



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-EIGHTH GENERAL ASSEMBLY**

**36TH LEGISLATIVE DAY**

**THURSDAY, APRIL 18, 2013**

**12:32 O'CLOCK P.M.**

**SENATE**  
**Daily Journal Index**  
**36th Legislative Day**

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The Senate met pursuant to adjournment.  
Senator John M. Sullivan, Rushville, Illinois, presiding.  
Pastor Shaun Lewis, Capitol Commission, Springfield, Illinois.  
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, April 17, 2013, be postponed, pending arrival of the printed Journal.  
The motion prevailed.

**REPORT RECEIVED**

FY 2012 Annual Report, Office of Coal Development, submitted by Department of Commerce and Economic Opportunity.

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

**MESSAGES FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, IL 62706  
217-782-2728

April 18, 2013

Mr. Tim Anderson  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Don Harmon to temporarily replace Senator Iris Martinez as a member of the Senate Energy Committee. This appointment will automatically expire upon adjournment of the Senate Energy Committee.

Sincerely,  
s/John J. Cullerton  
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, IL 62706  
217-782-2728

April 18 2013

Mr. Tim Anderson  
Secretary of the Senate  
Room 401 State House

[April 18, 2013]

Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 3-5(c), I hereby appoint Senator Don Harmon to temporarily replace Senator James Clayborne as Chairman of the Senate Committee on Assignments. In addition, I hereby appoint Senator Tony Munoz to temporarily replace Senator James Clayborne as a member of the Senate Committee on Assignments. These appointments will automatically expire upon adjournment of the Senate Committee on Assignments.

Sincerely,  
s/John J. Cullerton  
John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

### PRESENTATION OF RESOLUTIONS

#### SENATE RESOLUTION NO. 234

Offered by Senator McGuire and all Senators  
Mourns the death of Angelo J. Garbin.

#### SENATE RESOLUTION NO. 235

Offered by Senator Koehler and all Senators:  
Mourns the death of Curtis Keith Davies of Washington.

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

### REPORTS FROM STANDING COMMITTEES

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

Senate Amendment No. 1 to Senate Bill 850  
Senate Amendment No. 1 to Senate Bill 1704  
Senate Amendment No. 2 to Senate Bill 1925  
Senate Amendment No. 1 to Senate Bill 1961

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

Senator Jacobs, Chairperson of the Committee on Energy, to which was referred **Senate Bill No. 105**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, 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 the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 1458  
Senate Amendment No. 2 to Senate Bill 2350  
Senate Amendment No. 2 to Senate Bill 2365

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

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Senator Jacobs, Chairperson of the Committee on Energy, to which was referred **House Bills Numbered 1201, 1453, 1534 and 2427**, reported the same back with the recommendation that the bills do pass.

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

#### **READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

**House Bill No. 1**, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 226**, sponsored by Senator J. Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 490**, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 494**, sponsored by Senator J. Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 513**, sponsored by Senator J. Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 595**, sponsored by Senator Raoul, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 630**, sponsored by Senator J. Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 806**, sponsored by Senator Sullivan, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 827**, sponsored by Senator J. Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1217**, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1277**, sponsored by Senator Brady, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1344**, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1604**, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1694**, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1773**, sponsored by Senator Bivins, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 1815**, sponsored by Senator Hunter, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2453**, sponsored by Senator Hutchinson, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2482**, sponsored by Senator Stadelman, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2583**, sponsored by Senator Muñoz, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2585**, sponsored by Senator Sandoval, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2656**, sponsored by Senator Brady, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2675**, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 2856**, sponsored by Senator Bertino-Tarrant, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 3006**, sponsored by Senator Hunter, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 3111**, sponsored by Senator Mulroe, was taken up, read by title a first time and referred to the Committee on Assignments.

**House Bill No. 3383**, sponsored by Senator Frerichs, was taken up, read by title a first time and referred to the Committee on Assignments.

#### SENATE BILLS RECALLED

On motion of Senator Steans, **Senate Bill No. 45** was recalled from the order of third reading to the order of second reading.

Senator Steans offered the following amendment and moved its adoption:

##### AMENDMENT NO. 1 TO SENATE BILL 45

AMENDMENT NO. 1. Amend Senate Bill 45 by replacing everything after the enacting clause with the following:

"Section 5. The Specialized Mental Health Rehabilitation Act is amended by changing Section 1-101 as follows:

(210 ILCS 48/1-101)

Sec. 1-101. Short title. This Act may be cited as the ~~the~~ Specialized Mental Health Rehabilitation Act. (Source: P.A. 97-38, eff. 6-28-11.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Harmon, **Senate Bill No. 333** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

##### AMENDMENT NO. 2 TO SENATE BILL 333

AMENDMENT NO. 2. Amend Senate Bill 333, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, by deleting lines 22 and 23.

The motion prevailed.

And the amendment was adopted and ordered printed.

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There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Bertino-Tarrant, **Senate Bill No. 578** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 50; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Raoul
Barickman	Frerichs	Manar	Rezin
Bertino-Tarrant	Haine	McCann	Righter
Biss	Harmon	McCarter	Rose
Bush	Harris	McConnaughay	Silverstein
Clayborne	Hastings	McGuire	Stadelman
Collins	Holmes	Morrison	Steans
Connelly	Hunter	Mulroe	Sullivan
Cullerton, T.	Jacobs	Muñoz	Syverson
Cunningham	Jones, E.	Murphy	Van Pelt
Delgado	Koehler	Noland	Mr. President
Dillard	Kotowski	Oberweis	
Duffy	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

### SENATE BILL RECALLED

On motion of Senator Steans, **Senate Bill No. 579** was recalled from the order of third reading to the order of second reading.

Senator Steans offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 579

AMENDMENT NO. 1. Amend Senate Bill 579 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 21B-40 as follows:  
(105 ILCS 5/21B-40)

Sec. 21B-40. Fees.

(a) Beginning with the start of the new licensure system established pursuant to this Article, the following fees shall be charged to applicants:

(1) A \$75 application fee for a Professional Educator License or an Educator License with Stipulations and for individuals seeking a Substitute Teaching License. However, beginning on January 1, 2015, the application fee for a Professional Educator License, Educator License with Stipulations, or Substitute Teaching License shall be \$100.

(2) A \$150 application fee for individuals who have completed an approved educator preparation program outside of this State or who hold a valid, comparable credential from another state or country and are seeking any of the licenses set forth in subdivision (1) of this subsection (a).

(3) A \$50 application fee for each endorsement or approval an individual holding a license wishes to add to that license.

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(4) A \$10 per year registration fee for the course of the validity cycle to register the license, which shall be paid to the regional office of education having supervision and control over the school in which the individual holding the license is to be employed. If the individual holding the license is not yet employed, then the license may be registered in any county in this State. The registration fee must be paid in its entirety the first time the individual registers the license for a particular validity period in a single region. No additional fee may be charged for that validity period should the individual subsequently register the license in additional regions. An individual must register the license (i) immediately after initial issuance of the license and (ii) at the beginning of each renewal cycle if the individual has satisfied the renewal requirements required under this Code.

(b) All application fees paid pursuant to subdivisions (1) through (3) of subsection (a) of this Section shall be deposited into the Teacher Certificate Fee Revolving Fund and shall be used, subject to appropriation, by the State Board of Education to provide the technology and human resources necessary for the timely and efficient processing of applications and for the renewal of licenses. The Teacher Certificate Fee Revolving Fund is not subject to administrative charge transfers, authorized under Section 8h of the State Finance Act, from the Teacher Certificate Fee Revolving Fund into any other fund of this State, and moneys in the Teacher Certificate Fee Revolving Fund shall not revert back to the General Revenue Fund at any time.

The regional superintendent of schools shall deposit the registration fees paid pursuant to subdivision (4) of subsection (a) of this Section into the institute fund established pursuant to Section 3-11 of this Code.

