee also shall publish a statement on its website, as well as in the official Illinois newspaper, informing potential bidders how to obtain more detailed information about future contracting opportunities. A copy of this statement shall be provided to the Business Enterprise Program of the Department of Central Management Services.

Additional provisions in the rulemaking direct owners licensees to file annual compliance reports, require the Board to file annual reports, allow owners licensees to submit requests for waivers where the licensee demonstrates that it has made a good faith effort of compliance, and establish remedies for violations.

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In drafting the present rulemaking, the Board has sought to strictly comply with the provisions of PA 98-490. Importantly, the rule provides a mechanism for establishing contracting goals and not quotas. In evaluating a licensee's compliance with the rule's good faith requirements, the fulfillment of a contracting goal shall be significant but not determinative.

- 16) Information and questions regarding this adopted rule may be addressed to:

Emily Mattison
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601-3103

312/814-7137
fax: 312/814-7253

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

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

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3000.104	Rulemaking Procedures
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3000.161	Communication with Other Agencies
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3000.170	Fair Market Value of Contracts
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3000.200	Classification of Licenses
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3000.225	Business Entity and Personal Disclosure Filings
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3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
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3000.240	Supplier's Licenses
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3000.250	Transferability of Licenses
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3000.270	Certification and Registration of Electronic Gaming Devices
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3000.281	Transfer of Registration (Repealed)
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SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section	
3000.300	General Requirements – Internal Control System
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3000.330	Review of Procedures (Repealed)
3000.340	Operating Procedures (Repealed)
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SUBPART D: HEARINGS ON NOTICE OF DENIAL,

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RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

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3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
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3000.425	Proceedings
3000.430	Evidence
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SUBPART E: CRUISING

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3000.500	Riverboat Cruises
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SUBPART F: CONDUCT OF GAMING

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3000.636	Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, Cash and Electronic Credits
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3000.660	Minimum Standards for Electronic Gaming Devices
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SUBPART G: EXCLUSION OF PERSONS

Section	
3000.700	Organization of Subpart
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3000.705	Voluntary Self-Exclusion Policy (Repealed)
3000.710	Distribution and Availability of Board Exclusion List
3000.720	Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
3000.725	Duty of Licensees
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3000.750	Establishment of a Self-Exclusion List
3000.751	Locations to Execute Self-Exclusion Forms
3000.755	Information Required for Placement on the Self-Exclusion List
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3000.782	Required Information, Recommendations, Forms and Interviews
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SUBPART H: SURVEILLANCE AND SECURITY

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3000.840	Storage and Retrieval
3000.850	Dock Site Board Facility
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SUBPART I: LIQUOR LICENSES

Section

3000.900	Liquor Control Commission
3000.910	Liquor Licenses
3000.920	Disciplinary Action
3000.930	Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section

3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
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3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060	Handling of Cash at Gaming Tables
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Section

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3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967, effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended

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at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010; amended at 34 Ill. Reg. 3748, effective March 11, 2010; amended at 34 Ill. Reg. 4768, effective March 16, 2010; amended at 34 Ill. Reg. 5200, effective March 24, 2010; amended at 34 Ill. Reg. 15386, effective September 23, 2010; amended at 36 Ill. Reg. 13199, effective July 31, 2012; amended at 37 Ill. Reg. 12050, effective July 9, 2013; amended at 37 Ill. Reg. 18255, effective November 1, 2013; amended at 38 Ill. Reg. 2808, effective January 8, 2014; amended at 38 Ill. Reg. 21471, effective October 29, 2014; amended at 39 Ill. Reg. 4362, effective March 10, 2015.

SUBPART B: LICENSES

Section 3000.286 Contracting Goals for Owners Licensees

- a) For purposes of this Section:
- 1) The terms "minority", "minority owned business", "female owned business", and "business owned by a person with a disability" shall have the meanings ascribed to them in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].
 - 2) "Contract" is an agreement for the provision of goods or services to an owners licensee.
 - 3) "Contracting goal" is the goal established by the Board for the award of contracts by each owners licensee to businesses owned by minorities, females and persons with disabilities, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year [230 ILCS 10/7.6(b)] and subsections (b)(2) and (3) of this Section.
 - 4) "Good faith effort" is the effort of an owners licensee to achieve a contracting goal. A "good faith" effort shall require an owners licensee to give consideration in the awarding of contracts to qualified businesses owned by minorities, females and persons with disabilities that are located in Illinois. A "good faith effort" shall require the following actions by an owners licensee:

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- A) Outreach by an owners licensee to associations of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities whose areas of operation include the unit of local government where the owners licensee's riverboat gambling operation is located, to request their assistance in identifying and contacting businesses owned by minorities, females and persons with disabilities that may be appropriate candidates for contract awards by the owners licensee.
 - B) Publication on a continuing basis in an owners licensee's website and, at least annually, in the official State newspaper, of a statement informing potential bidders how to obtain more detailed information from the owners licensee about future contracts to be entered into by the owners licensee, including price, occupational, and materials specifications. In addition, the owners licensee shall distribute this statement to the Business Enterprise Program of the Department of Central Management Services established under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.
- 5) "Dollar percentage" is the percentage of the total dollar value of an owners licensee's vendor contracts with minority owned businesses, female owned businesses, or businesses owned by a person with a disability during a calendar year, to the total dollar amount of all vendor contracts entered into by the owners licensee during that calendar year, except for contracts covered under subsection (b)(2).
- 6) "Emergency" is a situation in which one or more of the following have occurred or are at imminent risk of occurring:
- A) Damage or disruption to all or part of a riverboat gambling operation; or
 - B) Danger to the health, safety, comfort or welfare of patrons or employees.
- b) For each calendar year, the Board shall establish contracting goals, as defined in subsection (a)(3), for each owners licensee expressed as a dollar percentage as

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defined in subsection (a)(5). Separate contracting goals shall be established for minority owned businesses, female owned businesses, and businesses owned by persons with disabilities. A contracting goal shall provide for the greatest reasonable dollar percentage, consistent with the ability of vendors that are not minority owned businesses, female owned businesses, or businesses owned by persons with disabilities to bid fairly on contracts and not incur discrimination in contract selection based on their non-inclusion in a category of businesses subject to a contracting goal.

- 1) By December 1 of each calendar year, each owners licensee shall submit to the Board separate proposed contracting goals for the coming calendar year for minority owned businesses, female owned businesses and businesses owned by persons with disabilities. The contractual goals shall be established through a process of consultation with each owners licensee and subsequent Board evaluation and approval. The contracting goals shall be based on the numbers and dollar amounts of new and renewed contracts, as well as the owners licensee's evaluation of the availability of minority owned businesses, female owned businesses, and businesses owned by persons disabilities that are qualified to perform the new and renewed contracts, and located in sufficient geographical proximity to the owners licensee to be reasonable candidates for contract selection. The Board may conduct fact-finding hearings to determine the appropriateness of a proposed contracting goal.
- 2) When setting the goals for the award of contracts, the Board shall not include contracts in which:
 - A) any purchasing mandates would be dependent upon the availability of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices;
 - B) there are no or a limited number of licensed suppliers as defined by the Act for the goods or services provided to the licensee;
 - C) the licensee or its parent company owns a company that provides the goods or services;

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- D) *the goods or services are provided to the licensee by a publicly traded company [230 ILCS 10/7.6(b)]; or*
- E) *The contract is entered into in response to an emergency.*
- 3) *An owners licensee may satisfy its goal for the award of contracts, in whole or in part, by counting the total dollar amount of first and second tier subcontracts and purchase orders to businesses certified as vendors under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act or by any other certifying agency approved by the Board.*
- c) *In evaluating whether an owners licensee has made a good faith effort as defined in subsection (a)(4), the fulfillment of a contracting goal as defined in subsection (a)(3) shall be significant but not determinative. An owners licensee that has failed to meet a contracting goal nevertheless may be deemed to have complied with the provisions of this Section if it can establish that it has made diligent efforts to achieve the contracting goal through outreach, advertising or other types of efforts designed to inform minority owned businesses, female owned businesses, or businesses owned by persons with disabilities about potential contracting opportunities with the owners licensee and has engaged in a fair bidding process.*
- d) *The owners licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver when the owners licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities. [230 ILCS 10/7.6(d)]*
- e) *If the Board determines that its goals and policies are not being met by an owners licensee, then the Board may:*
- 1) *Recommend remedies for those violations; and*
- 2) *Recommend that the owners licensee provide additional opportunities for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities; the recommendations may include, but shall not be limited to:*

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- A) Assurances of stronger and better focused solicitation efforts to obtain more minority owned businesses, female owned businesses, and businesses owned by persons with disabilities as potential sources of supply;
- B) Division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;
- C) Elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities; and
- D) Identification of specific proposed contracts as particularly attractive or appropriate for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts described in subsections (e)(2)(A) through (C).
- f) The Board shall not establish any type of quota in connection with its enforcement of this Section and Section 7.6 of the Act.
- g) By March 31 of each year, each owners licensee shall file with the Board an annual report of its utilization of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section. [230 ILCS 10/7.6(c)]
- h) The dollar percentages for an owners licensee shall be determined according to data in an owners licensee's annual report submitted to the Board under subsection (g).

(Source: Added at 39 Ill. Reg. 4362, effective March 10, 2015)

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.61 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: March 11, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: September 5, 2014; 38 Ill. Reg. 18290
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
120.12	Repealed	39 Ill. Reg. 1403; January 23, 2015
120.14	Repealed	39 Ill. Reg. 1403; January 23, 2015
120.66	New Section	39 Ill. Reg. 1403; January 23, 2015
120.67	New Section	39 Ill. Reg. 1403; January 23, 2015
120.68	New Section	39 Ill. Reg. 1403; January 23, 2015

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- 15) Summary and Purpose of Rulemaking: The amendment implements provisions of PA 98-674, which increases the personal needs allowance to \$60.00 per month, for persons residing in an Intermediate Care Facility for Individuals with Developmental Disabilities (ICF/IDD) licensed under the ID/DD Community Care Act or for persons residing in a Community Integrated Living Arrangement (CILA).
- 16) Information and questions regarding this adopted rule shall be directed to:

Joseph Howard
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility for Medical Assistance
120.11 Eligibility for Pregnant Women and Children
120.12 Healthy Start – Medicaid Presumptive Eligibility Program for Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 FamilyCare Assist
120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)
120.40 Exceptions To Use Of MANG Income Standard (Repealed)
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Community Cases
120.61 Long Term Care
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643 (Repealed)
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings (Repealed)
120.64 Determination of Eligibility for Cases Subject to Modified Adjusted Gross
Income (MAGI) Methodology

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- 120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements (Repealed)

SUBPART D: MEDICARE PREMIUMS

Section

- 120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73 Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income
Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified
Individuals-1 (QI-1) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

- 120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section

- 120.90 Migrant Medical Program (Repealed)
120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

- 120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)

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120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements

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120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.328	Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329	Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts and Annuities
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses
120.371	Income From Work/Study/Training Programs
120.372	Earned Income From Self-Employment

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120.373	Earned Income From Roomer and Boarder
120.375	Earned Income In-Kind
120.376	Payments from the Illinois Department of Children and Family Services
120.379	Provisions for the Prevention of Spousal Impoverishment
120.380	Resources
120.381	Exempt Resources
120.382	Resource Disregard
120.383	Deferral of Consideration of Assets
120.384	Spenddown of Resources
120.385	Factors Affecting Eligibility for Long Term Care Services
120.386	Property Transfers Occurring On or Before August 10, 1993
120.387	Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
120.388	Property Transfers Occurring On or After January 1, 2007
120.390	Persons Who May Be Included In the Assistance Unit
120.391	Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392	Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393	Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395	Payment Levels for MANG (Repealed)
120.399	Redetermination of Eligibility
120.400	Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section	
120.500	Health Benefits for Persons with Breast or Cervical Cancer
120.510	Health Benefits for Workers with Disabilities
120.520	SeniorCare (Repealed)
120.530	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540	Illinois Healthy Women Program
120.550	Asylum Applicants and Torture Victims
120.TABLE A	Value of a Life Estate and Remainder Interest
120.TABLE B	Life Expectancy (Repealed)

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AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005.

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment

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at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867,

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effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill.

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Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; preemptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at

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33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10253, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17044, effective November 26, 2012; emergency amendment at 36 Ill. Reg. 17549, effective December 3, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10208, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days; emergency amendments effective January 1 and January 10, 2014 repealed by emergency rule at 38 Ill. Reg. 7368, effective March 24, 2014, for the remainder of the 150 day effective periods of each of the emergency rules; amended at 38 Ill. Reg. 5967, effective February 26, 2014; emergency amendment at 38 Ill. Reg. 7650, effective March 24, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 15646, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16214, effective July 17, 2014; amended at 38 Ill. Reg. 18432, effective August 19, 2014; amended at 38 Ill. Reg. 23595, effective December 2, 2014; amended at 39 Ill. Reg. 4376, effective March 11, 2015.

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.61 Long Term Care

This Section applies to persons residing in long term care facilities or State-certified, State-licensed, or State-contracted residential care programs who, as a condition of eligibility for medical assistance, are required to pay all of their income, less certain protected amounts, for the cost of their own care.

- a) The term "long term care facility" refers to:

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- 1) an institution (or a distinct part of an institution) that meets the definition of a "nursing facility" as that term is defined in 42 USC 1396r;
 - 2) licensed Intermediate Care Facilities (ICF and ICF/DD), licensed Skilled Nursing Facilities (SNF and SNF/Ped) and licensed hospital-based long term care facilities (see 89 Ill. Adm. Code 148.50(c)); and
 - 3) Supportive Living Facilities (SLF) and Community Integrated Living Facilities (CILA).
- b) The eligibility period shall begin with:
- 1) the first day of the month of application;
 - 2) up to three months prior to the month of application for any month in which the person meets both financial and non-financial eligibility requirements. Eligibility will be effective the first day of a retroactive month if the person meets eligibility requirements at any time during that month; or
 - 3) the first day of a month, after the month of application, in which the person meets non-financial and financial eligibility requirements.
- c) Eligibility Without Spenddown
- 1) A one-month eligibility period will be used. If a person's nonexempt income available during the eligibility period is equal to or below the applicable income standard and nonexempt resources are not in excess of the applicable resource disregard (see Section 120.382-~~of this Part~~), the person is eligible for medical assistance from the first day of the eligibility period without a spenddown.
 - 2) A person eligible under this subsection (c) is responsible for reporting any changes that occur during the eligibility period that might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance. If changes in income, resources or family composition occur that would make the person a spenddown case, a spenddown obligation will be determined and subsection (d)-~~of this Section~~ will apply. A

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redetermination of eligibility shall be made at least every 12 months.

- d) Eligibility with Spenddown
- 1) If countable income available during the eligibility period exceeds the applicable income standard and/or nonexempt resources exceed the applicable resource disregard, a person has a spenddown obligation that must be met before financial eligibility for medical assistance can be established. The spenddown obligation is the amount by which the person's countable income exceeds the applicable income standard or nonexempt resources exceed the applicable resource disregard.
 - 2) A person meets the spenddown obligation by incurring or paying for medical expenses in an amount equal to the spenddown obligation. Medical expenses shall be applied to the spenddown obligation as provided in Section 120.60(c) ~~of this Part~~.
 - 3) Projected expenses for services provided by a long term care facility that have not yet been incurred, but are reasonably expected to be, may also be used to meet a spenddown obligation. The amount of the projected expenses is based on the private pay rate of the long term care facility at which the person resides or is seeking admission.
 - 4) A person who has both an income spenddown and a resource spenddown cannot apply the same incurred medical benefits to both. Incurred medical expenses are first applied to an income spenddown.
- e) Post-eligibility Treatment of Income. If non-financial and financial eligibility is established, a person's total income, including income exempt and disregarded in determining eligibility, must be applied to the cost of the person's care, minus any applicable deductions provided under subsection (f) ~~of this Section~~.
- f) Post-eligibility Income Deductions. From a person's total income that is payable for a person's care, certain deductions are allowed. Allowed deductions shall increase the amount paid by the Department for residential services on behalf of the person, up to the Department's payment rate for the facility. Deductions shall be allowed for the following amounts in the following order:

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- 1) SSI benefits paid under 42 USC 1382(e)(1)(E) or (G) and, for residents of Supportive Living Facilities, the minimum current SSI payment standard for an individual (or a couple, if spouses reside together), less the personal needs allowance specified in subsection (f)(2)(C) of this Section, shall be deducted for room and board charges (see 89 Ill. Adm. Code 146.225(c) and (d));
- 2) a personal needs allowance:
 - A) for persons other than those specified in subsections (f)(2)(B) through ~~(FE)~~, \$30 per month;
 - B) for spouses residing together, \$60 per couple per month (\$30 per spouse);
 - C) for persons or spouses residing in Supportive Living Facilities, \$90;
 - D) for persons residing in Community Integrated Living Arrangements (see 59 Ill. Adm. Code 115), \$60 per month, with dates of service beginning on or after 9/1/14;~~\$50; or~~
 - E) for veterans who have neither a spouse nor dependent child, or surviving spouses of veterans who do not have a dependent child, and whose monthly veterans' benefits are reduced to \$90, a \$90 income disregard is allowed in lieu of a personal allowance deduction. Persons allowed the \$90 per month income disregard are not also permitted the \$30 per month personal allowance; or
 - F) for persons residing in an Intermediate Care Facility for Individuals with Developmental Disabilities (ICF/DD) licensed under the ID/DD Community Care Act [210 ILCS 47], \$60 per month, with dates of service beginning on or after 9/1/14;
- 3) a community spouse income allowance pursuant to Section 120.379(e)-~~of this Part;~~
- 4) a family allowance pursuant to Section 120.379(e)(2)-~~of this Part;~~

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- 5) an amount to meet the needs of qualifying children (as defined in 26 USC 152) under age 21 who do not reside with either parent, who do not have enough income to meet their needs and whose resources do not exceed the resource limit. To determine needs and resource limits:
 - A) the MANG(C) and applicable resource disregard are used (see Sections 120.30 and 120.382 ~~of this Part~~); and
 - B) any payments made on medical bills for the children can be deducted from the person's income;
- 6) amounts for incurred expenses for certain Medicare and health insurance cost sharing that are not subject to payment by a third party, limited to:
 - A) Medicare premiums, deductibles, or coinsurance charges not paid by Medicaid or another third party payor;
 - B) Other health insurance premiums, deductibles or coinsurance (cost sharing) charges provided the insurance meets the definition of a "health benefit plan" and is approved for providing that insurance in Illinois by the Illinois Department of Insurance.
 - i) "Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA (Multiple Employer Welfare Arrangement) or plan provided by another benefit arrangement.
 - ii) Health benefit plan does not mean accident only, credit, or disability insurance; long-term care insurance (except for the month of admission to a long term care facility); dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily

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required to be contained in any liability insurance policy or equivalent self-insurance;

- 7) Expenses Not Subject to Third Party Payment for Necessary Medical Care Recognized under State Law, but Not a Covered Service under the Medical Assistance Program. "Necessary medical care" has the meaning described in [Section 2 of the Comprehensive Health Insurance Plan Act \[215 ILCS 105/2\]](#) and must be proved as such by a prescription, referral or statement from the patient's doctor or dentist. The following are allowable deductions from a person's post-eligibility income for medically necessary services:
- A) expenses incurred within the six months prior to the month of an application, provided those expenses remain a current liability to the person and were not used to meet a spenddown. Medical expenses incurred during a period of ineligibility resulting from a penalty imposed under Section 120.387 or 120.388 ~~of this Part~~ are not an allowable deduction;
 - B) expenses incurred for necessary medical services from a medical provider (subject to reasonable dollar limits on specific services) so long as the provider was not terminated, barred or suspended from participation in the Medical Assistance Program (pursuant to 89 Ill. Adm. Code 140.16, 140.17 or 140.18) at the time the medical services were provided; and
 - C) expenses for long term care services, subject to the limitations of this subsection (f)(7) and provided that the services were not provided by a facility to a person admitted during a time the facility was subject to the sanction of non-payment for new admissions (see 305 ILCS 5/12-4.25(I)(3));
- 8) Amounts to maintain a residence in the community for up to six months when:
- A) the person does not have a spouse and/or dependent children in the home;

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- B) a physician has certified that the stay in the facility is temporary and the individual is expected to return home within six months;
- C) the amount of the deduction is based on:
 - i) the rent or property expense allowed under the AABD MANG standard if the person was at home (see 89 Ill. Adm. Code 113.248); and
 - ii) the utility expenses that would be allowed under the AABD MANG standard if the person was at home (see 89 Ill. Adm. Code 113.249).

