SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SIXTH GENERAL ASSEMBLY

112TH LEGISLATIVE DAY

THURSDAY, APRIL 22, 2010

11:40 O'CLOCK A.M.

NO. 112
[April 22, 2010]

SENATE
Daily Journal Index
112th Legislative Day

The Senate met pursuant to adjournment.
Senator James A. DeLeo, Chicago, Illinois, presiding.
Prayer by Chance Newingham, Athens Christian Church, Athens, Illinois.
Senator Kotowski led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, April 21, 2010, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

Law Enforcement Camera Grant Act Report, submitted the Gibson City Police Department.

The foregoing report was ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Committee amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment 1 to House Bill 6349

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to House Bill 4990
Senate Floor Amendment No. 1 to House Bill 5217
Senate Floor Amendment No. 2 to House Bill 5290
Senate Floor Amendment No. 1 to House Bill 5340
Senate Floor Amendment No. 2 to House Bill 6420

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 784

Offered by Senator Wilhelmi and all Senators:
Mourns the death of the Honorable Michael A. Orenic of Joliet.

SENATE RESOLUTION NO. 786

Offered by Senator Harmon and all Senators:
Mourns the death of Richard J. Kelly of Oak Park.

SENATE RESOLUTION NO. 787

Offered by Senator Harmon and all Senators:
Mourns the death of Daniel A. Gallagher of Indian Head Park, formerly of Chicago.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Demuzio offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 782

WHEREAS, The erosion of jobs in the United States due to outsourcing is at a critical all time high; and

WHEREAS, The loss of high-technology aerospace jobs is destroying the nation's ability to design, fabricate, and assemble the products needed to defend itself; and

WHEREAS, The current administration in Washington, D.C. has elected to continue war in foreign lands; and

WHEREAS, The global war on terrorism has changed the needs of our military and stretched our resources thin; and

WHEREAS, The continued production of the C-17 Globemaster III, a transport aircraft capable of meeting the needs of our nation's uniformed men and women, is being slowed down; and

WHEREAS, The United States needs additional modern aircraft capable of meeting the needs of future combat systems, current strategic and tactical missions, humanitarian missions, and other requirements placed on our military; and

WHEREAS, The current plan to upgrade older, less reliable C-5's will not fully meet our nation's needs; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge Congress to pass legislation to procure additional C-17 Globemasters beyond the current 223 approved; and be it further

RESOLVED, That by urging the passage of such legislation, the Senate of the General Assembly of the State of Illinois goes on record as saying the erosion of jobs in the United States must end; and be it further

RESOLVED, That the need to support our uniformed men and women protecting our freedoms and lands must be given due priority by our elected representatives in Washington, D.C.; and be it further

RESOLVED, That a suitable copy of this resolution be presented to each member of the Illinois congressional delegation.

Senator Viverito offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 783

WHEREAS, The Korean War began on June 25, 1950 and raged for three bloody years; one and a half million United States soldiers, including thousands from Illinois, answered the call to arms during the war; and

WHEREAS, 54,246 United States citizens, including 1,754 Illinois residents, lost their lives while fighting in Korea; and

WHEREAS, A total of 103,284 United States soldiers were wounded during the fighting in Korea, 7,140 taken prisoner, and 8,177 were listed as missing in action; and

WHEREAS, A total of 131 Medals of Honor were received for exceptional bravery and courage by United States soldiers fighting in Korea, 93 posthumously, including eight Medals of Honor received by soldiers from Illinois, six posthumously; and

WHEREAS, The service and sacrifice of United States soldiers during the Korean War is equal to the service and sacrifice of United States soldiers in any of our nation's wars throughout our history; and

WHEREAS, The number of living Korean War veterans continues to dwindle each year, depriving those deceased warriors the opportunity to share their experiences and to accept the thanks for their service from a grateful nation; and

WHEREAS, The Korean War is often referred to as "The Forgotten War" because it fell between the conclusion of World War II and the beginning of the Vietnam War, and because the shaky truce that ended open hostilities in 1953 left the conflict without official closure; and

WHEREAS, The 60th anniversary of the start of the Korean War occurs on June 25, 2010; and

WHEREAS, The State of Illinois is commemorating the 60th anniversary of the Korean War by supplying information each month about the State's involvement in the conflict, starting in June 2010 and running through July 2013, to the State's newspapers, radio and TV stations; and

WHEREAS, The Illinois Historic Preservation Agency, the Illinois Department of Veterans Affairs, the Illinois Korean Memorial Association, and the Abraham Lincoln Presidential Library and Museum are sponsoring "Illinois Remembers the Forgotten War" along with media partners the Illinois Press Association and the Illinois Broadcasters Association, to ensure that "The Forgotten War" is forgotten no more in Illinois; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate June 25, 2010 to be Korean War Remembrance Day in the State of Illinois, and hereby encourage all Illinois residents to remember and appreciate the brave men and women who served honorably and paid the ultimate price defending our freedom during the Korean War, to ensure that this generation, and those to follow, never forget these heroes and the values for which they fought.

Senator Hunter offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 785

WHEREAS, On April 22, 2010, this year's Earth Day, Earth is facing consequences of climate change that may be caused by increased carbon production due to human activity; and

WHEREAS, It is incumbent on all citizens and communities to do their best to raise awareness about global warming and other environmental issues, like wasting water; and

WHEREAS, It is incumbent on all citizens and communities to do their best to cut their carbon production, shrink their carbon footprint, and reduce water waste; and

WHEREAS, The Council of Islamic Organizations of Greater Chicago is a federation of more than 60 community organizations, mosques, and schools representing the Muslim community in Illinois; and

WHEREAS, Ramadan is the 9th month of the Islamic lunar calendar, when Muslims fast from dawn to dusk, abstaining completely from eating and drinking during this time, for the whole month; and

WHEREAS, The Council of Islamic Organizations of Greater Chicago launched a campaign during Ramadan in 2009 called Green Ramadan to raise awareness among the Muslim community in Illinois about the environment and to encourage the reduction of carbon production, encourage recycling, and reduce wasted water and consumption; and

WHEREAS, The Council of Islamic Organizations of Greater Chicago will designate Ramadan every

year as a Green Month, dedicated to raising awareness within the Muslim community about their responsibility about the Earth, the environment, and biodiversity; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we recognize the leading role of the Council of Islamic Organizations of Greater Chicago in raising awareness about green issues and the environment within the faith community; and be it further

RESOLVED, That we designate the month of Ramadan, the 9th month of the Islamic lunar calendar, as a Green Month in the State of Illinois in order to promote awareness among faith communities about environmental issues, the reduction of carbon production, and the reduction of wasted water.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 660

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 3 to SENATE BILL NO. 660

Passed the House, as amended, April 21, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 3 TO SENATE BILL 660

AMENDMENT NO. 3 . Amend Senate Bill 660 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by adding Article XLV as follows:

(215 ILCS 5/Art. XLV heading new)

ARTICLE XLV. PUBLIC ADJUSTERS

(215 ILCS 5/1501 new)

Sec. 1501. Short title. This Article may be cited as the Public Adjusters Law.

(215 ILCS 5/1505 new)

Sec. 1505. Purpose and scope. This Article governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

(215 ILCS 5/1510 new)

Sec. 1510. Definitions. In this Article:

"Adjusting a claim for loss or damage covered by an insurance contract" means negotiating values, damages, or depreciation or applying the loss circumstances to insurance policy provisions.

"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

"Department" means the Department of Insurance.

"Director" means the Director of Insurance.

"Fingerprints" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to electronic format.

"Home state" means the District of Columbia and any state or territory of the United States where the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

"Individual" means a natural person.

"Person" means an individual or a business entity.

"Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:

(i) acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in adjusting a claim for loss or damage covered by an insurance contract;

(ii) advertises for employment as an public adjuster of insurance claims or solicits business or represents himself or herself to the public as an public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(iii) directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy for the insured.

"Uniform individual application" means the current version of the National Association of Directors (NAIC) Uniform Individual Application for resident and nonresident individuals.

"Uniform business entity application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

(215 ILCS 5/1515 new)

Sec. 1515. License required.

(a) A person shall not act, advertise, solicit, or hold himself out as a public adjuster or to be in the business of adjusting insurance claims in this State, nor attempt to obtain a contract for public adjusting services, unless the person is licensed as a public adjuster in accordance with this Article.

(b) A person licensed as a public adjuster shall not misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

(c) A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Director shall find that:

(1) the business entity has paid the required fees to be registered as a business entity in this State; and

(2) all officers, shareholders, and persons with ownership interests in the business entity are licensed public adjusters responsible for the business entity's compliance with the insurance laws, rules, and regulations of this State.

(d) Notwithstanding subsections (a) through (c) of this Section, a license as a public adjuster shall not be required of the following:

(1) an attorney admitted to practice in this State, when acting in his or her professional capacity as an attorney;

(2) a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts;

(4) a licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) a person who settles subrogation claims between insurers.

(215 ILCS 5/1520 new)

Sec. 1520. Application for license.

(a) A person applying for a public adjuster license shall make application to the Director on the appropriate uniform application or other application prescribed by the Director.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the Director is authorized to require fingerprints of applicants and submit such fingerprints and the fee required to perform the criminal history record checks to the Illinois State Police and the Federal Bureau of Investigation (FBI) for State and national criminal history record checks.

(d) The Director may adopt rules to establish procedures necessary to carry out the requirements of subsection (c) of this Section.

(e) The Director is authorized to submit electronic fingerprint records and necessary identifying information to the NAIC, its affiliates, or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide Directors with access to fingerprint records in order to perform criminal history record checks.

(f) Until such time as the Director can obtain and receive national criminal history records, the applicant shall obtain a copy of his or her fingerprints and complete criminal history record from the FBI Criminal Justice Information Services Division and the Illinois State Police and provide such information to the Department of Insurance.

(215 ILCS 5/1525 new)

Sec. 1525. Resident license.

(a) Before issuing a public adjuster license to an applicant under this Section, the Director shall find that the applicant:

(1) is eligible to designate this State as his or her home state or is a nonresident who is not eligible for a license under Section 1540;

(2) has not committed any act that is a ground for denial, suspension, or revocation of a license as set forth in Section 1555;

(3) is trustworthy, reliable, competent, and of good reputation, evidence of which may be determined by the Director;

(4) is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 1560 of this Article; and

(5) maintains an office in the home state of residence with public access by reasonable appointment or regular business hours. This includes a designated office within a home state of residence.

(b) In addition to satisfying the requirements of subsection (a) of this Section, an individual shall

(1) be at least 18 years of age;

(2) have successfully passed the public adjuster examination;

(3) designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this State; and

(4) designate only licensed individual public adjusters to exercise the business entity's license.

(c) The Director may require any documents reasonably necessary to verify the information contained in the application.

(215 ILCS 5/1530 new)

Sec. 1530. Examination.

(a) An individual applying for a public adjuster license under this Article must pass a written examination unless he or she is exempt pursuant to Section 1535 of this Article. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this State. Examinations required by this Section shall be developed and conducted under rules and regulations prescribed by the Director.

(b) The Director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the Director. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination. An individual who fails to pass the examination must wait 90 days prior to rescheduling an examination.

(215 ILCS 5/1535 new)

Sec. 1535. Exemptions from examination.

(a) An individual who applies for a public adjuster license in this State who was previously licensed as a public adjuster in another state based on an public adjuster examination shall not be required to complete any prelicensing education. This exemption is only available if (i) the person is currently licensed in that state or if the application is received within 12 months of the cancellation of the applicant's previous license; and (ii) if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.

(b) A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this State shall submit an application within 90 days of establishing legal residence to become a resident licensee pursuant to Section 1525 of this Article. No prelicensing examination shall be required of that person to obtain a public adjuster license.

(c) An individual who applies for a public adjuster license in this State who was previously licensed as a public adjuster in this State shall not be required to complete any prelicensing examination. This exemption is only available if the application is received within 12 months of the cancellation of the applicant's previous license in this State and if, at the time of cancellation, the applicant was in good standing in this State.

(215 ILCS 5/1540 new)

Sec. 1540. Nonresident license reciprocity.

(a) Unless denied licensure pursuant to Section 1555 of this Article, a nonresident person shall receive a nonresident public adjuster license if:

(1) the person is currently licensed as a resident public adjuster and in good standing in his or her home state;

(2) the person has submitted the proper request for licensure and has provided proof of financial responsibility as required in Section 1560 of this Article;

(3) the person has submitted or transmitted to the Director the appropriate completed application for licensure; and

(4) the person's home state awards nonresident public adjuster licenses to residents of this State on the same basis.

(b) The Director may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

(c) As a condition to continuation of a public adjuster license issued under this Section, the licensee shall maintain a resident public adjuster license in his or her home state. The nonresident public adjuster license issued under this Section shall terminate and be surrendered immediately to the Director if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home state. Notification to the state or states where the nonresident license is issued must be made as soon as possible, yet no later that 30 days of change in new state resident license. The licensee shall include his or her new and old address on the notification. A new state resident license is required for nonresident licenses to remain valid. The new state resident license must have reciprocity with the licensing nonresident state or states for the nonresident license not to terminate.

(215 ILCS 5/1545 new)

Sec. 1545. License.

(a) Unless denied licensure under this Article, persons who have met the requirements of this Article shall be issued a public adjuster license.

(b) A public adjuster license shall remain in effect unless revoked, terminated, or suspended as long as the requirements for license renewal are met by the due date.

(c) The licensee shall inform the Director by any means acceptable to the Director of a change of address, change of legal name, or change of information submitted on the application within 30 days of the change.

(d) A licensed public adjuster shall be subject to Article XXVI of this Code.

(e) A public adjuster who allows his or her license to lapse may, within 12 months from the due date of the renewal, be issued a new public adjuster license without necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for the issue of the new public adjuster license.

(f) A licensed public adjuster that is unable to comply with license renewal procedures due to military service or a long-term medical disability may request a waiver of the procedures in subsection (e) of this Section. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

(g) The license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date, and any other information the Director deems necessary.

(h) In order to assist in the performance of the Director's duties, the Director may contract with non-governmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the Director may deem appropriate.

(215 ILCS 5/1555 new)

Sec. 1555. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, deny, or refuse to issue or renew a public adjuster's license or may levy a civil penalty or any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any regulation, subpoena, or order of the Director or of another state's Director;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony or misdemeanor involving dishonesty or fraud, unless the individual demonstrates to the Director sufficient rehabilitation to warrant the public trust;

(7) having admitted or been found to have committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) having an insurance license or public adjuster license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license or public adjuster license;

(12) knowingly accepting insurance business from or transacting business with an individual who is not licensed but who is required to be licensed by the Director;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay State income tax or comply with any administrative or court order directing payment of State income tax;

(15) failing to comply with or having violated any of the standards set forth in Section 1590 of this Law; or

(16) failing to maintain the records required by Section 1585 of this Law.

(b) If the action by the Director is to nonrenew, suspend, or revoke a license or to deny an application for a license, the Director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the suspension, revocation, denial, or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the Director, nor corrective action taken.

(d) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil penalty. In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to $10,000 for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than $100,000.

(e) The Director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Article even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Any individual whose public adjuster's license is revoked or whose application is denied pursuant to this Section shall be ineligible to apply for a public adjuster's license for 5 years. A suspension pursuant to this Section may be for any period of time up to 5 years.

(215 ILCS 5/1560 new)

Sec. 1560. Bond or letter of credit.

(a) Prior to the issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the Director through a surety bond or irrevocable letter of credit, subject to all of the following requirements:

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this State, which bond:

(A) shall be in the minimum amount of $20,000;

(B) shall be in favor of this State and shall specifically authorize recovery by the Director on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and

(C) shall not be terminated unless at least 30 days' prior written notice will have been filed with the Director and given to the licensee; and

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit

(A) shall be in the minimum amount of $20,000;

(B) shall be to an account to the Director and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster; and

(C) shall not be terminated unless at least 30 days' prior written notice will have been filed with the and given to the licensee.

(b) The issuer of the evidence of financial responsibility shall notify the Director upon termination of the bond or letter of credit, unless otherwise directed by the Director.

(c) The Director may ask for the evidence of financial responsibility at any time he or she deems relevant.

(d) The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

(215 ILCS 5/1563 new)

Sec. 1563. Fees.

(a) The fees required by this Article are as follows:

(1) Public adjuster license fee of $250, payable once every 2 years.

(2) Business entity license fee of $250, payable once every 2 years.

(3) Application fee of $50 for processing each request to take the written examination for a public adjuster license.

(215 ILCS 5/1565 new)

Sec. 1565. Continuing education.

(a) An individual who holds a public adjuster license and who is not exempt under subsection (b) of this Section shall satisfactorily complete a minimum of 24 hours of continuing education courses, including 3 hours of classroom ethics instruction, reported on a biennial basis in conjunction with the license renewal cycle.

The Director may not approve a course of study unless the course provides for classroom, seminar, or self-study instruction methods. A course given in a combination instruction method of classroom or seminar and self-study shall be deemed to be a self-study course unless the classroom or seminar certified hours meets or exceeds two-thirds of the total hours certified for the course. The self-study material used in the combination course must be directly related to and complement the classroom portion of the course in order to be considered for credit. An instruction method other than classroom or seminar shall be considered as self-study methodology. Self-study credit hours require the successful completion of an examination covering the self-study material. The examination may not be self-evaluated. However, if the self-study material is completed through the use of an approved computerized interactive format whereby the computer validates the successful completion of the self-study material, no additional examination is required. The self-study credit hours contained in a certified course shall be considered classroom hours when at least two-thirds of the hours are given as classroom or seminar instruction.