(c) The State Board of Education and each regional office of education are authorized to charge a service or convenience fee for the use of credit cards for the payment of license fees. This service or convenience fee shall not exceed the amount required by the credit card processing company or vendor that has entered into a contract with the State Board or regional office of education for this purpose, and the fee must be paid to that company or vendor.

(d) If, at the time a certificate issued under Article 21 of this Code is exchanged for a license issued under this Article, a person has paid registration fees for any years of the validity period of the certificate and these years have not expired when the certificate is exchanged, then those fees must be applied to the registration of the new license.

(Source: P.A. 97-607, eff. 8-26-11.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 626** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Rezin
Barickman	Frerichs	Manar	Righter
Bertino-Tarrant	Haine	McCann	Rose
Biss	Harmon	McCarter	Silverstein
Bivins	Harris	McConaughay	Stadelman
Bush	Hastings	McGuire	Steans
Clayborne	Holmes	Morrison	Sullivan
Collins	Hunter	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Van Pelt

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Cullerton, T.	Jones, E.	Noland	Mr. President
Cunningham	Koehler	Oberweis	
Delgado	Kotowski	Radogno	
Duffy	LaHood	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Harmon, **Senate Bill No. 724** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 47; NAYS 3.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Oberweis
Barickman	Forby	Kotowski	Radogno
Bertino-Tarrant	Frerichs	Link	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McConaughay	Silverstein
Bush	Hastings	McGuire	Stadelman
Clayborne	Holmes	Morrison	Steans
Collins	Hunter	Mulroe	Sullivan
Cullerton, T.	Hutchinson	Muñoz	Van Pelt
Cunningham	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	

The following voted in the negative:

Duffy  
Luechtefeld  
McCarter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

### SENATE BILLS RECALLED

On motion of Senator Hutchinson, **Senate Bill No. 722** was recalled from the order of third reading to the order of second reading.

Senator Hutchinson offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 722

AMENDMENT NO. 1. Amend Senate Bill 722 by replacing everything after the enacting clause with the following:

"Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-33 as follows:  
(235 ILCS 5/6-33)

Sec. 6-33. Sealing and removal of open wine bottles from a restaurant or winery. Notwithstanding any other provision of this Act, a restaurant licensed to sell alcoholic liquor in this State may permit a patron

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to remove one unsealed and partially consumed bottle of wine for off-premise consumption provided that the patron has purchased a meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. Notwithstanding any other provision of this Act, a winery licensed to sell alcoholic liquor in this State may permit a patron to remove one unsealed and partially consumed bottle of wine for off-premise consumption. A partially consumed bottle of wine that is to be removed from the premises pursuant to this Section shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent one-time use tamper-proof bag. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine that is resealed in accordance with the provisions of this Section and not tampered with and transported in accordance with the restrictions of subsections (a) and (b) of Section 11-502 of the Illinois Vehicle Code shall not be deemed to violate Section 11-502 of the Illinois Vehicle Code. (Source: P.A. 94-1047, eff. 1-1-07; 95-331, eff. 8-21-07; 95-847, eff. 8-15-08.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 850** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 850**

AMENDMENT NO. 1. Amend Senate Bill 850 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 3.330 as follows:

(415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

Sec. 3.330. Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

- (1) (blank);
- (2) waste storage sites regulated under 40 CFR, Part 761.42;
- (3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;
- (4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3;
- (5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;
- (6) sites or facilities used by any person to specifically conduct a landscape composting operation;
- (7) regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21;
- (9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;
- (10) the portion of a site or facility used for treatment of petroleum contaminated

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materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) are exempt under this subdivision (10);

(11) the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

(11.5) processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Admin. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Admin. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are: (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements;

(12) the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

(13) the portion of a site or facility that (i) accepts exclusively general construction or demolition debris, (ii) is located in a county with a population over 3,000,000 as of January 1, 2000 or in a county that is contiguous to such a county, and (iii) is operated and located in accordance with Section 22.38 of this Act;

(14) the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

(15) the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;

(16) a site or facility that temporarily holds in transit for 10 days or less, non-putrescible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-putrescible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;

(17) the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of this Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;

(18) a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received;

(19) the portion of a site or facility that (i) is used for the composting of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste, including, but not limited to, corrugated paper or cardboard, and (ii) meets all of the following requirements:

(A) There must not be more than a total of 30,000 cubic yards of livestock waste in raw form or in the process of being composted at the site or facility at any one time.

(B) All food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must, by the end of each operating day, be processed and placed into an enclosed vessel in which air flow and temperature are controlled, or all of the following additional requirements must be met:

- (i) The portion of the site or facility used for the composting operation must include a setback of at least 200 feet from the nearest potable water supply well.
- (ii) The portion of the site or facility used for the composting operation must be located outside the boundary of the 10-year floodplain or floodproofed.
- (iii) The portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility.
- (iv) The portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the property line of all of the following areas:
  - (I) Facilities that primarily serve to house or treat people that are immunocompromised or immunosuppressed, such as cancer or AIDS patients; people with asthma, cystic fibrosis, or bioaerosol allergies; or children under the age of one year.
  - (II) Primary and secondary schools and adjacent areas that the schools use for recreation.
  - (III) Any facility for child care licensed under Section 3 of the Child Care Act of 1969; preschools; and adjacent areas that the facilities or preschools use for recreation.
- (v) By the end of each operating day, all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must be (i) processed into windrows or other piles and (ii) covered in a manner that prevents scavenging by birds and animals and that prevents other nuisances.
- (C) Food scrap, livestock waste, crop residue, uncontaminated wood waste, paper waste, and compost must not be placed within 5 feet of the water table.
- (D) The site or facility must meet all of the requirements of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).
- (E) The site or facility must not (i) restrict the flow of a 100-year flood, (ii) result in washout of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste from a 100-year flood, or (iii) reduce the temporary water storage capacity of the 100-year floodplain, unless measures are undertaken to provide alternative storage capacity, such as by providing lagoons, holding tanks, or drainage around structures at the facility.
- (F) The site or facility must not be located in any area where it may pose a threat of harm or destruction to the features for which:
  - (i) an irreplaceable historic or archaeological site has been listed under the National Historic Preservation Act (16 U.S.C. 470 et seq.) or the Illinois Historic Preservation Act;
  - (ii) a natural landmark has been designated by the National Park Service or the Illinois State Historic Preservation Office; or
  - (iii) a natural area has been designated as a Dedicated Illinois Nature Preserve under the Illinois Natural Areas Preservation Act.
- (G) The site or facility must not be located in an area where it may jeopardize the continued existence of any designated endangered species, result in the destruction or adverse modification of the critical habitat for such species, or cause or contribute to the taking of any endangered or threatened species of plant, fish, or wildlife listed under the Endangered Species Act (16 U.S.C. 1531 et seq.) or the Illinois Endangered Species Protection Act;
- (20) the portion of a site or facility that is located entirely within a home rule unit having a population of no less than 120,000 and no more than 135,000, according to the 2000 federal census, and that meets all of the following requirements:
  - (i) the portion of the site or facility is used exclusively to perform testing of a thermochemical conversion technology using only woody biomass, collected as landscape waste within the boundaries of the home rule unit, as the hydrocarbon feedstock for the production of synthetic gas in accordance with Section 39.9 of this Act;
  - (ii) the portion of the site or facility is in compliance with all applicable zoning requirements; and
  - (iii) a complete application for a demonstration permit at the portion of the site or facility has been submitted to the Agency in accordance with Section 39.9 of this Act within one year after July 27, 2010 (the effective date of Public Act 96-1314);
- (21) the portion of a site or facility used to perform limited testing of a gasification conversion technology in accordance with Section 39.8 of this Act and for which a complete permit application has been submitted to the Agency prior to one year from April 9, 2010 (the effective date of Public Act 96-887); and

(22) the portion of a site or facility that is used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies under Section 17.9A of this Act; and -

(23) until July 1, 2017, the portion of a site or facility:

(A) that is used exclusively for the transfer of commingled landscape waste and food scrap held at the site or facility for no longer than 24 hours after their receipt;

(B) that is located entirely within a home rule unit having a population of either (i) not less than 100,000 and not more than 115,000 according to the 2010 federal census or (ii) not less than 5,000 and not more than 10,000 according to the 2010 federal census;

(C) that is permitted, by the Agency, prior to January 1, 2002, for the transfer of landscape waste;  
and

(E) for which a permit application is submitted to the Agency within 6 months after the effective date of this amendatory Act of the 98th General Assembly to modify an existing permit for the transfer of landscape waste to also include, on a demonstration basis not to exceed 18 months, the transfer of commingled waste and food scrap.