(Source: Amended at 39 Ill. Reg. 4376, effective March 11, 2015)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
140.413	Amendment
140.418	Amendment
140.462	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: March 11, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 8, 2014; 38 Ill. Reg. 16468 and August 22, 2014; 38 Ill. Reg. 17533
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Nonsubstantive technical changes
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
140.497	Amendment	38 Ill. Reg. 18308; September 5, 2014
140.462	Amendment	38 Ill. Reg. 19054; September 26, 2014
140.412	Amendment	39 Ill. Reg. 182; January 2, 2015

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- 15) Summary and Purpose of Rulemaking: 89 Ill. Adm. Code 140.413, 462 amendments formalize coverage for tobacco cessation face-to-face counseling services and up to 60-day postpartum for pregnant women age 21 and over. This coverage is mandated by Section 4107 of the Affordable Care Act. Further, children through age 20 have already been eligible for services through Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

89 Ill. Adm. Code 140.418 is pursuant to PA 98-651 which mandates that, upon receipt of federal approval of an amendment to the Illinois Title XIX State Plan, the Department of Healthcare and Family Services (HFS) shall authorize the Chicago Public Schools (CPS) to procure a vendor or vendors to manufacture eyeglasses for individuals enrolled in a school within the CPS system.

- 16) Information and questions regarding this adopted rule shall be directed to:

Joseph Howard
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

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- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.86 Supportive Living Facility Funds

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- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)

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- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services

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140.436	Limitations on Advanced Practice Nurse Services
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective

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December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table

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B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366,

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effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill.

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Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at

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22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective

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October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency

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rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August

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20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.413 Limitation on Physician Services

- a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:
 - 1) Termination of pregnancy – only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification that the procedure is necessary for preservation of the life of the woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of the mother or her unborn child.
 - 2) Sterilization
 - A) Therapeutic sterilization – only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury that would authorize this procedure.
 - B) Nontherapeutic sterilization – only for recipients age 21 or older and mentally competent. The physician must obtain the recipient's informed written consent in a language understandable to the

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recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30 days and no later than 180 days following the date of the recipient's written informed consent, except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.

- 3) Effective October 1, 2012, surgery for morbid obesity is covered only with prior approval by the Department. The Department shall approve payment for this service only in those cases in which the physician determines that obesity is exogenous in nature, the recipient has had the benefit of other therapy with no success, endocrine disorders have been ruled out, and the body mass index (BMI) is 40 or higher, or 35 to 39.9 with serious medical complications. The medical record must contain the following documentation of medical necessity:
 - A) Documentation of review of systems (history and physical);
 - B) Client height, weight and BMI;
 - C) Listing of co-morbidities;
 - D) Patient participation in a six month consecutive medically supervised weight loss program working in conjunction with a registered dietician and or physician within two years prior to the surgery, with at least four documented visits within the consecutive six months;
 - E) Current and complete psychiatric evaluation indicating the patient is an appropriate candidate for weight loss surgery; and
 - F) Documentation of nutritional counseling.
- 4) Psychiatric services
 - A) Treatment – when the services are provided by a physician who

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has been enrolled as an approved provider with the Department.

- B) Consultation – only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial consultation must comply with the requirements for treatment.
- C) Group Psychotherapy – payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
- i) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or, [upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification \(ICD-10-CM\), or](#) the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services; and
 - ii) beginning 1/1/10, the entire group psychotherapy service is directly performed by a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program; and
 - iii) the group size does not exceed 12 patients, regardless of payment source; and
 - iv) the minimum duration of a group session is 45 minutes; and
 - v) the group session is documented in the patient's medical record by the rendering physician, including the session's primary focus, level of patient participation, and begin and end times of each session; and

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- vi) the group treatment model, methods, and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services; and
 - vii) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
 - viii) Effective July 1, 2012, group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].
- 5) Services provided to a recipient in his or her home – only when the recipient is physically unable to go to the physician's office.
- 6) Services provided to recipients in group care facilities by a physician other than the attending physician – only for emergency services provided when the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.
- 7) Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility) – only when occasioned by an emergency due to acute illness or unavailability of essential treatment facilities in the vicinity for short-term care pending transfer, or when there is no comparable facility in the area.
- 8) Maternity care – Payment shall be made for pre-natal and post-natal care only when the following conditions are met:
- A) the physician, whether based in a hospital, clinic or individual practice, retains hospital delivery privileges, maintains a written referral arrangement with another physician who retains such privileges, or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy

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Moms/Healthy Kids Program provider agreement;

B) the written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and

C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in the current edition of the "Standards for Obstetric-Gynecologic Services" (1989 Edition), 409 12th Street, S.W., Washington, D.C. 20024-2188.

9) Physician services to children under age 21

A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:

i) has admitting privileges at a hospital; or

ii) is certified or is eligible for certification in pediatrics or family practice by the medical specialty board recognized by the American Board of Medical Specialties; or

iii) is employed by or affiliated with a Federally Qualified Health Center; or

iv) is a member of the National Health Service Corps; or

v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide physician services to a child under 21 years of age; or

vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or

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- vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program;
 - B) The physician shall certify to the Department the way in which he or she meets the above criteria; and
 - C) Services to children shall be delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health Examination Code; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).
- 10) Hysterectomy – only if the individual has been informed, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgment of receipt of the information. The Department will not pay for a hysterectomy that would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.
- 11) Selected surgical procedures, including:
 - A) Tonsillectomies or Adenoidectomies
 - B) Hemorrhoidectomies
 - C) Cholecystectomies
 - D) Disc Surgery/Spinal Fusion
 - E) Joint Cartilage Surgery/Meniscectomies
 - F) Excision of Varicose Veins
 - G) Submucous Resection/Rhinoplasty/Repair of Nasal System
 - H) Mastectomies for Non-Malignancies

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- I) Surgical procedures that generally may be performed in an outpatient setting (see Section 140.117) only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he or she will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements.) The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.
- 12) Mammography screening
- A) Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:
 - i) a baseline mammogram for women 35 through 39 years of age; and
 - ii) a mammogram once per year for women 40 years of age or older.
 - B) As used in this subsection (a)(12), "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.
- 13) Pap tests and prostate-specific antigen tests – coverage is provided for the following:
- A) An annual cervical smear or Pap smear test for women.
 - B) An annual digital rectal examination and a prostate-specific antigen test, upon the recommendation of a physician licensed to practice medicine in all its branches, for:

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- i) asymptomatic men age 50 and over;
 - ii) African-American men age 40 and over; and
 - iii) men age 40 and over with a family history of prostate cancer.
- 14) Effective July 1, 2012, coronary artery by-pass grafts are covered only with prior approval by the Department.
- 15) Face-to-face tobacco cessation counseling only for pregnant and up to 60-day postpartum women age 21 and over. The tobacco cessation counseling services:
- A) Must be provided by or under supervision of a physician, or by any other health care professional who is legally authorized to furnish those services under State law, and who is authorized to provide Medicaid covered services other than tobacco cessation services.
 - B) Are limited to a maximum of three quit attempts, with four individual face-to-face counseling sessions per quit attempt, per calendar year.
 - C) Must be properly documented in the patient's medical record and include the total time spent and what was discussed during the counseling session, including cessation techniques, resources available and follow-up. Distinct documentation to support this service is required if reported in conjunction with another evaluation and management service.
 - D) Rendered to participants under age 21 are not subject to the limitations in this subsection (a)(15).
- b) In cases in which a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six months, after which a request can be submitted to the peer review committee to consider removal of the prior approval requirement.

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(Source: Amended at 39 Ill. Reg. 4394, effective March 11, 2015)

Section 140.418 Department of Corrections Laboratory

All lenses, frames and frame parts shall be obtained from the Department of Corrections (DOC) laboratory and, upon receipt of federal approval of an amendment to the Illinois Title XIX State Plan, a vendor or vendors procured by the Chicago Public Schools (CPS) to manufacture eyeglasses for individuals enrolled in a school within the CPS system. DOC shall not engage in "office" services, such as examinations or dispensing of eyeglasses to recipients, ~~but shall be the State's laboratory for fabrication of eyeglasses.~~ Individual optical suppliers shall continue to provide examinations, frame repairs, contact lenses, artificial eyes and low vision devices, as well as dispensing of eyeglasses obtained from the DOC laboratory or CPS vendor. CPS shall ensure that its vendor or vendors are enrolled as providers in the Medical Assistance Program and, as applicable, in a managed care entity (MCE) serving individuals enrolled in a school within the CPS system. Claims for services provided by DOC or CPS' vendor or vendors shall be submitted to the Department of Healthcare and Family Services (Department) or the MCE in which the individual is enrolled for payment and shall be reimbursed at the Department's or the MCE's established rates or rate methodologies for eyeglasses. ~~Payment for fabrication of eyeglasses shall be made by the Department of Public Aid directly to the Department of Corrections.~~

(Source: Amended at 39 Ill. Reg. 4394, effective March 11, 2015)

Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-Based Organized Clinics. Covered services are those described in 89 Ill. Adm. Code 148.
 - 1) ~~Covered services described in 89 Ill. Adm. Code 148.~~
 - 2) ~~Group psychotherapy services meeting the guidelines set forth in Section 140.413(a)(4)(C).~~
- b) Encounter Rate Clinics

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- 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
 - 2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that will be billed as separate encounters for dates of service on or after January 1, 2011.
 - 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
- c) Rural Health Clinics
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's Services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
 - 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
 - A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9th Revision, Clinical Modification (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;
 - B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:

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- i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;
- ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
- iii) Psychologist;
- iv) Licensed Clinical Social Worker;
- v) Licensed Clinical Professional Counselor; or
- vi) Licensed Marriage and Family Therapist;
- C) the group size does not exceed 12 patients, regardless of payment source;
- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;
- G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
- H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act

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[\[210 ILCS 45\]](#) or the [Specialized Mental Health Rehabilitation Act](#) [\[210 ILCS 48\]](#).

- [32](#)) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).
- [43](#)) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
- A) medical case management;
 - B) laboratory services;
 - C) occupational therapy;
 - D) patient transportation;
 - E) pharmacy services;
 - F) physical therapy;
 - G) podiatric services;
 - H) speech and hearing services;
 - I) x-ray services;
 - J) health education;
 - K) nutrition services;
 - L) optometric services.
- [54](#)) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure

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code that appropriately identifies the service provided.

- 65) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.
- 76) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services with the exception of services identified in subsections (c)(87) and (c)(98).
- 87) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
 - B) The RHC must be listed as the payee on the claim;
 - C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 98) Effective July 1, 2013, an RHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;

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- B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 10) Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413(a)(15) within the designated coverage limitations.
- d) Federally Qualified Health Centers
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
 - 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
 - A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9th Revision, Clinical Modification (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;
 - B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:

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- i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;
 - ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
 - iii) Psychologist;
 - iv) Licensed Clinical Social Worker;
 - v) Licensed Clinical Professional Counselor; or
 - vi) Licensed Marriage and Family Therapist;
- C) the group size does not exceed 12 patients, regardless of payment source;
- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;
- G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
- H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act

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[\[210 ILCS 45\]](#) or the [Specialized Mental Health Rehabilitation Act](#)
[\[210 ILCS 48\]](#).

- [32](#)) Other services for which separate encounters may be billed include dentists and behavioral health services as defined in Section 140.463(a).
- [43](#)) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
- A) medical case management;
 - B) laboratory services;
 - C) occupational therapy;
 - D) patient transportation;
 - E) pharmacy services;
 - F) physical therapy;
 - G) podiatric services;
 - H) optometric services;
 - I) speech and hearing services;
 - J) x-ray services;
 - K) health education;
 - L) nutrition services.
- [54](#)) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter

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with a procedure code that appropriately identifies the service.

- 65) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.
- 76) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided with the exception of services identified in subsections (d)(87) and (d)(98).
- 87) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
 - B) The FQHC must be listed as the payee on the claim;
 - C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 98) Effective July 1, 2013, an FQHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;

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- B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
 - C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 10) [Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413\(a\)\(15\) within the designated coverage limitations.](#)
- e) School Based/Linked Health Clinics (Centers)
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(f):
- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
 - 2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 39 Ill. Reg. 4394, effective March 11, 2015)

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- 1) Heading of the Part: The Illinois Liquor Control Commission
- 2) Code Citation: 11 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.90	Amendment
100.250	Amendment
100.255	New Section
100.270	Amendment
100.275	New Section
100.285	New Section
100.325	New Section
100.326	New Section
100.410	New Section
100.420	New Section
100.430	New Section
100.460	New Section
100.480	New Section
- 4) Statutory Authority: Implementing and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)]
- 5) Effective Date of Rule: March 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 8, 2014, 38 Ill. Reg. 16634
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: After comment, changes were made to the following Sections:

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100.255 – Off Premises Retail Warehousing Prohibited: Added provisions for off-site warehousing at airports.

100.420 – Wine Maker Self-Distribution: Clarified out-of-state wine makers must have a valid Illinois Wine Shipper's license before the self-distribution exemption is issued.

100.480 – Importation of Alcoholic Liquor: Alcoholic liquid can be imported without a license under the following conditions: for personal use, total volume less than 1 gallon, inventory has been reviewed by the commission, correlates will be remitted to the Department of Revenue and all federal importation statutes and were are followed.

100.15 – Regulation of Low Alcoholic Content Products: The section was withdrawn

All technical changes recommended by JCAR were made.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.245	New Section	38 Ill. Reg. 19615; October 10, 2014

- 15) Summary and Purpose of Rulemaking:

The proposed rules will modify the current rule on Credit to Retail Licensees by clarifying certain definitions, introducing new provisions for checks that do not have sufficient funds when cashed, and modifying privileges pertaining to electronic transfers. (100.90)

The proposed rules will clarify the intention of the legislature behind the "Three-Tier" system that retailers must purchase alcoholic liquor from licensed distributors only. Retailers may not purchase alcoholic liquors from other retailers or manufacturers unless exempt. Retailers also may not sell alcoholic liquor for future or subsequent resale. (100.250)

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The proposed rules prohibit the storage of alcoholic liquor at any location other than the retail licensed premises. This prohibits distributors from delivering to alternate delivery sites or for alternate retail locations. (100.255)

The proposed rules remove the requirement for multi-use facilities to invoice and store their alcoholic liquor separately within one central location by State liquor license number for investigative purposes. (100.270)

The proposed rules clarify the requirements for hotels/motels to be permitted to sell alcohol via mini bars and room service. (100.275)

The proposed rules will outline guidelines to regulate product tastings, samplings, and test marketing with regards to serving amounts, entrance fees, tracking, extraneous materials, licenses, and general operation. (100.285)

The proposed rules delineate the jurisdictions of state and local regulative bodies as they pertain to boat licenses and establish requirements of boat liquor license holders.(100.325)

The proposed rules define an "auction liquor license" and delineate the privileges it grants. (100.326)

Per the Open Meetings Act [5 ILCS 120] and the proposed rules, Commissioners may attend meetings through audio or video teleconferencing under certain conditions noted in the rule. Furthermore, the proposed rules will permit public attendance and comment at Commission meetings. (100.410)

The proposed rules list the conditions that must be met before in-state and out-of-state makers of wine can be permitted to sell their own manufactured wine direct to retail license holders. (100.420)

The proposed rules list the conditions that must be met before in-state and out-of-state makers of beer can be permitted to sell their own manufactured beer direct to retail license holders. (100.430)

The proposed rules will remove the ambiguity of the Illinois Liquor Control Act's license eligibility statute by stating that the owners/officers/members of a revoked corporation, limited liability company, etc., are considered revoked persons in the same capacity as the revoked business entity. (100.460)

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The proposed rules prohibit the importation of alcoholic liquor into Illinois for a nonpersonal or commercial use without first obtaining a license to import issued by the Commission, and these proposed rules list the conditions under which this may be permitted. (100.480)

- 16) Information and questions regarding this adopted rule shall be directed to:

Richard Haymaker
Liquor Control Commission
100 W. Randolph, Suite 7-801
Chicago IL 60601

312/814-1804

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

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TITLE 11: ALCOHOL, HORSE RACING, ~~AND LOTTERY~~, AND VIDEO GAMING

SUBTITLE A: ALCOHOL

CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

PART 100

THE ILLINOIS LIQUOR CONTROL COMMISSION

Section

100.5	Penalties
100.10	Definitions
100.20	Employment of Minors
100.30	Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation
100.40	Registration of Tasting Representatives
100.50	Advertising
100.60	Geographical Territories
100.70	Labels
100.80	Bonds (Repealed)
100.90	Credit to Retail Licensees
100.100	Internal Changes Within Corporations
100.110	Application Forms
100.120	Railroad Licenses
100.130	Books and Records
100.140	Miniatures (Repealed)
100.150	Salvaged Alcoholic Liquors
100.160	Sanitation
100.170	Taps
100.180	Procedure Before Commission on Citations
100.190	Procedure Before Commission on Request for Continuance of Any Hearing
100.200	Wagering Stamps (Repealed)
100.210	Inducements
100.220	Retail Licensee Clubs (Repealed)
100.230	Resumption of Business on Appeal
100.240	Transactions Involving Use of Checks and Their Equivalent (Repealed)
100.250	Transfer of Alcohol
<u>100.255</u>	<u>Off-Premises Retail Warehousing Prohibited</u>
100.260	Uniform Systems of Accounts
100.270	Multi-Use Facilities
<u>100.275</u>	<u>Hotel/Motel Mini Bars and Room Service</u>

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100.280	Giving Away of Alcoholic Liquors
100.285	Tastings, Product Samplings and Test Marketing
100.290	Refilling
100.300	Authorization to Remove Bottles
100.310	Food Service at Park Districts
100.320	Airplanes
100.325	Boats/Riverboat Gaming
100.326	Auction Liquor Licenses
100.330	Advertising
100.340	Petitions for the Adoption, Amendment or Repeal of a Rule
100.350	Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
100.360	Review on Record – Certification of Ordinance
100.370	Procedures Before the Commission
100.380	Ex Parte Consultations
100.390	Transcripts – Administrative Review
100.400	Procedures Before the Commission on Disputes under Section 35 of the Illinois Wine and Spirits Industry Fair Dealing Act (Repealed)
100.410	Commission Meetings Representation of Licensees Before the Commission (Repealed)
100.420	Wine Maker Self-Distribution
100.430	Craft Brewer Self-Distribution
100.460	Revoked License
100.480	Importation of Alcoholic Liquor

AUTHORITY: Implementing and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)].