The public adjuster must complete the course in advance of the renewal date to allow the education provider time to report the credit to the Department.

(b) This Section shall not apply to:

(1) licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this State on the same basis.

(c) Only continuing education courses approved by the Director shall be used to satisfy the continuing education requirement of subsection (a) of this Section.

(215 ILCS 5/1570 new)

Sec. 1570. Public adjuster fees.

(a) A public adjuster shall not pay a commission, service fee, or other valuable consideration to a person for investigating or settling claims in this State if that person is required to be licensed under this

Article and is not so licensed.

(b) A person shall not accept a commission, service fee, or other valuable consideration for investigating or settling claims in this State if that person is required to be licensed under this Article and is not so licensed.

(c) A public adjuster may pay or assign commission, service fees, or other valuable consideration to persons who do not investigate or settle claims in this State, unless the payment would violate State law.

(215 ILCS 5/1575 new)

Sec. 1575. Contract between public adjuster and insured.

(a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

(1) legible full name of the adjuster signing the contract, as specified in Department records;

(2) permanent home state business address and phone number;

(3) license number;

(4) title of "Public Adjuster Contract";

(5) the insured's full name, street address, insurance company name, and policy number, if known or upon notification;

(6) a description of the loss and its location, if applicable;

(7) description of services to be provided to the insured;

(8) signatures of the public adjuster and the insured;

(9) date and time the contract was signed by the public adjuster and date and time the contract was signed by the insured;

(10) attestation language stating that the public adjuster is fully bonded pursuant to State law; and

(11) full salary, fee, commission, compensation, or other considerations the public adjuster is to receive for services.

(b) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.

(1) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.

(2) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.

(3) Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the Director.

(c) If the insurer, not later than 5 business days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(1) not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

(2) inform the insured that loss recovery amount might not be increased by insurer; and

(3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, including, but not limited to, any ownership of or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, board-up company, or any other firm which that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall include any corporation, partnership, association, joint-stock company, or person.

(e) A public adjuster contract may not contain any contract term that:

(1) allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;

(2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(3) precludes a public adjuster or an insured from pursuing civil remedies;

(4) includes any hold harmless agreement that provides indemnification to the public adjuster by the insured for liability resulting from the public adjuster's negligence; or

(5) provides power of attorney by which the public adjuster can act in the place and instead of the insured.

(f) The following provisions apply to a contract between a public adjuster and an insured:

(1) Prior to the signing of the contract, the public adjuster shall provide the insured with a separate signed and dated disclosure document regarding the claim process that states:

"Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are 3 types of adjusters that could be involved in that process. The definitions of the 3 types are as follows:

(A) "Company adjuster" means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.

(B) "Independent adjuster" means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.

(C) "Public adjuster" means the insurance adjusters who do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation.".

(2) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.

(3) The public adjuster is not a representative or employee of the insurer.

(4) The salary, fee, commission, or other consideration is the obligation of the insured, not the insurer, except when rights have been assigned to the public adjuster by the insured.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the Director.

(h) The public adjuster shall provide the insurer with an exact copy of the contract by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The public adjuster shall give the insured written notice of the insured's rights as a consumer under the law of this State.

(j) A public adjuster shall not provide services until a written contract with the insured has been executed, on a form filed with and approved by the Director. At the option of the insured, any such contract shall be voidable for 5 business days after execution. The insured may void the contract by notifying the public adjuster in writing by (i) registered or certified mail, return receipt requested, to the address shown on the contract or (ii) personally serving the notice on the public adjuster.

(k) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the cancellation notice.

(215 ILCS 5/1580 new)

Sec. 1580. Escrow or trust accounts. A public adjuster who receives, accepts, or holds any funds on behalf of an insured towards the settlement of a claim for loss or damage shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

(215 ILCS 5/1585 new)

Sec. 1585. Record retention.

(a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this Section shall include the following:

(1) name of the insured;

(2) date, location and amount of the loss;

(3) a copy of the contract between the public adjuster and insured and a copy of the separate disclosure document;

(4) name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;

(5) itemized statement of the insured's recoveries;

(6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

(7) a register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including fees transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;

(8) name of public adjuster who executed the contract;

(9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

(10) evidence of financial responsibility in a format prescribed by the Director.

(b) Records shall be maintained for at least 7 years after the termination of the transaction with an insured and shall be open to examination by the Director at all times.

(c) Records submitted to the Director in accordance with this Section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the Director and shall not be subject to the Freedom of Information Act.

(215 ILCS 5/1590 new)

Sec. 1590. Standards of conduct of public adjuster.

(a) A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty for the interests of his client alone, and to render to the insured such information, counsel, and service, as within the knowledge, understanding, and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interest.

(b) A public adjuster may not propose or attempt to propose to any person that the public adjuster represent that person while a loss-producing occurrence is continuing, nor while the fire department or its representatives are engaged at the damaged premises, nor between the hours of 7:00 p.m. and 8:00 a.m.

(c) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this Article.

(d) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in subsection (g) of Section 1575.

(e) A public adjuster shall not acquire any interest in the salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in subsection (g) of Section 1575 of this Article.

(f) The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

(1) with whom the public adjuster has a financial interest; or

(2) from whom the public adjuster may receive direct or indirect compensation for the referral.

(g) The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, board-up company, or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any corporation, partnership, association, joint-stock company or individual as set forth in Section 1575 of this Article.

(h) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation.

(i) In all cases where the loss giving rise to the claim for which the public adjuster was retained arise from damage to a personal residence, the insurance proceeds shall be delivered to the named insured or his or her designee. Where proceeds paid by an insurance company are paid jointly to the insured and the public adjuster, the insured shall release such portion of the proceeds that are due the public adjuster within 30 calendar days after the insured's receipt of the insurance company's check, money order, draft, or release of funds. If the proceeds are not so released to the public adjuster within 30 calendar days, the insured shall provide the public adjuster with a written explanation of the reason for the delay.

(j) Public adjusters shall adhere to the following general ethical requirements:

(1) a public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(2) a public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;

(3) no public adjuster, while so licensed by the Department, may represent or act as a company adjuster or independent adjuster on the same claim;

(4) the contract shall not be construed to prevent an insured from pursuing any civil remedy after the 5-business day revocation or cancellation period;

(5) a public adjuster shall not enter into a contract or accept a power of attorney that vests in the

public adjuster the effective authority to choose the persons who shall perform repair work;

(6) a public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement; and

(7) a public adjuster shall not advance money or any valuable consideration, except emergency services to an insured pending adjustment of a claim.

(k) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent and shall, upon the insured's request, provide the insured with a document setting forth the scope, amount, and value of the damages prior to request by the insured for authority to settle the loss.

(l) A public adjuster shall not provide legal advice or representation to the insured or engage in the unauthorized practice of law.

(m) A public adjuster shall not represent that he or she is a representative of an insurance company, a fire department, or the State of Illinois, that he or she is a fire investigator, that his or her services are required for the insured to submit a claim to the insured's insurance company, or that he or she may provide legal advice or representation to the insured. A public adjuster may represent that he or she has been licensed by the State of Illinois.

(215 ILCS 5/1595 new)

Sec. 1595. Reporting of actions.

(a) The public adjuster shall report to the Director any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, the public adjuster shall report to the Director any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

(215 ILCS 5/1600 new)

Sec. 1600. Examinations.

(a) The Director shall have the power to examine any applicant or any person licensed or registered pursuant to this Article.

(b) Every person being examined and its officers, directors, and members must provide to the Director convenient and free access, at all reasonable hours, to all books, records, documents, and other papers relating to its public adjusting affairs. The officers, directors, members, and employees must facilitate and aid in such examinations so far as it is in their power to do so.

(c) Examiners may be designated by the Director. Such examiners shall make their reports to the Director pursuant to this Section. Any report alleging substantive violations shall be in writing and shall be based upon the facts ascertained from the books, records, documents, papers, and other evidence obtained by the examiners or ascertained from the testimony of the officers, directors, members, or other individuals examined under oath or ascertained by notarized affidavits received by the examiners. The reports shall be verified by the examiners.

(215 ILCS 5/1605 new)

Sec. 1605. Injunctive relief. Any person who acts as or holds himself out to be a public adjuster without holding a valid and current license to do so is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The Director may report such practice to the Attorney General of the State of Illinois whose duty it is to apply forthwith by complaint on relation of the Director in the name of the people of the State of Illinois, as plaintiff, for injunctive relief in the circuit court of the county where such practice occurred to enjoin the person from engaging in such practice; and upon the filing of a verified petition in such court, the court, if satisfied by affidavit or otherwise that the person has been engaged in such practice without a valid and current license to do so, may enter a temporary restraining order without notice or bond enjoining the defendant from such further practice. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is engaged in such unlawful practice, then the court may enter an order or judgment perpetually enjoining the defendant from such further practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including the costs of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorney fees. In case of violation of any injunctive order entered under the provisions of this Section, the court may try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies.

(215 ILCS 5/1610 new)

Sec. 1610. Additional penalties. In addition to any other penalty set forth in this Article, any person violating Section 1605 of this Code shall be guilty of a Class A misdemeanor and any person misappropriating or converting any monies collected as a public adjuster, whether licensed or not, shall be guilty of a Class 4 felony.

(215 ILCS 5/1615 new)

Sec. 1615. Rules. The Director shall promulgate reasonable rules as are necessary or proper to carry out the purposes of this Article.

(215 ILCS 5/500-75 rep.)

Section 910. The Illinois Insurance Code is amended by repealing Section 500-75.

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.".

Under the rules, the foregoing **Senate Bill No. 660**, with House Amendment No. 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1020

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1020

Passed the House, as amended, April 21, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1020

AMENDMENT NO. 1. Amend Senate Bill 1020 on page 13, line 15, by inserting after "offender" the following:

"; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol".

Under the rules, the foregoing **Senate Bill No. 1020**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2807

A bill for AN ACT concerning business.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2807

Passed the House, as amended, April 21, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2807

AMENDMENT NO. 1. Amend Senate Bill 2807 on page 4, by replacing lines 11 through 19 with the following:

"(2) A registered agent, which agent may be either an individual, resident in this State, whose business office is identical with such registered office, or a for profit domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership ~~for profit or a foreign corporation for profit~~ authorized to transact business ~~conduct affairs~~ in this State that is authorized by its statement of purpose ~~articles of incorporation~~ to act as such agent, having a business

office identical with such registered office."; and

on page 7, by replacing lines 25 and 26 with the following:
"the registered agent, if an individual, or, if a business entity, in the manner authorized by the governing statute ~~by a principal officer, if the registered agent is a corporation~~. The notice".

Under the rules, the foregoing **Senate Bill No. 2807**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2462
A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2488
A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2490
A bill for AN ACT concerning safety.

SENATE BILL NO. 2509
A bill for AN ACT concerning civil law.

Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2504
A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2514
A bill for AN ACT concerning civil law.

SENATE BILL NO. 2520
A bill for AN ACT concerning local government.

SENATE BILL NO. 2527
A bill for AN ACT concerning regulation.

SENATE BILL NO. 2533
A bill for AN ACT concerning State government.

SENATE BILL NO. 2537
A bill for AN ACT concerning education.

Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2541
A bill for AN ACT concerning professional regulation.

SENATE BILL NO. 2553
A bill for AN ACT concerning business.

SENATE BILL NO. 2570
A bill for AN ACT concerning civil law.

SENATE BILL NO. 2594
A bill for AN ACT concerning education.

SENATE BILL NO. 2606

A bill for AN ACT concerning civil law.
Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2542
A bill for AN ACT concerning athlete agents.

SENATE BILL NO. 2615
A bill for AN ACT concerning education.

SENATE BILL NO. 2794
A bill for AN ACT concerning emergency services.

SENATE BILL NO. 2799
A bill for AN ACT concerning professional regulation.

SENATE BILL NO. 2801
A bill for AN ACT concerning finance.

SENATE BILL NO. 2802
A bill for AN ACT concerning finance.

SENATE BILL NO. 2804
A bill for AN ACT concerning transportation.
Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2824
A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2931
A bill for AN ACT concerning public aid.

SENATE BILL NO. 2951
A bill for AN ACT concerning transportation.

SENATE BILL NO. 2976
A bill for AN ACT concerning public aid.

SENATE BILL NO. 2981
A bill for AN ACT concerning regulation.

SENATE BILL NO. 2993
A bill for AN ACT concerning transportation.
Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 3018
A bill for AN ACT concerning professional regulation.

SENATE BILL NO. 3023
A bill for AN ACT concerning transportation.

SENATE BILL NO. 3035
A bill for AN ACT concerning regulation.

SENATE BILL NO. 3057
A bill for AN ACT concerning regulation.

Passed the House, April 21, 2010.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 2807

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 4681, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5224, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5416, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 6195, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

MOTION IN WRITING

Pursuant to Senate Rule 7-9, I move that the Senate Revenue Committee and the Sub-committee on Property Taxes be discharged from further consideration of Floor Amendment #1 to SB 2846 and that Floor Amendment #1 to SB 2486 be approved for consideration.

4-22-2010
Date

s/Matt J. Murphy
Senator

INQUIRY OF THE CHAIR

Senator Murphy had an inquiry of the Chair as to the status of his motion filed with respect to **Senate Bill No. 2846**.

The Chair stated that pursuant to Senate Rule 7-4, the motion shall be referred to the Committee on Assignments.

At the hour of 12:16 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 12:33 o'clock p.m., the Senate resumed consideration of business.
Senator DeLeo, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 22, 2010 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Commerce: **Senate Committee Amendment No. 1 to House Bill 5230**.

Criminal Law: **Senate Committee Amendment No. 1 to House Bill 5060; Senate Committee Amendment No. 2 to House Bill 6462**.

Education: **Senate Floor Amendment No. 1 to House Bill 5340; Senate Floor Amendment No. 1 to House Bill 5836**.

Executive: **HOUSE BILLS 19, 80, 150, 537, 543, 650, 707, 895, 923, 1075, 1313, 2254, 2263, 2332, 2369, 2386, 2428, 2598, 3677, 3806, 3833, 3845, 3900, 3962, 4681, 4788, 5224, 5402, 5416, 6195 and 6450**.

Insurance: **Senate Floor Amendment No. 1 to House Bill 5217**.

Labor: **Senate Committee Amendment No. 1 to House Bill 6349**.

Licensed Activities: **Senate Floor Amendment No. 2 to House Bill 6420**.

Local Government: **Senate Floor Amendment No. 1 to House Bill 5923; Senate Floor Amendment No. 1 to House Bill 6239**.

Transportation: **Senate Floor Amendment No. 1 to House Bill 5193**.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 22, 2010 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committee of the Senate:

State Government and Veterans Affairs: **Senate Resolutions Numbered 758, 762, 779, 781 and 783.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 22, 2010 meeting, reported that the Committee recommends that **Senate Joint Resolution No. 80** be re-referred from the Committee on Education to the Committee on State Government and Veterans Affairs.

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committees to meet:

Gaming and Commerce at 12:40 o'clock p.m.
Labor and Pensions & Investments at 1:30 o'clock p.m.
Criminal Law and Local Government at 2:15 o'clock p.m.

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

April 14, 2010

Ms. Jillayne Rock
Secretary of the Senate

Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby remove Senator William Delgado who was appointed to temporarily replace Senator Dan Kotowski as a member of the Senate Criminal Law Committee. Senator Dan Kotowski shall resume his position as a member of the Senate Criminal Law Committee. This appointment is effective immediately.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

April 22, 2010

Ms. Jillayne Rock
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 7, 2010 as the 3rd Reading deadline for SB 532.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

At the hour of 12:38 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AT EASE

At the hour of 4:18 o'clock p.m., the Senate resumed consideration of business.
Senator Muñoz, presiding.

LEGISLATIVE MEASURES FILED

The following Committee amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to Senate Resolution No. 758

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to Senate Bill 2850

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to House Bill 3869
Senate Floor Amendment No. 2 to House Bill 5183
Senate Floor Amendment No. 2 to House Bill 6034

REPORTS FROM STANDING COMMITTEES

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **House Bills Numbered 4694, 5076, 5124, 5191, 5329, 5565, 5905, 5927, 5956, 6015 and 6103,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **House Bills Numbered 5065 and 5571,** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Resolutions numbered 682 and 722,** reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **Senate Resolutions numbered 682 and 722** were placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 6267

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Collins, Chairperson of the Committee on Financial Institutions, to which was referred **House Bills Numbered 4781 and 5044,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Jacobs, Chairperson of the Committee on Energy, to which was referred **House Bill No. 5147,** reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Jacobs, Chairperson of the Committee on Energy, to which was referred **House Bills Numbered 4649 and 6419,** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Jacobs, Chairperson of the Committee on Energy, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 2485

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Holmes, Chairperson of the Committee on Consumer Protection, to which was referred **House Bill No. 5139,** reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Holmes, Chairperson of the Committee on Consumer Protection, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 4698

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Link, Chairperson of the Committee on Gaming, to which was referred **House Bill No. 5437,** reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Kotowski, Chairperson of the Committee on Commerce, to which was referred **House Bills Numbered 4984 and 6153,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Kotowski, of the Committee on Commerce, to which was referred **House Bills Numbered 5230 and 6030,** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Forby, Chairperson of the Committee on Labor, to which was referred **House Bills Numbered 5026, 5154, 5247 and 5668,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Forby, Chairperson of the Committee on Labor, to which was referred **House Bills Numbered 4658, 5458 and 6349,** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Forby, Chairperson of the Committee on Labor, to which was referred **Senate Resolution No. 723,** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 723** was placed on the Secretary's Desk.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, to which was referred **House Bills Numbered 4644, 4960, 5149, 5262, 5511 and 6152,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Koehler, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 5923
Senate Amendment No. 1 to House Bill 6239

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 3183

A bill for AN ACT concerning government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 3183

Passed the House, as amended, April 22, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 3183

AMENDMENT NO. 1. Amend Senate Bill 3183 on page 1, in line 5, by replacing "as" with "and by adding Section 4A-108 as"; and

on page 5, by inserting below line 4 the following:

"(5 ILCS 420/4A-108 new)

Sec. 4A-108. Internet-based systems of filing.