(b) A new pollution control facility is:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

(Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09; 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff. 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545, eff. 1-1-12.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 925** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harmon	McCann	Rose
Bivins	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	
Duffy	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

[April 18, 2013]

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

On motion of Senator Silverstein, **Senate Bill No. 1044** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator McCann, **Senate Bill No. 1294** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	



This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

### SENATE BILL RECALLED

On motion of Senator Hunter, **Senate Bill No. 1323** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 3 was withdrawn by the sponsor.

Senator Hunter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 4 TO SENATE BILL 1323

AMENDMENT NO. 4. Amend Senate Bill 1323, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Community Youth Employment Act is amended by changing Section 5 as follows:  
(30 ILCS 757/5)

Sec. 5. Program; eligibility. Subject to appropriation, the Department of Commerce and Economic Opportunity shall administer a competitive grant program that will provide 5,000 youths with stipends or wages, or both, and supervision for up to a ~~52-week, year-round 10-week summer~~ work period. The grants shall be awarded ~~only to summer~~ programs; of no more than 100 youths, that:

- (1) are created and administered by a community-based organization, not-for-profit organization, educational institution, or governmental entity in Illinois;
- (2) employ low-income youths in Illinois between the ages of 14 and 21; and
- (3) involve age-appropriate, ability-appropriate, and experience-appropriate:
  - (A) job training;
  - (B) life skills;
  - (C) education counseling;
  - (D) work readiness skills; or
  - (E) supervised meaningful work experience projects.

(Source: P.A. 96-1225, eff. 7-23-10)."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 1342** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harmon	McCarter	Silverstein
Brady	Harris	McConnaughay	Stadelman
Bush	Hastings	McGuire	Steans
Clayborne	Holmes	Morrison	Sullivan

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Collins	Hunter	Mulroe	Syverson
Connelly	Hutchinson	Muñoz	Van Pelt
Cullerton, T.	Jacobs	Murphy	Mr. President
Cunningham	Jones, E.	Noland	
Delgado	Koehler	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Link, **Senate Bill No. 1474** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Biss, **Senate Bill No. 1587** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAY 1.

The following voted in the affirmative:

Althoff	Frerichs	Luechtefeld	Rezin
Barickman	Haine	Manar	Righter
Bertino-Tarrant	Harmon	McCann	Rose
Biss	Harris	McCarter	Silverstein
Bivins	Hastings	McConnaughay	Stadelman
Brady	Holmes	McGuire	Steans
Bush	Hunter	Morrison	Sullivan

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Clayborne	Hutchinson	Mulroe	Syverson
Collins	Jacobs	Muñoz	Van Pelt
Connelly	Jones, E.	Murphy	Mr. President
Cullerton, T.	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	
Duffy	Link	Raoul	

The following voted in the negative:

Cunningham

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Steans, **Senate Bill No. 1655** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Luechtefeld	Rezin
Barickman	Haine	Manar	Righter
Bertino-Tarrant	Harmon	McCann	Rose
Biss	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Clayborne	Hunter	Morrison	Sullivan
Collins	Hutchinson	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	
Forby	Link	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

### SENATE BILLS RECALLED

On motion of Senator Silverstein, **Senate Bill No. 1718** was recalled from the order of third reading to the order of second reading.

Senator Silverstein offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO SENATE BILL 1718

AMENDMENT NO. 2. Amend Senate Bill 1718, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Sections 26 and 53 as follows:

[April 18, 2013]

(215 ILCS 5/26) (from Ch. 73, par. 638)  
 (Section scheduled to be repealed on January 1, 2017)  
 Sec. 26. Deposit.

(a) A company subject to the provisions of this Article shall make and maintain with the Director for the protection of all creditors, policyholders and policy obligations of the company, a deposit of securities which are authorized investments under Section 126.11A(1), 126.11A(2), 126.24A(1), or 126.24A(2) having a fair market value equal to the minimum capital and surplus required to be maintained under Section 13. The Director may release the required deposit of securities upon receipt of an order of a court having proper jurisdiction or upon: (i) certification by the company that it has no outstanding creditors, policyholders, or policy obligations in effect and no plans to engage in the business of insurance; (ii) receipt of a lawful resolution of the company's board of directors effecting the surrender of its articles of incorporation for administrative dissolution by the Director; and (iii) receipt of the name and forwarding address for each of the final officers and directors of the company, together with a plan of dissolution approved by the Director.

(b) All deposits by insurers subject to this Article must be limited to the following types:

(1) United States government bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.

(2) United States public bonds and notes of any state or of the District of Columbia, or Canadian public bonds and notes of any province thereof, for which the full faith and credit of the issuer has been pledged for the payment of principal and interest.

(3) United States and Canadian county, provincial, municipal, and district bonds and notes for which the issuer has lawful authority to levy taxes or make assessments for the payment of principal and interest.

(4) Bonds and notes of any federal agency that are guaranteed as to payment of principal and interest by the United States.

(5) International development bank bonds, bonds issued by the State of Israel and sold through the Development Corporation for Israel or its successor entities, and notes issued, assumed, and guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or the International Finance Corporation.

(6) Corporate bonds and notes of any private corporations that are not affiliates or subsidiaries of the insurer, which corporations are organized under the laws of the United States, Canada, any state, the District of Columbia, any territory or possession of the United States, or any province of Canada.

(7) Certificates of deposit.

(c) To be eligible for deposit under subsection (b), any bond or note must have the following characteristics:

(1) The bond or note must be interest-bearing or interest-accruing, and the insurer must be the exclusive owner of the interest accruing thereon and entitled to receive the interest for its account.

(2) The issuer must be in a solvent financial condition and the bond or note must not be in default.

(3) The bond, note, or debt of the issuing country must be rated in one of the 4 highest classifications by an established, nationally recognized investment rating service or must have been given a rating of 1 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(4) The market value of the bond or note must be readily ascertainable or the value of the bond or note must be obtainable by the insurer or its custodian from the issuer's fiscal agent.

(5) The bond or note must be the direct obligation of the issuer.

(6) The bond or note must be stated in United States dollar denominations.

(7) The bond or note must be eligible for book-entry form on the books of the Federal Reserve's book-entry system or in a depository trust clearing system or on the books of the issuer's transfer agent or evidenced by a certificate delivered to the insurer or its custodian.

(d) To be eligible for deposit under item (7) of subsection (b), a certificate of deposit must have the following characteristics:

(1) The certificate of deposit must be issued by a bank, savings bank, or savings association that is organized under the laws of the United States, of this State, or of any other state and that has a principal office or branch office in this State that is authorized to receive deposits in this State.

(2) The certificate of deposit must be interest-bearing and may not be issued in discounted form.

(3) The certificate of deposit must be issued for a period of not less than one year.

(4) The issuing bank, savings bank, or savings association must agree to the terms and conditions of the Director regarding the rights to the certificate of deposit and must have executed a written certificate of deposit agreement with the Director. The terms and conditions of the agreement shall include, but

need not be limited to:

(A) Exclusive authorized signature authority for the chief financial officer.

(B) An agreement to pay, without protest, the proceeds of its certificate of deposit to the Director within 30 business days after presentation.

(C) A prohibition against levies, setoffs, survivorship, or other conditions that might hinder the Director's ability to recover the full face value of a certificate of deposit.

(D) Instructions regarding interest payments, renewals, taxpayer identification, and early withdrawal penalties.