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 20 Ill. Reg. 834, effective January 2, 1996; expedited correction at 20 Ill. Reg. 4469, effective January 2, 1996; amended at 21 Ill. Reg. 5542, effective May 1, 1997; amended at 23 Ill. Reg. 3787, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 8687, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13609, effective October 28, 1999; amended at 25 Ill. Reg. 13596, effective October 15, 2001; amended at 26 Ill. Reg. 17966, effective December 9, 2002; amended at 27 Ill. Reg. 17386, effective November 10, 2003; amended at 39 Ill. Reg. 4433, effective March 12, 2015.

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Section 100.90 Credit to Retail Licensees

The following rule shall govern in the application of the provisions of Section 6-5 of the Act [235 ILCS 5/6-5] relating to extension of credit to retail licensees by manufacturers, distributors and manufacturers with limited self-distribution privileges~~importing distributors~~:

- a) ~~When~~Where two or more retail licensees are controlled by common ownership and one or more of the retail licensees becomes delinquent, all retail licensees under the common ownership shall be deemed delinquent. "Common ownership" shall be any ownership interest of more than 5% of the total ownership interests in each retailer.
- b) In totaling the 30 day period for the purpose of determining the delinquency of a ~~retailer~~retail licensee, the first day shall be the day immediately following the date of the invoice of the purchase in question, if the invoice date and delivery are the same, and on the delivery date if the invoice is dated before the date of delivery, and all successive days shall be included, Sunday as well as holidays, up to and including the thirtieth successive day.
- e) ~~Payment by check on or before the thirtieth day following the date of the invoice shall be considered payment, providing the check is deposited and cleared within the period prescribed by the ordinary course of business.~~
- c)~~d)~~ ~~When~~Where a bona fide sale of a retail business occurs, the purchaser shall not be deemed delinquent because of the delinquency of the purchaser's predecessor in interest; however, in the event there is a continuity of interest, direct or indirect, between the seller and the purchaser, including, but not limited to, a change in control of the retailer licensee that requires notification to be filed with either the Commission or any local liquor control commissioner, the latter shall be deemed delinquent in the same manner, and to the same extent, as was the seller. In the event any bankruptcy proceeding is instituted by or against a retail liquor licensee, the "automatic stay" provision of the federal bankruptcy law mandates that the retail liquor licensee not be reported as "delinquent" pursuant to Section 6-5 of the Act. In order for that retail liquor licensee to continue to purchase alcoholic liquors, although not on credit, the properly filed bankruptcy petition must be served upon the Commission and the Wine and Spirits Distributors of Illinois (WSDI). Upon service of the filed petition on the Commission and WSDI, that retailer shall be automatically suspended from the delinquency list, if the retail

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liquor licensee was on the list. Additionally, proper service shall automatically suspend the application of the Illinois 30-day credit law (Section 6-5 of the Act) to any importing distributor, distributor or self-distributing manufacturer as to that retailer during the pendency of the bankruptcy petition. Nothing in this Section shall limit or foreclose importing distributors, distributors or self-distributing manufacturers from requiring retailers with pending bankruptcy actions to remit payment for wine and distilled spirits products on a COD or pre-payment prior to delivery basis.

- d)e) When~~Where~~ there exists a bona fide dispute between the ~~retailer~~retail licensee and the importing distributor, distributor or manufacturer~~wholesale licensee~~ as to the fact of payment for a given sale, the sale in itself shall not be deemed sufficient grounds for considering the ~~retailer~~retail licensee delinquent. Bona fide disputes shall be submitted to the Commission for hearing, which shall be expedited and heard at the next regularly scheduled meeting of the Commission.
- e)f) When~~Where~~ a ~~retailer~~retail licensee pays a salesman, or other agent of the importing distributor, distributor or manufacturer, ~~wholesaler~~, the payment shall be deemed effective upon the receipt of the money or check by the salesman or other agent.
- f)g) When~~Where~~ a ~~retailer~~retail licensee is deemed delinquent and, therefore, not able to purchase for cash, or otherwise, any alcoholic liquors, the ~~retailer~~retail licensee may, nevertheless, purchase beer for cash.
- g)h) Payment received from a delinquent retailer after the first business day of the calendar week and before a verified written statement of delinquency has been submitted to the Commission will entitle the manufacturer, importing distributor or distributor submitting the list to delete that retailer's name from the list.
- h)i) Determinations of delinquency or non-delinquency shall be made by the Chairman, Executive Director or any individual so authorized by the Chairman or Executive Director on the basis of the verified report of delinquency and any affidavits or counter-affidavits before him or her. Any retail licensee objecting to ~~the such~~ determination may request the Commission in writing for a hearing ~~that which~~ will be set at the next regularly scheduled meeting of the Commission.
- i)j) A copy of any verified written list of delinquencies shall be simultaneously caused to be forwarded to ~~listed those~~ retail licensees ~~listed therein~~ by the

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manufacturer, importing distributor or distributor submitting the list.

- j) ~~k)~~ Payment in cash by the retail licensee shall mean payment in legal tender as provided by the United States Code, checks (including certified checks, cashier's checks, teller's checks or traveler's checks), debit cards, drafts and electronic transfer of funds, provided the transfer of funds is initiated by an irrevocable payment order on or before the date payment is due~~delivery of the alcoholic liquor~~.
- k) Checks are the equivalent of payment in cash so long as they are not post-dated and are deposited by the importing distributor, distributor or manufacturer in the ordinary course of business. For purchases of wine and spirits, a post-dated check cleared prior to the end of the 30-day credit period, including any properly disclosed finance, delivery or other usual and customary charges in the industry, is considered to be a valid payment. An "NSF", void or stop payment check for purchases of wine and spirits that is properly replaced with cash or cash equivalent before the end of the 30-day period, including any properly disclosed usual and customary charges in the industry, is considered a valid payment.
- l) Manufacturers, importing distributors or distributors may include finance, delivery and any and all usual and customary charges in the industry on credit issued and not paid and may charge usual and customary charges for NSF, void or stop-payment checks, provided a statement is printed on the original invoice delivered to the retailer at the time the merchandise is received indicating that the usual and customary charges will be assessed, with a statement specifying the terms and amounts of charges imposed. The charges, properly disclosed to the retailer, are considered to be part of the cost of the merchandise sold as of the invoice date and, therefore, the entire amount, including any usual and customary charges, must be paid before the retailer can be considered to be non-delinquent. All such usual and customary charges must be applied uniformly to all retailers.
- m) A retailer may not charge a distributor, importing distributor or manufacturer for the costs of electronic transfers, nor may a distributor, importing distributor or manufacturer charge a retailer for the costs of electronic transfers. A retailer may not require a distributor, importing distributor or manufacturer to purchase or lease any software necessary to effectuate electronic transfers, nor may a distributor, importing distributor or manufacturer require a retailer to purchase or lease software necessary to effectuate electronic transfers. The use of the system must be available, but cannot be mandated as a requirement for conducting

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business, to all distributors, importing distributors, manufacturers and retailers. The use of a specific Value Added Network (VAN) cannot be mandated; all users of the system must be allowed to transmit information through any VAN. The users of the system must continue to maintain all required records of alcoholic beverage purchases and sales. The Commission shall have access, upon reasonable notice, to the systems for the purpose of inspection and review.

- n) The use of electronic fund transfers shall be allowed so long as the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquor and the transfer is supported by appropriate documentation.

(Source: Amended at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.250 Transfer of Alcohol

The holder of a retail license for the privilege of selling alcoholic liquors at retail on the premises specified in the license, for use or consumption, is hereby restricted to such sale from the licensed premises only and is not permitted to sell to, purchase from or transfer such alcoholic liquor to any other retail licensee or licensed premises. Unless otherwise permitted under the express approval of the Commission, a retail licensee is strictly limited to purchasing alcoholic liquor from a distributor or person holding a self-distribution exemption in which there is a bona fide transfer of title. This Section does not apply to transactions not in the ordinary course of business, such as a business closure, if prior approval is given by the Commission.

(Source: Amended at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.255 Off-Premises Retail Warehousing Prohibited

- a) A licensed retailer shall not be permitted to store alcoholic liquor at any location other than the retail licensed premises.
- b) Distributors shall not deliver alcoholic liquor to unlicensed locations or to alternate delivery sites.
- c) Distributors shall not deliver alcoholic liquor to a retailer for sale by a different retailer or for sale at a different retail location.
- d) Airports: Federal aviation safety concerns that usual delivery methods may threaten the health, safety and welfare of the general public may require

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alternative restrictions. With approval of the Commission, a local liquor control commission with regulatory jurisdiction over an airport shall have the authority to define retail licensed premises at or in an airport to include a location that is not contiguous or adjacent to the common retail sales and service area, but that is the site of delivery of alcoholic liquor products by distributors. The following conditions apply:

- 1) The non-contiguous and non-adjacent area shall be expressly and clearly defined by the Commission and the local commission;
- 2) The airport maintains a complex of runways and buildings for the takeoff, landing and maintenance of civil aircraft, with the facilities for passengers;
- 3) Under no circumstances shall an extended premises be permitted for the purposes of increased storage capacity. The extension shall be only for the purpose of facilitating distributor delivery to the licensed establishments.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.270 Multi-Use Facilities

A multi-use facility, such as a hotel, conference center, stadium, or theater, ~~that which~~ has been issued more than one local and State liquor license but has an identical Illinois Business Retailer's Occupational Tax number may store alcoholic liquor at one central location within the multi-use facility. ~~The alcoholic liquor shall be invoiced and stored separately within the central location by State liquor license number for investigative purposes.~~

(Source: Amended at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.275 Hotel/Motel Mini Bars and Room Service

To sell alcoholic liquor from mini bars in hotels and motels, the hotel/motel:

- a) Shall possess a valid local and State retail liquor license for the entire hotel/motel or as the local commission deems necessary;
- b) Shall establish a method of control to prevent the use of the mini bar as a means of over-service or consumption of alcohol by a person under the age of 21;

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- c) Shall comply with all provisions of the Act, this Part and local liquor control ordinances.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.285 Tastings, Product Samplings and Test Marketing

- a) "Product Sampling" or "tastings" mean a supervised presentation of alcoholic liquor products to the public at a retailer location for the purpose of disseminating product information and education, with consumption of alcoholic liquor products being an incidental part of the presentation.
- b) Alcoholic liquor product sampling and tastings may be conducted by a manufacturer, non-resident dealer, foreign importer, importing distributor, distributor or retailer or a non-licensee, that complies with Section 100.40 and registers as a tasting representative at retail licensed premises. Only alcoholic liquor products registered with the Commission may be tasted or sampled. Tastings and product sampling may be advertised. The conditions and limitations contained in Section 100.330 and Commission rules shall apply to any manufacturer, non-resident dealer, foreign importer, importing distributor or distributor sponsored tastings or product samplings.
- c) Retail premise alcoholic liquor tastings and product samplings, for which there is no charge to the consumer, may be provided in the following amounts: distilled spirits ¼ oz., wine 1 oz. and beer 2 oz.
- d) A licensee may not conduct alcoholic liquor tastings or product sampling at a non-licensed premise. Licensed premises include those premises for which a Special Use or Special Event License has been issued by the unit of local government having regulatory authority over the premises pursuant to the Act and approved by the Commission.
- e) Cups, napkins, glassware, coasters and trays shall not be deemed to be inside signs or advertising materials and may only be sold to retailers by a manufacturer, non-resident dealer, foreign importer, importing distributor or distributor.
- f) If a retailer previously purchased the alcoholic liquor product to be tasted or sampled, a manufacturer, non-resident dealer, foreign importer, importing distributor or distributor may pay for the product at the retailer's original cost. If

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the manufacturer, non-resident dealer, foreign importer, importing distributor or distributor supplies the alcoholic liquor product for the tasting or sampling, the product remaining after the tasting or sampling must be returned to the manufacturer, non-resident dealer, foreign importer, importing distributor or distributor.

- g) Alcoholic liquor product samplings or tastings in which the consumer pays a reasonable entrance fee in relation to the amount of alcoholic liquor available for tasting or sampling is permitted, subject to the following conditions and limitations:
- 1) The retailer must charge a uniform admission price and is prohibited from treating patrons differently.
 - 2) The retailer must use tickets, punch cards or other such reliable means of tracking the amount of alcoholic liquor purchased and consumed by each attendee.
 - 3) Retailer's legal responsibility duties, including, but not limited to, prohibitions against serving alcohol to persons under age 21 and to any intoxicated person, remain unchanged with tasting or product sampling events.
 - 4) The retailer must hold an on-premise consumption license issued by both the local governmental unit and the State. However, the license or permit may be a special use or special event license.
- h) "Test Marketing" means the testing of new alcoholic liquor products or alcoholic liquor products unfamiliar to the sampler through a marketing firm, or the like. The Commission will grant approval for the test marketing of alcoholic liquor on a case-by-case basis, only upon written request. Requests shall state with specificity the parameters of the testing and shall include, at a minimum, the following information:
- 1) The name and address of the marketing firm conducting the test marketing.
 - 2) The location where the test marketing will be conducted.

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- 3) The number of participants involved.
- 4) Representation that the age of the participants is 21 years or older.
- 5) The duration of the test marketing.
- 6) The total amount of alcoholic liquor involved in the test marketing and the total amount of alcoholic liquor to be given or furnished to each participant.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.325 Boats/Riverboat Gaming

- a) *A boat license shall allow the sale of alcoholic liquor in individual drinks on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Riverboat Gambling Act [230 ILCS 10], if the boat or riverboat maintains a public dining room or restaurant. [235 ILCS 5/5-1(g)]*
- b) The issuance of liquor licenses to navigable boats or to boats licensed under the Riverboat Gambling Act shall be the exclusive right of the Commission.
- c) The issuance of liquor licenses to boats permanently attached to a dock or land, except for boats licensed under the Riverboat Gambling Act, shall be subject to local and State dual licensing requirements.
- d) The establishment of hours of operation for the sale of alcoholic liquor for boats licensed under the Riverboat Gambling Act shall be the exclusive jurisdiction of the Illinois Gaming Board.
- e) All boat liquor license holders, including boats licensed under the Riverboat Gambling Act, shall comply with the Illinois happy hour laws (Section 6-28 of the Act) and Section 100.280, which prohibits any person from giving away alcoholic liquor for a commercial purpose.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.326 Auction Liquor Licenses

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- a) "Auction liquor licensee" means a person who obtains prior written approval from the Commission to sell or offer for sale at auction, on a specified date, wine or spirits for private use or consumption, or for resale by an Illinois liquor licensee in accordance with the Act. [235 ILCS 5/1-3.32]
- b) A person wishing to apply for an auction liquor license must first become licensed pursuant to the Illinois Auction License Act [225 ILCS 407/5].
- c) An auction liquor license shall be obtained at least 14 days in advance of the auction date.
- d) An auction liquor license allows the licensee to do the following:
- 1) sell and offer for sale wine and spirits for use or consumption;
 - 2) sell and offer for sale wine and spirits for resale by an Illinois liquor licensee;
 - 3) hold the auction on a specified day;
 - 4) hold the auction anywhere in the State of Illinois.
- e) Approved Sales
- 1) Private sales;
 - 2) Out-of-state sales;
 - 3) Sale to ultimate consumer;
 - 4) Sale to distributor or retailer for resale.
- f) Nothing in this Section shall be construed to permit a retailer, outside the context of a validly licensed auction, to purchase from anyone other than a distributor or person with distribution privileges.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

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**Section 100.410 Commission Meetings~~Representation of Licensees before the Commission~~
(Repealed)**

- a) The Commission holds meetings and hearings at least monthly in accordance with Section 3-11 of the Act and the Open Meetings Act [5 ILCS 120]. The Commission holds closed meetings pursuant to Section 2a of the Open Meetings Act.
- b) Final decisions of the Commission may be made only at meetings or hearings at which a quorum of the Commission is present. The presence of a quorum is required at a meeting in order for the Commission to transact any business.
- c) Meetings may be held with the Commission members physically present or present telephonically or through video teleconferencing.
- d) Per Section 7 of the Open Meetings Act, if a Commissioner attends a meeting through audio or video conferencing, the following rules shall apply:
 - 1) A quorum of the Commission shall be physically present at the location where the meeting is to be conducted; and
 - 2) The Commissioner is physically prevented from attending because of personal illness or disability, employment purposes or the business of the public body, or a family or other emergency.
- e) The limitations set forth in subsection (d) do not apply to closed meetings (see Section 7(d) of the Open Meetings Act).
- f) Any person may attend a Commission meeting unless that meeting has been closed by vote of the Commission. A person may make comments at a Commission meeting subject to the following conditions:
 - 1) The person offering the comments has given advance notice to the Commission at least 48 hours prior to the meeting or is otherwise permitted to speak by a majority vote of the Commissioners at the meeting.
 - 2) The person's comments are limited to a reasonable time at the discretion of the Commission Chair or Acting Chair.

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- 3) The person's comments are relevant to a subject matter within the jurisdiction of the Commission or relevant to a subject matter of the Commission meeting agenda.
- 4) The person's comments are not repetitious or disruptive, as determined by the Commission Chair or Acting Chair.