(a) Notwithstanding any other provision of this Act or any other law, a county clerk is authorized to institute an Internet-based system for the filing of statements of economic interests in his or her office. The determination to institute such a system shall be in the sole discretion of the county clerk and shall meet the requirements set out in this Section. When this Section does not modify or remove the requirements set forth elsewhere in this Article, those requirements shall apply to any system of Internet-based filing authorized by this Section. When this Section does modify or remove the requirements set forth elsewhere in this Article, the provisions of this Section shall apply to any system of Internet-based filing authorized by this Section.

(b) In any system of Internet-based filing of statements of economic interests instituted by a county clerk:

(1) Any filing of an Internet-based statement of economic interests shall be the equivalent of the filing of a verified, written statement of economic interests as required by Section 4A-101 and the equivalent of the filing of a verified, dated, and signed statement of economic interests as required by Section 4A-103.

(2) A county clerk who institutes a system of Internet-based filing of statements of economic interests shall establish a password-protected web site to receive the filings of such statements. A website established under this Section shall set forth and provide a means of responding to the items set forth in Section 4A-102 that are required of a person who files a statement of economic interests with that officer.

(3) The times for the filing of statements of economic interests set forth in Section 4A-105 shall be followed in any system of Internet-based filing of statements of economic interests; provided that a candidate for elective office who is required to file a statement of economic interests in relation to his or her candidacy pursuant to Section 4A-105(a) shall not use the Internet to file his or her statement of economic interests but shall file his or her statement of economic interests in a written or printed form and shall receive a written or printed receipt for his or her filing.

(4) Following the institution of a system of Internet-based filing of statements of economic interests by a county clerk, all persons required to file a statement of economic interests with that officer must do so through the system of Internet-based filing of statements of economic interests. As part of his or her system of Internet-based filing of statements of economic interests, a county clerk instituting such a system shall make provision for those persons who are required to file a statement of economic interests and who do not have access to the Internet. In the first year of the implementation of a system of Internet-based filing of statements of economic interests, each person required to file such a statement is to be notified in writing, by a notice deposited in the U.S. mail, properly addressed, first class postage prepaid, of his or her obligation to file his or her statement of economic interests by way of the Internet-based system instituted for that purpose. If access to the web site requires a code or password, this information shall be included in the notice prescribed by this paragraph.

(5) When a person required to file a statement of economic interests has supplied a county clerk with an email address for the purpose of receiving notices under this Article by email, a notice sent by email to the supplied email address shall be the equivalent of a notice sent by first class mail, as set forth in Section 4A-106. A person who has supplied such an email address shall notify the county clerk when his or her email address changes or if he or she no longer wishes to receive notices by email.

(6) If any person who is required to file a statement of economic interests and who has chosen to receive notices by email fails to file his or her statement by May 10, then the county clerk shall send an additional email notice on that date, informing the person that he or she has not filed and describing the penalties for late filing and failing to file. This notice shall be in addition to other notices provided for in this Article.

(7) Each county clerk who institutes a system of Internet-based filing of statements of economic interests may also institute an Internet-based process for the filing of the list of names and addresses of persons required to file statements of economic interests by the chief administrative officers of units of local government that must file such information with that county clerk pursuant to Section 4A-106. Whenever a county clerk institutes such a system under this paragraph, every unit of local government must use the system to file this information.

(8) Any county clerk who institutes a system of Internet-based filing of statements of economic interests shall post the contents of such statements filed with him or her available for inspection and copying on a publicly-accessible website. Such postings shall not include the addresses of the filers.".

Under the rules, the foregoing **Senate Bill No. 3183**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2589
A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2632
A bill for AN ACT concerning public land.

SENATE BILL NO. 2798
A bill for AN ACT concerning transportation.

SENATE BILL NO. 3045
A bill for AN ACT concerning State government.

SENATE BILL NO. 3128
A bill for AN ACT concerning veterans.

SENATE BILL NO. 3158
A bill for AN ACT concerning hunger.

Passed the House, April 22, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 3169
A bill for AN ACT concerning State government.

SENATE BILL NO. 3211
A bill for AN ACT concerning business.

SENATE BILL NO. 3214
A bill for AN ACT concerning local government.

SENATE BILL NO. 3269
A bill for AN ACT concerning sexual assault evidence.

SENATE BILL NO. 3273
A bill for AN ACT concerning health.

SENATE BILL NO. 3289

A bill for AN ACT concerning professional regulation.
Passed the House, April 22, 2010.

MARK MAHONEY, Clerk of the House

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Wilhelmi moved that **Senate Joint Resolution No. 89**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE JOINT RESOLUTION 89

AMENDMENT NO. _1_. Amend Senate Joint Resolution 89, on page 2, by deleting lines 5 through 10.

Senator Wilhelmi moved that **Senate Joint Resolution No. 89**, as amended, be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Kotowski moved that **Senate Joint Resolution No. 112**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Kotowski moved that Senate Joint Resolution No. 112 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Maloney moved that **Senate Joint Resolution No. 115**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Maloney moved that Senate Joint Resolution No. 115 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Koehler moved that **Senate Joint Resolution No. 117**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Koehler moved that Senate Joint Resolution No. 117 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Sullivan moved that **Senate Joint Resolution No. 118**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Sullivan moved that Senate Joint Resolution No. 118 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 45; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Kotowski	Righter
Bomke	Garrett	Lightford	Risinger
Bond	Haine	Link	Sandoval
Burzynski	Harmon	Luechtefeld	Schoenberg
Clayborne	Hendon	Maloney	Steans
Collins	Holmes	Martinez	Sullivan
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Demuzio	Jones, E.	Pankau	
Duffy	Jones, J.	Radogno	
Forby	Koehler	Raoul	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Frerichs moved that **House Joint Resolution No. 57**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on Agriculture and Conservation, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE JOINT RESOLUTION 57

AMENDMENT NO. _1__. Amend House Joint Resolution 57 on page 2, line 4, after "association", by inserting "appointed by the Department of Agriculture"; and

on page 3, line 17, by replacing "2009" with "2010".

Senator Frerichs moved that **House Joint Resolution No. 57**, as amended, be adopted.

And on that motion a call of the roll was had resulting as follows:

YEAS 34; NAYS 10.

The following voted in the affirmative:

Bond	Haine	Kotowski	Sandoval
Clayborne	Harmon	Lightford	Schoenberg
Collins	Hendon	Link	Steans
Crotty	Holmes	Maloney	Sullivan
DeLeo	Hunter	Martinez	Viverito
Demuzio	Hutchinson	McCarter	Wilhelmi
Forby	Jacobs	Muñoz	Mr. President
Frerichs	Jones, E.	Noland	
Garrett	Koehler	Raoul	

The following voted in the negative:

Althoff	Dahl	Millner	Syverson
Bivins	Duffy	Murphy	
Burzynski	Jones, J.	Pankau	

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Steans moved that **House Joint Resolution No. 104**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Steans moved that House Joint Resolution No. 104 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Steans moved that **Senate Joint Resolution No. 114**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE JOINT RESOLUTION 114

AMENDMENT NO. 1. Amend Senate Joint Resolution 114 by replacing lines 7 through 12 with the following:

"RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the appeal of an administrative rule waiver request made by Elgin SD 46 - Kane with respect to transitional bilingual education that was denied by the State Board of Education, identified in the report filed by the State Board of Education as request WM200-5289-3A, is denied; and be it further

RESOLVED, That each of the school district waiver requests identified below by school district name and by the identifying number and subject area of the waiver request as summarized in the report filed by the State Board of Education is approved for only one year and disapproved for the remaining years:

(1) Reavis THSD 220 - Cook, WM100-5243, driver education - behind-the-wheel instruction;

(2) Maine THSD 207 - Cook, WM100-5251-2, driver education - behind-the-wheel instruction;

(3) Wheaton CUSD 200 - DuPage, WM100-5269, driver education - behind-the-wheel instruction;

(4) Moline USD 40 - Rock Island, WM100-5282-2, driver education - behind-the-wheel instruction;

(5) Lyons THSD 204 - Cook, WM100-5286, driver education - behind-the-wheel instruction;

(6) Triad CUSD 2 - Madison, WM100-5305, driver education - behind-the-wheel instruction; and

(7) Thornton Fractional THSD 215 - Cook, WM100-5320-1, driver education - behind-the-wheel instruction; and be it further

RESOLVED, That the request made by Elgin SD U-46 - Kane with respect to driver education - behind-the-wheel instruction, identified in the report filed by the State Board of Education as request WM100-5289-2, is approved for only one year and for the substitution of only 4 hours of behind-the-wheel instruction with 16 hours of simulator use and is disapproved for the remaining years and hour; and be it further;

RESOLVED, That the request made by Palatine CCSD 15 - Cook with respect to physical education, identified in the report filed by the State Board of Education as request WM100-5294, is approved; however, this approval shall not be interpreted as General Assembly approval of the merits of the district's non-uniform recess policy.".

Senator Steans moved that **Senate Joint Resolution No. 114**, as amended, be adopted.

And on that motion a call of the roll was had resulting as follows:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Righter
Bivins	Garrett	Link	Risinger
Bomke	Haine	Luechtefeld	Sandoval
Bond	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Collins	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Duffy	Koehler	Radogno	
Forby	Kotowski	Raoul	

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Hutchinson moved that **House Joint Resolution No. 92**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hutchinson moved that House Joint Resolution No. 92 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 41; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Koehler	Risinger
Bivins	Garrett	Kotowski	Sandoval
Bomke	Haine	Lightford	Schoenberg
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Viverito
Dahl	Hunter	McCarter	Wilhelmi
DeLeo	Hutchinson	Millner	Mr. President
Demuzio	Jacobs	Muñoz	
Duffy	Jones, E.	Murphy	
Forby	Jones, J.	Pankau	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 4:40 o'clock p.m., Senator Hendon, presiding.

READING CONSTITUTIONAL AMENDMENT A FIRST TIME

On motion of Senator Harmon, **Senate Joint Resolution Constitutional Amendment No. 120**, having been printed, was taken up.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE JOINT RESOLUTION CONSTITUTIONAL AMENDMENT 120

AMENDMENT NO. 1. Amend Senate Joint Resolution Constitutional Amendment 120 by replacing everything after the title with the following:

"RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to amend Article VI of the Illinois Constitution by changing Section 11 as follows:

ARTICLE VI
THE JUDICIARY
SECTION 11. ELIGIBILITY FOR OFFICE

No person shall be eligible to be a Judge or Associate Judge unless that person ~~he~~ is a United States citizen, a licensed attorney-at-law of this State, and a resident of the unit which selects him or her. A person must have been a licensed attorney-at-law for a minimum of five years to be eligible to serve as a Circuit Judge of a unit of a Judicial Circuit established as a subcircuit by law, a minimum of ten years to be eligible to serve as any other Circuit Judge, a minimum of twelve years to be eligible to serve as an Appellate Judge, and a minimum of fifteen years to be eligible to serve as a Supreme Court Judge, except that this requirement does not disqualify a person serving as a Judge on December 31, 2010 from completing the current term of office or seeking an additional term for that office. No change in the boundaries of a unit shall affect the tenure in office of a Judge or Associate Judge incumbent at the time of such change.
(Source: Illinois Constitution.)

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.".

The motion prevailed.

And the amendment was adopted and ordered printed.

On motion of Senator Harmon, **Senate Joint Resolution Constitutional Amendment No. 120,** as amended, having been printed, was again taken, read in full a first time and ordered to a second reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Millner, **House Bill No. 5861** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **House Bill No. 5871** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **House Bill No. 5890** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 5891** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Frerichs, **House Bill No. 5907** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **House Bill No. 5912** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 5913** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 5918** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **House Bill No. 5930** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Schoenberg, **House Bill No. 5951** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 5958** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Frerichs, **House Bill No. 5969** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hutchinson, **House Bill No. 5970** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Koehler, **House Bill No. 5972** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 5976** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **House Bill No. 5991** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Clayborne, **House Bill No. 5998** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Human Services, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 5998

AMENDMENT NO. 1. Amend House Bill 5998 by replacing everything after the enacting clause with the following:

"Section 5. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 20, 30, and 110 as follows:

(210 ILCS 9/10)

(Text of Section before amendment by P.A. 96-339)

Sec. 10. Definitions. For purposes of this Act:

"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.

~~"Advisory Board" means the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board.~~

"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:

(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department ~~in conjunction with the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board~~: individual living units each of which

shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act. However, a long term care facility may convert distinct parts of the facility to assisted living. If the long term care facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"License" means any of the following types of licenses issued to an applicant or licensee by the Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act. A long term care facility may, however, convert sections of the facility to assisted living. If the long term care facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living

without participation by the resident.
(Source: P.A. 95-216, eff. 8-16-07.)

(Text of Section after amendment by P.A. 96-339)

Sec. 10. Definitions. For purposes of this Act:

"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.

~~"Advisory Board" means the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board.~~

"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:

(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department ~~in conjunction with the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board~~: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the MR/DD Community Care Act. However, a facility licensed under either of those Acts may convert distinct parts of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"License" means any of the following types of licenses issued to an applicant or licensee by the

Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the MR/DD Community Care Act. A facility licensed under either of those Acts may, however, convert sections of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living without participation by the resident.

(Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10.)

(210 ILCS 9/20)

Sec. 20. Construction and operating standards. The Department~~, in consultation with the Advisory Board,~~ shall prescribe minimum standards for establishments. These standards shall include:

(1) the location and construction of the establishment, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and their protection from fire hazards; these standards shall include, at a minimum, compliance with the residential board and care occupancies chapter of the National Fire Protection Association's Life Safety Code, local and State building codes for the building type, and accessibility standards of the Americans with Disabilities Act;

(2) the number and qualifications of all personnel having responsibility for any part of the services provided for residents;

(3) all sanitary conditions within the establishment and its surroundings, including water supply, sewage disposal, food handling, infection control, and general hygiene, which shall ensure the health and comfort of residents;

(4) a program for adequate maintenance of physical plant and equipment;

(5) adequate accommodations, staff, and services for the number and types of residents for whom the establishment is licensed;

(6) the development of evacuation and other appropriate safety plans for use during weather, health, fire, physical plant, environmental, and national defense emergencies; and

(7) the maintenance of minimum financial and other resources necessary to meet the standards established under this Section and to operate the establishment in accordance with this Act.

(Source: P.A. 91-656, eff. 1-1-01.)

(210 ILCS 9/30)

Sec. 30. Licensing.

(a) The Department~~, in consultation with the Advisory Board,~~ shall establish by rule forms, procedures, and fees for the annual licensing of assisted living and shared housing establishments; shall establish and enforce sanctions and penalties for operating in violation of this Act, as provided in Section 135 of this Act and rules adopted under Section 110 of this Act. The Department shall conduct an annual on-site review for each establishment covered by this Act, which shall include, but not be limited to, compliance with this Act and rules adopted hereunder, focus on solving resident issues and concerns, and the quality improvement process implemented by the establishment to address resident issues. The quality improvement process implemented by the establishment must benchmark performance, be customer centered, be data driven, and focus on resident satisfaction.

(b) An establishment shall provide the following information to the Department to be considered for licensure:

(1) the business name, street address, mailing address, and telephone number of the establishment;

(2) the name and mailing address of the owner or owners of the establishment and if the owner or owners are not natural persons, identification of the type of business entity of the owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability companies, or other types of business organizations;

(3) financial information, content and form to be determined by rules which may provide different standards for assisted living establishments and shared housing establishments, establishing that the project is financially feasible;

(4) the name and mailing address of the managing agent of the establishment, whether hired under a management agreement or lease agreement, if different from the owner or owners, and the name of the full-time director;

(5) verification that the establishment has entered or will enter into a service delivery contract as provided in Section 90, as required under this Act, with each resident or resident's representative;

(6) the name and address of at least one natural person who shall be responsible for dealing with the Department on all matters provided for in this Act, on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent. Notwithstanding a contrary provision of the Code of Civil Procedure, personal service on the person identified pursuant to this subsection shall be considered service on the owner or owners and the managing agent, and it shall not be a defense to any action that personal service was not made on each individual or entity;

(7) the signature of the authorized representative of the owner or owners;

(8) proof of an ongoing quality improvement program in accordance with rules adopted by the Department ~~in collaboration with the Advisory Board~~;

(9) information about the number and types of units, the maximum census, and the services to be provided at the establishment, proof of compliance with applicable State and local residential standards, and a copy of the standard contract offered to residents;

(10) documentation of adequate liability insurance; and

(11) other information necessary to determine the identity and qualifications of an applicant or licensee to operate an establishment in accordance with this Act as required by the Department by rule.

(c) The information in the statement of ownership shall be public information and shall be available from the Department.

(Source: P.A. 91-656, eff. 1-1-01.)

(210 ILCS 9/110)

Sec. 110. Powers and duties of the Department.

(a) The Department shall conduct an annual unannounced on-site visit at each assisted living and shared housing establishment to determine compliance with applicable licensure requirements and standards. Additional visits may be conducted without prior notice to the assisted living or shared housing establishment.