(E) An agreement to be subject to the jurisdiction of the courts of this State, or those of the United States that are located in this State, for the purposes of any litigation arising out of this Section.

(F) Such other conditions as the Director requires.

(e) The Director may refuse to accept certain securities or refuse to accept the reported market value of certain securities offered pursuant to this Section in order to ensure that sufficient cash and securities are on hand to meet the purposes of the deposit. In making a refusal under this subsection (e), the guidelines for use of the Director may include, but need not be limited to, whether the market value of the securities cannot be readily ascertained and the lack of liquidity of the securities. Securities refused under this subsection (e) are not acceptable as deposits.

(f) All deposits required of a domestic insurer pursuant to the laws of another state, province, or country must be comprised of securities of the kinds required under subsection (b), having the characteristics required under subsections (c) and (d), and permitted by the laws of the other state, province, or country, except common stocks, mortgages or loans of any kind, real estate investment trust funds or programs, commercial paper, and letters of credit.

(Source: P.A. 92-75, eff. 7-12-01.)

(215 ILCS 5/53) (from Ch. 73, par. 665)

(Section scheduled to be repealed on January 1, 2017)

Sec. 53. Deposit.

(a) A company subject to the provisions of this Article shall make and maintain with the Director for the protection of all creditors, policyholders and policy obligations of the company, a deposit of securities which are authorized investments under Section 126.11A(1), 126.11A(2), 126.24A(1), or 126.24A(2) having a fair market value equal to the minimum surplus required to be maintained under Section 43. The Director may release the required deposit of securities upon receipt of an order of a court having proper jurisdiction or upon: (i) certification by the company that it has no outstanding creditors, policyholders, or policy obligations in effect and no plans to engage in the business of insurance; (ii) receipt of a lawful resolution of the company's board of directors effecting the surrender of its articles of incorporation for administrative dissolution by the Director; and (iii) receipt of the name and forwarding address for each of the final officers and directors of the company, together with a plan of dissolution approved by the Director.

(b) All deposits by insurers subject to this Article must be limited to the following types:

(1) United States government bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.

(2) United States public bonds and notes of any state or of the District of Columbia, or Canadian public bonds and notes of any province thereof, for which the full faith and credit of the issuer has been pledged for the payment of principal and interest.

(3) United States and Canadian county, provincial, municipal, and district bonds and notes for which the issuer has lawful authority to levy taxes or make assessments for the payment of principal and interest.

(4) Bonds and notes of any federal agency that are guaranteed as to payment of principal and interest by the United States.

(5) International development bank bonds, bonds issued by the State of Israel and sold through the Development Corporation for Israel or its successor entities, and notes issued, assumed, and guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or the International Finance Corporation.

(6) Corporate bonds and notes of any private corporations that are not affiliates or subsidiaries of the insurer, which corporations are organized under the laws of the United States, Canada, any state, the District of Columbia, any territory or possession of the United States, or any province of Canada.

(7) Certificates of deposit.

(c) To be eligible for deposit under subsection (b), any bond or note must have the following characteristics:

(1) The bond or note must be interest-bearing or interest-accruing, and the insurer must be the

exclusive owner of the interest accruing thereon and entitled to receive the interest for its account.

(2) The issuer must be in a solvent financial condition and the bond or note must not be in default.

(3) The bond, note, or debt of the issuing country must be rated in one of the 4 highest classifications by an established, nationally recognized investment rating service or must have been given a rating of 1 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(4) The market value of the bond or note must be readily ascertainable or the value of the bond or note must be obtainable by the insurer or its custodian from the issuer's fiscal agent.

(5) The bond or note must be the direct obligation of the issuer.

(6) The bond or note must be stated in United States dollar denominations.

(7) The bond or note must be eligible for book-entry form on the books of the Federal Reserve's book-entry system or in a depository trust clearing system or on the books of the issuer's transfer agent or evidenced by a certificate delivered to the insurer or its custodian.

(d) To be eligible for deposit under item (7) of subsection (b), a certificate of deposit must have the following characteristics:

(1) The certificate of deposit must be issued by a bank, savings bank, or savings association that is organized under the laws of the United States, of this State, or of any other state and that has a principal office or branch office in this State that is authorized to receive deposits in this State.

(2) The certificate of deposit must be interest-bearing and may not be issued in discounted form.

(3) The certificate of deposit must be issued for a period of not less than one year.

(4) The issuing bank, savings bank, or savings association must agree to the terms and conditions of the Director regarding the rights to the certificate of deposit and must have executed a written certificate of deposit agreement with the Director. The terms and conditions of the agreement shall include, but need not be limited to:

(A) Exclusive authorized signature authority for the chief financial officer.

(B) An agreement to pay, without protest, the proceeds of its certificate of deposit to the Director within 30 business days after presentation.

(C) A prohibition against levies, setoffs, survivorship, or other conditions that might hinder the Director's ability to recover the full face value of a certificate of deposit.

(D) Instructions regarding interest payments, renewals, taxpayer identification, and early withdrawal penalties.

(E) An agreement to be subject to the jurisdiction of the courts of this State, or those of the United States that are located in this State, for the purposes of any litigation arising out of this Section.

(F) Such other conditions as the Director requires.

(e) The Director may refuse to accept certain securities or refuse to accept the reported market value of certain securities offered pursuant to this Section in order to ensure that sufficient cash and securities are on hand to meet the purposes of the deposit. In making a refusal under this subsection (e), the guidelines for use of the Director may include, but need not be limited to, whether the market value of the securities cannot be readily ascertained and the lack of liquidity of the securities. Securities refused under this subsection (e) are not acceptable as deposits.

(f) All deposits required of a domestic insurer pursuant to the laws of another state, province, or country must be comprised of securities of the kinds required under subsection (b), having the characteristics required under subsections (c) and (d), and permitted by the laws of the other state, province, or country, except common stocks, mortgages or loans of any kind, real estate investment trust funds or programs, commercial paper, and letters of credit.

(Source: P.A. 92-75, eff. 7-12-01.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 1738** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was postponed in the Committee on Executive.

Senator Link offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3 TO SENATE BILL 1738

[April 18, 2013]

AMENDMENT NO. 3. Amend Senate Bill 1738 by replacing everything after the enacting clause with the following:

"Section 5. The Video Gaming Act is amended by changing Sections 5, 15, 25, 45, and 78 as follows: (230 ILCS 40/5)

Sec. 5. Definitions. As used in this Act:

"Board" means the Illinois Gaming Board.

"Credit" means one, 5, 10, or 25 cents either won or purchased by a player.

"Distributor" means an individual, partnership, corporation, or limited liability company licensed under this Act to buy, sell, lease, or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

"Electronic card" means a card purchased from a licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment for use in that establishment as a substitute for cash in the conduct of gaming on a video gaming terminal.

"Terminal operator" means an individual, partnership, corporation, or limited liability company that is licensed under this Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.

"Licensed technician" means an individual who is licensed under this Act to repair, service, and maintain video gaming terminals.

"Licensed terminal handler" means a person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician, or terminal operator, who is licensed under this Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation, or limited liability company defined as a manufacturer, distributor, supplier, technician, or terminal operator under this Act.

"Manufacturer" means an individual, partnership, corporation, or limited liability company that is licensed under this Act and that manufactures or assembles video gaming terminals.

"Supplier" means an individual, partnership, corporation, or limited liability company that is licensed under this Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Net terminal income" means money put into a video gaming terminal minus credits paid out to players.

"Video gaming terminal" means any electronic video game machine that, upon insertion of cash, electronic cards or vouchers or any combination thereof, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

"Licensed establishment" means any licensed retail establishment where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises and includes any such establishment that has a contractual relationship with an inter-track wagering location licensee licensed under the Illinois Horse Racing Act of 1975, provided any contractual relationship shall not include any transfer or offer of revenue from the operation of video gaming under this Act to any licensee licensed under the Illinois Horse Racing Act of 1975. Provided, however, that the licensed establishment that has such a contractual relationship with an inter-track wagering location licensee may not, itself, be (i) an inter-track wagering location licensee, (ii) the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975, or (iii) the corporate subsidiary of a corporation that is also the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975. "Licensed establishment" does not include a facility operated by an organization licensee, an inter-track wagering licensee, or an inter-track wagering location licensee licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act, except as provided in this paragraph.