(Source: Old Section repealed at 26 Ill. Reg. 17966, effective December 9, 2002; new Section added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.420 Wine Maker Self-Distribution

An in-state and out-of-state maker of wine may sell its own manufactured wine directly to retail license holders if it:

- a) has been issued a federal Basic Permit to make wine by the Tax and Trade Bureau of the US Department of the Treasury;
- b) has been issued a valid wine making license by a licensing authority of any state or territory of the United States;
- c) does not hold any other manufacturer's license to make any other type of alcoholic liquor;
- d) and its officers, managers, partners, owners who own more than 5% of the maker of wine, and any other affiliated entity or individual person annually produce less 25,000 gallons of wine;
- e) and its officers, managers, partners, owners who own more than 5% of the maker of wine, and any other affiliated entity or individual person annually sell 5,000 gallons of wine or less direct to retailers;
- f) pays all necessary State of Illinois excise taxes for the manufacture and importation of wine.
- g) an out-of-state maker of wine must have a valid Illinois winery shipper's license prior to the issuance of a self-distribution exemption and at all times while self-distributing.

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(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.430 Craft Brewer Self-Distribution

An in-state and out-of-state maker of beer may sell its own manufactured beer directly to retail license holders if it:

- a) has been issued a federal Brewer's Notice to make beer by the Tax and Trade Bureau of the US Department of the Treasury;
- b) has been issued a valid beer making license by a licensing authority of any state or territory of the United States;
- c) has been issued an Illinois Brewer License or an Illinois Non-resident Dealer License;
- d) does not hold any other manufacturer's license to make any other type of alcoholic liquor;
- e) and any of its officers, managers, partners, owners who own more than 5% of the brewer, and any other affiliated entity or individual person annually produces less than 930,000 gallons (30,000 barrels) of beer;
- f) and any of its officers, managers, partners, owners who own more than 5% of the brewer, and any other affiliated entity or individual person annually sells not more than 232,500 gallons (7500 barrels) of beer direct to retailers;
- g) pays all necessary State of Illinois excise taxes for the manufacture and importation of beer;
- h) in accordance with Section 3-12(a)(18)(B)(3) submits an affidavit demonstrating with specific evidence its efforts to contact distributors for the purpose of establishing distributor relationships.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.460 Revoked Licenses

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- a) In conformance with Section 6-2(7) of the Act, no officer, director, member, managing member, partner, owner of more than 5% of the revoked license holder or any other person with a direct or indirect beneficial interest in a revoked license holder shall be issued a new liquor license or renew a liquor license at the same or any other location.
- b) The Commission may, at its discretion, determine that a revoked license holder or any other person with more than a 5% direct or indirect beneficial interest in a prior revoked license has been sufficiently rehabilitated to be issued a new liquor license or renew an existing liquor license. The burden of proof of sufficient rehabilitation shall be on the applicant.
- c) The Commission shall solely consider rehabilitation evidence for prior revoked persons seeking licenses in which the Commission has primary jurisdiction or for persons who previously held an interest in a license revoked solely by the Commission.

(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

Section 100.480 Importation of Alcoholic Liquor

- a) Subject to exceptions expressly contained in the Act and this Part, no person shall import alcoholic liquor into this State for a non-personal or commercial use without first obtaining a license to import issued by the Commission, such as a manufacturer's, importing distributor's, railroad, airplane and foreign importer's license. In addition, wine may be legally purchased by an Illinois resident and imported into the State from an out-of-state winery that has first obtained an Illinois winery shipper's license from the Commission. Any person shipping or causing the shipping of alcoholic liquor into this State who does not meet the requirements of subsection (b) is an importer and must be licensed pursuant to this Act.
- b) A person is permitted to import alcoholic liquor into this State for his or her personal and non-commercial use without first obtaining a license to import under the following conditions:
- 1) Either:
- A) The total volume to be imported per year is less than one gallon; or

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- B) The inventory of alcoholic liquor has been reviewed and expressly approved by the Commission under the following conditions:
- i) The Commission shall not authorize more than one request for importation per adult person, per year;
 - ii) The Commission shall not authorize more than one request for importation to a specific Illinois address or location per year; and
 - iii) The Commission shall not authorize importation of a total volume of wine equivalent to more than 12 750 ml bottles unless:
 - Persons seeking import authorization can prove by reasonable evidence that they are or were an active member of the United States military stationed outside the United States and the alcoholic liquor to be imported has been collected and stored outside the United States; or
 - Persons seeking import authorization can prove by reasonable evidence that they have resided outside the State of Illinois for over one year and that the alcoholic liquor to be imported has been collected and stored outside this State;
- 2) All persons bringing alcoholic liquor into the State of Illinois shall remit all State and local Retailers' Occupation Taxes or Use Taxes and all State and local gallonage taxes to the Illinois Department of Revenue according to its requirements or to the appropriate local unit of government levying a local tax; and
- 3) All persons bringing alcoholic liquor into Illinois shall abide by all federal importing statutes and rules promulgated by federal agencies, which include, but are not limited to, the rules promulgated by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury.

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(Source: Added at 39 Ill. Reg. 4433, effective March 12, 2015)

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- 1) Heading of the Part: Charitable Games Act
- 2) Code Citation: 86 Ill. Adm. Code 435
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
435.110	Amendment
435.120	Amendment
435.130	Amendment
435.140	Amendment
435.150	Amendment
435.160	Amendment
435.170	Amendment
435.180	Amendment
435.190	Amendment
435.200	Amendment
435.210	Amendment
- 4) Statutory Authority: [230 ILCS 30]
- 5) Effective Date of Rule: March 10, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 20143, October 24, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: See Second Notice Changes.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking amends Sections 435.110, 435.120, 435.130, 435.140, 435.150, 435.160, 435.170, 435.180, 435.190, 435.200, and 435.210 of Part 435 to implement multiple legislative changes to the Charitable Games Act.
- 16) Information and questions regarding this adopted rule shall be directed to:

Paul Caselton
Deputy General Counsel Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/524-3951

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 435
CHARITABLE GAMES ACT

Section	
435.100	Introduction
435.110	Definitions
435.120	Charitable Games Licenses
435.130	Supplier's License Licenses
435.140	Provider's License Licenses
435.150	Ineligible Organizations Ineligibility for License
435.160	Operation of Charitable Games Events
435.170	Restrictions and Limitations on the Conducting of Charitable Games
435.180	Imposition of Tax, Returns
435.190	Records; Audits
435.200	Denial, Suspension, or Revocation of Licenses
435.210	Criminal and Civil Penalties
435.220	State-Local Relations

AUTHORITY: Implementing and authorized by the Charitable Games Act [230 ILCS 30].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15687, effective September 15, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3722, effective February 10, 1987; peremptory amendments at 11 Ill. Reg. 10702, effective May 26, 1987; amended at 15 Ill. Reg. 10966, effective July 10, 1991; amended at 16 Ill. Reg. 14702, effective September 14, 1992; amended at 18 Ill. Reg. 11629, effective July 7, 1994; amended at 21 Ill. Reg. 3978, effective March 14, 1997; emergency amendment at 25 Ill. Reg. 14193, effective October 19, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 3734, effective February 26, 2002; amended at 39 Ill. Reg. 4454, effective March 10, 2015.

Section 435.110 Definitions

As used in this Part, the terms listed below are defined as follows:

"Act": The Charitable Games Act [230 ILCS 30].

"Charitable games": The ~~14~~fourteen games of chance involving cards, dice,

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wheels, random selection of numbers, and gambling tickets enumerated in Section 435.160 ~~that which~~ may be conducted at charitable games events. Only the following games may be conducted at a charitable games event: roulette, blackjack, poker, pull tabs, craps, bang, beat the dealer, big six, gin rummy, five card stud poker, chuck-a-luck, keno, hold-em poker, and merchandise wheel. (Section 2 of the Act)

"Charitable games equipment": Any supplies, devices, equipment, products or materials designed for use or used in the playing of charitable games, including, but not limited to, cards, dice, pull tabs and any related type of gambling ticket, chips, representations of money, and wheels.

~~"Charitable games event" or "event": The type of fundraising event authorized by the Act at which participants pay to play charitable games for the chance of winning cash or noncash prizes, and which may be conducted only on the date stated on a license issued by the Department (Section 2 of the Act), and only between the hours of noon and 2:00 a.m.. A charitable games event is considered to be a one day event; each licensee may be licensed to conduct as many as four one day events in a license year.~~

~~"Charitable games provider": An individual or entity holding a license to provide premises for a charitable game.~~

~~"Charitable games supplier": An individual or entity holding a license to supply licensed organization with charitable games equipment.~~

"Charitable games license": A license to conduct charitable games issued under Section 435.120, including any renewed or amended license issued under Section 435.120.

"Charitable organization": An organization or institution organized and operated to benefit an indefinite number of the public. (Section 2 of the Act)

"Chips": Scrip, play money, poker or casino chips, or any other representations of money, used to make wagers on the outcome of any charitable game. (Section 2 of the Act)

~~"Complete application": An application that contains all information necessary for the Department to determine the applicant's eligibility under the Act and this~~

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Part.

"Consultant company": ~~Any~~ means any person, as defined in this Section, that is hired by or on behalf of a licensed organization to perform services at the event (other than management or operation of the event), including, but not limited to, security for persons or property at the event (other than for the charitable games equipment and money, chips or scrip used in the conducting of charitable games), or to perform services before the event, including, but not limited to, training for volunteers or advertising. "Consultant companies" include, for instance, "party planners" who plan an event for a licensed organization~~licensee~~ by locating and securing qualified suppliers and providers on behalf of the licensed organization~~licensee~~, or who assist a licensed organization~~licensee~~ in planning a hosted casino night ~~that~~which is not open to the public (e.g., an event open to only a corporation and its clients ~~that~~which is hosted by the licensed organization~~licensee~~ and in return for which a donation is made to the licensed organization~~licensee~~).

"Currency": Coin, checks, marketable securities, or any other similar item that can be readily redeemed or converted into legal tender.

"Department": The Illinois Department of Revenue, ~~Office of Bingo and Charitable Games, P.O. Box 19480, Springfield, Illinois 62794.~~ (Section 2 of the Act).

"Educational organization": An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning that compare favorably in their scope and intensity with the course of study presented in tax-supported schools (Section 2 of the Act). For purposes of the Act, a public school or school district is not considered an educational organization.

"Fraternal organization": An organization of persons, including but not limited to ethnic organizations, having a common interest, organized and operated exclusively to promote the welfare of its members and to benefit the general public on a continuing and consistent basis (Section 2 of the Act).

"Holiday": Any of the holidays listed in Section 17 of the Promissory Note and Bank Holiday Act [815 ILCS 105].

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"Ineligible organization": An organization that is ineligible for any license under the Act and Section 435.150.

"Labor organization": An organization composed of labor unions or workers organized with the objectives of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations (Section 2 of the Act).

"License ~~year~~Year": The ~~two-year~~ period beginning on the date a charitable games license, or the renewal of a charitable games license, is ~~effective~~ issued under the Act. The licensure date, which date is stated on the license or renewed license.

"Licensee": An organization holding a license to conduct charitable games events or a person licensed under the Act as a supplier or provider.

"Licensed organization": A qualified organization that has obtained a charitable games license under Section 435.120 (Section 2 of the Act).

"Management or operation" of an event includes, but is not limited to:

selling admission tickets or pull tabs at the event; selling or redeeming or in any way assisting in the selling or redeeming of chips; or participating in the conducting of any games played at the event or acting as a supervisor or pit boss of a person conducting the games;

conducting a game, which includes, but is not limited to, dealing cards in poker or other card games, spinning the roulette wheel, turning the chuck-a-luck cage, or acting as a croupier;

counting or handling, or supervising anyone who counts or handles, any of the proceeds or chips at the event;

being present at the event to ensure that the games are being conducted in conformance with the rules established by the licensed organization or to ensure that the equipment is working properly; and

providing security for the charitable games equipment, the chips used in the conducting of charitable games, or money at the event.

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"Management or operation" of an event does not include setting up, cleaning up, selling food and drink, or providing security either for persons or property at the event (other than for the charitable games equipment or chips used in the conducting of charitable games).

"Non-profit organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation (Section 2 of the Act).

"Organization": ~~A~~ corporation, agency, partnership, ~~institution~~, association, firm, business or other entity consisting of two or more persons joined by a common interest or purpose (Section 2 of the Act).

"Person": ~~Any means any~~ natural individual, ~~a~~ corporation, ~~a~~ partnership, ~~a~~ limited liability company, ~~an~~ organization as defined in this Section, ~~a~~ qualified organization, ~~a~~ sponsoring organization, licensed organization ~~any other licensee~~ ~~under the Act~~, or ~~a~~ volunteer. (Section 2 of the Act).

"Premises": A distinct parcel of land and the buildings thereon (Section 2 of the Act). Premises may also include a boat upon which charitable games are being played, provided that documentation required by the Department regarding the location and identification of the boat is submitted with the application.

"Provider": Any person or organization owning, leasing, or controlling premises upon which any charitable game event is to be conducted (Section 2 of the Act).

"Qualified organization": An organization that:

is not an ineligible organization;

is a bona fide ~~means a~~ charitable, religious, fraternal, veterans, labor or educational organization ~~or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under sections~~ ~~Section~~ 501(c)(3), (c)(4), (c)(5), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code; a veterans organization as defined in Section 1.14 of the Bingo License and Tax Act [230 ILCS 25], ~~organized and conducted on a not for profit basis with no personal profit inuring to anyone as a~~

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~~result of the operation; an auxiliary organization of a veterans organization; or a local fraternal mutual benefit organization;~~

~~is organized in Illinois (Section 2 of the Act);~~

~~is a non-profit organization; and~~

~~except in the case of a local fraternal mutual benefit organization, has been in existence in Illinois continuously for a period of 5 years immediately before making application for a license and which has had during that 5-year period a bona fide membership engaged in carrying out its objects. The 5-year period is reduced to 2 years in the case of a local organization that is affiliated with and chartered by a national organization that meets the 5-year requirement. To be chartered by a national organization, an Illinois organization must have a document issued by the national organization formally authorizing the establishment of the Illinois organization. The period of existence specified in this subparagraph shall not apply to an organization, organized for charitable purposes, created by a fraternal organization that meets the existence requirements if the charitable organization has the same officers and directors as the fraternal organization. Only one charitable organization created by a branch lodge or chapter of a fraternal organization may be licensed under this provision. In the case of a local fraternal mutual benefit organization, the organization must be chartered at least 40 years before it applies for a license under the Act.~~ chartered at least 40 years before it applies for a license. (Section 3 of the Act)

~~"Received by the Department" or similar phrases: Whenever this Part requires that any writing or any payment must be received within a specified number of days or by a specified date, the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70] shall apply.~~

~~"Religious organization": Any church, congregation, society, or organization founded for the purpose of religious worship (Section 2 of the Act).~~

~~"Sponsoring organization": A means a qualified organization that has obtained a license to conduct a charitable games event in conformance with the provisions of the Act. (Section 2 of the Act).~~

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"Supplier": Any person, firm, or corporation that sells, leases, distributes or otherwise provides to any licensed organization any charitable games equipment (Section 2 of the Act).

"Veterans' organization": An organization comprised of members of which substantially all are individuals who are veterans, or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit (Section 2 of the Act).

"Volunteer": ~~A~~means a person who, without consideration, performs services at a charitable games event for the benefit of a licensed organization ~~recruited by the sponsoring organization who voluntarily performs services at a charitable games event~~, including participation in the management or operation of a game under Section 435.170(b). (Section 2 of the Act).

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.120 Charitable Games Licenses

- a) Licenses~~Eligibility. To be eligible for a charitable games license, an applying organization must have been organized in Illinois and must satisfy each of the following conditions of eligibility:~~
- 1) In General~~The organization must be a charitable, religious, fraternal, veterans, labor, or educational organization or institution organized and conducted on a not for profit basis with no personal profit inuring to anyone as a result of the operation and which is exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, a veterans' organization as defined in the Bingo License and Tax Act [230 ILCS 25], an auxiliary of a veteran's organization (Section 2 of the Act), or a local fraternal mutual benefit organization chartered at least 40 years before it applies for a license.~~
 - A) Except as otherwise provided, no person may conduct charitable games without having in its possession a valid charitable games license issued by the Department. In addition, a licensed organization may conduct charitable games only on the date,

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~~during the hours, and (except as provided in subsection (a)(4)) at the location stated on the license. For an organization to be considered charitable for purposes of obtaining a charitable games license, its activities must benefit an indefinite number of persons; it must have no capital, capital stock, or shareholders; its funds must be derived mainly from private and public charity and be held in trust for the objects and purposes expressed in its charter; it must dispense charity to all who need and apply for it; and it must place no obstacles in the way of those seeking the benefits.~~

- B) ~~A charitable games license will be issued for as many as four events during a license year. A charitable games event is considered to be a one-date event (beginning no earlier than noon of one day and concluding no later than 2 a.m. on the following day). These dates may be consecutive or separate, or a combination of both. For an organization to be considered educational for purposes of obtaining a charitable games license, it must be organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.~~
- C) ~~A licensed organization may hold only one charitable games license. (Section 3 of the Act) A license is not assignable or transferable. (Section 4(8) of the Act) For an organization to be considered religious for purposes of obtaining a charitable games license, it must be a church, congregation, society, or organization founded for the purpose of religious worship.~~
- D) The Department shall issue a charitable games license only upon:
- i) submission of an application in the form and manner provided in this Section;
 - ii) payment of a nonrefundable fee of \$400 in the form of a check or money order payable to the Illinois Department of Revenue; and

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- iii) ~~a determination by the Department that the applicant is a qualified organization. For an organization to be considered fraternal for purposes of obtaining a charitable games license, it must be a civic, service or charitable organization, not for pecuniary profit, which is a branch, lodge or chapter of a national or State organization and exists for the common business, brotherhood, or other interest of its members. This does not include a college or high school fraternity or sorority.~~
- E) ~~Unless renewed or extended as provided in subsection (a)(3) and (a)(5), a charitable games license shall be valid only for the two-year period beginning with the effective date stated on the license. However, as provided in Section 435.200, the Department may suspend or revoke a license prior to the expiration of the two-year period. For an organization to be considered labor for purposes of obtaining a charitable games license, it must be composed of labor unions or workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.~~
- F) ~~For an organization to be considered a veteran's organization for purposes of obtaining a charitable games license, it must be comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.~~
- 2) Application. At least 30 days prior to the date or dates an organization wishes to conduct charitable games, the organization must submit to the Department an application for a charitable games license. The Department may issue a license to an organization that applies less than 30 days prior to the date or dates the licensee wishes to conduct the games if all other requirements of the Act are met and the Department has sufficient time and resources to issue the license in a timely manner. (Section 3 of the Act) Application for a license shall be made on the forms prescribed by the Department and must contain the following information: The organization must have had a bona fide membership engaged in carrying

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~~out its objects for at least the entire five year period immediately preceding application (Section 3 of the Act). However, this five year requirement shall not apply with regard to the following two types of organizations:~~

- A) ~~*A sworn statement attesting to the not-for-profit character of the prospective licensee organization, signed by a person listed on the application as an owner, officer, or other person in charge of the necessary day-to-day operations of that organization. (Section 4(1) of the Act)*~~An organization which has had a bona fide membership engaged in carrying out its objectives for at least the entire two-year period immediately preceding application, and which is affiliated with and chartered by a national organization which meets the five year requirement (Section 3 of the Act).
- B) ~~Documentary evidence sufficient to show that the organization is a qualified organization. The documentation (bylaws, constitution, charter, minutes of past meetings, promotional material and articles of incorporation) should prove that the organization has been carrying out its objectives for the requisite period preceding the application.~~A charitable organization created by a fraternal organization which meets the five year requirement, and which has the same officers and directors as the fraternal organization. "Fraternal Organization" means a civic, service or charitable organization in Illinois, except a college or high school fraternity or sorority, not for pecuniary profit, which is a branch, lodge or chapter of a national or Illinois organization and exists for the common business, brotherhood, or other interest of its members (Section 3 of the Act).
- C) Any other information requested by the Department necessary to establish the eligibility of the organization for a license, including a copy of the determination letter or other document issued to the organization by the Internal Revenue Service showing that the organization is currently exempt from federal income taxation under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code.
- D) Information concerning all of the members, volunteers and

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employees of the organization who will participate in the management or operation of the charitable games events to be conducted under the license. This information shall include the names, addresses, social security numbers and dates of birth of all persons who will participate in the management or operation of the games, along with a sworn statement made under penalty of perjury, signed by the presiding officer and secretary of the applicant, that the persons listed as participating in the management or operation of the games are bona fide members, volunteers or employees of the applicant, that to the best of his or her knowledge these persons have not participated in the management or operation of more than 12 charitable games events conducted by any licensed organization in the calendar year, and that these persons will receive no remuneration or compensation, directly or indirectly, from any source, for participating in the management or operation of the games. Any amendments to this listing, including a list of additional members, volunteers and employees who will participate in the management or operation of the charitable games events, must contain an identical sworn statement. If, from the information provided, the Department cannot determine with reasonable certainty that a member, volunteer or employee does not have a criminal record that would make the organization ineligible for a license under Section 435.150, the Department will require the member, volunteer or employee to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of the member, volunteer or employee. Information concerning additional members, volunteers and employees must be received by the Department in writing at least 3 days before the event and must contain all the information required in this subsection (a)(2)(D).