(b) Upon receipt of information that may indicate the failure of the assisted living or shared housing establishment or a service provider to comply with a provision of this Act, the Department shall investigate the matter or make appropriate referrals to other government agencies and entities having jurisdiction over the subject matter of the possible violation. The Department may also make referrals to any public or private agency that the Department considers available for appropriate assistance to those involved. The Department may oversee and coordinate the enforcement of State consumer protection policies affecting residents residing in an establishment licensed under this Act.

(c) The Department shall establish by rule complaint receipt, investigation, resolution, and involuntary residency termination procedures. Resolution procedures shall provide for on-site review and evaluation of an assisted living or shared housing establishment found to be in violation of this Act within a specified period of time based on the gravity and severity of the violation and any pervasive pattern of occurrences of the same or similar violations.

(d) (Blank). ~~The Governor shall establish an Assisted Living and Shared Housing Standards and Quality of Life Advisory Board.~~

(e) The Department shall by rule establish penalties and sanctions, which shall include, but need not be limited to, the creation of a schedule of graduated penalties and sanctions to include closure.

(f) The Department shall by rule establish procedures for disclosure of information to the public, which shall include, but not be limited to, ownership, licensure status, frequency of complaints, disposition of substantiated complaints, and disciplinary actions.

(g) (Blank).

(h) Beginning January 1, 2000, the Department shall begin drafting rules necessary for the administration of this Act.

(Source: P.A. 93-1003, eff. 8-23-04.)

(210 ILCS 9/125 rep.)

Section 10. The Assisted Living and Shared Housing Act is amended by repealing Section 125.

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Frerichs, **House Bill No. 6001** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6001

AMENDMENT NO. 1. Amend House Bill 6001 on page 1, line 5, after "50,", by inserting "54,"; and

on page 1, line 7, by deleting "and by adding Section 51"; and

on page 1, by deleting lines 15 through 17; and

on page 1, by deleting line 23; and

on page 2, by deleting lines 1 through 5; and

on page 8, line 11, by deleting "or for enrollment as a Geologist Intern,"; and

on page 8, line 15, by deleting "or enrollments"; and

on page 8, line 16, by deleting "or enrolled"; and

on page 8, line 17, by deleting "or"; and

on page 8, line 18, by deleting "enrollments"; and

on page 8, line 19, by deleting "or enrolled"; and

on page 9, by replacing line 3 with "for licensing."; and

on page 9, by replacing lines 5 and 6 with "licensees, and all persons whose licenses"; and

on page 12, by replacing lines 1 through 19 with the following:

"(225 ILCS 745/40)

(Section scheduled to be repealed on January 1, 2016)

Sec. 40. Application for original license. Applications for original licenses shall be made to the Department on forms prescribed by the Department and accompanied by the required fee. All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for a license to practice as a Licensed Professional Geologist ~~licensed professional geologist~~.

(Source: P.A. 89-366, eff. 7-1-96.)"; and

on page 13, line 1, by deleting "and enrollment as a Geologist Intern"; and

on page 13, by replacing lines 11 through 14 with "and science of geology."; and

on page 13, by replacing lines 15 through 17 with the following:
"(b) Applicants for examinations shall pay, either to the Department or to the"; and

on page 13, line 19, by deleting "required"; and

on page 13, line 25, by deleting "for licensure"; and

on page 13, by replacing line 26 with "refuses to take an examination or fails to pass"; and

on page 14, by replacing line 1 with "an examination for a license under this Act within 6 ~~3~~"; and

on page 14, by replacing lines 13 and 14 with "applicant for licensure as a Licensed Professional Geologist ~~professional geologist~~."; and

on page 16, immediately below line 14, by inserting the following:
"(c) The Department may establish by rule an intern process to, in part, allow (1) a graduate who has earned a degree in geology from an accredited college or university in accordance with this Act or (2) a student in a degree program at an accredited college or university who has completed the necessary course requirements established in this Section to request to take one or both parts of the examination required by the Department. The Department may set by rule the criteria for the process, including, but not limited to, the educational requirements, exam requirements, experience requirements, remediation requirements, and any fees or applications required for the process. The Department may also set by rule provisions concerning disciplinary guidelines and the use of the title "intern" or "trainee" by a graduate or student who has passed the required examination."; and

on page 16, immediately below line 15, by inserting the following:
"(225 ILCS 745/54)
(Section scheduled to be repealed on January 1, 2016)
Sec. 54. Previous qualification in other jurisdiction. The Department may, upon the recommendation of the Board, issue a license by endorsement to any applicant who, upon applying to the Department and remitting the required application fee, meets all of the following qualifications:
(1) The applicant holds an active, valid license to practice professional geology in at least one jurisdiction in the United States in which the current requirements for licensure are substantially equivalent to or more stringent than those required by this Act.
(2) The applicant is of good ethical character as established by the Department in the Code of Professional Conduct and Ethics under this Act and has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act.
(3) The applicant has met any other qualifications recommended to the Department by the Board.
An applicant has 3 years from the date of application to complete the application process. If the process has not been completed within this 3 year period, then the application shall be denied, the fee shall be forfeited, and the applicant must re-apply and meet the requirements in effect at the time of re-application.
(Source: P.A. 89-366, eff. 7-1-96.)"; and

by deleting line 16 on page 16 through line 1 on page 18; and

by replacing line 24 on page 19 through line 18 on page 21 with the following:
"(225 ILCS 745/65)
(Section scheduled to be repealed on January 1, 2016)
Sec. 65. Expiration and renewal of license. The expiration date and renewal period for each license shall be set by rule. A Licensed Professional Geologist ~~professional geologist~~ whose license has expired may reinstate his or her license or enrollment at any time within 5 years after the expiration thereof, by making a renewal application and by paying the required fee. However, any Licensed Professional Geologist ~~professional geologist~~ whose license expired while he or she was (i) on active duty with the Armed Forces of the United States or called into service or training by the State militia or (ii) in training or education under the supervision of the United States preliminary to induction into the military service,

may have his or her Licensed Professional Geologist ~~professional geologist~~ license renewed, reinstated, or restored without paying any lapsed renewal fees if within 2 years after termination of the service, training, or education the Licensed Professional Geologist ~~professional geologist~~ furnishes the Department with satisfactory evidence of service, training, or education and that it has been terminated under honorable conditions.

Any professional geologist whose Licensed Professional Geologist license has expired for more than 5 years may have it restored by making application to the Department, paying the required fee, and filing acceptable proof of fitness to have the license restored. The proof may include sworn evidence certifying active practice in another jurisdiction. If the geologist has not practiced for 5 years or more, the Board shall determine by an evaluation program established by rule, whether that individual is fit to resume active status as a Licensed Professional Geologist. The Board ~~and~~ may require the ~~professional~~ geologist to complete a period of evaluated professional experience and may require successful completion of an examination.

The Department may refuse to issue or may suspend the license of any person who fails to file a tax return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.
(Source: P.A. 89-366, eff. 7-1-96; 90-61, eff. 12-30-97.)"; and

on page 21, line 24, by deleting "or enrollment"; and

on page 23, line 11, by deleting "or Geologist Intern enrollment".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 6006** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hutchinson, **House Bill No. 6014** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Viverito, **House Bill No. 6022** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6022

AMENDMENT NO. 1. Amend House Bill 6022 by replacing everything after the enacting clause with the following:

"Section 3. The Retailers' Occupation Tax Act is amended by changing Section 2d as follows:
(35 ILCS 120/2d) (from Ch. 120, par. 441d)
Sec. 2d. Tax prepayment by motor fuel retailer.

(a) Any person engaged in the business of selling motor fuel at retail, as defined in the Motor Fuel Tax Law, and who is not a licensed distributor or supplier, as defined in the Motor Fuel Tax Law, shall prepay to his or her distributor, supplier, or other reseller of motor fuel a portion of the tax imposed by this Act if the distributor, supplier, or other reseller of motor fuel is registered under Section 2a or Section 2c of this Act. The prepayment requirement provided for in this Section does not apply to liquid propane gas.

(b) Beginning on July 1, 2000 and through December 31, 2000, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.01 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.01 per gallon, purchased from the distributor, supplier, or other reseller.

(c) Before July 1, 2000 and then beginning on January 1, 2001 and through June 30, 2003, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.04 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.03 per gallon, purchased from the distributor, supplier, or other reseller.

(d) Beginning July 1, 2003 and through December 31, 2010 ~~thereafter~~, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.06 per gallon of the

motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.05 per gallon, purchased from the distributor, supplier, or other reseller.

(e) Beginning on January 1, 2011 and thereafter, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be at the rate established by the Department under this subsection. The rate shall be established by the Department on January 1 and July 1 of each year using the average selling price, as defined in Section 1 of this Act, per gallon of motor fuel sold in the State during the previous 6 months and multiplying that amount by 6.25% to determine the cents per gallon rate. In the case of biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, and in the case of gasohol, as defined in Section 3-40 of the Use Tax Act, the rate shall be 80% of the rate established by the Department under this subsection for motor fuel. The Department shall provide persons subject to this Section notice of the rate established under this subsection at least 20 days prior to each January 1 and July 1. Publication of the established rate on the Department's internet website shall constitute sufficient notice under this Section. The Department may use data derived from independent surveys conducted or accumulated by third parties to determine the average selling price per gallon of motor fuel sold in the State.

(f) Any person engaged in the business of selling motor fuel at retail shall be entitled to a credit against tax due under this Act in an amount equal to the tax paid to the distributor, supplier, or other reseller.

(g) Every distributor, supplier, or other reseller registered as provided in Section 2a or Section 2c of this Act shall remit the prepaid tax on all motor fuel that is due from any person engaged in the business of selling at retail motor fuel with the returns filed under Section 2f or Section 3 of this Act, but the vendors discount provided in Section 3 shall not apply to the amount of prepaid tax that is remitted. Any distributor or supplier who fails to properly collect and remit the tax shall be liable for the tax. For purposes of this Section, the prepaid tax is due on invoiced gallons sold during a month by the 20th day of the following month.

(Source: P.A. 93-32, eff. 6-20-03.)

Section 5. The Motor Fuel Tax Law is amended by changing Sections 1.2, 1.14, 1.22, 2, 3, 3a, 5, 5a, 6, 6a, 8, 13, 13a.4, 13a.5, and 15 and by adding Section 17a as follows:

(35 ILCS 505/1.2) (from Ch. 120, par. 417.2)

Sec. 1.2. Distributor. "Distributor" means a person who either (i) produces, refines, blends, compounds or manufactures motor fuel in this State, or (ii) transports motor fuel into this State, or (iii) exports motor fuel out of this State, or (iv) engages in the distribution of motor fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he or she has active bulk storage capacity of not less than 30,000 gallons for gasoline as defined in item (A) of Section 5 of this Law.

"Distributor" does not, however, include a person who receives or transports into this State and sells or uses motor fuel under such circumstances as preclude the collection of the tax herein imposed, by reason of the provisions of the constitution and statutes of the United States. However, a person operating a motor vehicle into the State, may transport motor fuel in the ordinary fuel tank attached to the motor vehicle for the operation of the motor vehicle, without being considered a distributor. Any railroad ~~licensed as a bulk user and~~ registered under Section 18c-7201 of the Illinois Vehicle Code may deliver special fuel directly into the fuel supply tank of a locomotive owned, operated, or controlled by any other railroad registered under Section 18c-7201 of the Illinois Vehicle Code without being considered a distributor or supplier.

(Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16, eff. 6-28-01.)

(35 ILCS 505/1.14) (from Ch. 120, par. 417.14)

Sec. 1.14. Supplier. "Supplier" means any person other than a licensed distributor who (i) transports special fuel into this State; ~~or~~ (ii) exports special fuel out of this State; or (iii) engages in the distribution of special fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active bulk storage capacity of not less than 30,000 gallons for special fuel as defined in Section 1.13 of this Law.

"Supplier" does not, however, include a person who receives or transports into this State and sells or uses special fuel under such circumstances as preclude the collection of the tax herein imposed, by reason of the provisions of the Constitution and laws of the United States. However, a person operating a motor vehicle into the State, may transport special fuel in the ordinary fuel tank attached to the motor vehicle for the operation of the motor vehicle without being considered a supplier. Any railroad licensed as a bulk user and registered under Section 18c-7201 of the Illinois Vehicle Code may deliver special fuel directly into the fuel supply tank of a locomotive owned, operated, or controlled by any other railroad registered under Section 18c-7201 of the Illinois Vehicle Code without being considered a

supplier.
(Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16, eff. 6-28-01.)

(35 ILCS 505/1.22)

Sec. 1.22. "Jurisdiction" means a state of the United States, the District of Columbia, a state of the United Mexican States, or a province or Territory of Canada.
(Source: P.A. 88-480.)

(35 ILCS 505/2) (from Ch. 120, par. 418)

Sec. 2. A tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of this State.

(a) Prior to August 1, 1989, the tax is imposed at the rate of 13 cents per gallon on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State. Beginning on August 1, 1989 and until January 1, 1990, the rate of the tax imposed in this paragraph shall be 16 cents per gallon. Beginning January 1, 1990, the rate of tax imposed in this paragraph shall be 19 cents per gallon.

(b) The tax on the privilege of operating motor vehicles which use diesel fuel shall be the rate according to paragraph (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is defined as any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.

(c) A tax is imposed upon the privilege of engaging in the business of selling motor fuel as a retailer or reseller on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State: (1) at the rate of 3 cents per gallon on motor fuel owned or possessed by such retailer or reseller at 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per gallon on motor fuel owned or possessed by such retailer or reseller at 12:01 A.M. on January 1, 1990.

Retailers and resellers who are subject to this additional tax shall be required to inventory such motor fuel and pay this additional tax in a manner prescribed by the Department of Revenue.

The tax imposed in this paragraph (c) shall be in addition to all other taxes imposed by the State of Illinois or any unit of local government in this State.

(d) Except as provided in Section 2a, the collection of a tax based on gallonage of gasoline used for the propulsion of any aircraft is prohibited on and after October 1, 1979.

(e) The collection of a tax, based on gallonage of all products commonly or commercially known or sold as 1-K kerosene, regardless of its classification or uses, is prohibited (i) on and after July 1, 1992 until December 31, 1999, except when the 1-K kerosene is either: (1) delivered into bulk storage facilities of a bulk user, or (2) delivered directly into the fuel supply tanks of motor vehicles and (ii) on and after January 1, 2000. Beginning on January 1, 2000, the collection of a tax, based on gallonage of all products commonly or commercially known or sold as 1-K kerosene, regardless of its classification or uses, is prohibited except when the 1-K kerosene is delivered directly into a storage tank that is located at a facility that has withdrawal facilities that are readily accessible to and are capable of dispensing 1-K kerosene into the fuel supply tanks of motor vehicles. For purposes of this subsection (e), a facility is considered to have withdrawal facilities that are not "readily accessible to and capable of dispensing 1-K kerosene into the fuel supply tanks of motor vehicles" only if the 1-K kerosene is delivered from: (i) a dispenser hose that is short enough so that it will not reach the fuel supply tank of a motor vehicle or (ii) a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.

Any person who sells or uses 1-K kerosene for use in motor vehicles upon which the tax imposed by this Law has not been paid shall be liable for any tax due on the sales or use of 1-K kerosene.
(Source: P.A. 93-17, eff. 6-11-03.)

(35 ILCS 505/3) (from Ch. 120, par. 419)

Sec. 3. No person shall act as a distributor of motor fuel within this State without first securing a license to act as a distributor of motor fuel from the Department. Application for such license shall be made to the Department upon blanks furnished by it. The application shall be signed and verified, and shall contain such information as the Department deems necessary. A blender shall, in addition to securing a distributor's license, make application to the Department for a blender's permit, setting forth in the application such information as the Department deems necessary. The applicant for a distributor's license shall also file with the Department a bond on a form to be approved by and with a surety or sureties satisfactory to the Department conditioned upon such applicant paying to the State of Illinois all monies becoming due by reason of the sale, export, or use of motor fuel by the applicant, together with all penalties and interest thereon. The Department shall fix the penalty of such bond in each case taking into consideration the amount of motor fuel expected to be sold, distributed, exported, and used by such

applicant and the penalty fixed by the Department shall be such, as in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on motor fuel sold, distributed, exported, and used, but the amount of the penalty fixed by the Department shall not exceed twice the monthly amount that would be collectable as a tax in the event of a sale on all the motor fuel sold, distributed, exported, and used by the distributor inclusive of tax-free sales, exports, use, or distribution. Upon receipt of the application and bond in proper form, the Department shall issue to the applicant a license to act as a distributor. No person who is in default to the State for monies due under this Act for the sale, distribution, export, or use of motor fuel shall receive a license to act as a distributor.

A license shall not be granted to any person whose principal place of business is in a state other than Illinois, unless such person is licensed for motor fuel distribution or export in the state in which the principal place of business is located and that such person is not in default to that State for any monies due for the sale, distribution, export, or use of motor fuel.

(Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

(35 ILCS 505/3a) (from Ch. 120, par. 419a)

Sec. 3a. No person, other than a licensed distributor, shall act as a supplier of special fuel within this State without first securing a license to act as a supplier of special fuel from the Department.

Application for such license shall be made to the Department upon blanks furnished by it. The application shall be signed and verified and shall contain such information as the Department deems necessary.