"Licensed fraternal establishment" means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed veterans establishment" means the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed truck stop establishment" means a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells

[April 18, 2013]

at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-1410, eff. 7-30-10; 96-1479, eff. 8-23-10; 97-333, eff. 8-12-11.)

(230 ILCS 40/15)

Sec. 15. Minimum requirements for licensing and registration. Every video gaming terminal offered for play shall first be tested and approved pursuant to the rules of the Board, and each video gaming terminal offered in this State for play shall conform to an approved model. The Board may utilize the services of an independent outside testing laboratory for the examination of video gaming machines and associated equipment as required by this Section. Every video gaming terminal offered in this State for play must meet minimum standards set by an independent outside testing laboratory approved by the Board. Each approved model shall, at a minimum, meet the following criteria:

(1) It must conform to all requirements of federal law and regulations, including FCC

Class A Emissions Standards.

(2) It must theoretically pay out a mathematically demonstrable percentage during the expected lifetime of the machine of all amounts played, which must not be less than 80%. The Board shall establish a maximum payout percentage for approved models by rule. Video gaming terminals that may be affected by skill must meet this standard when using a method of play that will provide the greatest return to the player over a period of continuous play.

(3) It must use a random selection process to determine the outcome of each play of a game. The random selection process must meet 99% confidence limits using a standard chi-squared test for (randomness) goodness of fit.

(4) It must display an accurate representation of the game outcome.

(5) It must not automatically alter pay tables or any function of the video gaming terminal based on internal computation of hold percentage or have any means of manipulation that affects the random selection process or probabilities of winning a game.

(6) It must not be adversely affected by static discharge or other electromagnetic interference.

(7) It must be capable of detecting and displaying the following conditions during idle states or on demand: power reset; door open; and door just closed.

(8) It must have the capacity to display complete play history (outcome, intermediate play steps, credits available, bets placed, credits paid, and credits cashed out) for the most recent game played and 10 games prior thereto.

(9) The theoretical payback percentage of a video gaming terminal must not be capable of being changed without making a hardware or software change in the video gaming terminal, either on site or via the central communications system.

(10) Video gaming terminals must be designed so that replacement of parts or modules required for normal maintenance does not necessitate replacement of the electromechanical meters.

(11) It must have nonresettable meters housed in a locked area of the terminal that keep a permanent record of all cash inserted into the machine, all winnings made by the terminal printer, credits played in for video gaming terminals, and credits won by video gaming players. The video gaming terminal must provide the means for on-demand display of stored information as determined by the Board.

(12) Electronically stored meter information required by this Section must be preserved for a minimum of 180 days after a power loss to the service.

(13) It must have one or more mechanisms that accept cash in the form of bills. The mechanisms shall be designed to prevent obtaining credits without paying by stringing, slamming, drilling, or other means. If such attempts at physical tampering are made, the video gaming terminal shall suspend itself from operating until reset.

(14) It shall have accounting software that keeps an electronic record which includes, but is not limited to, the following: total cash inserted into the video gaming terminal; the value of winning tickets claimed by players; the total credits played; the total credits awarded by a video gaming terminal; and pay back percentage credited to players of each video game.

(15) It shall be linked by a central communications system to provide auditing program information as approved by the Board. The central communications system shall use a standard industry protocol, as defined by the Gaming Standards Association, and shall have the functionality to enable the Board or its designee to activate or deactivate individual gaming devices from the central



communications system. In no event may the communications system approved by the Board limit participation to only one manufacturer of video gaming terminals by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system.

(16) The Board, in its discretion, may require video gaming terminals to display Amber Alert messages if the Board makes a finding that it would be economically and technically feasible and pose no risk to the integrity and security of the central communications system and video gaming terminals.

The Board may adopt rules to establish additional criteria to preserve the integrity and security of video gaming in this State. The central communications system vendor may be licensed as a video gaming terminal manufacturer or a video gaming terminal distributor, or both, but in no event shall the central communications system vendor be licensed as a video gaming terminal operator. The central communications system vendor may not hold any license issued by the Board under this Act.

The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data. Nothing in this Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated and all licensees act in a non-discriminatory manner and develop processes and penalties to enforce those rules.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-1410, eff. 7-30-10.)

(230 ILCS 40/25)

Sec. 25. Restriction of licensees.

(a) Manufacturer. A person may not be licensed as a manufacturer of a video gaming terminal in Illinois unless the person has a valid manufacturer's license issued under this Act. A manufacturer may only sell video gaming terminals for use in Illinois to persons having a valid distributor's license.

(b) Distributor. A person may not sell, distribute, or lease or market a video gaming terminal in Illinois unless the person has a valid distributor's license issued under this Act. A distributor may only sell video gaming terminals for use in Illinois to persons having a valid distributor's or terminal operator's license.

(c) Terminal operator. A person may not own, maintain, or place a video gaming terminal unless he has a valid terminal operator's license issued under this Act. A terminal operator may only place video gaming terminals for use in Illinois in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, and licensed veterans establishments. No terminal operator may give anything of value, including but not limited to a loan or financing arrangement, to a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment as any incentive or inducement to locate video terminals in that establishment. Of the after-tax profits from a video gaming terminal, 50% shall be paid to the terminal operator and 50% shall be paid to the licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment, notwithstanding any agreement to the contrary. A video terminal operator that violates one or more requirements of this subsection is guilty of a Class 4 felony and is subject to termination of his or her license by the Board.

(d) Licensed technician. A person may not service, maintain, or repair a video gaming terminal in this State unless he or she (1) has a valid technician's license issued under this Act, (2) is a terminal operator, or (3) is employed by a terminal operator, distributor, or manufacturer.

(d-5) Licensed terminal handler. No person, including, but not limited to, an employee or independent contractor working for a manufacturer, distributor, supplier, technician, or terminal operator licensed pursuant to this Act, shall have possession or control of a video gaming terminal, or access to the inner workings of a video gaming terminal, unless that person possesses a valid terminal handler's license issued under this Act.

(e) Licensed establishment. No video gaming terminal may be placed in any licensed establishment, licensed veterans establishment, licensed truck stop establishment, or licensed fraternal establishment unless the owner or agent of the owner of the licensed establishment, licensed veterans establishment, licensed truck stop establishment, or licensed fraternal establishment has entered into a written use agreement with the terminal operator for placement of the terminals. A copy of the use agreement shall be on file in the terminal operator's place of business and available for inspection by individuals authorized by the Board. A licensed establishment, licensed truck stop establishment, licensed veterans establishment, or licensed fraternal establishment may operate up to 5 video gaming terminals on its premises at any time.

(f) (Blank).

(g) Financial interest restrictions. As used in this Act, "substantial interest" in a partnership, a

corporation, an organization, an association, a business, or a limited liability company means:

(A) When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association, or business, or any part thereof; or

(B) When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

(C) When, with respect to a corporation, an individual or his or her spouse is an officer or director, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

(D) When, with respect to an organization not covered in (A), (B) or (C) above, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of or otherwise controls 10% or more of the assets of the organization; or

(E) When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods, or services, for the operation of any business, association, or organization during any calendar year; or

(F) When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company.

For purposes of this subsection (g), "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this subsection (g) and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

(h) Location restriction. A licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment that is (i) located within 1,000 feet of a facility operated by an organization licensee ~~or an inter-track wagering licensee~~ licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Riverboat Gambling Act or (ii) located within 100 feet of a school or a place of worship under the Religious Corporation Act, is ineligible to operate a video gaming terminal. The location restrictions in this subsection (h) do not apply if a facility operated by an organization licensee, ~~an inter-track wagering licensee, or an inter-track wagering location licensee~~, a school, or a place of worship moves to or is established within the restricted area after a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment becomes licensed under this Act. For the purpose of this subsection, "school" means an elementary or secondary public school, or an elementary or secondary private school registered with or recognized by the State Board of Education.