- 3) Renewals~~*Auxiliary organizations of a licensee shall not be eligible for a license to conduct charitable games, except for auxiliary organizations of veterans organizations (Section 4 of the Act). An "auxiliary organization" is one which exists to assist or support an affiliated organization.*~~

A) In General. At least 30 days prior to the expiration of its current license (but no earlier than 60 days), an organization holding a valid license may apply for renewal of its license in the manner

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provided in this subsection (a)(3). A license so renewed shall be considered a valid license for the two-year period beginning on the effective date stated on the renewed license.

- B) Notice of License Renewal. Upon payment of a nonrefundable fee of \$400, in the form of a check or money order payable to the Department, and a determination by the Department that the organization remains a qualified organization eligible for a license, the Department shall issue the organization a renewed license. An organization may not conduct charitable games at any time following the expiration of its license without having been issued a renewed license.
- C) Application for Renewal. Application for renewal shall be made on the forms prescribed by the Department and must contain the following information:
- i) *A sworn statement attesting to the not-for-profit character of the prospective licensee organization, signed by a person listed on the application as an owner, officer, or other person in charge of the necessary day-to-day operations of that organization. (Section 4(1) of the Act)*
 - ii) *A statement of the names, addresses, social security numbers and dates of birth of all persons who will participate in the management or operation of the games not previously provided to the Department under this subsection (a)(3)(C)(ii) or under subsection (a)(2)(D), plus a statement that information previously provided to the Department under subsection (a)(2)(D) regarding the persons who will participate in the management or operation of the games remains unchanged, plus a sworn statement made under penalty of perjury, signed by the presiding officer and secretary of the applicant, that the persons who will participate in the management or operation of the games are bona fide members, volunteers or employees of the applicant, that to the best of his or her knowledge these persons have not participated in the management or operation of more than 12 charitable games*

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events conducted by any licensed organization in the calendar year, and that these persons will receive no remuneration or compensation, directly or indirectly, from any source, for participating in the management or operation of the games. Any amendments to this listing, including a list of additional members, volunteers and employees who will participate in the management or operation of the charitable games events, must contain an identical sworn statement. If, from the information provided, the Department cannot determine with reasonable certainty that a member, volunteer or employee does not have a criminal record that would make the organization ineligible for a license under Section 435.150, the Department will require the member, volunteer or employee to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of the member, volunteer or employee. Information concerning additional members, volunteers and employees must be received by the Department in writing at least 3 days before the event and must contain all the information required in this subsection (a)(3)(C)(ii).

iii) Any other information requested on the form supplied by the Department necessary to establish the continued eligibility of the organization for a charitable games license.

4) Amended License. Upon submission by a licensed organization of a written request, the Department may issue the organization an amended license that changes the location, day or time in which the licensed organization is authorized to conduct charitable games. In the case of a request to change the location, the requirements of subsection (a)(1)(B) apply. An organization may not conduct charitable games at the new location, date, or time without having in its possession the amended regular license. If a licensee wishes to conduct games at a location other than the locations originally specified in the license, the licensee shall submit the written request at least 30 days before the night on which the licensee wishes to conduct games at the alternate location. The Department may accept an applicant's change in location with less than 30 days' notice if all other

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requirements of the Act are met and the Department has sufficient time and resources to process the change in a timely manner. (Section 3 of the Act)

- 5) Extensions. The Department may grant an extension of a charitable games license beyond the period for which the license is otherwise effective (but not to exceed one year), provided that an application for renewal of the license has been first submitted to the Department in accordance with subsection (a)(3).
- b) Upon receipt of a charitable games license, including any renewed or amended license, the licensed organization shall file a copy of the license with each police department or, if in an unincorporated area, each sheriff's office whose jurisdiction includes the premises on which the charitable games events are authorized under the license (Section 4(4) of the Act).~~Applications. Application for a charitable games license must be prepared by the prospective licensee or its duly authorized representative only on the forms prescribed by the Department, and must be accompanied by a license fee of \$200. A duly authorized representative is a person who has filed a power of attorney with the Department. Information requested of an applicant shall include, but not be limited to, name, mailing address, description of organization, information regarding the organization's officers and signatures. The Department will not consider applications which are not complete or which are not accompanied by the information described below. Each license must be applied for at least 30 days prior to the event at which the licensee wishes to conduct such games (Section 3 of the Act). Any willful misstatements contained in an application constitute perjury (Section 4 of the Act). An organization applying for a charitable games license must submit the following information in addition to the completed application form:~~
- 1) ~~Documentary evidence sufficient to show that the organization meets the eligibility requirements of subsection (a) above. Such documentation must include, when applicable, a copy of the organization's by laws, constitution, charter, minutes of past meetings, promotional materials, and Articles of Incorporation;~~
- 2) ~~A copy of the letter or any other document issued to the organization by the Internal Revenue Service showing that the organization is currently exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue~~

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Code;

- 3) ~~Information, on the form for that purpose, supplied by the Department or on additional sheets attached to the form, concerning all of the members, volunteers, and employees of the organization who will participate in the management or operation of the charitable games events to be conducted under the license. This information shall include the names, addresses, social security numbers, and dates of birth of all persons who will participate in the management or operation of the games, along with a sworn statement made under penalties of perjury, signed by the presiding officer and secretary of the applicant, that the persons listed as participating in the management or operation of the games are bona fide members, volunteers, or employees of the applicant, that these persons have not participated in the management or operation of more than four charitable games events conducted by any licensee in the calendar year, and that these persons will receive no remuneration or compensation, directly or indirectly, from any source, for participating in the management or operation of the games. Any amendments to this listing, including a list of additional members, volunteers and employees who will participate in the management or operation of the charitable games events, must contain an identical sworn statement. If, from the information provided, the Department cannot determine with reasonable certainty that a member, volunteer, or employee does not have a criminal record which would make the organization ineligible for a license under Section 435.150, the Department will require such member, volunteer or employee to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of the member, volunteer, or employee. Information concerning additional members, volunteers, and employees must be received by the Department in writing at least 3 days before the event and must contain all the information required in this subsection (b)(3);~~
- 4) ~~If the organization will be using charitable games equipment which it owns, it must include with its application for a charitable games license an application for a charitable games equipment ownership permit. The application for such permit must be on the form prescribed by the Department, and must be accompanied by an application fee of \$50. On the permit application, the organization must list all charitable games equipment it owns and certify that all such equipment has the name of the~~

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~~organization permanently affixed thereto in a clearly visible location. Such permits shall be valid indefinitely. However, an organization possessing a permit must file an annual report with the Department that includes a listing of its inventory of charitable games equipment. This report must be filed by January 30 of each year. An organization holding a charitable games equipment ownership permit may lend such equipment without compensation to other licensed organizations without applying for a supplier's license (Section 6 of the Act);~~

- ~~5) A diagram of the areas where the charitable games are to be played, showing the approximate location of each game, the location at which chips will be sold and redeemed (the bank), and the location of all doorways entering into the areas;~~
 - ~~6) If the organization will not be conducting its charitable games events on premises which it owns, or at which it has its principal office or conducts activities for which it is organized, the organization must submit with its application a copy of a written, signed lease with the person or organization holding the license to provide the premises on which the charitable games events will be conducted. No charitable games license will be issued for any dates not expressly stated in such lease;~~
 - ~~7) Any other information requested by the Department which is necessary to establish the eligibility of the organization for a charitable games license;~~
 - ~~8) A report on a form provided by the Department accounting for the disposition of the gross charitable games proceeds for the organization's most recent license year;~~
 - ~~9) The application shall be signed by the presiding officer and the secretary of the applicant organization, who shall attest under penalties of perjury that the information contained in the application is true, correct and complete (Section 4 of the Act).~~
- c) The Department will not issue a charitable games license for an event to be held in a municipality if the municipality or county has adopted an ordinance prohibiting such events and has filed a copy of the ordinance with the Department. Licenses. A licensee may hold only one charitable games license (Section 3 of the Act). A charitable games license will be issued for as many as

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~~four dates during a license year. These dates may be consecutive, or separate, or some combination thereof. The license must state at what location each game will be conducted.~~

- 1) ~~Addition of new event dates or changes in established event dates and times. Although applicants are not required to list four dates on the application, charitable games licenses which are issued for fewer than four dates must be amended to add additional dates. The Department must receive written notice of an added date, or changed date or time, at least 30 days in advance of such date.~~
- 2) ~~Changes in established locations. In cases of changed locations, an officer of the organization must notify the Department in writing at least 60 days in advance of the date on which the licensee wishes to conduct games at the alternate location. (Section 3 of the Act)~~
- d) A licensed organization must notify the Department of a change in officers within 30 days after the change. Notification must include the name, address, social security number, date of birth, sex and daytime telephone number of the officer. In addition, the presiding officer and secretary will be required to sign an amended application. Upon receipt of a charitable games license the licensee shall file a copy of the license with each police department or, if in an unincorporated area, each sheriff's office whose jurisdiction includes the premises on which the charitable games events are authorized under the license (Section 4 of the Act).
- e) ~~The Department will not issue a charitable games license for an event to be held in a municipality if the municipality or county has adopted an ordinance prohibiting such events and has filed a copy of the ordinance with the Department.~~
- f) ~~A licensee must notify the Department of a change in officers within 30 days after such change. Notification must include the name, address, social security number, date of birth, race and daytime telephone number of the officer. In addition, the presiding officer and secretary will be required to sign an amended application.~~

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.130 Supplier's LicenseLienses

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- a) In General. ~~No~~Any person shall sell, lease, lend, distribute, ~~firm, or corporation~~ which sells, leases, lends, distributes, or otherwise ~~provide~~provides to any organization licensed to conduct charitable games events in Illinois any charitable games equipment, without having first obtained~~must obtain~~ a supplier's license to do so from the Department except as provided in subsection (h) (Section 6 of the Act).~~Section 435.120(b)(4).~~
- 1) No licensed supplier under the Act shall lease, lend, or distribute charitable gaming equipment, supplies, or other devices to persons not otherwise licensed to conduct charitable games under the Act (Section 6 of the Act). To ensure that the organization to whom equipment is sold, leased, lent or distributed is licensed for charitable gaming, the supplier shall obtain from the organization and retain among his or her books and records a copy of the organization's license showing the license number, expiration date and event date for which the equipment was sold, leased, lent or distributed.
- A) All charitable games equipment shall be kept segregated and separate from any other products, materials or equipment that the supplier might own, sell or lease (Section 6 of the Act), and the supplier shall inform the Department of the exact location of the storage of all charitable games equipment in the supplier's possession.
- B) No supplier shall sell, lease or distribute to any licensed organization any item of charitable games equipment not included on the list (or any amendments to the list) described in subsection (b)(1), nor shall any supplier sell, lease or distribute to any charitable games licensed organization any item of charitable games equipment at a price other than the price on file with the Department. Changes in price must be reported to the Department 30 days prior to the change.
- C) Suppliers may deliver equipment to a licensed organization up to one day before the date of the scheduled event, if the contract with the licensed organization specifies an early delivery date. Delivery is authorized only when the supplier delivers the equipment to a

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secured location (e.g., a location where access is restricted to the licensed organization with whom the supplier has contracted).

- 2) A licensed organization may purchase charitable games equipment only from a person that possesses a valid supplier's license issued by the Department.
 - 3) A supplier's license shall not be issued to an ineligible organization.
 - 4) Unless extended as provided in this Section, an annual supplier's license shall be valid only for the one-year period beginning with the effective date stated on the license, and a triennial supplier's license shall be valid only for the three-year period beginning with the effective date stated on the license. However, as provided in Section 435.200, the Department may suspend or revoke a supplier's license prior to the expiration of the one or three year period.
 - 5) The Department may extend a supplier's license beyond the period for which the license is otherwise effective (but not to exceed one year), provided that an application for a license with respect to the period covered by the extension has first been submitted to the Department in accordance with subsection (b).
- b) Applications. Application for a supplier's license must be made on the form and in the manner provided by the Department, and must contain such information or documentation as the Department may require to show that the applicant is not an ineligible organization. Applications for an annual license and must be accompanied by a nonrefundable license fee of \$500 in the form of a check or money order payable to the Illinois Department of Revenue. Applications for a triennial license must be accompanied by a nonrefundable license fee of \$1,500 in the form of a check or money order payable to the Illinois Department of Revenue. ~~Corporate applicants shall submit a copy of their Certificate and Articles of Incorporation. A supplier's license is valid for one year from its date of issuance. If, from the information provided, the Department cannot determine with reasonable certainty that a person whose name appears on the application in a capacity described in Section 435.150(a)(6) or (7) does not have a criminal record which would make the applicant ineligible for the license, the Department will require such person to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of such person. Any~~

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~~change in officers, directors, partners, or stockholders or partners owning at least 10% of the shares of a corporate or partnership licensee, must be reported to the Department within 30 days after the change. If ownership of a licensee is changed, a new application must be submitted to the Department (e.g., a corporate licensee is merged into a different corporation).~~

- 1) Along with the application form, the applicant must submit a list of all charitable games equipment offered for sale, lease or distribution to any charitable games licensed organization licensee, and the sales and/or rental price for all such equipment, including, if applicable, the price of equipment rented as part of a package deal. ~~All charitable games equipment shall be kept segregated and separate from any other products, materials or equipment that the supplier might own, sell or lease (Section 6 of the Act), and the supplier shall inform the Department of the exact location of the storage of all charitable games equipment in the supplier's possession.~~
- 2) Any change in officers or directors, or partners, members or stockholders owning at least 10% of the shares or interests of a licensed organization must be reported to the Department within 30 days after the change. If ownership of a licensed organization is changed, a new application must be submitted to the Department (e.g., a corporate licensed organization is merged into a different corporation). ~~No supplier shall sell, lease or distribute to any charitable games licensee any item of charitable games equipment not included on the list or any amendments thereto described in subsection (b)(1) above, nor shall any supplier sell, lease or distribute to any charitable games licensee any item of charitable games equipment at a price other than the price on file with the Department. Changes in price must be reported to the Department 30 days prior to such change.~~
- 3) ~~No supplier shall sell, lease, lend or distribute any item of charitable games equipment to any organization or entity not holding a license to conduct charitable games. To ensure that the organization to whom equipment is sold, leased, lent, or distributed is licensed for charitable gaming, the supplier shall obtain from the organization and retain among his or her books and records a copy of the organization's license showing the license number, expiration date and the event date for which the equipment was sold, leased, lent, or distributed.~~

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- ~~4) Suppliers may deliver equipment to a licensed organization up to one day before the date of the scheduled event, if the contract with the licensed organization specifies an early delivery date. Such delivery is authorized only when the supplier delivers the equipment to a secured location (e.g., a location whose access is restricted to the licensed organization with whom the supplier has contracted).~~
- c) Within 20 days after the end of any calendar quarter during which a supplier's license is in effect, the supplier shall file a return with the Department listing all sales and leases of charitable games equipment for such quarter, the gross proceeds derived from each such sale or lease, and the event dates for which equipment was sold, leased, lent, or distributed.
- d) The following general provisions apply to all licensed suppliers:
- 1) *A supplier shall not alter or modify any charitable games equipment, or possess any charitable games equipment so altered or modified, so as to allow the possessor or operator of the equipment to obtain a greater chance of winning a game other than as under normal rules of play of such games (Section 6 of the Act). Any charitable games equipment so altered or modified shall be confiscated by the Department.*
 - 2) *A supplier shall permit Department employees to enter the supplier's premises to inspect and test all charitable games equipment (Section 6 of the Act).*
 - 3) *A supplier shall not receive a percentage of the proceeds or admission fees from any charitable games event (Section 6 of the Act).*
 - 4) No employee, owner, partner, officer, or agent of a supplier may recruit or provide volunteers for a licensed organization.
 - 5) *No employee, owner, partner, officer, or agent of a supplier may participate in the management or operation of any charitable games event, even if the employee, owner or officer is also a member, volunteer, or employee of the charitable games licensee (Section 6 of the Act). The supplier may provide training classes and consulting service prior to the events, and it may have one representative present at the event to ensure its equipment is not damaged.*

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- 6) *A supplier shall not have any interest, direct or indirect, in the business of any person, firm, or corporation licensed under the Act to provide premises for the conduct of charitable games (Section 6 of the Act).*
- 7) *A supplier may not promote or solicit a charitable games event on behalf of a charitable games licensee or qualified organization (Section 6 of the Act). For instance, suppliers may not maintain or operate hotlines, websites or newsletters ~~that~~which advertise game dates or locations, nor may they recruit qualified organizations to host events.*
- 8) *No corporation, firm, agency, or partnership, in which an owner, officer, partner, agent, or employee of a supplier holds any interest, direct or indirect, shall promote, advertise, announce, or solicit charitable games events on behalf of a charitable games licensed organization~~licensee~~ or qualified organization.*
- e) *A supplier shall permanently affix his name to all charitable games equipment, supplies and pull tabs he or she sells, leases or rents (Section 6 of the Act). The name shall be plainly visible to the public while any item of charitable games equipment is being used for the purpose for which it was intended at a charitable games event. The supplier's name shall be affixed to any box or other package containing unopened pull tab or break open tickets, and to any promotional cards, or "flares" (~~Section 6 of the Act~~).*
- f) *Suppliers may not enter into agreements not to compete in certain geographic areas with other suppliers.*
- g) *A supplier shall keep books and records for the furnishing of charitable games equipment separate and distinct from any other business the supplier might operate (Section 6 of the Act). A supplier shall maintain all such books and records, including the documentation required by this Section~~subsection (b)(3)~~ above, for a period of at least three years and must allow inspection of the books and records by agents or employees of the Department during reasonable business hours.*
- h) *Organizations licensed to conduct charitable games may own their own equipment. Such organizations must apply to the Department for an ownership permit. Any such application must be accompanied by a one-time, nonrefundable*

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fee of \$50. Such organizations shall file an annual report listing their inventory of charitable games equipment. Such organizations may lend such equipment without compensation to other licensed organizations without applying for a supplier's license. (Section 6 of the Act) The one-time, nonrefundable fee of \$50 shall be in the form of a check or money order payable to the Department.