The applicant for a supplier's license shall also file, with the Department, a bond on a form to be approved by and with a surety or sureties satisfactory to the Department, conditioned upon such applicant paying to the State of Illinois all moneys becoming due by reason of the sale or use of special fuel by the applicant, together with all penalties and interest thereon. The Department shall fix the penalty of such bond in each case, taking into consideration the amount of special fuel expected to be sold, distributed, exported, and used by such applicant, and the penalty fixed by the Department shall be such, as in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on special fuel sold, distributed, exported, and used, but the amount of the penalty fixed by the Department shall not exceed twice the monthly amount of tax liability that would be collectable as a tax in the event of a taxable sale on all the special fuel sold, distributed, exported, and used by the supplier inclusive of tax-free sales, use, exports, or distribution.

Upon receipt of the application and bond in proper form, the Department shall issue to the applicant a license to act as a supplier. No person who is in default to the State for moneys due under this Act for the sale, distribution, export, or use of motor fuel shall receive a license to act as a supplier.

A license shall not be granted to any person whose principal place of business is in a state other than Illinois, unless such person is licensed for motor fuel distribution or export in the State in which the principal place of business is located and that other State requires such license and that such person is not in default to that State for any monies due for the sale, distribution, export, or use of motor fuel.

(Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

(35 ILCS 505/5) (from Ch. 120, par. 421)

Sec. 5. Except as hereinafter provided, a person holding a valid unrevoked license to act as a distributor of motor fuel shall, between the 1st and 20th days of each calendar month, make return to the Department, showing an itemized statement of the number of invoiced gallons of motor fuel of the types specified in this Section which were purchased, acquired, ~~or~~ received , or exported during the preceding calendar month; the amount of such motor fuel produced, refined, compounded, manufactured, blended, sold, distributed, exported, and used by the licensed distributor during the preceding calendar month; the amount of such motor fuel lost or destroyed during the preceding calendar month; the amount of such motor fuel on hand at the close of business for such month; and such other reasonable information as the Department may require. If a distributor's only activities with respect to motor fuel are either: (1) production of alcohol in quantities of less than 10,000 proof gallons per year or (2) blending alcohol in quantities of less than 10,000 proof gallons per year which such distributor has produced, he shall file returns on an annual basis with the return for a given year being due by January 20 of the following year. Distributors whose total production of alcohol (whether blended or not) exceeds 10,000 proof gallons per year, based on production during the preceding (calendar) year or as reasonably projected by the Department if one calendar year's record of production cannot be established, shall file returns between the 1st and 20th days of each calendar month as hereinabove provided.

The types of motor fuel referred to in the preceding paragraph are: (A) All products commonly or commercially known or sold as gasoline (including casing-head and absorption or natural gasoline), gasohol, motor benzol or motor benzene regardless of their classification or uses; and (B) all combustible gases which exist in a gaseous state at 60 degrees Fahrenheit and at 14.7 pounds per square

inch absolute including, but not limited to, liquefied petroleum gases used for highway purposes; and (C) special fuel. Only those quantities of combustible gases (example (B) above) which are used or sold by the distributor to be used to propel motor vehicles on the public highways, or which are delivered into a storage tank that is located at a facility that has withdrawal facilities which are readily accessible to and are capable of dispensing combustible gases into the fuel supply tanks of motor vehicles, shall be subject to return. For purposes of this Section, a facility is considered to have withdrawal facilities that are not "readily accessible to and capable of dispensing combustible gases into the fuel supply tanks of motor vehicles" only if the combustible gases are delivered from: (i) a dispenser hose that is short enough so that it will not reach the fuel supply tank of a motor vehicle or (ii) a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling. For the purposes of this Act, liquefied petroleum gases shall mean and include any material having a vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: Propane, Propylene, Butane (normal butane or iso-butane) and Butylene (including isomers).

In case of a sale of special fuel to someone other than a licensed distributor, or a licensed supplier, for a use other than in motor vehicles, the distributor shall show in his return the amount of invoiced gallons sold and the name and address of the purchaser in addition to any other information the Department may require.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

In case of a tax-free sale, as provided in Section 6, of motor fuel which the distributor is required by this Section to include in his return to the Department, the distributor in his return shall show: (1) If the sale is made to another licensed distributor the amount sold and the name, address and license number of the purchasing distributor; (2) if the sale is made to a person where delivery is made outside of this State the name and address of such purchaser and the point of delivery together with the date and amount delivered; (3) if the sale is made to the Federal Government or its instrumentalities the amount sold; (4) if the sale is made to a municipal corporation owning and operating a local transportation system for public service in this State the name and address of such purchaser, and the amount sold, as evidenced by official forms of exemption certificates properly executed and furnished by such purchaser; (5) if the sale is made to a privately owned public utility owning and operating 2-axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, then the name and address of such purchaser and the amount sold as evidenced by official forms of exemption certificates properly executed and furnished by the purchaser; (6) if the product sold is special fuel and if the sale is made to a licensed supplier under conditions which qualify the sale for tax exemption under Section 6 of this Act, the amount sold and the name, address and license number of the purchaser; and (7) if a sale of special fuel is made to someone other than a licensed distributor, or a licensed supplier, for a use other than in motor vehicles, by making a specific notation thereof on the invoice or sales slip covering such sales and obtaining such supporting documentation as may be required by the Department.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

A person whose license to act as a distributor of motor fuel has been revoked shall make a return to the Department covering the period from the date of the last return to the date of the revocation of the license, which return shall be delivered to the Department not later than 10 days from the date of the revocation or termination of the license of such distributor; the return shall in all other respects be subject to the same provisions and conditions as returns by distributors licensed under the provisions of this Act.

The records, waybills and supporting documents kept by railroads and other common carriers in the regular course of business shall be prima facie evidence of the contents and receipt of cars or tanks covered by those records, waybills or supporting documents.

If the Department has reason to believe and does believe that the amount shown on the return as purchased, acquired, received, exported, sold, used, lost or destroyed is incorrect, or that an amount of motor fuel of the types required by the second paragraph of this Section to be reported to the Department has not been correctly reported the Department shall fix an amount for such receipt, sales, export, use, loss or destruction according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct. All returns shall be made on forms prepared and furnished by

the Department, and shall contain such other information as the Department may reasonably require. The return must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department, unless, as provided by rule, the Department grants an exception upon petition of a taxpayer. All licensed distributors shall report all losses of motor fuel sustained on account of fire, theft, spillage, spoilage, leakage, or any other provable cause when filing the return for the period during which the loss occurred. If the distributor reports losses due to fire or theft, then the distributor must include fire department or police department reports and any other documentation that the Department may require. The mere making of the report does not assure the allowance of the loss as a reduction in tax liability. Losses of motor fuel as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of 1% shall be subject to the tax imposed by Section 2 of this Law. On and after July 1, 2001, for each 6-month period January through June, net losses of motor fuel (for each category of motor fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of motor fuel (for each category of motor fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2 of this Law. For purposes of this Section, "net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods.
(Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

(35 ILCS 505/5a) (from Ch. 120, par. 421a)

Sec. 5a. A person holding a valid unrevoked license to act as a supplier of special fuel shall, between the 1st and 20th days of each calendar month, make return to the Department showing an itemized statement of the number of invoiced gallons of special fuel acquired, received, purchased, sold, exported, or used during the preceding calendar month; the amount of special fuel sold, distributed, exported, and used by the licensed supplier during the preceding calendar month; the amount of special fuel lost or destroyed during the preceding calendar month; the amount of special fuel on hand at the close of business for the preceding calendar month; and such other reasonable information as the Department may require.

A person whose license to act as a supplier of special fuel has been revoked shall make a return to the Department covering the period from the date of the last return to the date of the revocation of the license, which return shall be delivered to the Department not later than 10 days from the date of the revocation or termination of the license of such supplier. The return shall in all other respects be subject to the same provisions and conditions as returns by suppliers licensed under this Act.

The records, waybills and supporting documents kept by railroads and other common carriers in the regular course of business shall be prima facie evidence of the contents and receipt of cars or tanks covered by those records, waybills or supporting documents.

If the Department has reason to believe and does believe that the amount shown on the return as purchased, acquired, received, sold, exported, used, or lost is incorrect, or that an amount of special fuel of the type required by the 1st paragraph of this Section to be reported to the Department by suppliers has not been correctly reported as a purchase, receipt, sale, use, export, or loss the Department shall fix an amount for such purchase, receipt, sale, use, export, or loss according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct. All licensed suppliers shall report all losses of special fuel sustained on account of fire, theft, spillage, spoilage, leakage, or any other provable cause when filing the return for the period during which the loss occurred. If the supplier reports losses due to fire or theft, then the supplier must include fire department or police department reports and any other documentation that the Department may require. The mere making of the report does not assure the allowance of the loss as a reduction in tax liability. Losses of special fuel as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month.

Any loss reported that is in excess of 1% shall be subject to the tax imposed by Section 2 of this Law. On and after July 1, 2001, for each 6-month period January through June, net losses of special fuel (for

each category of special fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of special fuel (for each category of special fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2 of this Law. For purposes of this Section, "net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods.

In case of a sale of special fuel to someone other than a licensed distributor or licensed supplier for a use other than in motor vehicles, the supplier shall show in his return the amount of invoiced gallons sold and the name and address of the purchaser in addition to any other information the Department may require.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

All returns shall be made on forms prepared and furnished by the Department and shall contain such other information as the Department may reasonably require. The return must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department, unless, as provided by rule, the Department grants an exception upon petition of a taxpayer.

In case of a tax-free sale, as provided in Section 6a, of special fuel which the supplier is required by this Section to include in his return to the Department, the supplier in his return shall show: (1) If the sale of special fuel is made to the Federal Government or its instrumentalities; (2) if the sale of special fuel is made to a municipal corporation owning and operating a local transportation system for public service in this State, the name and address of such purchaser and the amount sold, as evidenced by official forms of exemption certificates properly executed and furnished by such purchaser; (3) if the sale of special fuel is made to a privately owned public utility owning and operating 2-axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, then the name and address of such purchaser and the amount sold, as evidenced by official forms of exemption certificates properly executed and furnished by such purchaser; (4) if the product sold is special fuel and if the sale is made to a licensed supplier or to a licensed distributor under conditions which qualify the sale for tax exemption under Section 6a of this Act, the amount sold and the name, address and license number of such purchaser; (5) if a sale of special fuel is made to a person where delivery is made outside of this State, the name and address of such purchaser and the point of delivery together with the date and amount of invoiced gallons delivered; and (6) if a sale of special fuel is made to someone other than a licensed distributor or a licensed supplier, for a use other than in motor vehicles, by making a specific notation thereof on the invoice or sales slip covering that sale and obtaining such supporting documentation as may be required by the Department.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

(Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

(35 ILCS 505/6) (from Ch. 120, par. 422)

Sec. 6. Collection of tax; distributors. A distributor who sells or distributes any motor fuel, which he is required by Section 5 to report to the Department when filing a return, shall (except as hereinafter provided) collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such motor fuel sold and distributed, and at the time of making a return, the distributor shall pay to the Department the amount so collected less a discount of 2% through June 30, 2003 and 1.75% thereafter which is allowed to reimburse the distributor for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request, and shall also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all such motor fuel used by said distributor during the period covered by the return. However, no payment shall be made based upon dyed diesel fuel used by the distributor for non-highway purposes. The discount shall only be applicable to the amount of tax payment which accompanies a return which is filed timely in accordance with Section 5 of this Act. In

each subsequent sale of motor fuel on which the amount of tax imposed under this Act has been collected as provided in this Section, the amount so collected shall be added to the selling price, so that the amount of tax is paid ultimately by the user of the motor fuel. However, no collection or payment shall be made in the case of the sale or use of any motor fuel to the extent to which such sale or use of motor fuel may not, under the constitution and statutes of the United States, be made the subject of taxation by this State. A person whose license to act as a distributor of fuel has been revoked shall, at the time of making a return, also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all motor fuel, which he is required by the second paragraph of Section 5 to report to the Department in making a return, and which he had on hand on the date on which the license was revoked, and with respect to which no tax had been previously paid under this Act.

A distributor may make tax free sales of motor fuel, with respect to which he is otherwise required to collect the tax, ~~when the motor fuel is delivered from a dispensing facility that has withdrawal facilities capable of dispensing motor fuel into the fuel supply tanks of motor vehicles only as specified in the following items 3, 4, and 5. A distributor may make tax free sales of motor fuel, with respect to which he is otherwise required to collect the tax, when the motor fuel is delivered from other facilities~~ only as specified in the following items 1 through 7.

1. When the sale is made to a person holding a valid unrevoked license as a distributor, by making a specific notation thereof on invoices or sales slip covering each sale.

2. When the sale is made with delivery to a purchaser outside of this State.

3. When the sale is made to the Federal Government or its instrumentalities.

4. When the sale is made to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax.

5. When the sale is made to a privately owned public utility owning and operating 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, when an official certificate of exemption is obtained in lieu of the tax.

6. When a sale of special fuel is made to a person holding a valid, unrevoked license as a supplier, by making a specific notation thereof on the invoice or sales slip covering each such sale.

7. When a sale of <u>dyed diesel</u> ~~special~~ fuel is made to someone other than a licensed distributor or a licensed supplier <u>for non-highway purposes and the fuel is (i) delivered from a vehicle designed for the specific purpose of such sales and delivered directly into a stationary bulk storage tank that displays the notice required by Section 4f of this Act, (ii) delivered from a vehicle designed for the specific purpose of such sales and delivered directly into the fuel supply tanks of non-highway vehicles that are not required to be registered for highway use, or (iii) dispensed from a dyed diesel fuel dispensing facility that has withdrawal facilities that are not readily accessible to and are not capable of dispensing dyed diesel fuel into the fuel supply tank of a motor vehicle.</u> ~~for a use other than in motor vehicles, by making a~~

<u>A</u> specific notation <u>is required</u> ~~thereof~~ on the invoice or sales slip covering such <u>sales,</u> ~~sale~~ and <u>any</u> ~~obtaining such~~ supporting documentation <u>that</u> ~~as~~ may be required by the Department <u>must be obtained by the distributor</u>. The distributor shall obtain and keep the supporting documentation in such form as the Department may require by rule.

<u>For purposes of this item 7, a dyed diesel fuel dispensing facility is considered to have withdrawal facilities that are "not readily accessible to and not capable of dispensing dyed diesel fuel into the fuel supply tank of a motor vehicle" only if the dyed diesel fuel is delivered from: (i) a dispenser hose that is short enough so that it will not reach the fuel supply tank of a motor vehicle or (ii) a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.</u>

8. (Blank).

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

All suits or other proceedings brought for the purpose of recovering any taxes, interest or penalties due the State of Illinois under this Act may be maintained in the name of the Department.

(Source: P.A. 93-32, eff. 6-20-03.)

(35 ILCS 505/6a) (from Ch. 120, par. 422a)

Sec. 6a. Collection of tax; suppliers. A supplier, other than a licensed distributor, who sells or distributes any special fuel, which he is required by Section 5a to report to the Department when filing a return, shall (except as hereinafter provided) collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such special fuel sold and distributed, and at the time of making a return, the supplier shall pay to the Department the amount so collected less a discount of 2% through June 30, 2003 and 1.75% thereafter which is allowed to reimburse the supplier for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request, and shall also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all such special fuel used by said supplier during the period covered by the return. However, no payment shall be made based upon dyed diesel fuel used by said supplier for non-highway purposes. The discount shall only be applicable to the amount of tax payment which accompanies a return which is filed timely in accordance with Section 5(a) of this Act. In each subsequent sale of special fuel on which the amount of tax imposed under this Act has been collected as provided in this Section, the amount so collected shall be added to the selling price, so that the amount of tax is paid ultimately by the user of the special fuel. However, no collection or payment shall be made in the case of the sale or use of any special fuel to the extent to which such sale or use of motor fuel may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State.

A person whose license to act as supplier of special fuel has been revoked shall, at the time of making a return, also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all special fuel, which he is required by the 1st paragraph of Section 5a to report to the Department in making a return.

A supplier may make tax-free sales of special fuel, with respect to which he is otherwise required to collect the tax, ~~when the motor fuel is delivered from a dispensing facility that has withdrawal facilities capable of dispensing special fuel into the fuel supply tanks of motor vehicles only as specified in the following items 1, 2, and 3. A supplier may make tax-free sales of special fuel, with respect to which he is otherwise required to collect the tax, when the special fuel is delivered from other facilities~~ only as specified in the following items 1 through 7.

1. When the sale is made to the federal government or its instrumentalities.

2. When the sale is made to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax.

3. When the sale is made to a privately owned public utility owning and operating 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, when an official certificate of exemption is obtained in lieu of the tax.

4. When a sale ~~of special fuel~~ is made to a person holding a valid unrevoked license as a supplier or a distributor by making a specific notation thereof on invoice or sales slip covering each such sale.

5. When a sale of dyed diesel ~~special~~ fuel is made to someone other than a licensed distributor or licensed supplier for non-highway purposes and the fuel is (i) delivered from a vehicle designed for the specific purpose of such sales and delivered directly into a stationary bulk storage tank that displays the notice required by Section 4f of this Act, (ii) delivered from a vehicle designed for the specific purpose of such sales and delivered directly into the fuel supply tanks of non-highway vehicles that are not required to be registered for highway use, or (iii) dispensed from a dyed diesel fuel dispensing facility that has withdrawal facilities that are not readily accessible to and are not capable of dispensing dyed diesel fuel into the fuel supply tank of a motor vehicle. ~~a use other than in motor vehicles, by making a~~

A specific notation is required ~~thereof~~ on the invoice or sales slip covering such sales, ~~sale~~ and any ~~obtaining such~~ supporting documentation that ~~as~~ may be required by the Department must be obtained by the supplier. The supplier shall obtain and keep the supporting documentation in such form as the Department may require by rule.