Notwithstanding the provisions of this subsection (h), the Board may waive the requirement that a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment not be located within 1,000 feet from a facility operated by an organization licensee, ~~an inter-track wagering licensee, or an inter-track wagering location licensee~~ licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Riverboat Gambling Act. The Board shall not grant such waiver if there is any common ownership or control, shared business activity, or contractual arrangement of any type between the establishment and the organization licensee, ~~inter-track wagering licensee, inter-track wagering location licensee~~, or owners licensee of a riverboat. The Board shall adopt rules to implement the provisions of this paragraph.

(i) Undue economic concentration. In addition to considering all other requirements under this Act, in deciding whether to approve the operation of video gaming terminals by a terminal operator in a location, the Board shall consider the impact of any economic concentration of such operation of video gaming terminals. The Board shall not allow a terminal operator to operate video gaming terminals if the Board determines such operation will result in undue economic concentration. For purposes of this Section, "undue economic concentration" means that a terminal operator would have such actual or potential influence over video gaming terminals in Illinois as to:

- (1) substantially impede or suppress competition among terminal operators;
- (2) adversely impact the economic stability of the video gaming industry in Illinois; or
- (3) negatively impact the purposes of the Video Gaming Act.

The Board shall adopt rules concerning undue economic concentration with respect to the operation of video gaming terminals in Illinois. The rules shall include, but not be limited to, (i) limitations on the number of video gaming terminals operated by any terminal operator within a defined geographic radius and (ii) guidelines on the discontinuation of operation of any such video gaming terminals the Board determines will cause undue economic concentration.

(j) The provisions of the Illinois Antitrust Act are fully and equally applicable to the activities of any

licensee under this Act.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1410, eff. 7-30-10; 96-1479, eff. 8-23-10; 97-333, eff. 8-12-11.)

(230 ILCS 40/45)

Sec. 45. Issuance of license.

(a) The burden is upon each applicant to demonstrate his suitability for licensure. Each video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal establishment, and licensed veterans establishment shall be licensed by the Board. The Board may issue or deny a license under this Act to any person pursuant to the same criteria set forth in Section 9 of the Riverboat Gambling Act.

(a-5) The Board shall not grant a license to a person who has facilitated, enabled, or participated in the use of coin-operated devices for gambling purposes or who is under the significant influence or control of such a person. For the purposes of this Act, "facilitated, enabled, or participated in the use of coin-operated amusement devices for gambling purposes" means that the person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012. If there is pending legal action against a person for any such violation, then the Board shall delay the licensure of that person until the legal action is resolved.

(b) Each person seeking and possessing a license as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment shall submit to a background investigation conducted by the Board with the assistance of the State Police or other law enforcement. The background investigation shall include each beneficiary of a trust, each partner of a partnership, and each director and officer and all stockholders of 5% or more in a parent or subsidiary corporation of a video gaming terminal manufacturer, distributor, supplier, operator, or licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment.

(c) Each person seeking and possessing a license as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment shall disclose the identity of every person, association, trust, corporation, or limited liability company having a greater than 1% direct or indirect pecuniary interest in the video gaming terminal operation for which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all stockholders and directors; if a limited liability company, the names and addresses of all members; or if a partnership, the names and addresses of all partners, both general and limited.

(d) No person may be licensed as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment if that person has been found by the Board to:

- (1) have a background, including a criminal record, reputation, habits, social or business associations, or prior activities that pose a threat to the public interests of the State or to the security and integrity of video gaming;
- (2) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video gaming; or
- (3) present questionable business practices and financial arrangements incidental to the conduct of video gaming activities.

(e) Any applicant for any license under this Act has the burden of proving his or her qualifications to the satisfaction of the Board. The Board may adopt rules to establish additional qualifications and requirements to preserve the integrity and security of video gaming in this State.

(f) A non-refundable application fee shall be paid at the time an application for a license is filed with the Board in the following amounts:

- |                            |         |
|----------------------------|---------|
| (1) Manufacturer.....      | \$5,000 |
| (2) Distributor.....       | \$5,000 |
| (3) Terminal operator..... | \$5,000 |
| (4) Supplier.....          | \$2,500 |
| (5) Technician.....        | \$100   |
| (6) Terminal Handler.....  | \$50    |

(g) The Board shall establish an annual fee for each license not to exceed the following:

- |                            |          |
|----------------------------|----------|
| (1) Manufacturer.....      | \$10,000 |
| (2) Distributor.....       | \$10,000 |
| (3) Terminal operator..... | \$5,000  |

(4) Supplier.....	\$2,000
(5) Technician.....	\$100
(6) Licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment.....	\$100
(7) Video gaming terminal.....	\$100
(8) Terminal Handler.....	\$50
<u>(h) A terminal operator and a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment shall equally split the fees specified in item (7) of subsection (g).</u>	

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1410, eff. 7-30-10; 97-1150, eff. 1-25-13.)

(230 ILCS 40/78)

Sec. 78. Authority of the Illinois Gaming Board.

(a) The Board shall have jurisdiction over and shall supervise all gaming operations governed by this Act. The Board shall have all powers necessary and proper to fully and effectively execute the provisions of this Act, including, but not limited to, the following:

(1) To investigate applicants and determine the eligibility of applicants for licenses and to select among competing applicants the applicants which best serve the interests of the citizens of Illinois.

(2) To have jurisdiction and supervision over all video gaming operations in this State and all persons in establishments where video gaming operations are conducted.

(3) To adopt rules for the purpose of administering the provisions of this Act and to prescribe rules, regulations, and conditions under which all video gaming in the State shall be conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of video gaming, including rules and regulations (i) regarding the inspection of such establishments and the review of any permits or licenses necessary to operate an establishment under any laws or regulations applicable to establishments, (ii) and to impose penalties for violations of this Act and its rules, and (iii) establishing standards for advertising video gaming.

(b) The Board shall adopt emergency rules to administer this Act in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For the purposes of the Illinois Administrative Procedure Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary to the public interest, safety, and welfare.

(Source: P.A. 96-38, eff. 7-13-09; 96-1410, eff. 7-30-10.)

Section 10. The Criminal Code of 2012 is amended by changing Sections 28-2, 28-5, and 28-8 as follows:

(720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

Sec. 28-2. Definitions.

(a) A "gambling device" is any clock, tape machine, slot machine or other machines or device for the reception of money or other thing of value on chance or skill or upon the action of which money or other thing of value is staked, hazarded, bet, won or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. A "gambling device" does not include:

(1) A coin-in-the-slot operated mechanical device played for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no money, property or right to receive money or property.

(2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

(3) A crane game. For the purposes of this paragraph (3), a "crane game" is an amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to toys, novelties and prizes other than currency, each having a wholesale value which is not more than \$25.

(4) A redemption machine. For the purposes of this paragraph (4), a "redemption machine" is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, or stopping, by physical, mechanical, or electronic means, a moving object that is either physical or computer generated on a

display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- (C) Only merchandise prizes are awarded.
- (D) The wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed \$25.
- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, for a single play of the device does not exceed \$25.

(5) Video gaming terminals at a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment licensed in accordance with the Video Gaming Act.

(a-5) "Internet" means an interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service.

(a-6) "Access" and "computer" have the meanings ascribed to them in Section 16D-2 of this Code.

(b) A "lottery" is any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale or some other name.

(c) A "policy game" is any scheme or procedure whereby a person promises or guarantees by any instrument, bill, certificate, writing, token or other device that any particular number, character, ticket or certificate shall in the event of any contingency in the nature of a lottery entitle the purchaser or holder to receive money, property or evidence of debt.