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.140 Provider's License~~Licenses~~a) In General

- 1) Except as provided in this Section, any subsection (c) below, the person or organization owning, leasing, or controlling premises upon which any charitable games event is to be conducted must first obtain a license to provide the premises for the charitable games event. ~~As used in this Section "premises" means a distinct parcel of land and the buildings thereon. Premises may also include a boat upon which charitable games are being played, provided that documentation required by the Department regarding the location and identification of the boat is submitted with the application.~~
 - A) A licensed provider, other than a municipality, may not provide the same premises for conducting more than 12 charitable games nights per calendar year. A municipality may provide the same premises for conducting 48 charitable games nights during a 12 month period. (Section 5 of the Act)
 - B) A provider is authorized to provide premises for charitable gaming only for organizations that have been duly licensed by the Department. To ensure that the organization is duly licensed, the provider shall obtain from the organization a copy of its charitable games license, and shall retain this documentation in its books and records.
- 2) A provider's license shall not be issued to an ineligible organization.
- 3) Unless extended as provided in subsection (a)(4), an annual provider's license shall be valid only for the one-year period beginning with the

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effective date stated on the license, and a triennial provider's license shall be valid only for the three-year period beginning with the effective date stated on the license. However, as provided in Section 435.200, the Department may suspend or revoke a provider's license prior to the expiration of the one- or three-year period.

4) The Department may extend a provider's license beyond the period for which the license is otherwise valid (but not to exceed one year), provided that an application for a license with respect to the period covered by the extension has been first submitted to the Department in accordance with subsection (b), and provided that the person is otherwise eligible to hold a license.

b) Applications. Application for a provider's license must be made on the form provided by the Department. Applications for an annual license, and must be accompanied by a nonrefundable license fee of \$50 in the form of a check or money order payable to the Illinois Department of Revenue. Applications for a triennial license must be accompanied by a nonrefundable license fee of \$150 in the form of a check or money order payable to the Illinois Department of Revenue. If, from the information provided on the application, the Department cannot determine with reasonable certainty that a person whose name appears on the application in a capacity described in Section 435.150 (a)(6) or (7) does not have a criminal record which would make the applicant ineligible for the license, the Department will require such person to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of such person. If the owner of the premises is a trust, the owner must disclose the names of all trust beneficiaries. Any change in officers or directors, or partners, members, or stockholders or partners owning at least 10% of the shares or interests of a licensed organization or partnership licensee, must be reported to the Department within 30 days after the change. If ownership of a licensed organization licensee is changed, a new application must be submitted to the Department (e.g., a corporate licensed organization licensee is merged into a different corporation). Each provider's license is valid for one year from its date of issuance.

c) A licensed organization may rent, lease or borrow premises on which to conduct charitable games only from an organization possessing a valid provider's license. A licensed provider, other than a municipality, may not provide the same premises for conducting more than 8 charitable games nights per year. A municipality may

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~~provide the same premises for conducting 16 charitable games nights during a twelve month period (Section 5 of the Act).~~

- d) ~~A licensed~~*If an organization may has a license to conduct a charitable games event on premises ~~which~~ it owns, or at which it has its principal office or conducts activities for which it was organized, without first obtaining a provider's license ~~is necessary~~. In addition, the licensed organizations~~such licensee~~ may obtain a provider's license in accordance with this ~~Section 5 of the Act~~ to allow it to rent or otherwise provide its premises to another licensed organization~~licensee~~ for the conducting of an additional 4 charitable games events. ~~(Section 5.1 of the Act)~~. However, in no event shall a premises be used for the conducting of more than 128 events per calendar year ~~(Section 5.1 of the Act)~~, even if one or more licensed organizations~~organization~~ owns, has its principal office in, or conducts activities for which it was organized in, ~~or has its principal office in,~~ that premises. (Section 5.1 of the Act)*
- e) ~~A provider may receive reasonable compensation for the provision of the premises. The compensation shall not be based upon a percentage of the gross proceeds from the charitable games (Section 5 of the Act). Any arms-length agreement as to rent between a provider and a charitable games licensed organization~~licensee~~ shall be presumed to be reasonable, provided both parties are in full compliance with all provisions of this Section.~~
- f) ~~A provider shall not have any interest in any supplier's business, either direct or indirect. No employee, officer, partner, agent, or owner of a provider may participate in the management or operation of a charitable games event, even if the employee, officer, partner, agent, or owner is also a member, volunteer or employee of the charitable games licensee, and regardless of whether compensated.~~ (Section 5 of the Act)
- g) ~~A provider may not promote or solicit a charitable games event on behalf of a charitable games licensee or qualified organization (Section 5 of the Act). For instance, a provider may not maintain or operate a hotline, website or newsletter advertising the time and date of games. However, a marquis located on the provider's premises which indicates that a licensed organization~~licensee~~ is hosting a charity gaming night is permissible. A provider may not recruit a qualified organization for an event.~~
- h) The provider's books and records relating to the provision of premises for

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~~charitable games events, including the documentation required by subsection (a)(1)(B), shall be maintained for a period of three years after the expiration of a license issued pursuant to this Section and shall be available for inspection by agents or employees of the Department during reasonable business hours. A provider is authorized to provide premises for charitable gaming only for organizations which have been duly licensed by the Department. To ensure that the organization is duly licensed, the provider shall obtain from the organization a copy of its license showing the license number and expiration date, and shall retain this documentation in his books and records.~~

- i) ~~The provider's books and records relating to the provision of premises for charitable games events, including the documentation required by subsection (h) above, shall be maintained for a period of three years after the expiration of a license issued pursuant to this Section and shall be available for inspection by agents or employees of the Department during reasonable business hours.~~

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.150 Ineligible Organizations~~Ineligibility for License~~

- a) The following are ineligible for any license under the Act:
- 1) *Any person who has been convicted of a felony within the last 10 years prior to~~of~~ the date of the application;*
 - 2) Any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 or the Criminal Code of 2012 [720 ILCS 5/Art. 28];
 - 3) *Any person who has had any license issued under the Bingo License and Tax Act [230 ILCS 25], Illinois Pull Tabs and Jar Games Act [230 ILCS 20] or Charitable Games Act [230 ILCS 30] revoked by the Department;*
 - 4) *Any person who is or has been a professional gambler; for example, one who has declared himself to be a professional gambler on an income tax return, or who has been convicted of a gambling offense in another jurisdiction;*
 - 5) *Any person found gambling in a manner not authorized by ~~the~~this Act, the*

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Illinois Pull Tabs and Jar Games Act, or the Bingo License and Tax Act, participating in such gambling, or knowingly permitting such gambling on premises where an authorized charitable games event is authorized to be being or has been conducted. ~~(Section 9 of the Act)~~ These acts are deemed to have been committed by a person when any determination issued by the Department (e.g., fine, suspension or revocation) regarding these events has become final;

- 6) Any ~~business or~~ organization in which a person defined in ~~subsections~~ subsections (a)(1), (2), (3), (4) or (5) ~~above~~ has a proprietary, equitable, or credit interest, or in which the person is active or employed;
- 7) Any ~~business or~~ organization in which a person defined in ~~subsections~~ subsections (a)(1), (2), (3), (4) or (5) ~~above~~ is an officer, director, or employee, whether compensated or not ~~(Section 7 of the Act)~~;
- 8) Any organization in which a person defined in ~~subsections~~ subsections (a)(1), (2), (3), (4) or (5) ~~above~~ is to participate in the management or operation of charitable games (Section 7 of the Act);
- 9) Any unlicensed person engaging in any activities required to be licensed under the Act. These acts are deemed to have been committed when any determination issued by the Department (e.g., fine, confiscation) regarding these events has become final;
- 10) Any person submitting any application, supporting documentation, return, or report containing statements ~~which~~ the person knows, or should know, to be false;
- 11) Any person ~~who~~ which, when required pursuant to the Act or this Part, has failed to file or submit any report, return, application, or documentation, or ~~that~~ which has failed to pay any fee, tax, penalty, or interest due the Department for any period during which the person has a valid license issued under the Act;
- 12) Any person ~~that~~ which fails to file a return, or to pay the tax, ~~fee, penalty or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty or interest, as required by any other tax or fee Act~~ administered by the Department. [20 ILCS 2505/~~2505-38039~~47].

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- b) The ineligibility of a person under ~~subsections~~ subsections (a)(6), (7) or (8)-~~above~~ shall continue so long as any person defined in ~~subsections~~ subsections (a)(1), (2), (3), (4) or (5)-~~above~~ maintains with the person a relationship causing ineligibility. The ineligibility of a person under subsection (a)(9)-~~above~~ shall continue for a period of five years from the date the unlicensed activities were discontinued. The ineligibility of a person under subsections (a)~~(1),~~(2), (3), (4), (5) and (10)-~~above~~ is permanent. The ineligibility of a person under subsections (a)(11) and (12) ~~above~~ shall continue until the required information has been provided, ~~or~~ the amounts owed the Department have been paid, or arrangements for payment have been made with the Department.

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.160 Operation of Charitable Games Events

- a) *Only the following games may be conducted at a charitable games event: roulette, blackjack, poker, pull tabs, craps, bang, beat the dealer, big six, gin rummy, five card stud poker, chuck-a-luck, keno, hold-em poker, and merchandise wheel. A licensed organization~~licensee~~ need not conduct every game permitted. The licensed organization~~licensee~~ shall promulgate rules, and make printed copies available to participants, for the games conducted at the charitable games event (Section 8(15) of the Act). However, the games, as played at a charitable games event, must be recognizable from the following general descriptions of these games: Craps, bang, beat the dealer, and chuck-a-luck are dice games. "Craps" involves players rolling a pair of dice in an effort to throw certain combinations of numbers paying various odds. Several rolls may be necessary to determine whether a player has won or lost. "Bang" is similar to craps but with fewer relevant combinations, and a decision is reached on each roll of the dice. In "beat the dealer" the player attempts to throw a higher total on two dice than the dealer. "Chuck-a-luck" uses three dice with players wagering on whether particular spots will appear on one or more of the dice. Roulette, big six, and merchandise wheel are wheel games. "Roulette" uses a wheel, usually separated into 38 numbered compartments into which a ball drops at random, and wagers are made regarding several variables in the outcome of a spin of the wheel. "Big six" uses a sectioned wheel on which are pictured various combinations of three dice, and wagers are made on whether particular spots will appear in the combination that is chosen at random by spinning the wheel. "Merchandise wheels" have numbers, symbols or colors used to designate the winning wager*

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and, where applicable, the type of merchandise to be awarded. Blackjack, gin rummy, poker, hold-em poker, and five card stud poker are card games and must be played substantially according to the description of such games found in Hoyle's Modern Encyclopedia of Card Games by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st Edition, hereby incorporated by reference (no later editions or amendments are included). However, a house dealer must be provided for all card games played at an event. These dealers are considered to participate in the management and operation of the games, and must be a bona fide employee, member, or volunteer recruited by the licensed organization. Keno is a lotto-type game, similar to bingo, in which a player, to win, must select numbers on a card which correspond to numbers drawn at random from a container. A pull tab, or similar type of gambling ticket, is a single-folded or banded ticket, or is a card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, some of which are winners. Players receive from the licensed organization licensee the prize for a winning ticket, which is stated on the promotional display or "flare". *No cards, dice, wheels or other charitable games equipment may be modified or altered so as to give the licensee a greater advantage in winning, other than as provided under the normal rules of play of a particular game* (Section 8 of the Act). Any charitable games equipment so altered or modified shall be confiscated by the Department. No single bet at any game shall exceed \$20. (Section 8(4) of the Act)

- b) *Only chips, scrip, or play money (collectively referred to as "chips") may be used to play any of the games listed in subsection (a) above.* Cash may never be used to wager on any of the games conducted at any charitable games event. *All chips must be permanently monogrammed with the license number or a Department-registered logo of the sponsoring organization or of the supplier* (Section 8(5) of the Act). Sponsoring organizations may, at their discretion, accept checks or credit cards as payment for chips. However, such checks must be endorsed by the sponsoring organization ~~so as to show that they were deposited into the sponsoring organization's charitable games checking account established under Section 435.190.~~ Proceeds from credit cards must be maintained as provided in Section 435.190.
- 1) Chips must be sold and redeemed at a single, stationary location on the premises where the charitable games event is conducted. This area shall be known as the "bank". (See Section 8(5) of the Act.) The bank must be staffed entirely by members, volunteers or employees of the sponsoring

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organization, who will be required to account for all transactions. No "floor sellers" or "runners" are allowed. For each participant, the sponsoring organization shall keep a complete and accurate record of the name and address of the participant, the cash value of each purchase of chips by the participant, and, if chips are redeemable for cash, the cash value of all chips redeemed by the participant. After each separate purchase of chips, the sponsoring organization shall issue to the purchaser a separate receipt identified by a unique pre-printed number. The number of the receipt and the amount of the purchase must be entered on the record maintained for that purchaser.

- A) All receipts for the purchase of chips must be pre-printed with consecutive numbers, beginning with the number one. Any receipts not issued, and any voided receipts, must be retained as part of the sponsoring organization's records. (Example: Seller A is selling chips and issuing receipts numbered 1-150. ~~Seller B is also selling chips and issuing receipts numbered 151-300.~~ At the end of the night, seller A has only issued receipts through number 135. Blank receipts 136-150 must be retained by the sponsoring organization.)
- B) The entire amount of any admission fee shall be considered to be a purchase of chips even if no chips are given in return for payment of the fee, and must be entered on the record of each participant. For this purchase of chips only, the sponsoring organization need not issue a receipt to the purchaser.
- 2) If the value of all chips redeemed by a participant for cash exceeds the value of all chips purchased by the participant, the participant must give a signed receipt for the cash won. The participant's signature on the record kept by the sponsoring organization shall be a sufficient receipt. A *participant may cash in his or her chips, ~~scrip or play money~~ in exchange for currency not to exceed \$~~500~~~~250~~* (Section 8(6) of the Act). There is no limit on the amount of noncash prizes that may be exchanged for chips, ~~scrip or play money~~.
- 3) When a participant exchanges chips for any noncash prize, the participant shall sign for the receipt of ~~the such~~ prize. The receipt shall describe the noncash prize and state the retail value of the prize. The sponsoring

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organization shall provide the Department with a listing of all prizes awarded, including the retail value of all prizes awarded (Section 8(6) of the Act).

- 4) All receipts required by this subsection (b) shall include the date and the sponsoring organization's name and charitable games license number.
- c) *The sponsoring organization shall designate a person in charge of and primarily responsible for the conduct of the charitable games event, and that person must be present on the premises continuously during the charitable games event (Section 4(1) of the Act). The person in charge must verify that only eligible persons, whose names appear on the workers list, participate in the management or operation of the event. The person in charge must have been a member of the sponsoring organization for at least one year prior to the charitable games event and shall be familiar with the provisions of the Act and this Part.*
- ~~d) No less than one week prior to an event, each sponsoring organization shall obtain and maintain a bond for the benefit of participants in the charitable games event to insure payment to the winners of such games (Section 4 of the Act). If cash prizes are offered, the amount of the bond shall be \$50 times the number of participants that the sponsoring organization reasonably estimates will attend the charitable games event, based on past attendance at similar events and any other indications of attendance available to the sponsoring organization. If only noncash prizes are offered, the amount of the bond shall be the amount the sponsoring organization will have to pay to purchase all of the noncash prizes which, at any time prior to the event, had been advertised as being available to be won at the event, except that the sponsoring organization need not obtain a bond to cover the purchase price of any advertised noncash prizes which are in the actual or constructive possession of the sponsoring organization no less than one week prior to the event. In a county with fewer than 60,000 inhabitants, the Department may waive the bond requirement upon a showing by a sponsoring organization that it has sufficient funds on deposit to insure payment to the winners of such games.~~
- de) The sponsoring organization must post its charitable games license in a prominent place at or near the location where chips are sold and redeemed, and in a manner such that the license may be easily seen by participants.
- ef) *Charitable games events must be conducted in accordance with local building*

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and fire code requirements (Section 4(11) of the Act).