For purposes of this item 5, a dyed diesel fuel dispensing facility is considered to have withdrawal facilities that are "not readily accessible to and not capable of dispensing dyed diesel fuel into the fuel

supply tank of a motor vehicle" only if the dyed diesel fuel is delivered from: (i) a dispenser hose that is short enough so that it will not reach the fuel supply tank of a motor vehicle or (ii) a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.

6. (Blank).

7. When a sale of special fuel is made to a person where delivery is made outside of this State.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

All suits or other proceedings brought for the purpose of recovering any taxes, interest or penalties due the State of Illinois under this Act may be maintained in the name of the Department.

(Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

(35 ILCS 505/8) (from Ch. 120, par. 424)

Sec. 8. Except as provided in Section 8a, subdivision (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all money received by the Department under this Act, including payments made to the Department by member jurisdictions participating in the International Fuel Tax Agreement, shall be deposited in a special fund in the State treasury, to be known as the "Motor Fuel Tax Fund", and shall be used as follows:

(a) 2 1/2 cents per gallon of the tax collected on special fuel under paragraph (b) of Section 2 and Section 13a of this Act shall be transferred to the State Construction Account Fund in the State Treasury;

(b) $420,000 shall be transferred each month to the State Boating Act Fund to be used by the Department of Natural Resources for the purposes specified in Article X of the Boat Registration and Safety Act;

(c) $3,500,000 shall be transferred each month to the Grade Crossing Protection Fund to be used as follows: not less than $12,000,000 each fiscal year shall be used for the construction or reconstruction of rail highway grade separation structures; $2,250,000 in fiscal years 2004 through 2009 and $3,000,000 in fiscal year 2010 and each fiscal year thereafter shall be transferred to the Transportation Regulatory Fund and shall be accounted for as part of the rail carrier portion of such funds and shall be used to pay the cost of administration of the Illinois Commerce Commission's railroad safety program in connection with its duties under subsection (3) of Section 18c-7401 of the Illinois Vehicle Code, with the remainder to be used by the Department of Transportation upon order of the Illinois Commerce Commission, to pay that part of the cost apportioned by such Commission to the State to cover the interest of the public in the use of highways, roads, streets, or pedestrian walkways in the county highway system, township and district road system, or municipal street system as defined in the Illinois Highway Code, as the same may from time to time be amended, for separation of grades, for installation, construction or reconstruction of crossing protection or reconstruction, alteration, relocation including construction or improvement of any existing highway necessary for access to property or improvement of any grade crossing and grade crossing surface including the necessary highway approaches thereto of any railroad across the highway or public road, or for the installation, construction, reconstruction, or maintenance of a pedestrian walkway over or under a railroad right-of-way, as provided for in and in accordance with Section 18c-7401 of the Illinois Vehicle Code. The Commission may order up to $2,000,000 per year in Grade Crossing Protection Fund moneys for the improvement of grade crossing surfaces and up to $300,000 per year for the maintenance and renewal of 4-quadrant gate vehicle detection systems located at non-high speed rail grade crossings. The Commission shall not order more than $2,000,000 per year in Grade Crossing Protection Fund moneys for pedestrian walkways. In entering orders for projects for which payments from the Grade Crossing Protection Fund will be made, the Commission shall account for expenditures authorized by the orders on a cash rather than an accrual basis. For purposes of this requirement an "accrual basis" assumes that the total cost of the project is expended in the fiscal year in which the order is entered, while a "cash basis" allocates the cost of the project among fiscal years as expenditures are actually made. To meet the requirements of this subsection, the Illinois Commerce Commission shall develop annual and 5-year project plans of rail crossing capital improvements that will be paid for with moneys from the Grade Crossing Protection Fund. The annual project plan shall identify projects for the succeeding fiscal year and the 5-year project plan shall identify projects for the 5 directly succeeding fiscal years. The Commission shall submit the annual and 5-year project plans for this Fund to the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the first Wednesday in April of each year;

(d) of the amount remaining after allocations provided for in subsections (a), (b) and (c), a sufficient amount shall be reserved to pay all of the following:

(1) the costs of the Department of Revenue in administering this Act;

(2) the costs of the Department of Transportation in performing its duties imposed by the Illinois Highway Code for supervising the use of motor fuel tax funds apportioned to municipalities, counties and road districts;

(3) refunds provided for in Section 13 of this Act, refunds for overpayment of decal fees paid under Section 13a.4 of this Act, and refunds provided for under the terms of the International Fuel Tax Agreement referenced in Section 14a;

(4) from October 1, 1985 until June 30, 1994, the administration of the Vehicle Emissions Inspection Law, which amount shall be certified monthly by the Environmental Protection Agency to the State Comptroller and shall promptly be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund to the Vehicle Inspection Fund, and for the period July 1, 1994 through June 30, 2000, one-twelfth of $25,000,000 each month, for the period July 1, 2000 through June 30, 2003, one-twelfth of $30,000,000 each month, and $15,000,000 on July 1, 2003, and $15,000,000 on January 1, 2004, and $15,000,000 on each July 1 and October 1, or as soon thereafter as may be practical, during the period July 1, 2004 through June 30, 2010, for the administration of the Vehicle Emissions Inspection Law of 2005, to be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund into the Vehicle Inspection Fund;

(5) amounts ordered paid by the Court of Claims; and

(6) payment of motor fuel use taxes due to member jurisdictions under the terms of the International Fuel Tax Agreement. The Department shall certify these amounts to the Comptroller by the 15th day of each month; the Comptroller shall cause orders to be drawn for such amounts, and the Treasurer shall administer those amounts on or before the last day of each month;

(e) after allocations for the purposes set forth in subsections (a), (b), (c) and (d), the remaining amount shall be apportioned as follows:

(1) Until January 1, 2000, 58.4%, and beginning January 1, 2000, 45.6% shall be deposited as follows:

(A) 37% into the State Construction Account Fund, and

(B) 63% into the Road Fund, $1,250,000 of which shall be reserved each month for the Department of Transportation to be used in accordance with the provisions of Sections 6-901 through 6-906 of the Illinois Highway Code;

(2) Until January 1, 2000, 41.6%, and beginning January 1, 2000, 54.4% shall be transferred to the Department of Transportation to be distributed as follows:

(A) 49.10% to the municipalities of the State,

(B) 16.74% to the counties of the State having 1,000,000 or more inhabitants,

(C) 18.27% to the counties of the State having less than 1,000,000 inhabitants,

(D) 15.89% to the road districts of the State.

As soon as may be after the first day of each month the Department of Transportation shall allot to each municipality its share of the amount apportioned to the several municipalities which shall be in proportion to the population of such municipalities as determined by the last preceding municipal census if conducted by the Federal Government or Federal census. If territory is annexed to any municipality subsequent to the time of the last preceding census the corporate authorities of such municipality may cause a census to be taken of such annexed territory and the population so ascertained for such territory shall be added to the population of the municipality as determined by the last preceding census for the purpose of determining the allotment for that municipality. If the population of any municipality was not determined by the last Federal census preceding any apportionment, the apportionment to such municipality shall be in accordance with any census taken by such municipality. Any municipal census used in accordance with this Section shall be certified to the Department of Transportation by the clerk of such municipality, and the accuracy thereof shall be subject to approval of the Department which may make such corrections as it ascertains to be necessary.

As soon as may be after the first day of each month the Department of Transportation shall allot to each county its share of the amount apportioned to the several counties of the State as herein provided. Each allotment to the several counties having less than 1,000,000 inhabitants shall be in proportion to the amount of motor vehicle license fees received from the residents of such counties, respectively, during the preceding calendar year. The Secretary of State shall, on or before April 15 of each year, transmit to the Department of Transportation a full and complete report showing the amount of motor vehicle license fees received from the residents of each county, respectively, during the preceding calendar year. The Department of Transportation shall, each month, use for allotment purposes the last such report received from the Secretary of State.

As soon as may be after the first day of each month, the Department of Transportation shall allot to

the several counties their share of the amount apportioned for the use of road districts. The allotment shall be apportioned among the several counties in the State in the proportion which the total mileage of township or district roads in the respective counties bears to the total mileage of all township and district roads in the State. Funds allotted to the respective counties for the use of road districts therein shall be allocated to the several road districts in the county in the proportion which the total mileage of such township or district roads in the respective road districts bears to the total mileage of all such township or district roads in the county. After July 1 of any year, no allocation shall be made for any road district unless it levied a tax for road and bridge purposes in an amount which will require the extension of such tax against the taxable property in any such road district at a rate of not less than either .08% of the value thereof, based upon the assessment for the year immediately prior to the year in which such tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less. If any road district has levied a special tax for road purposes pursuant to Sections 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such tax was levied in an amount which would require extension at a rate of not less than .08% of the value of the taxable property thereof, as equalized or assessed by the Department of Revenue, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such levy shall, however, be deemed a proper compliance with this Section and shall qualify such road district for an allotment under this Section. If a township has transferred to the road and bridge fund money which, when added to the amount of any tax levy of the road district would be the equivalent of a tax levy requiring extension at a rate of at least .08%, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such transfer, together with any such tax levy, shall be deemed a proper compliance with this Section and shall qualify the road district for an allotment under this Section.

In counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law, road districts may retain their entitlement to a motor fuel tax allotment if, at the time the property tax extension limitation was imposed, the road district was levying a road and bridge tax at a rate sufficient to entitle it to a motor fuel tax allotment and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. Any road district may in all circumstances retain its entitlement to a motor fuel tax allotment if it levied a road and bridge tax in an amount that will require the extension of the tax against the taxable property in the road district at a rate of not less than 0.08% of the assessed value of the property, based upon the assessment for the year immediately preceding the year in which the tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less.

As used in this Section the term "road district" means any road district, including a county unit road district, provided for by the Illinois Highway Code; and the term "township or district road" means any road in the township and district road system as defined in the Illinois Highway Code. For the purposes of this Section, "road district" also includes park districts, forest preserve districts and conservation districts organized under Illinois law and "township or district road" also includes such roads as are maintained by park districts, forest preserve districts and conservation districts. The Department of Transportation shall determine the mileage of all township and district roads for the purposes of making allotments and allocations of motor fuel tax funds for use in road districts.

Payment of motor fuel tax moneys to municipalities and counties shall be made as soon as possible after the allotment is made. The treasurer of the municipality or county may invest these funds until their use is required and the interest earned by these investments shall be limited to the same uses as the principal funds.

(Source: P.A. 95-744, eff. 7-18-08; 96-34, eff. 7-13-09; 96-45, eff. 7-15-09; revised 11-3-09.)

(35 ILCS 505/13) (from Ch. 120, par. 429)

Sec. 13. Refund of tax paid. Any person other than a distributor or supplier, who loses motor fuel through any cause or uses motor fuel (upon which he has paid the amount required to be collected under Section 2 of this Act) for any purpose other than operating a motor vehicle upon the public highways or waters, shall be reimbursed and repaid the amount so paid.

Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid under Section 2 of this Act on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes <u>directly</u> paid to another state and the amount of motor fuel used in that state.

<u>Claims based in whole or in part on taxes paid to another state shall include (i) a certified copy of the</u>

tax return filed with such other state by the claimant; (ii) a copy of either the cancelled check paying the tax due on such return, or a receipt acknowledging payment of the tax due on such tax return; and (iii) such other information as the Department may reasonably require. This paragraph shall not apply to taxes paid on returns filed under Section 13a.3 of this Act.

Any person who purchases motor fuel use tax decals as required by Section 13a.4 and pays an amount of fees for such decals that exceeds the amount due shall be reimbursed and repaid the amount of the decal fees that are deemed by the department to be in excess of the amount due.

Claims for such reimbursement must be made to the Department of Revenue, duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability), upon forms prescribed by the Department. The claim must state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary, and the time when, and the circumstances of its loss or the specific purpose for which it was used (as the case may be), together with such other information as the Department may reasonably require. No claim based upon idle time shall be allowed. Claims for reimbursement for overpayment of decal fees shall be made to the Department of Revenue, duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability), upon forms prescribed by the Department. The claim shall state facts relating to the overpayment of decal fees, together with such other information as the Department may reasonably require. Claims for reimbursement of overpayment of decal fees paid on or after January 1, 2011 must be filed not later than one year after the date on which the fees were paid by the claimant. If it is determined that the Department should reimburse a claimant for overpayment of decal fees, the Department shall first apply the amount of such refund against against any tax or penalty or interest due by the claimant under Section 13a of this Act.

Claims for full reimbursement for taxes paid on or before December 31, 1999 must be filed not later than one year after the date on which the tax was paid by the claimant. If, however, a claim for such reimbursement otherwise meeting the requirements of this Section is filed more than one year but less than 2 years after that date, the claimant shall be reimbursed at the rate of 80% of the amount to which he would have been entitled if his claim had been timely filed.

Claims for full reimbursement for taxes paid on or after January 1, 2000 must be filed not later than 2 years after the date on which the tax was paid by the claimant.

The Department may make such investigation of the correctness of the facts stated in such claims as it deems necessary. When the Department has approved any such claim, it shall pay to the claimant (or to the claimant's legal representative, as such if the claimant has died or become a person under legal disability) the reimbursement provided in this Section, out of any moneys appropriated to it for that purpose.

Any distributor or supplier who has paid the tax imposed by Section 2 of this Act upon motor fuel lost or used by such distributor or supplier for any purpose other than operating a motor vehicle upon the public highways or waters may file a claim for credit or refund to recover the amount so paid. Such claims shall be filed on forms prescribed by the Department. Such claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability), upon forms prescribed by the Department. The claim shall state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary and the time when the loss or nontaxable use occurred, and the circumstances of its loss or the specific purpose for which it was used (as the case may be), together with such other information as the Department may reasonably require. Claims must be filed not later than one year after the date on which the tax was paid by the claimant.

The Department may make such investigation of the correctness of the facts stated in such claims as it deems necessary. When the Department approves a claim, the Department shall issue a refund or credit memorandum as requested by the taxpayer, to the distributor or supplier who made the payment for which the refund or credit is being given or, if the distributor or supplier has died or become incompetent, to such distributor's or supplier's legal representative, as such. The amount of such credit memorandum shall be credited against any tax due or to become due under this Act from the distributor or supplier who made the payment for which credit has been given.

Any credit or refund that is allowed under this Section shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act.

In case the distributor or supplier requests and the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the

Department, by rule or regulation, shall provide for the payment of refunds in hardship cases and shall define what types of cases qualify as hardship cases.

In any case in which there has been an erroneous refund of tax or fees payable under this Section, a notice of tax liability may be issued at any time within 3 years from the making of that refund, or within 5 years from the making of that refund if it appears that any part of the refund was induced by fraud or the misrepresentation of material fact. The amount of any proposed assessment set forth by the Department shall be limited to the amount of the erroneous refund.

If no tax is due and no proceeding is pending to determine whether such distributor or supplier is indebted to the Department for tax, the credit memorandum so issued may be assigned and set over by the lawful holder thereof, subject to reasonable rules of the Department, to any other licensed distributor or supplier who is subject to this Act, and the amount thereof applied by the Department against any tax due or to become due under this Act from such assignee.

If the payment for which the distributor's or supplier's claim is filed is held in the protest fund of the State Treasury during the pendency of the claim for credit proceedings pursuant to the order of the court in accordance with Section 2a of the State Officers and Employees Money Disposition Act and if it is determined by the Department or by the final order of a reviewing court under the Administrative Review Law that the claimant is entitled to all or a part of the credit claimed, the claimant, instead of receiving a credit memorandum from the Department, shall receive a cash refund from the protest fund as provided for in Section 2a of the State Officers and Employees Money Disposition Act.

If any person ceases to be licensed as a distributor or supplier while still holding an unused credit memorandum issued under this Act, such person may, at his election (instead of assigning the credit memorandum to a licensed distributor or licensed supplier under this Act), surrender such unused credit memorandum to the Department and receive a refund of the amount to which such person is entitled.

For claims based upon taxes paid on or before December 31, 2000, a claim based upon the use of undyed diesel fuel shall not be allowed except (i) if allowed under the following paragraph or (ii) for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways and unlicensed commercial vehicles operating on private property. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways.

For claims based upon taxes paid on or after January 1, 2000, a claim based upon the use of undyed diesel fuel shall not be allowed except (i) if allowed under the preceding paragraph or (ii) for claims for the following:

(1) Undyed diesel fuel used (i) in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or by-product, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use or (ii) for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.

(2) Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29, of machinery or equipment intended for manufacture.

(3) Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.

(4) Undyed diesel fuel used by a commercial motor vehicle for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways.

(5) Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.

(6) Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of this Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.

(7) Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of this Law.

(8) Beginning on the effective date of this amendatory Act of the 94th General Assembly, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this item (8) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of

all credits or refunds resulting from claims filed under this item (8) by a claimant in any calendar year may not exceed $100,000. A claim may not be made under this item (8) by the same claimant more often than once each quarter. For the purposes of this item (8), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks.

Any person who has paid the tax imposed by Section 2 of this Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for non-highway purposes.

The Department shall promulgate regulations establishing specific limits on the amount of undyed diesel fuel that may be claimed for refund.

For purposes of claims for refund, "loss" means the reduction of motor fuel resulting from fire, theft, spillage, spoilage, leakage, or any other provable cause, but does not include a reduction resulting from evaporation, or shrinkage due to temperature variations. In the case of losses due to fire or theft, the claimant must include fire department or police department reports and any other documentation that the Department may require.

(Source: P.A. 94-654, eff. 8-22-05.)