(Source: P.A. 97-1126, eff. 1-1-13.)

(720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

Sec. 28-5. Seizure of gambling devices and gambling funds.

(a) Every device designed for gambling which is incapable of lawful use or every device used unlawfully for gambling shall be considered a "gambling device", and shall be subject to seizure, confiscation and destruction by the Department of State Police or by any municipal, or other local authority, within whose jurisdiction the same may be found. As used in this Section, a "gambling device" includes any slot machine, and includes any machine or device constructed for the reception of money or other thing of value and so constructed as to return, or to cause someone to return, on chance to the player thereof money, property or a right to receive money or property. With the exception of any device designed for gambling which is incapable of lawful use, no gambling device shall be forfeited or destroyed unless an individual with a property interest in said device knows of the unlawful use of the device.

(b) Every gambling device shall be seized and forfeited to the county wherein such seizure occurs. Any money or other thing of value integrally related to acts of gambling shall be seized and forfeited to the county wherein such seizure occurs.

(c) If, within 60 days after any seizure pursuant to subparagraph (b) of this Section, a person having any property interest in the seized property is charged with an offense, the court which renders judgment upon such charge shall, within 30 days after such judgment, conduct a forfeiture hearing to determine whether such property was a gambling device at the time of seizure. Such hearing shall be commenced by a written petition by the State, including material allegations of fact, the name and address of every person determined by the State to have any property interest in the seized property, a representation that written notice of the date, time and place of such hearing has been mailed to every such person by certified mail at least 10 days before such date, and a request for forfeiture. Every such person may appear as a party and present evidence at such hearing. The quantum of proof required shall be a preponderance of the evidence, and the burden of proof shall be on the State. If the court determines that the seized property was a gambling device at the time of seizure, an order of forfeiture and disposition of the seized property shall be entered: a gambling device shall be received by the State's Attorney, who shall effect its destruction, except that valuable parts thereof may be liquidated and the resultant money shall be deposited in the general fund of the county wherein such seizure occurred; money and other things of value shall be received by the State's Attorney and, upon liquidation, shall be deposited in the

general fund of the county wherein such seizure occurred. However, in the event that a defendant raises the defense that the seized slot machine is an antique slot machine described in subparagraph (b) (7) of Section 28-1 of this Code and therefore he is exempt from the charge of a gambling activity participant, the seized antique slot machine shall not be destroyed or otherwise altered until a final determination is made by the Court as to whether it is such an antique slot machine. Upon a final determination by the Court of this question in favor of the defendant, such slot machine shall be immediately returned to the defendant. Such order of forfeiture and disposition shall, for the purposes of appeal, be a final order and judgment in a civil proceeding.

(d) If a seizure pursuant to subparagraph (b) of this Section is not followed by a charge pursuant to subparagraph (c) of this Section, or if the prosecution of such charge is permanently terminated or indefinitely discontinued without any judgment of conviction or acquittal (1) the State's Attorney shall commence an in rem proceeding for the forfeiture and destruction of a gambling device, or for the forfeiture and deposit in the general fund of the county of any seized money or other things of value, or both, in the circuit court and (2) any person having any property interest in such seized gambling device, money or other thing of value may commence separate civil proceedings in the manner provided by law.

(e) Any gambling device displayed for sale to a riverboat gambling operation or used to train occupational licensees of a riverboat gambling operation as authorized under the Riverboat Gambling Act is exempt from seizure under this Section.

(f) Any gambling equipment, devices and supplies provided by a licensed supplier in accordance with the Riverboat Gambling Act which are removed from the riverboat for repair are exempt from seizure under this Section.

(g) The following video gaming terminals are exempt from seizure under this Section:

(1) Video gaming terminals for sale to a licensed distributor or operator under the Video Gaming Act.

(2) Video gaming terminals used to train licensed technicians or licensed terminal handlers.

(3) Video gaming terminals that are removed from a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment for repair.

(Source: P.A. 87-826.)

(720 ILCS 5/28-8) (from Ch. 38, par. 28-8)

Sec. 28-8. Gambling losses recoverable.

(a) Any person who by gambling shall lose to any other person, any sum of money or thing of value, amounting to the sum of \$50 or more and shall pay or deliver the same or any part thereof, may sue for and recover the money or other thing of value, so lost and paid or delivered, in a civil action against the winner thereof, with costs, in the circuit court. No person who accepts from another person for transmission, and transmits, either in his own name or in the name of such other person, any order for any transaction to be made upon, or who executes any order given to him by another person, or who executes any transaction for his own account on, any regular board of trade or commercial, commodity or stock exchange, shall, under any circumstances, be deemed a "winner" of any moneys lost by such other person in or through any such transactions.

(b) If within 6 months, such person who under the terms of Subsection 28-8(a) is entitled to initiate action to recover his losses does not in fact pursue his remedy, any person may initiate a civil action against the winner. The court or the jury, as the case may be, shall determine the amount of the loss. After such determination, the court shall enter a judgment of triple the amount so determined.

(c) Gambling losses as a result of gambling conducted on a video gaming terminal licensed under the Video Gaming Act are not recoverable under this Section.

(Source: P.A. 79-1360.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 1768** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

[April 18, 2013]

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 33; NAYS 17.

The following voted in the affirmative:

Bertino-Tarrant	Forby	Jones, E.	Raoul
Biss	Frerichs	Koehler	Stadelman
Bush	Haine	Link	Steans
Clayborne	Harmon	Manar	Sullivan
Collins	Harris	McGuire	Van Pelt
Cullerton, T.	Hastings	Mulroe	Mr. President
Cunningham	Hunter	Muñoz	
Delgado	Hutchinson	Noland	
Dillard	Jacobs	Radogno	

The following voted in the negative:

Althoff	Duffy	McConaughay	Silverstein
Barickman	LaHood	Oberweis	Syverson
Bivins	Luechtefeld	Rezin	
Brady	McCann	Righter	
Connelly	McCarter	Rose	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Rose, **Senate Bill No. 1817** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

[April 18, 2013]

**SENATE BILL RECALLED**

On motion of Senator LaHood, **Senate Bill No. 1820** was recalled from the order of third reading to the order of second reading.

Senator LaHood offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1820**

AMENDMENT NO. 1. Amend Senate Bill 1820 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Horse Racing Act of 1975 is amended by adding Sections 27.2 and 34.2 as follows:

(230 ILCS 5/27.2 new)

Sec. 27.2. Withholding of delinquent child support.

(a) From winnings required to be reported to the Internal Revenue Service and subject to withholding on Form W-2G, organization licensees and advance deposit wagering licensees licensed under this Act shall withhold up to the full amount of winnings necessary to pay the winner's past due child support amount as certified by the Department of Healthcare and Family Services under Section 10-17.15 of the Illinois Public Aid Code. Amounts withheld shall be paid to the Department of Healthcare and Family Services by the organization licensee or the advance deposit wagering licensee, as applicable.

(b) For withholding of winnings, the organization licensee or advance deposit wagering licensee shall be entitled to an administrative fee not to exceed the lesser of 4% of the total amount of cash winnings paid to the gambling winner or \$150.

(c) In no event may the total amount withheld from the cash payout, including the administrative fee, exceed the total cash winnings claimed by the obligor. If the cash payout claimed is greater than the amount sufficient to satisfy the obligor's delinquent child support payments, the organization licensee or advance deposit wagering licensee shall pay the obligor the remaining balance of the payout, less the administrative fee authorized by subsection (b) of this Section, at the time it is claimed.

(d) An organization licensee or an advance deposit wagering licensee that in good faith complies with the requirements of this Section shall not be liable to the gaming winner or any other individual or entity.

(e) For an organization licensee under this Act, an agent of the Board (such as an employee of the Board) shall be responsible for notifying the person identified as being delinquent in child support payments that the organization licensee is required by law to withhold all or a portion of his or her winnings. This notification must be provided at the time the winnings are withheld.