- ~~fg~~) *The sponsoring organization must allow Department employees to be present on the premises during, and for two hours before and after, the charitable games event to inspect or test equipment, devices and supplies used in the conduct of the event, and to examine the records maintained pursuant to Section 435.190 (Section 4(12) of the Act).*
- ~~gh~~) *The entire net proceeds from charitable games must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game (Section 8 of the Act).*

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.170 Restrictions and Limitations on the Conducting of Charitable Games

- a) *The entire net proceeds from charitable games must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game (Section 8(1) of the Act).~~No license issued under the Act is assignable or transferrable (Section 4 of the Act).~~*
- b) *No person except a bona fide member or employee of the sponsoring organization, or a volunteer recruited by the sponsoring organization, may participate in the management or operation of a charitable games event (Section 8(2) of the Act).*~~Participation in the management or operation of an event includes, but is not limited to:~~
- 1) *A house dealer must be provided for all card games played at an event. These dealers are considered to participate in the management and operation of the games, and must be a bona fide employee, member or volunteer recruited by the licensed organization.*~~selling admission tickets or pull tabs at the event; selling or redeeming or in any way assisting in the selling or redeeming of chips; or participating in the conducting of any games played at the event or acting as a supervisor or pit boss of a person conducting the games. Conducting a game includes, but is not limited to, dealing cards in poker or other card games, spinning the roulette wheel, turning the chuck-a-luck cage, or acting as a croupier. Participation in the management or operation of games also includes persons who, at any time during the hours of the charitable games event, count or handle or~~

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~~supervise anyone who counts or handles any of the proceeds or chips at the event. A person who is present to ensure that the games are being conducted in conformance with the rules established by the licensed organization or is present to ensure that the equipment is working properly is also considered to be participating in the management or operation of a game. Setting up, cleaning up, selling food and drink, and providing security either for persons and property at the event (other than for the charitable games equipment and money, chips or scrip used in the conducting of charitable games), do not constitute, in and of themselves, participation in the management or operation of a charitable games event.~~

- 2) No employee, owner or officer of a consultant service hired by a licensed organization to perform services at the event, including, but not limited to, security for persons or property at the event, or services before the event, including, but not limited to, training for volunteers or advertising, may participate in the management or operation of the games (Section 8(21) of the Act).
- c) No person may receive any remuneration or compensation, either directly or indirectly, from any source for participating in the management or operation of a charitable games event (Section 8(3) of the Act). Whether a person has received compensation for participating in the management or operation of a charitable games event shall take into account all the facts and circumstances.
- 1) Employees of a sponsoring organization may participate in the management or operation of an event on a volunteer basis only. They may not be required to participate as a condition of employment, nor may they receive any compensation for such participation.
 - 2) Food and drink having a retail value less than \$10 ~~that~~which is provided to workers shall not be considered to be "remuneration or compensation-".
- d) No person may participate in the management or operation of a charitable games event and, at the same event, also place any wager, either personally or by proxy, on any charitable game conducted at the event.
- e) All persons participating in the management or operation of a charitable games event shall wear name tags, plainly visible, on which are printed the first and last names of the wearer in letters at least one-half inch in height.

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- f) ~~No person~~ Volunteers, or bona fide members or employees of the sponsoring organization, may ~~not~~ participate in the management or operation of more than ~~124~~ charitable games events, either of the sponsoring organization or any other organization licensed to conduct charitable games, during a calendar year.
- g) No person participating in the management or operation of a charitable games event may solicit or accept any tip, gratuity, gift, or other consideration from any participant or from any ~~licensed organization~~ licensee under the Act. The charitable games ~~licensed organization~~ licensee shall post at least one sign prohibiting tipping in a conspicuous place on the premises where the charitable games event is being conducted.
- h) Only ~~the sponsoring an~~ organization ~~of a licensed to conduct~~ charitable games event can make a determination that equipment is not working properly and that a game must consequently be shut down. If this determination has been made, the supplier's representative present at the event may contact the supplier to request removal and repair or replacement of the equipment.
- i) ~~No single bet at any game may exceed \$20 (Section 8(4) of the Act). Accordingly,~~ the ~~The~~ amount wagered by any participant on the outcome of any roll of dice, selection of a set of numbers at random, or spin of a wheel shall not exceed ~~\$20~~ \$10 worth of chips. The amount wagered by any participant on any round of betting during a card game shall not exceed ~~\$20~~ \$10 worth of chips. In poker, a round of betting is deemed to occur whenever a deal of cards, or group of cards on which a wager will be made, has been distributed to participants (e.g., after the first two cards, one up and one hole card, have been distributed in 5-card stud poker). In blackjack, a player is authorized to wager ~~\$20~~ \$10 on each hand that has been "split." A blackjack player who has chosen to "double down" may wager an additional bet not to exceed ~~\$20~~ \$10. The ~~licensed organization~~ licensee shall not extend credit to any participant in the charitable games event at any time for any reason.
- j) *No one other than the sponsoring organization of a charitable games event may have a proprietary interest in the game promoted* (Section 8(11) of the Act). For example, a person who provides services to a licensed organization in connection with setting up a charitable games event may not receive as compensation for those services a percentage of the gross or net proceeds derived by the licensed organization.

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- k) **Illegal Gambling and Raffles:**
- 1) Unlicensed raffles or other forms of gambling prohibited by law shall not be conducted on the premises where a charitable games event is being conducted. A raffle is "licensed" only when a document is issued to the sponsoring organization of the charitable games event ~~charitable games licensee~~ by a city or county pursuant to an ordinance providing for the licensing of raffles.
 - 2) *No slot machines, including coin-in-the-slot-operated devices which allow a participant to play games of chance ~~based upon cards or dice~~, shall be permitted to be used on the premises and during the time at which a charitable games event is being conducted. However, establishments that have video gaming terminals licensed under the Video Gaming Act [230 ILCS 40] may operate them along with charitable games under rules adopted by the Department (Section 8(16) of the Act).*
- l) **Miscellaneous Provisions:**
- 1) *No person under the age of 18 years may play or participate in the conducting of a charitable games event. Any person under the age of 18 may be within the area where charitable games are being played only when accompanied by his or her parent or guardian.* (Section 8(10) of the Act): A licensed organization ~~licensee~~ may, at its discretion, prohibit persons under the age of 18 from being within the area where charitable games are being played.
 - 2) *No licensee shall knowingly permit the entry into any part of the premises where a charitable games event is being conducted by any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 or the Criminal Code of 2012 (Section 10 of the Act).*
 - 3) No organization licensed to conduct charitable games shall purchase or lease any charitable games equipment other than from a person or organization licensed to supply charitable games equipment under the Act.
 - 4) Any advertising by, or on behalf of, a sponsoring organization regarding the conducting of its charitable games events shall contain its name and

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charitable games license number.

- 5) Charitable games may be conducted only between the hours of noon and 2:00 a.m. of the following day. (Section 8(9) of the Act)

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.180 Imposition of Tax, Returns

- a) *There shall be paid to the Department ~~5%~~^{3%} of the ~~netgross~~ proceeds of any charitable games event conducted in the State (Section 9 of the Act). "~~NetGross proceeds~~^{Proceeds}" means all money received, plus the fair market value of any property received, from the sale of chips, and the entire fee or donation charged for admission or entry into a charitable games event, minus all money, plus the cost to the organization of any noncash prize, paid out to participants to redeem chips at the conclusion of the event or when the participant leaves. ~~(Section 9 of the Act)~~ For purposes of this Section, "fee or donation charged for admission or entry into a charitable games event" includes the amount paid to a sponsoring organization for hosting a charitable games event which is not open to the public (e.g., a "casino night" party which is hosted only for a corporation and its clients). The entire amount of an entry fee or donation is considered to be "~~netgross~~ proceeds" even when payment does not entitle the person paying to receive any chips, and even though part or all of the fee represents payment for food or beverages.*
- b) *~~Payment~~Each payment of tax shall be made by money order or certified check payable to the Illinois Department of Revenue (Section 9 of the Act). Payments shall be made within 30 days after the completion of the charitable games events. In the case of a series of charitable games events conducted on ~~On~~ successive days, the payment for all such events shall be made within 30 days after the completion of the last such event.*
- c) *Accompanying each payment shall be a return on forms prescribed by the Department. The return shall be filed by the sponsoring organization and shall contain such information as the Department may require. The return shall include, on a form provided by the Department, the names, social security numbers and signatures of all individuals participating in the management or operation of the games, containing a signed statement by all such individuals and the presiding officer of the sponsoring organization that the organization has complied with all*

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provisions of the Act. Failure to submit either the payment or return within the specified time may result in suspension or revocation of the license of the sponsoring organization. (Section 9 of the Act) Every organization licensed to conduct charitable games must submit a report along with each payment of tax, on a form provided by the Department, which must contain the following information: A list of the types of charitable games conducted, and the number of stations of each; the number of persons purchasing chips; the amount of the entry fee, if any; gross proceeds; the amount of cash prizes and the cost to the licensee of noncash prizes; the names of all persons and organizations providing security either for persons or property at the event; a listing, on a form provided by the Department, of all individuals participating in the management or operation of the games, containing a signed statement by all such individuals and the presiding officer of the organization that all provisions of the Act have been complied with; and any other information requested by the Department relating to books or records which the sponsoring organization is required to maintain. In addition, the licensee shall file a list of all noncash prizes awarded, stating whether the prizes were purchased by the licensee or donated, and, if donated, by whom.

- d) If a sponsoring organization intends to cancel a charitable games event, it must notify the Department in writing prior to the event. If it notifies the Department after the event date, it must file a return within 30 days after the scheduled date of the cancelled event.
- e) *The sale of tangible personal property at charitable games events is subject to all State and local taxes and obligations (Section 8(14) of the Act).*
- f) Tax returns filed pursuant to the Act shall not be confidential and shall be available for public inspection (Section 9 of the Act).

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.190 Records; Audits

- a) Each licensee must keep a complete record of charitable games conducted within the previous 3 years. Such record shall be open to inspection by the Department during reasonable business hours. (Section 10 of the Act) Charitable games event checking account.
 - 1) ~~Each sponsoring organization must establish a separate charitable games~~

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~~event checking account into which it must deposit the following funds:~~

- A) ~~The entire amount of admission fees collected prior to the day of the charitable games event, or the first day of events held on successive days;~~
 - B) ~~The entire gross proceeds collected on the day(s) of the charitable games event(s), less only any cash prizes paid.~~
- 2) ~~All expenditures of funds deposited in the charitable games event checking account must be by checks, having consecutive numbers, payable to a specific person or organization. No checks shall be written to "cash". All checks written on this account must be for some lawful purpose of the sponsoring organization.~~
- b) Licensed organizations~~Licensees~~ must keep all records and receipts ~~which this Part requires~~ licensed organizations~~licensees~~ to maintain, whether or not ~~thosesuch~~ records and receipts must be filed with the Department. Organizations licensed to conduct charitable games shall keep any and all tax returns, contracts with providers and suppliers, and complete and accurate records issued to participants as set forth under Section 435.160(b)(1)~~of this Part~~. In addition, the records must demonstrate that the entire net proceeds from charitable games are devoted to the lawful purposes of the organization as required under Section 8(1) of the Act. If an organization enters into an agreement with a consultant company, that agreement must be in writing and must be retained by the licensed organization and available for inspection by the Department. Suppliers shall keep all contracts with licensed organizations, lists of all charitable games equipment offered for sale, lease, loan, or distribution to organizations licensed to conduct charitable games, and copies of the licenses of organizations licensed to conduct charitable games. Providers shall keep all contracts with licensed organizations and copies of the licenses of organizations licensed to conduct charitable games. Licensed organizations~~Licensees~~ shall keep any record or receipt pertaining to any charitable games event for at least three years after the event. All such records shall be available for inspection by representatives of the Department during reasonable business hours. Any and all records of any licensed organizations~~licensee~~ shall be subject to an audit by the Department without notice, performed at the premises where the charitable games event is conducted or at the office of the person or organization where the records are located. In the event of an audit by the Department, the person or organization being audited

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shall provide all such records, provide a place where ~~thesueh~~ audit may be performed, and provide any requested information relevant to the conduct of the event.

- c) When the Department has information indicating that any person or organization licensed under the Act has not paid the full amount of tax due, has not provided the Department with accurate or complete information concerning revenues from charitable games events, or is using proceeds from charitable games events in an unlawful manner, *the Department may require the licensee to obtain from an Illinois certified public accounting firm, at the licensee's own expense, a certified and unqualified financial statement and verification of records of the licensee* (~~Section 10 of the Act~~). If required, this statement must be submitted to the Department within 90 days after notice is received by the licensed organization~~licensee~~. *Failure to comply with this requirement may result in suspension or revocation of the licensee's license and forfeiture of all proceeds.* (Section 10 of the Act):

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.200 Denial, Suspension, or Revocation of Licenses

- a) The Department shall deny the application, including a renewal application, of any person or organization ~~thatwhich~~ does not satisfy all eligibility requirements for the license for which application is made, or ~~thatwhich~~ is ineligible for a license under Section 435.150(a).
- b) *The Department may, in its discretion, suspend or*~~shall~~ *revoke any license when it finds that the* licensed organization~~licensee~~ *or any person connected therewith has violated or is violating the provisions of the Act* ~~or any rule promulgated thereunder~~ (Section 10 of the Act), or when it finds that the licensed organization~~licensee~~ has become ineligible for any reason while the license is in effect.
- 1) The Director may review the offenses subjecting the licensee to revocation and may issue a suspension. The decision to reduce a revocation to a suspension, and the duration of the suspension, shall be made by taking into account factors that include, but are not limited to, the licensee's previous history of compliance with the Act and ~~this Part's rules~~, the number, seriousness, and duration of the violations, and the licensee's

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cooperation in discontinuing and correcting violations. Violations of Sections 4, 5, 6, 7, and ~~subsection (2) of Section 8~~ of the Act are considered to be more serious in nature than other violations under the Act. (~~Section 10 of the Act~~)

- 2) The effective date of a revocation or suspension shall be not less than 25 days after the date the Department mails the notice of revocation or suspension to the licensed organization~~licensee~~. If the licensed organization~~licensee~~ requests a hearing within 20 days as provided in subsection (c)(2)~~below~~, the effective date of any revocation or suspension is stayed pending the outcome of the hearing, and the licensed organization~~licensee~~ may continue to operate under the license, unless the Department has determined that a summary revocation or suspension is warranted, as provided in Section 13 of the Act. If a license expires during a stay of revocation or suspension, the licensed organization~~licensee~~ may apply for renewal pursuant to Section 435.120(a)(3). Assuming the organization is otherwise eligible, the Department may issue a renewed license~~continue to operate only if a substantially complete renewal application and application fee have been received by the Department prior to the expiration of the license. Although the licensee may continue to operate, the Department will not issue the renewal license until the hearing decision has been rendered.~~ If the hearing officer determines that revocation is warranted, the renewed license shall be summarily revoked~~renewal application will be denied pursuant to Section 435.150(a)(3).~~
 - 3) *A revocation or suspension shall be in addition to, and not in lieu of, any other civil or criminal penalties or assessments authorized by the Act* (Section 10 of the Act).
- c) Notification of Denial~~denial~~, Suspension~~suspension~~, or Revocation~~revocation~~, Requests~~requests~~ for Hearing~~hearing~~:
- 1) The Department shall send notices of denial, suspension, or revocation by certified mail, return receipt requested, to the applicant or licensed organization~~licensee~~ at the mailing address stated on the applicant's or licensed organization's~~licensee's~~ most recent license application. All such notices will include a statement of the reasons for the Department's action.

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- 2) An applicant or licensed organization licensee may request a hearing to contest a denial, suspension, or revocation. The request shall be in writing, and must be received by the Department within 20 days after the date the Department mailed the notice of its action to the applicant or licensed organization licensee. If no hearing is requested within 20 days, the Department's revocation, suspension, or denial becomes final, and the licensed organization licensee is barred from operating. Hearings shall be governed by the regulations established at 86 Ill. Adm. Code 200.

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

Section 435.210 Criminal and Civil Penalties

- a) Section 12 of the~~The~~ Act establishes criminal penalties for violations as follows:
 - 1) Any person who conducts or knowingly participates in an unlicensed charitable game commits the offense of gambling in violation of Section 28-1 of the Criminal Code of 2012. Section 4(1) of the Act provides that any willful misstatement contained in an application for a license to conduct charitable games constitutes perjury.
 - 2) Any person who violates any provision of the Act or who willfully violates any rule or regulation of the Department for the administration and enforcement of the Act is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony.~~Section 6 of the Act provides that any person or organization which knowingly sells, leases, or distributes for compensation within this State, or possesses with intent to sell, or lease, or distribute for compensation within this State, any charitable games equipment without having first obtained a license to do so from the Department is guilty of a Class A misdemeanor, the fine for which shall not exceed \$50,000.~~
 - 3) Any person who fails to file a charitable games return or who files a fraudulent return or application under the Act or any officer or agent of an organization or a corporation licensed under the Act who signs a fraudulent return or application filed on behalf of such organization or corporation is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony.~~Section 12 of the Act states that any person who conducts or knowingly participates in an unlicensed~~

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~~charitable game commits the offense of gambling in violation of Section 28-1 of the Criminal Code of 1961~~

- 4) ~~Any person or organization which knowingly sells, leases, or distributes for compensation within this State, or possesses with intent to sell, or lease, or distribute for compensation within this State, any charitable games equipment without having first obtained a license to do so from the Department is guilty of a Class A misdemeanor, the fine for which shall not exceed \$50,000. Section 12 of the Act provides that any person who violates any provision of the Act or who knowingly violates any rule or regulation of the Department for the administration and enforcement of the Act is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony.~~
- 5) ~~Any person who fails to file a charitable games return or who files a fraudulent return or application under the Act, or any officer or agent of an organization or a corporation licensed under the Act who signs a fraudulent return or application filed on behalf of such organization or corporation, is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony (Section 12 of the Act).~~

b) Forfeitures shall be imposed as follows:

- 1) Any charitable games equipment used at an unlicensed charitable games event is forfeited to the State, and will be confiscated. Any charitable games equipment used at the charitable games event of a licensed organization licensee whose license has been suspended or revoked is forfeited to the State, and will be confiscated.
- 2) Any charitable games equipment used for any form of illegal gambling at an otherwise properly licensed charitable games event is forfeited to the State, and will be confiscated.
- 3) The gross proceeds from any charitable games event described in subsection (b)(1)-~~above~~, or from any illegal gambling at any licensed charitable games event, are forfeited to the State and will be confiscated. The Department shall determine the amount of gross proceeds based on all information available to the Department and its judgment of all the facts of each particular case.

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- 4) The Department will provide a detailed written receipt describing all confiscated equipment and proceeds.
- c) The Act establishes civil penalties as follows:
- 1) In addition to ~~penalties provided for in subsection (b), or independently of, confiscation and any forfeiture of gross proceeds as provided in subsection (b)(3) above,~~ the Department shall assess against an organization a civil penalty equal to the amount of gross proceeds derived by the organization from any charitable games event ~~that which~~ is conducted without a license or ~~that which~~ is conducted under a suspended or revoked license, or at which illegal gambling is conducted. Notice of assessment of a civil penalty shall be sent by certified mail, return receipt requested. (See Sections 12(2) and (3) of the Act.) The person or organization against whom a civil penalty has been assessed shall remit to the Illinois Department of Revenue the full amount of the penalty within 60 days after the date the notice was mailed.
 - 2) When charitable games equipment or gross proceeds are confiscated and forfeited to the State under subsection (b) ~~above,~~ or a civil penalty is assessed under subsection (c)(1) ~~above,~~ the organization entitled to possession of the equipment or proceeds at the time of confiscation or at the time a civil penalty is assessed may, within 60 days after the date of confiscation or imposition of the penalty, request, in writing, a hearing. The sole issue at such hearing shall be whether a charitable games event was conducted without a license, or under a suspended or revoked license, or whether illegal gambling was conducted at an otherwise properly licensed charitable games event.
 - 3) *Any person who violates any provision of the Act or knowingly violates any provision of this Part ~~rule of the Department for the administration of the Act~~ shall, in addition to other penalties provided, be subject to a civil penalty in the amount of \$250 for each separate violation (Section ~~12(4)~~ of the Act). The penalty shall become final unless the person makes a written request for a hearing in writing within 60 days after the date the Department mailed the notice of its action. Persons subject to this provision include, but are not limited to, sponsoring organizations, volunteers, any licensed organization ~~licensee~~ under the Act, or any other*

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person or organization.