(35 ILCS 505/13a.4) (from Ch. 120, par. 429a4)

Sec. 13a.4. Except as provided in Section 13a.5 of this Act, no motor carrier shall operate in Illinois without first securing a motor fuel use tax license and decals from the Department or a motor fuel use tax license and decals issued under the International Fuel Tax Agreement by any member jurisdiction. Notwithstanding any other provision of this Section to the contrary, however, the Director of Revenue or his designee may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the licensing requirements of this Section for commercial motor vehicles that travel through Illinois, or return to Illinois from a point outside Illinois, for the purpose of assisting in disaster relief efforts. Temporary waiver of the licensing requirements of this Section shall not exceed a period of 30 days from the date the Director temporarily waives the licensing requirements of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety, and welfare. The licensing requirements of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts. Application for such license and decals shall be made annually to the Department on forms prescribed by the Department. The application shall be under oath, and shall contain such information as the Department deems necessary. The Department, for cause, may require an applicant to post a bond on a form to be approved by and with a surety or sureties satisfactory to the Department conditioned upon such applicant paying to the State of Illinois all monies becoming due by reason of the sale or use of motor fuel by the applicant, together with all penalties and interest thereon. If a bond is required, it shall be equal to at least twice the estimated average tax liability of a quarterly return. The Department shall fix the penalty of such bond in each case taking into consideration the amount of motor fuel expected to be used by such applicant and the penalty fixed by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on motor fuel used. No person who is in default to the State for monies due under this Act for the sale, distribution or use of motor fuel shall receive such a license or decal.

Upon receipt of the application for license in proper form, and upon payment of any required $100 reinstatement fee, and upon approval by the Department of the bond furnished by the applicant, the Department may issue to such applicant a license which allows the operation of commercial motor vehicles in Illinois, and decals for each commercial motor vehicle operating in Illinois. Prior to January 1, 1985, motor fuel use tax licenses shall be conspicuously displayed in the cab of each commercial motor vehicle operating in Illinois. After January 1, 1986, motor fuel use tax licenses shall be carried in the cab of each commercial motor vehicle operating in Illinois.

The Department shall, by regulation, provide for the use of reproductions of original motor fuel use

tax licenses in lieu of issuing multiple original motor fuel use tax licenses to licensees.

On and after January 1, 1985, external motor fuel tax decals shall be conspicuously displayed on the passenger side of each commercial motor vehicle propelled by motor fuel operating in Illinois, except buses, which may display such devices on the driver's side of the vehicle. Beginning with the effective date of this amendatory Act of 1993 or the membership of the State of Illinois in the International Fuel Tax Agreement, whichever is later, the decals issued to the licensee shall be placed on both exterior sides of the cab. In the case of transporters, manufacturers, dealers, or driveway operations, the decals need not be permanently affixed but may be temporarily displayed in a visible manner on the exterior sides of the cab. Failure to display the decals in the required locations may subject the vehicle operator to the purchase of a trip permit and a citation. Such motor fuel tax decals shall be issued by the Department and remain valid for a period of 2 calendar years, beginning January 1, 1985. The decals shall expire at the end of the regular 2 year issuance period, with new decals required to be displayed at that time. Beginning January 1, 1993, the motor fuel decals shall be issued by the Department and remain valid for a period of one calendar year. The decals shall expire at the end of the regular one year issuance period, with new decals required to be displayed at that time. Decals shall be no larger than 3 inches by 3 inches. Prior to January 1, 1993, a fee of $7.50 shall be charged by the Department for each decal issued prior to and during the 2 calendar years such decal is valid. Beginning January 1, 1993, a fee of $3.75 shall be charged by the Department for each decal issued prior to and during the calendar year such decal is valid. Beginning January 1, 1994, $3.75 shall be charged for a set of 2 decals. The Department may also prescribe procedures for the issuance of replacement decals, with a maximum fee of $2 for each set of replacement decals issued. The transfer of decals from one vehicle to another vehicle or from one motor carrier to another motor carrier is prohibited. The fees paid for the decals issued under this Section shall be deposited in the Motor Fuel Tax Fund, and may be appropriated to the Department for administration of this Section and enforcement of the tax imposed by Section 13a of this Act.

To avoid duplicate reporting of mileage and payment of any tax arising therefrom under Section 13a.3 of this Act, the Department shall, by regulation, provide for the allocation between lessors and lessees of the same commercial motor vehicle or vehicles of the responsibility as a motor carrier for the reporting of mileage and the liability for tax arising under Section 13a.3 of this Act, and for registration, furnishing of bond, carrying of motor fuel use tax licenses, and display of decals under this Section, and for all other duties imposed upon motor carriers by this Act.

(Source: P.A. 94-1074, eff. 12-26-06.)

(35 ILCS 505/13a.5) (from Ch. 120, par. 429a5)

Sec. 13a.5. As to a commercial motor vehicle operated in Illinois in the course of interstate traffic by a motor carrier not holding a motor fuel use tax license issued under this Act, a single trip permit authorizing operation of such commercial motor vehicle for a single trip <u>into the State of Illinois,</u> through the State of Illinois, or from a point on the border of this State to a point within and return to the border may be issued by the Department or its agents after proper application. The fee for each single trip permit shall be <u>$40</u> ~~$20~~ and such single trip permit shall be valid for a period of <u>96</u> ~~72~~ hours. This fee shall be in lieu of the tax required by Section 13a of this Act, all reports required by Section 13a.3 of this Act, and the registration, decal display and furnishing of bond required by Section 13a.4 of this Act. <u>Notwithstanding any other provision of this Section to the contrary, however, the Director of Revenue or his designee may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the permit provisions of this Section for commercial motor vehicles that travel into the State of Illinois, through Illinois, or return to Illinois from a point outside Illinois, for the purpose of assisting in disaster relief efforts. Temporary waiver of the permit provisions of this Section shall not exceed a period of 30 days from the date the Director waives the permit provisions of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety, and welfare. The permit provisions of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts.</u> Rules or regulations promulgated by the Department under this Section shall provide for reasonable and proper limitations and restrictions governing application for and issuance and use of, single trip permits, so as to preclude evasion of the license requirement in Section 13a.4.

(Source: P.A. 94-1074, eff. 12-26-06.)

(35 ILCS 505/15) (from Ch. 120, par. 431)

Sec. 15. 1. Any person who knowingly acts as a distributor of motor fuel or supplier of special fuel,

or receiver of fuel without having a license so to do, or who knowingly fails or refuses to file a return with the Department as provided in Section 2b, Section 5, or Section 5a of this Act, or who knowingly fails or refuses to make payment to the Department as provided either in Section 2b, Section 6, Section 6a, or Section 7 of this Act, shall be guilty of a Class 3 felony. Each day any person knowingly acts as a distributor of motor fuel, supplier of special fuel, or receiver of fuel without having a license so to do or after such a license has been revoked, constitutes a separate offense.

2. Any person who acts as a motor carrier without having a valid motor fuel use tax license, issued by the Department or by a member jurisdiction under the provisions of the International Fuel Tax Agreement, or a valid single trip permit is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for each subsequent offense. Any person (i) who fails or refuses to make payment to the Department as provided in Section 13a.1 of this Act or in the International Fuel Tax Agreement referenced in Section 14a, or (ii) who fails or refuses to make the quarterly return as provided in Section 13a.3 is guilty of a Class 4 felony; and for each subsequent offense, such person is guilty of a Class 3 felony.

3. In case such person acting as a distributor, receiver, supplier, or motor carrier is a corporation, then the officer or officers, agent or agents, employee or employees, of such corporation responsible for any act of such corporation, or failure of such corporation to act, which acts or failure to act constitutes a violation of any of the provisions of this Act as enumerated in paragraphs 1 and 2 of this Section, shall be punished by such fine or imprisonment, or by both such fine and imprisonment as provided in those paragraphs.

3.5. Any person who knowingly enters false information on any supporting documentation required to be kept by Section 6 or 6a of this Act is guilty of a Class 3 felony.

3.7. Any person who knowingly attempts in any manner to evade or defeat any tax imposed by this Act or the payment of any tax imposed by this Act is guilty of a Class 2 felony.

4. Any person who refuses, upon demand, to submit for inspection, books and records, or who fails or refuses to keep books and records in violation of Section 12 of this Act, or any distributor, receiver, or supplier who violates any reasonable rule or regulation adopted by the Department for the enforcement of this Act is guilty of a Class A misdemeanor. Any person who acts as a blender in violation of Section 3 of this Act or who having transported reportable motor fuel within Section 7b of this Act fails to make the return required by that Section, is guilty of a Class 4 felony.

5. Any person licensed under Section 13a.4, 13a.5, or the International Fuel Tax Agreement who: (a) fails or refuses to keep records and books, as provided in Section 13a.2 or as required by the terms of the International Fuel Tax Agreement, (b) refuses upon demand by the Department to submit for inspection and examination the records required by Section 13a.2 of this Act or by the terms of the International Fuel Tax Agreement, or (c) violates any reasonable rule or regulation adopted by the Department for the enforcement of this Act, is guilty of a Class A misdemeanor.

6. Any person who makes any false return or report to the Department as to any material fact required by Sections 2b, 5, 5a, 7, 13, or 13a.3 of this Act or by the International Fuel Tax Agreement is guilty of a Class 2 felony.

7. A prosecution for any violation of this Section may be commenced anytime within 5 years of the commission of that violation. A prosecution for tax evasion as set forth in paragraph 3.7 of this Section may be prosecuted any time within 5 years of the commission of the last act in furtherance of evasion. The running of the period of limitations under this Section shall be suspended while any proceeding or appeal from any proceeding relating to the quashing or enforcement of any grand jury or administrative subpoena issued in connection with an investigation of the violation of any provision of this Act is pending.

8. Any person who provides false documentation required by any Section of this Act is guilty of a Class 4 felony.

9. Any person filing a fraudulent application or order form under any provision of this Act is guilty of a Class A misdemeanor. For each subsequent offense, the person is guilty of a Class 4 felony.

10. Any person who acts as a motor carrier and who fails to carry a manifest as provided in Section 5.5 is guilty of a Class A misdemeanor. For each subsequent offense, the person is guilty of a Class 4 felony.

11. Any person who knowingly sells or attempts to sell dyed diesel fuel for highway use or for use by recreational-type watercraft on the waters of this State is guilty of a Class 4 felony. For each subsequent offense, the person is guilty of a Class 2 felony.

12. Any person who knowingly possesses dyed diesel fuel for highway use or for use by recreational-type watercraft on the waters of this State is guilty of a Class A misdemeanor. For each subsequent offense, the person is guilty of a Class 4 felony.

13. Any person who sells or transports dyed diesel fuel without the notice required by Section 4e shall pay the following penalty:

First occurrence.....$ 500

Second and each occurrence thereafter.....$1,000

14. Any person who owns, operates, or controls any container, storage tank, or facility used to store or distribute dyed diesel fuel without the notice required by Section 4f shall pay the following penalty:

First occurrence.....$ 500

Second and each occurrence thereafter.....$1,000

15. If a motor vehicle required to be registered for highway purposes is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle or if a recreational-type watercraft on the waters of this State is found to have dyed diesel fuel within the ordinary fuel tanks attached to the watercraft, the operator shall pay the following penalty:

First occurrence.....$1,000 ~~$2,500~~

Second and each occurrence thereafter.....$5,000

16. Any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for highway use or for use by recreational-type watercraft on the waters of this State shall pay the following penalty:

First occurrence.....$1,000 ~~$ 5,000~~

Second and each occurrence thereafter.....$5,000 ~~$10,000~~

17. Any person who knowingly sells or distributes dyed diesel fuel without the notice required by Section 4e is guilty of a petty offense. For each subsequent offense, the person is guilty of a Class A misdemeanor.

18. Any person who knowingly owns, operates, or controls any container, storage tank, or facility used to store or distribute dyed diesel fuel without the notice required by Section 4f is guilty of a petty offense. For each subsequent offense the person is guilty of a Class A misdemeanor.

For purposes of this Section, dyed diesel fuel means any dyed diesel fuel whether or not dyed pursuant to Section 4d of this Law.

Any person aggrieved by any action of the Department under item 13, 14, 15, or 16 of this Section may protest the action by making a written request for a hearing within 60 days of the original action. If the hearing is not requested in writing within 60 days, the original action is final.

All penalties received under items 13, 14, 15, and 16 of this Section shall be deposited into the Tax Compliance and Administration Fund.

(Source: P.A. 94-1074, eff. 12-26-06.)

(35 ILCS 505/17a new)

Sec. 17a. Forms; electronic filing. All returns, applications, and other forms required by this Act must be in the form required by the Department. The Department is authorized to adopt rules to require the electronic payment of tax or fees under this Act, and the electronic filing of returns, applications or other forms required by this Act.

Section 10. The Environmental Impact Fee Law is amended by changing Section 325 as follows:

(415 ILCS 125/325)

(Section scheduled to be repealed on January 1, 2025)

Sec. 325. Incorporation of other Acts. The provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10 and 12 (except to the extent to which the minimum notice requirement for hearings conflicts with that provided for in Section 16 of the Motor Fuel Tax Law), of the Retailers' Occupation Tax Act that are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply as far as practicable, to the subject matter of this Law to the same extent as if those provisions were included in this Law.

In addition, Sections 2d, 12, 12a, 13a.8, 14, 15, 16, 17, 17a, and 18 of the Motor Fuel Tax Law shall apply as far as practicable, to the subject matter of this Law to the same extent as if those provisions were included in this Law.

References to "taxes" in these incorporated Sections shall be construed to apply to the administration, payment, and remittance of all fees under this Law.

(Source: P.A. 95-264, eff. 8-17-07.)

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Clayborne, **House Bill No. 6038** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Crotty, **House Bill No. 6041** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **House Bill No. 6047** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **House Bill No. 6065** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6065

AMENDMENT NO. 1. Amend House Bill 6065 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Care of Students with Diabetes Act.

Section 5. Legislative findings. The General Assembly finds the following:

(1) Diabetes is a serious chronic disease in which the pancreas does not make insulin (Type 1) or the body cannot use insulin properly (Type 2).

(2) Diabetes must be managed 24 hours a day to avoid the potentially life-threatening, short-term consequences of low blood sugar and prevent or delay the serious complications caused by blood sugar levels that are too high for too long, such as atherosclerosis, coronary artery disease, peripheral vascular disease, hypertension, blindness, kidney failure, amputation, and stroke.

(3) Federal law affords people with diabetes specific rights and protections. These laws include Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Improvement Act of 2004, and the Americans with Disabilities Act of 1990, and the ADA Amendments Act of 2008.

(4) Federal laws enforced consistently in schools provide students with diabetes equal educational opportunities and a healthy and safe environment.

(5) A school nurse is the most appropriate person in a school setting to provide for all students' healthcare needs; however, a school nurse may not be available when needed, and many schools do not have a full-time nurse.

(6) Many students are capable of checking their blood glucose levels, calculating a carbohydrate-to-insulin ratio, and administering insulin independently. Allowing capable students to manage diabetes independently in school is consistent with the recommendations of pediatric endocrinologists and certified diabetes educators and other specialists.

(7) Because appropriate and consistent diabetes care decreases the risks of serious short-term and long-term complications, increases a student's learning opportunities, and promotes individual and public health benefits, the General Assembly deems it in the public interest to enact this Act.

Section 10. Definitions. As used in this Act:

"Delegated care aide" means a school employee who has agreed to receive training in diabetes care and to assist students in implementing their diabetes care plan and has entered into an agreement with a parent or guardian and the school district or private school.

"Diabetes care plan" means a document that specifies the diabetes-related services needed by a student at school and at school-sponsored activities and identifies the appropriate staff to provide and supervise these services.

"Health care provider" means a physician licensed to practice medicine in all of its branches, advanced practice nurse who has a written agreement with a collaborating physician who authorizes the provision of diabetes care, or a physician assistant who has a written supervision agreement with a supervising physician who authorizes the provision of diabetes care.

"Principal" means the principal of the school.

"School" means any primary or secondary public, charter, or private school located in this State.

"School employee" means a person who is employed by a public school district or private school, a

person who is employed by a local health department and assigned to a school, or a person who contracts with a school or school district to perform services in connection with a student's diabetes care plan. This definition must not be interpreted as requiring a school district or private school to hire additional personnel for the sole purpose of serving as a designated care aide.

Section 15. Diabetes care plan.

(a) A diabetes care plan shall serve as the basis of a student's Section 504 plan (29 U.S.C. Sec. 794) and shall be signed by a student's parent or guardian and submitted to the school for any student with diabetes who seeks assistance with diabetes care in the school setting, unless the student has been managing his or her diabetes care in the school setting before the effective date of this Act, in which case the student's parent or guardian may sign and submit a diabetes care plan under this Act. It is the responsibility of the student's parent or guardian to share the health care provider's instructions concerning the student's diabetes management during the school day. The diabetes care plan shall include the treating health care provider's instructions concerning the student's diabetes management during the school day, including a copy of the signed prescription and the methods of insulin administration.

(b) The services and accommodations specified in a diabetes care plan shall be reasonable, reflect the current standard of diabetes care, include appropriate safeguards to ensure that syringes and lancets are disposed of properly, and include requirements for diet, glucose testing, insulin administration, and treatment for hypoglycemia, hyperglycemia, and emergency situations.

(c) A diabetes care plan shall include a uniform record of glucometer readings and insulin administered by the school nurse or delegated care aide during the school day using a standardized format provided by the State Board of Education.