(Source: Amended at 39 Ill. Reg. 4454, effective March 10, 2015)

ILLINOIS STATE BOARD OF INVESTMENT

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- 1) Heading of the Part: Rules and Regulations of the Board
- 2) Code Citation: 74 Ill. Adm. Code 800
- 3) Section Number: 800.210 Proposed Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/22A
- 5) Effective Date of Rule: March 16, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: November 7, 2014; 38 Ill. Reg. 20862
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Notice Version: There is no difference between proposal and final version.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This amendment will revise the Board's compounded rate of return consistent with the actuarially assumed rate of the return set by the State Employees' Retirement Systems.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS STATE BOARD OF INVESTMENT

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Linsey Schoemehl Payne
General Counsel/Chief Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago IL 60610

312/793-1486
Linsey.Payne@illinois.gov

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER VII: ILLINOIS STATE BOARD OF INVESTMENT

PART 800
RULES AND REGULATIONS OF THE BOARD

SUBPART A: AUTHORITY

Section
800.5 Authority

SUBPART B: BY-LAWS

Section
800.110 Offices of the Board
800.120 Meetings
800.130 Officers and Their Duties
800.140 Committees

SUBPART C: GENERAL POLICIES

Section
800.210 Functions
800.220 Fiduciary Aspects
800.230 Delegation of Authority
800.240 Budget

SUBPART D: ACCOUNTING

Section
800.310 Investment Account
800.320 Fund Credits
800.330 Fund Charges
800.340 Reserve Balances

SUBPART E: REPORTS

Section
800.410 Fiscal Reporting

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800.420 Audits

SUBPART F: AMENDMENTS

Section
800.510 Amendments

AUTHORITY: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Rules and Regulations of the Board, effective March 25, 1971; amended January 8, 1972; amended October 6, 1972; amended February 14, 1975; amended February 9, 1976; amended February 9, 1977; codified at 5 Ill. Reg. 10701; amended at 31 Ill. Reg. 1986, effective January 9, 2007; amended at 32 Ill. Reg. 360, effective December 26, 2007; amended at 35 Ill. Reg. 13915, effective August 1, 2011; amended at 37 Ill. Reg. 2720, effective February 25, 2013; amended at 38 Ill. Reg. 4491, effective January 31, 2014; amended at 39 Ill. Reg. 4500, effective March 16, 2015.

SUBPART C: GENERAL POLICIES

Section 800.210 Functions

- a) The functions of the Board are limited exclusively to investment management and such other duties and responsibilities as are directed or permitted by statute. With respect to investment management more specifically:

To invest, reinvest, exchange and perform all investment functions with regard to reserves, funds, assets, securities and moneys which the Board is authorized to invest, and to preserve and protect such reserves, funds, assets, securities and moneys, including, but not limited to, authority to vote any stocks, bonds or other securities and to give general or special proxies or powers of attorney with or without power of substitution [40 ILCS 5/22A-106].

- 1) The Board shall manage investments by executing procedures that include, but are not limited to:
- A) Performing due diligence on the investment portfolio. (Examples of due diligence include monitoring the performance of current

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investment portfolios, selecting new investment portfolios, determining the asset allocation per portfolio and selecting investment managers to invest portfolio assets.)

- B) Adopting an asset allocation policy to achieve efficiently the Board's long-term investment objective of a ~~7.25~~7.75% compounded rate of return. (Examples of policy considerations include examining all asset classes and their appropriate benchmarks and allocating specific percentages of assets to specific asset classes.)
 - C) Managing Board expenses. (Examples of such management include negotiating competitive asset management fees with investment managers and monitoring the Board's operating budget.)
 - D) Complying with the Illinois Pension Code [40 ILCS 5]. (Examples of compliance include adhering to statutory directives such as the prudent utilization of emerging investment managers in managing assets (see 40 ILCS 5/1-109.1(4)) and refraining from prohibited transactions.)
- 2) The Board's general policy governing investments shall require that, as fiduciaries, the Board discharge its duties, with respect to pension fund assets it manages, solely in the interest of the participants and beneficiaries. (Examples of general investment policy include maintaining an 8.5% compounded rate of return on investments; investing with the care, skill, prudence and diligence that a prudent person would use in the conduct of an enterprise of like character with like aims; and diversifying investments to reduce risk, enhance returns and commit meaningful investment positions.)
- b) State Employees Deferred Compensation Plan (Plan)
- 1) The Board shall be responsible for developing and establishing the Plan (see 40 ILCS 5/24-104).
 - 2) With respect to developing and establishing the Plan, the Board shall:

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- A) Review investment offerings and offer acceptable investment offerings as investment options for the Plan; and
 - B) Supervise the Department of Central Management Services' administration of the Plan.
- 3) Further explanation regarding the Board's responsibilities with respect to the development and establishment of the Plan are found in the following Board regulations: 80 Ill. Adm. Code 2700: Subpart A (Introduction and Purpose of Plan); Subpart B (Definitions); Subpart C (the Board's general supervision of the administration of the Plan); Subpart G (distributions in the event of an unforeseeable emergency); Subpart I (ability to amend or terminate Plan).
- c) These functions shall not encompass any duties or responsibilities related to the operation and administration of the pension funds in any other area than that of investments.

(Source: Amended at 39 Ill. Reg. 4500, effective March 16, 2015)

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- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill. Adm. Code 2700
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2700.200	Amendment
2700.510	Amendment
2700.680	Amendment
2700.700	Amendment
- 4) Statutory Authority: 40 ILCS 5/22A and section 457 of the Internal Revenue Code
- 5) Effective Date of Rule: March 16, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: November 7, 2014; 38 Ill. Reg. 20868
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: There is no difference between proposal and final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments will clarify the cap for Normal Retirement Age, consistent with the rules set forth under the Internal Revenue

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Code, and will allow for designated Roth contributions and in-plan rollovers to designated Roth accounts, consistent with recent revisions to the Illinois Pension Code.

- 16) Information and questions regarding this adopted rule shall be directed to:

Linsey Schoemehl Payne
General Counsel/Chief Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago IL 60610

312/793-1486
Linsey.Payne@illinois.gov

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section	
2700.100	Establishment of Plan
2700.110	Purpose of Plan
2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)
2700.125	Forms

SUBPART B: DEFINITIONS

Section	
2700.200	Definitions

SUBPART C: ADMINISTRATION

Section	
2700.300	Responsibilities of the Department
2700.310	Responsibilities of the Board
2700.311	Standards Governing the Selection of Investment Options
2700.315	Responsibilities of the Recordkeeper
2700.320	Deferred Compensation Hardship Committee
2700.330	Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section	
2700.400	Eligibility
2700.410	Enrollment
2700.415	Designation of Beneficiary
2700.420	Minimum Deferral
2700.430	Basic Annual Limitation

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- 2700.435 Age 50 Catch-up Annual Deferral Contribution
- 2700.440 Special Section 457 Catch-up Limitation
- 2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section

- 2700.500 Normal Retirement Age
- 2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section

- 2700.600 Deferred Compensation Accounts
- 2700.610 Allocation of Investment Earnings or Losses
- 2700.620 Investment Option Valuation
- 2700.630 Administrative Costs
- 2700.640 Method of Making Investment Requests
- 2700.650 Participant Statements
- 2700.660 Custodial Account
- 2700.670 Investment Options
- 2700.680 [In-Plan Conversions and Rollovers to the Plan](#)
- 2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section

- 2700.700 Distribution Events
- 2700.710 Beneficiary Election of Method of Distribution
- 2700.720 Election of Delayed Distribution Date (Repealed)
- 2700.730 Election of Method of Distribution
- 2700.735 Distribution for Certain Balances of \$5,000 or Less
- 2700.740 Unforeseeable Emergency
- 2700.745 Plan-to-Plan Transfers from the Plan
- 2700.750 Permissive Service Credit Transfers
- 2700.760 Leave of Absence
- 2700.770 Loans

SUBPART H: MISCELLANEOUS

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Section

2700.800	Nonassignability
2700.810	Payments to Minors and Incompetents
2700.820	Missing Persons
2700.830	Severability
2700.840	Days and Dates
2700.850	Domestic Relations Orders
2700.860	IRS Levy
2700.870	Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section

2700.900	Amendment of Plan
2700.910	Termination of Plan
2700.920	Merger with Prior Plans

2700.APPENDIX A	Administrative Rules (Repealed)
2700.EXHIBIT A	Administrative Rule I (Repealed)
2700.EXHIBIT B	Administrative Rule II (Repealed)
2700.EXHIBIT C	Administrative Rule III (Repealed)
2700.EXHIBIT D	Administrative Rule IV (Repealed)
2700.EXHIBIT E	Administrative Rule V (Repealed)
2700.EXHIBIT F	Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency

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amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006; amended at 33 Ill. Reg. 13451, effective September 14, 2009; amended at 35 Ill. Reg. 13928, effective August 1, 2011; amended at 36 Ill. Reg. 17518, effective January 1, 2013; amended at 37 Ill. Reg. 14184, effective August 23, 2013; amended at 39 Ill. Reg. 4506, effective March 16, 2015.

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

- a) Whenever used in the Plan, the following terms shall have the meanings set forth in this Section unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment Option (net of Investment Option expenses) allocable to the Participant, any transfers for the Participant's benefit, any distribution made to the Participant or the Participant's Beneficiary, the value of any outstanding Participant Loans and as adjusted for Loan repayments and as otherwise provided in the Plan. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any ~~subaccount~~ ~~account~~ established for rollover contributions, Roth rollover contributions, Roth Contributions, and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in Code section 414(p)(8) ~~of the Internal Revenue Code~~).

"ACH Debit" or "Automated Clearing House Debit" means an electronic system that allows a payee, with approval of the payer, to initiate a debit from the payer's bank account.

"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of Code section

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3121(b)(7)(F) ~~of the Code~~ to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under Code section 457(e)(15) ~~of the Code~~.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash Compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a Compensation reduction election under Code section 125, 132(f), 401(k), 403(b) or 457(b) ~~of the Code~~.

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under Code section 408(a)(2) ~~of the Code~~ relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan through either Pre-Tax Contributions and/or Roth Contributions.

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"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 ~~of this Part~~, including any subaccounts under the Deferred Compensation Account.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving Compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; ~~and~~ administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; and all administrative units and corporate outgrowths of these entities~~the above~~ as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740, as well as determining Loan claims appeals as provided under Section 2700.770.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in Code section 457(e)(5) ~~of the Code~~.

"Investment Option" means any and all investment vehicles established by the Board for the investment of Deferred Compensation.

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"Loan" means a Participant loan described in Section 2700.770.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Minority Option" means an Investment Option with a minority-owned firm that has documented State certification.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance of Employment as provided in Section 2700.510 ~~of this Part~~. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 ~~of this Part~~.

For purposes of clarification: Normal Retirement Age for purposes of the catch-up provision of Section 2700.440 can be no later than age 70½, and benefits must commence no later than the time prescribed in Code section 401(a)(9) (notwithstanding the election of any alternative retirement age to the contrary).

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 ~~of this Part~~ and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means an accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly, bi-weekly or another period determined by the Employer.

"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll

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purposes.

"Pre-Tax Contributions" means a Participant's Deferred Compensation that is not includible in the Participant's gross income at the time deferred. A Participant's Pre-Tax Contributions will be separately accounted for, including gain or loss attributable to those Pre-Tax Contributions.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

"Recordkeeper" means the non-fiduciary, non-discretionary entity that, under contract with the Board, performs functions as directed by the Board or Department, as appropriate, as described in this Part, in its contract with the Board, and as described in any other written agreements with the Board and/or the Department.

"Roth Contributions" means a Participant's Deferred Compensation that is includible in the Participant's gross income at the time deferred. A Participant's Roth Contributions will be separately accounted for, including gain or loss attributable to those Roth Contributions.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

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nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Option is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Options until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

- b) Except when otherwise indicated by context, any masculine terminology shall also include the feminine and neuter and vice-versa, and the definition of any terms in the singular may also include the plural.

(Source: Amended at 39 Ill. Reg. 4506, effective March 16, 2015)

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SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section 2700.510 Alternative Normal Retirement Age

- a) A Participant may elect an alternative Normal Retirement Age. Such an election shall be in writing and shall be submitted to the Department.
- b) A Participant's alternative Normal Retirement Age shall not be earlier than the earliest date that the Participant will become eligible to retire and receive unreduced retirement benefits under one of the following retirement systems of which the Employee is a member:
 - 1) General Assembly Retirement System;
 - 2) State Employees' Retirement System of Illinois;
 - 3) State Universities Retirement System;
 - 4) Teachers' Retirement System of the State of Illinois; or the
 - 5) Judges Retirement System of Illinois.
- c) If the Participant is not eligible to receive benefits under a basic retirement plan maintained by the State, the Participant's alternative Normal Retirement Age may not be earlier than the attainment of age 50.
- d) The alternative Normal Retirement Age may not be later than the date the Participant attains the age of 70½ ~~unless the Participant continues employment with the State.~~
- e) ~~If the Participant continues employment after attaining age 70½, and has not elected an alternative Normal Retirement Age, the Participant's alternative Normal Retirement Age shall not be later than the age at which the Participant actually separates from the service of the State.~~

(Source: Amended at 39 Ill. Reg. 4506, effective March 16, 2015)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

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Section 2700.680 In-Plan Conversions and Rollovers to the Plan

- a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.
- b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 ~~of the Code~~ and to confirm that the plan is an eligible retirement plan within the meaning of Code section 402(c)(8)(B) ~~of the Code~~.
- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:
 - 1) any installment payment for a period of 10 years or more;
 - 2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant;
 - 3) any amount constituting a security interest for an outstanding Loan under the eligible retirement plan; or
 - 4) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under Code section 401(a)(9) ~~of the Code~~. Code section ~~Section~~ 401(a)(9) ~~of the Code~~ outlines required distributions and the manner in which those distributions must be made.
- d) In addition, an eligible retirement plan means an individual retirement account described in Code section 408(b) ~~of the Code~~, a qualified trust described in Code section 401(a) ~~of the Code~~, an annuity plan described in Code section 403(a) or 403(b) ~~of the Code~~, or an eligible governmental plan described in Code section 457(b) ~~of the Code~~ that accepts the eligible rollover distribution.
- e) The Plan will not accept an eligible rollover distribution that includes an outstanding Loan as an asset from an eligible retirement plan.
- f) The Recordkeeper, at the direction of the Department, shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to

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the Plan from any eligible retirement plan that is not an eligible governmental plan under Code section 457(b) ~~of the Code~~.

- g) In addition, the Recordkeeper, at the direction of the Department, shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Code section 457(b) ~~of the Code~~.
- h) Notwithstanding any provision of this Part to the contrary, the Plan may accept a rollover contribution that consists of designated Roth Contributions from an applicable retirement plan described in Code section 402A(e)(1), but only to the extent the rollover is permitted under Code section 402(c). Additionally, a direct rollover of a distribution from a Roth Contributions Account may only be made to another Roth contribution account under an applicable retirement plan described in Code section 402A(e)(1) or to a Roth IRA described in Code section 408A, and only to the extent the rollover is permitted under Code section 402(c).
- i) The Plan may allow in-plan Roth conversions. To the extent permitted by applicable law, Participants may, at their discretion, elect to convert all or a portion of their existing Pre-Tax Contributions to Roth Contributions at any time, and this conversion will not be considered a distribution under the Plan.

(Source: Amended at 39 Ill. Reg. 4506, effective March 16, 2015)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

- a) Distributions under this Plan shall be made in accordance with Code section 401(a)(9) ~~of the Code~~ (including, but not limited to, the Plan provisions described in Sections 2700.315 and 2700.740) and Treasury Regulations issued under section 401(a)(9), including the minimum distribution incidental benefit requirement of Code section 401(a)(9)(G) and Treasury Regulations 1.401(a)(9)-2 through 1.401(a)(9)-9 (26 CFR 1.401(a)(9)-2 through (a)(9)-9) (2012)). However, these provisions of the Code and Treasury Regulations shall override the other distribution provisions of the Plan only to the extent that the other Plan provisions provide for a distribution that is less rapid than is required under the provisions of the Code and the Treasury Regulations. In accordance with the suspension, under the Worker, Retiree and Employer Recovery Act of 2008, of required minimum distributions for calendar year 2009 only, the Plan will not make required

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NOTICE OF ADOPTED AMENDMENTS

minimum distributions to Plan Participants who otherwise would be required to take a required minimum distribution for calendar year 2009.

- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:
 - 1) Severance from Employment;
 - 2) Death; or
 - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency.
- d) A Participant, with \$5,000 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 ~~of this Part~~.
- e) No distributions shall be made to a Participant who is employed as an independent contractor before a date that is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution shall be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.
- f) Participants are responsible for notifying the Department of their Severance from Employment.
- g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.
- h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, shall receive at least 2 taxable distributions in the same year.

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- i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
- j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order. An alternate payee is not eligible to apply for a Loan pursuant to Section 2700.770.
- k) If a Participant has an outstanding Loan, the Participant's or Beneficiary's accrued benefit shall be subject to offset or other adjustment upon distribution, in satisfaction of any outstanding Loan balance.
- l) Notwithstanding any provision in this Part to the contrary, for a Participant's Roth Contributions only, a distribution shall not be a "qualified distribution" unless it meets the requirements of Code section 402A(d).

(Source: Amended at 39 Ill. Reg. 4506, effective March 16, 2015)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of March 10, 2015 through March 16, 2015. Rulemakings are scheduled for review at the Committee's April 14, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
4/23/15	<u>Illinois Department of Financial and Professional Regulation</u> , Board of Savings Institutions (Repealer) (38 Ill. Adm. Code 500)	1/16/15 39 Ill. Reg. 923	4/14/15
4/23/15	<u>Department of Public Health</u> , Compassionate Use of Medical Cannabis Patient Registry (77 Ill. Adm. Code 946)	1/2/15 39 Ill. Reg. 247	4/14/15
4/23/15	<u>Illinois Department of Financial and Professional Regulation</u> , Illinois Savings and Loan Act of 1985 (Repealer) (38 Ill. Adm. Code 1000)	1/16/15 39 Ill. Reg. 945	4/14/15
4/23/15	<u>Department of Public Health</u> , Quality of Life Code (77 Ill. Adm. Code 974)	12/5/14 38 Ill. Reg. 22435	4/14/15
4/29/15	<u>Department of Agriculture</u> , General Operations of the State Fairs and Fairgrounds (8 Ill. Adm. Code 270)	12/19/14 38 Ill. Reg. 23525	4/14/15

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 13 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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