(d) A diabetes care plan shall include procedures regarding when a delegated care aide shall consult with the parent or guardian, school nurse, where available, or health care provider to confirm that an insulin dosage is appropriate.

(e) A diabetes care plan shall be submitted to the school at the beginning of the school year; upon enrollment, as soon as practical following a student's diagnosis; or when a student's care needs change during the school year. Parents shall be responsible for informing the school in a timely manner of any changes to the diabetes care plan and their emergency contact numbers.

Section 20. Delegated care aides.

(a) Delegated care aides shall perform the duties necessary to assist a student with diabetes in accordance with his or her diabetes care plan and in compliance with any guidelines provided during training under Section 25 of this Act.

(b) In accordance with the diabetes care plan or when an unexpected snack or meal requires a dose of insulin not anticipated by a student's diabetes care plan, the delegated care aide shall consult with the parent or guardian, school nurse, where available, or health care provider to confirm that the insulin dosage is appropriate given the number of carbohydrates to be taken and the student's blood glucose level as determined by a glucometer reading.

(c) The principal shall facilitate compliance with the provisions of a diabetes care plan.

(d) Delegated care aides are authorized to provide assistance by a student's parents or guardian and the school district or private school.

Section 25. Training for school employees and delegated care aides.

(a) In schools that have a student with diabetes, all school employees shall receive training in the basics of diabetes care, how to identify when a student with diabetes needs immediate or emergency medical attention, and whom to contact in the case of an emergency during a regular in-service training as provided for by Section 10-22.39 of the School Code.

(b) Delegated care aides shall be trained to perform the tasks necessary to assist a student with diabetes in accordance with his or her diabetes care plan, including training to do the following:

(1) check blood glucose and record results;

(2) recognize and respond to the symptoms of hypoglycemia according to the diabetes care plan;

(3) recognize and respond to the symptoms of hyperglycemia according to the diabetes care plan;

(4) estimate the number of carbohydrates in a snack or lunch;

(5) administer insulin according to the student's diabetes care plan and keep a record of the amount administered; and

(6) respond in an emergency, including how to administer glucagon and call 911.

(c) The school district shall coordinate staff training.

(d) Initial training shall be provided by a licensed healthcare provider with expertise in diabetes or a certified diabetic educator and individualized by a student's parent or guardian. Training must be consistent with the guidelines provided by the U.S. Department of Health and Human Services in the guide for school personnel entitled "Helping the Student with Diabetes Succeed". The training shall be updated when the diabetes care plan is changed and at least annually.

(e) School nurses, where available, or health care providers may provide technical assistance or consultation or both to delegated care aides.

(f) An information sheet shall be provided to any school employee who transports a student for school-sponsored activities. It shall identify the student with diabetes, identify potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies, and provide emergency contact information.

Section 30. Self-management. Provided that the student is authorized according to his or her diabetes care plan, a student shall be permitted to do the following:

(1) check blood glucose when and wherever needed;

(2) administer insulin with the insulin delivery system used by the student;

(3) treat hypoglycemia and hyperglycemia and otherwise attend to the care and management of his or her diabetes in the classroom, in any area of the school or school grounds and at any school-related activity or event in accordance with the diabetes care plan; and

(4) possess on his or her person, at all times, the supplies and equipment necessary to monitor and treat diabetes, including, but not limited to, glucometers, lancets, test strips, insulin, syringes, insulin pens and needle tips, insulin pumps, infusion sets, alcohol swabs, a glucagon injection kit, glucose tablets, and food and drink, in accordance with the diabetes care plan.

Section 35. Restricting access to school prohibited. A school district shall not restrict the assignment of a student with diabetes to a particular school on the basis that the school does not have a full-time school nurse, nor shall a school deny a student access to any school or school-related activities on the basis that a student has diabetes.

Section 40. Protections against retaliation. A school employee shall not be subject to any penalty, sanction, reprimand, discharge, demotion, denial of a promotion, withdrawal of benefits, or other disciplinary action for choosing not to agree to serve as a delegated care aide.

Section 45. Civil immunity.

(a) A school or a school employee is not liable for civil or other damages as a result of conduct, other than willful or wanton misconduct, related to the care of a student with diabetes.

(b) A school employee shall not be subject to any disciplinary proceeding resulting from an action taken in compliance with this Act, unless the action constitutes willful or wanton misconduct.

Section 50. Federal law. Nothing in this Act shall limit any rights available under federal law.

Section 95. The State Mandates Act is amended by adding Section 8.34 as follows:

(30 ILCS 805/8.34 new)

Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 96th General Assembly.

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Garrett, **House Bill No. 6062** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Frerichs, **House Bill No. 6079** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6079

AMENDMENT NO. 1. Amend House Bill 6079 as follows:

on page 1, line 12, by replacing "100" with "150"; and

on page 1, line 12, by replacing "2009-2010" with "2008-2009"; and

on page 1, line 13, by replacing "2009-2010" with "2008-2009"; and

on page 3, line 18, before "cooperative", by inserting "or".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Harmon, **House Bill No. 6080** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 6082** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Maloney, **House Bill No. 6092** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **House Bill No. 6094** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **House Bill No. 6099** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Agriculture and Conservation, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6099

AMENDMENT NO. 1. Amend House Bill 6099 by replacing everything after the enacting clause with the following:

"Section 5. The Lawn Care Products Application and Notice Act is amended by changing Sections 2 and 7 and adding Sections 5a and 9 as follows:

(415 ILCS 65/2) (from Ch. 5, par. 852)

Sec. 2. Definitions.

For purposes of this Act:

"Application" means the spreading of lawn care products on a lawn.

"Applicator for hire" means any person who makes an application of lawn care products to a lawn or lawns for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer and includes those licensed by the Department as licensed commercial applicators, commercial not-for-hire applicators, licensed public applicators, certified applicators and licensed operators and those otherwise subject to the licensure provisions of the Illinois Pesticide Act, as now or hereafter amended.

"Buffer" means an area adjacent to a body of water that is left untreated with any fertilizer.

"Day care center" means any facility that qualifies as a "day care center" under the Child Care Act of 1969.

"Department" means the Illinois Department of Agriculture.

"Department of Public Health" means the Illinois Department of Public Health.

"Facility" means a building or structure and appurtenances thereto used by an applicator for hire for storage and handling of pesticides or the storage or maintenance of pesticide application equipment or vehicles.

"Fertilizer" means any substance containing nitrogen, phosphorus or potassium or other recognized plant nutrient or compound, which is used for its plant nutrient content.

"Golf course" means an area designated for the play or practice of the game of golf, including surrounding grounds, trees, ornamental beds and the like.

"Golf course superintendent" means any person entrusted with and employed for the care and maintenance of a golf course.

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes pavement, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

"Lawn" means land area covered with turf kept closely mown or land area covered with turf and trees or shrubs. The term does not include (1) land area used for research for agricultural production or for the commercial production of turf, (2) land area situated within a public or private right-of-way, or (3) land area which is devoted to the production of any agricultural commodity, including, but not limited to plants and plant parts, livestock and poultry and livestock or poultry products, seeds, sod, shrubs and other products of agricultural origin raised for sale or for human or livestock consumption.

"Lawn care products" means fertilizers or pesticides applied or intended for application to lawns.

"Lawn repair products" means seeds, including seeding soils, that contain or are coated with or encased in fertilizer material.

"Person" means any individual, partnership, association, corporation or State governmental agency, school district, unit of local government and any agency thereof.

"Pesticide" means any substance or mixture of substances defined as a pesticide under the Illinois Pesticide Act, as now or hereafter amended.

"Plant protectants" means any substance or material used to protect plants from infestation of insects, fungi, weeds and rodents, or any other substance that would benefit the overall health of plants.

"Soil test" means a chemical and mechanical analysis of soil nutrient values and pH level as it relates to the soil and development of a lawn.

"Spreader" means any commercially available fertilizing device used to evenly distribute fertilizer material.

"Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

"0% phosphate fertilizer" means a fertilizer that contains no more than 0.67% available phosphoric acid (P_2O_5).

(Source: P.A. 96-424, eff. 8-13-09.)

(415 ILCS 65/5a new)

Sec. 5a. Fertilizer; application restrictions.

(a) No applicator for hire shall:

(1) Apply phosphorus-containing fertilizer to a lawn, except as demonstrated to be necessary by a soil test that establishes that the soil is lacking in phosphorous when compared against the standard established by the University of Illinois. The soil test required under this paragraph (1) shall be conducted no more than 36 months before the intended application of the fertilizer and by a soil testing laboratory that has been identified by the University of Illinois as an acceptable laboratory for soil testing. However, a soil test shall not be required under this paragraph (1) if the fertilizer to be applied is a 0% phosphate fertilizer or the fertilizer is being applied to establish a lawn in the first 2 growing seasons.

(2) Apply fertilizer to an impervious surface, except where the application is inadvertent and fertilizer is swept or blown back into the target area or returned to either its original or another appropriate container for reuse.

(3) Apply fertilizer using a spray, drop, or rotary spreader with a deflector within a 3 foot buffer of any water body, except that when this equipment is not used, fertilizer may not be applied within a 15 foot buffer of any water body.

(4) Apply fertilizer at any time when the lawn is frozen or saturated. For the purposes of this paragraph (4), a lawn is frozen when its root system is frozen (typically 3 or 4 inches down), and a lawn is saturated when it bears ample evidence of being or having been inundated by standing water.

(b) This Section does not apply to the application of fertilizer on property used in the operation of a commercial farm, lands classified as agricultural lands, or golf courses.

(c) This Section does not apply to the application of lawn repair products.

(d) Paragraph (1) of subsection (a) of this Section does not apply to the application of animal or vegetable manure that is ground, pelletized, mechanically dried, packaged, or supplemented with plant nutrients or other substances other than phosphorus.

(415 ILCS 65/7) (from Ch. 5, par. 857)

Sec. 7. When an administrative hearing is held by the Department, the hearing officer, upon determination of any violation of this Act or rule or regulation, shall either refer the violation to the

States Attorney's office in the county where the alleged violation occurred for prosecution or levy the following administrative monetary penalties:

(a) a penalty of $250 ~~$100~~ for a first violation;

(b) a penalty of $500 ~~$200~~ for a second violation; and

(c) a penalty of $1,000 ~~$500~~ for a third or subsequent violation.

The penalty levied shall be collected by the Department, and all penalties collected by the Department under this Act shall be deposited into the Pesticide Control Fund. Any penalty not paid within 60 days of notice from the Department shall be submitted to the Attorney General's office for collection.

Upon prosecution by a State's Attorney, a violation of this Act or rules shall be a petty offense subject to a fine of $250 ~~$100~~ for a first offense, a fine of $500 ~~$200~~ for a second offense and a fine of $1,000 ~~$500~~ for a third or subsequent offense.

(Source: P.A. 86-358; 87-1033.)

(415 ILCS 65/9 new)

Sec. 9. Home rule.

(a) On and after the effective date of this amendatory Act of the 96th General Assembly, a unit of local government may not regulate fertilizer in a manner more restrictive than the regulation of fertilizer by the State under this Act, unless the Department of Agriculture determines that a proposed ordinance of a unit of local government is reasonable under the specific circumstances based on standards that the Department shall adopt by rule. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(b) Subsection (a) of this Section shall not apply to any local ordinance or regulation in effect before the effective date of this amendatory Act of the 96th General Assembly.

(415 ILCS 65/8 rep.)

Section 10. The Lawn Care Products Application and Notice Act is amended by repealing Section 8.

Section 99. Effective date. This Act takes effect July 1, 2010".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Hutchinson, **House Bill No. 6101** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **House Bill No. 6125** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **House Bill No. 6126** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bomke, **House Bill No. 6178** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Pankau, **House Bill No. 6194** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Crotty, **House Bill No. 6206** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **House Bill No. 6235** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Clayborne, **House Bill No. 6241** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6241

AMENDMENT NO. 1. Amend House Bill 6241 on page 5, line 22, by replacing "~~permanent~~" with "permanent".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 6268** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Koehler, **House Bill No. 6412** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **House Bill No. 6415** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6415

AMENDMENT NO. 1. Amend House Bill 6415 on page 1, line 19, by replacing "2010" with "2012 ~~2010~~".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **House Bill No. 6416** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 6420** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6420

AMENDMENT NO. 1. Amend House Bill 6420 by replacing line 24, on page 6, through line 1, on page 7, with the following:

"Within the existing scope of the practice of funeral directing or funeral directing and embalming, only a licensed funeral director, a licensed funeral director and embalmer, or a licensed funeral director and embalmer intern under the restrictions provided for in this Code, and not any other person employed or contracted by the licensee, may engage in the following activities at-need: (1) have direct contact with consumers and explain funeral or burial merchandise or services or (2) negotiate, develop, or finalize contracts with consumers. This paragraph shall not be construed or enforced in such a manner as to limit the functions of persons regulated under the Illinois Funeral and Burial Funds Act, the Illinois Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the Cemetery Care Act, the Cemetery Association Act, the Illinois Insurance Code, or any other related professional regulatory Act."; and

by replacing line 24 on page 9, through line 1, on page 10, with the following:

"Within the existing scope of the practice of funeral directing or funeral directing and embalming, only a licensed funeral director, a licensed funeral director and embalmer, or a licensed funeral director and embalmer intern under the restrictions provided for in this Code, and not any other person employed or contracted by the licensee, may engage in the following activities at-need: (1) have direct contact with consumers and explain funeral or burial merchandise or services or (2) negotiate, develop, or finalize contracts with consumers. This paragraph shall not be construed or enforced in such a manner as to limit the functions of persons regulated under the Illinois Funeral and Burial Funds Act, the Illinois Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the Cemetery Care Act, the Cemetery Association Act, the Illinois Insurance Code, or any other related professional regulatory Act."; and

on page 40, line 16, after "requirements", by inserting "with the consultation of the Board"; and

on page 53, immediately below line 12, by inserting the following:

"(e) Nothing in this Section shall be construed or enforced to give a funeral director and embalmer, or his or her designees, authority over the operation of a cemetery or over cemetery employees. Nothing in this Section shall be construed or enforced to impose duties or penalties on cemeteries with respect to the timing of the placement of human remains in their designated grave or the sealing of the above ground

depository, crypt, or urn due to patron safety, the allocation of cemetery staffing, liability insurance, a collective bargaining agreement, or other such reasons.".

Senate Floor Amendment No. 2 was referred to the Committee on Licensed Activities earlier today.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Steans, **House Bill No. 6439** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6439

AMENDMENT NO. 1. Amend House Bill 6439 as follows:

on page 1, immediately below line 6, by inserting the following:

"(Section scheduled to be repealed on January 1, 2012)"; and

on page 3, line 5, after the period, by inserting "This Section is repealed on January 1, 2012.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Harmon, **House Bill No. 6441** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **House Bill No. 6477** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 6748** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 6748

AMENDMENT NO. 1. Amend House Bill 6748 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-1000 as follows:

(20 ILCS 605/605-1000)

Sec. 605-1000. Illinois Science and Technology Commission. The ~~The~~ Illinois Science and Technology Commission is created, subject to appropriation, to coordinate efforts on behalf of the State, units of local government, and institutions of higher education in order to attract, retain, and promote scientific endeavors and research facilities within the State. The Commission may coordinate with other states, the federal government, and scientific research facilities to achieve its objectives under this Section. The Department of Commerce and Economic Opportunity shall, subject to appropriation for this purpose, provide staff support for the Commission. The Commission shall consist of the following 10 members, who shall be appointed by the Governor with the advice and consent of the Senate unless otherwise provided in this Section:

(1) Two members with a background in physical sciences.
(2) One member with a background in civil engineering.
(3) One member with a background in land use.
(4) One member with a background in environmental issues.
(5) One member representing institutions of higher education.
(6) One member appointed by a statewide association that advocates for business.
(7) One member appointed by a statewide association that advocates for labor.
(8) The Director of Commerce and Economic Opportunity, ex officio, or his or her designee.
(9) The Governor, ex officio, or his or her designee.

The members shall elect a member to serve as chairperson. Of the initial members appointed under items (1) through (7) of this Section, 2 shall serve for 3-year terms, 2 shall serve for 4-year terms, and 4 shall serve for 5-year terms, as determined by lot. Successor members shall be appointed by the original appointing authority and shall serve for 5-year terms. Members shall serve without compensation but may be reimbursed for travel expenses.
(Source: P.A. 95-943, eff. 1-1-09.)".

At the hour of 5:03 o'clock p.m., Senator Schoenberg, presiding, and the Chair announced the Senate stand at ease.

AT EASE

At the hour of 5:08 o'clock p.m., the Senate resumed consideration of business.
Senator Schoenberg, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 22, 2010 meeting, reported the following House Bill has been assigned to the indicated Standing Committee of the Senate:

Executive: **House Bill No. 6208.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 22, 2010 meeting, reported that the Committee recommends that **House Bill No. 6460** be re-referred from the Committee on Criminal Law to the Committee on Executive.

REPORT FROM STANDING COMMITTEE

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred **House Bills Numbered 4647, 4779, 5006, 5007, 5043, 5130, 5194, 5341, 5410, 5444, 5494, 5510, 5666, 5762, 5832, 5914, 5931 and 6459,** reported the same back with the recommendation that the bills do pass.
Under the rules, the bills were ordered to a second reading.

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred **House Bills Numbered 4580, 4598, 4675, 5060, 5745, 5749, 6462 and 6464,** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.
Under the rules, the bills were ordered to a second reading.

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 4715
Senate Amendment No. 1 to House Bill 4895
Senate Amendment No. 1 to House Bill 5150

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

At the hour of 5:10 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, April 23, 2010, at 10:00 o'clock a.m.