(f) The provisions of this Section shall be operative on and after the date that rules are adopted by the Department of Healthcare and Family Services pursuant to Section 10-17.15 of the Illinois Public Aid Code.

(g) The delinquent child support required to be withheld under this Section and the administrative fee under subsection (b) of this Section have priority over any secured or unsecured claim on cash winnings, except claims for federal or State taxes that are required to be withheld under federal or State law.

(230 ILCS 5/34.2 new)

Sec. 34.2. Withholding of delinquent child support; signs; statement.

(a) Each organization licensee shall post signs with a statement regarding withholding of delinquent child support, the text of which shall be determined by rule by the Department of Healthcare and Family Services, at the following locations in each race track at which horse race meetings are conducted by the organization licensee and in each inter-track wagering facility and inter-track wagering location operated by the organization licensee:

(1) Each entrance and exit.

(2) Near each credit location.

The signs shall be provided by the Department of Healthcare and Family Services.

(b) Each organization licensee shall print a statement regarding withholding of delinquent child support, the text of which shall be determined by rule by the Department of Healthcare and Family Services, on all official racing programs that the organization licensee provides to the general public.

Section 10. The Riverboat Gambling Act is amended by adding Sections 13.05 and 13.2 as follows:

(230 ILCS 10/13.05 new)

Sec. 13.05. Withholding of delinquent child support.

[April 18, 2013]



(a) From winnings required to be reported to the Internal Revenue Service on Form W-2G, an owners licensee or a licensee that operates one or more facilities or gaming locations at which lawful gambling is authorized as provided in this Act shall withhold up to the full amount of winnings necessary to pay the winner's past due child support amount as certified by the Department of Healthcare and Family Services under Section 10-17.15 of the Illinois Public Aid Code. Amounts withheld shall be paid to the Department of Healthcare and Family Services by the owners licensee or casino operator licensee, as applicable.

(b) For withholding of winnings, the licensee shall be entitled to an administrative fee not to exceed the lesser of 4% of the total amount of cash winnings paid to the gambling winner or \$150.

(c) In no event may the total amount withheld from the cash payout, including the administrative fee, exceed the total cash winnings claimed by the obligor. If the cash payout claimed is greater than the amount sufficient to satisfy the obligor's delinquent child support payments, the licensee shall pay the obligor the remaining balance of the payout, less the administrative fee authorized by subsection (b) of this Section, at the time it is claimed.

(d) A licensee who in good faith complies with the requirements of this Section shall not be liable to the gaming winner or any other individual or entity.

(e) Upon request of a licensed owner under this Act, an agent of the Board (such as a gaming special agent employed by the Board, a State police officer, or a revenue agent) shall be responsible for notifying the person identified as being delinquent in child support payments that the licensed owner is required by law to withhold all or a portion of his or her winnings. If given, this notification must be provided at the time the winnings are withheld.

(f) The provisions of this Section shall be operative on and after the date that rules are adopted by the Department of Healthcare and Family Services pursuant to Section 10-17.15 of the Illinois Public Aid Code.

(g) The delinquent child support required to be withheld under this Section and the administrative fee under subsection (b) of this Section have priority over any secured or unsecured claim on cash winnings, except claims for federal or State taxes that are required to be withheld under federal or State law.

(230 ILCS 10/13.2 new)

Sec. 13.2. Withholding of delinquent child support; signs; statement.

(a) Each licensed owner may post signs with a statement regarding withholding of delinquent child support, the text of which shall be determined by rule by the Department of Healthcare and Family Services, at the following locations in each facility at which gambling is conducted by the licensed owner:

- (1) Each entrance and exit.
- (2) Near each credit location.
- (3) At each cashier's cage.

The signs shall be provided by the Department of Healthcare and Family Services.

(b) Each licensed owner may print a statement regarding withholding of delinquent child support, the text of which shall be determined by rule by the Department of Healthcare and Family Services, on all paper stock that the license owner provides to the general public.

Section 15. The Illinois Public Aid Code is amended by adding Section 10-17.15 as follows:  
(305 ILCS 5/10-17.15 new)

Sec. 10-17.15. Certification of information to State gaming licensees.

(a) For purposes of this Section, "State gaming licensee" means, as applicable, an organization licensee or advance deposit wagering licensee licensed under the Illinois Horse Racing Act of 1975, an owners licensee licensed under the Riverboat Gambling Act, or a licensee that operates, under any law of this State, one or more facilities or gaming locations at which lawful gambling is authorized and licensed as provided in the Riverboat Gambling Act.

(b) The Department may provide, by rule, for certification to any State gaming licensee of past due child support owed by a responsible relative under a support order entered by a court or administrative body of this or any other State on behalf of a resident or non-resident receiving child support services under this Article in accordance with the requirements of Title IV-D, Part D, of the Social Security Act. The State gaming licensee shall have the ability to withhold from winnings required to be reported to the Internal Revenue Service on Form W-2G, up to the full amount of winnings necessary to pay the winner's past due child support. The rule shall provide for notice to and an opportunity to be heard by each responsible relative affected and any final administrative decision rendered by the Department shall be reviewed only under and in accordance with the Administrative Review Law.

(c) For withholding of winnings, the State gaming licensee shall be entitled to an administrative fee

not to exceed the lesser of 4% of the total amount of cash winnings paid to the gambling winner or \$150.

(d) In no event may the total amount withheld from the cash payout, including the administrative fee, exceed the total cash winnings claimed by the obligor. If the cash payout claimed is greater than the amount sufficient to satisfy the obligor's delinquent child support payments, the State gaming licensee shall pay the obligor the remaining balance of the payout, less the administrative fee authorized by subsection (c) of this Section, at the time it is claimed.

(e) A State gaming licensee who in good faith complies with the requirements of this Section shall not be liable to the gaming winner or any other individual or entity.

Section 99. Effective date. This Act takes effect July 1, 2013."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Barickman, **Senate Bill No. 1822** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Mulroe, **Senate Bill No. 1844** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
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[April 18, 2013]

Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Stears
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Mr. President
Cunningham	Jones, E.	Murphy	
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

The following voted present:

Van Pelt

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Holmes, **Senate Bill No. 1871** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harmon	McCarter	Silverstein
Brady	Harris	McConnaughay	Stadelman
Bush	Hastings	McGuire	Stears
Clayborne	Holmes	Morrison	Sullivan
Collins	Hunter	Mulroe	Syverson
Connelly	Hutchinson	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Kotowski, **Senate Bill No. 1910** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

[April 18, 2013]

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Kotowski, **Senate Bill No. 1911** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Oberweis
Barickman	Forby	Landek	Radogno
Bertino-Tarrant	Frerichs	Link	Raoul
Biss	Haine	Luechtefeld	Rezin
Bivins	Harmon	Manar	Righter
Brady	Harris	McCann	Rose
Bush	Hastings	McCarter	Silverstein
Clayborne	Holmes	McConnaughay	Stadelman
Collins	Hunter	McGuire	Steans
Connelly	Hutchinson	Morrison	Sullivan
Cullerton, T.	Jacobs	Mulroe	Syverson
Cunningham	Jones, E.	Muñoz	Van Pelt
Delgado	Koehler	Murphy	Mr. President
Dillard	Kotowski	Noland	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Raoul, **Senate Bill No. 1920** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[April 18, 2013]

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Clayborne	Hunter	Morrison	Sullivan
Collins	Hutchinson	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Raoul, **Senate Bill No. 1921** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Silverstein
Bivins	Harris	McCarter	Stadelman
Brady	Hastings	McConnaughay	Steans
Bush	Holmes	McGuire	Sullivan
Clayborne	Hunter	Morrison	Syverson
Collins	Hutchinson	Mulroe	Van Pelt
Connelly	Jacobs	Muñoz	Mr. President
Cullerton, T.	Jones, E.	Murphy	
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Raoul, **Senate Bill No. 1922** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

[April 18, 2013]

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Clayborne	Hunter	Morrison	Sullivan
Collins	Hutchinson	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Raoul, **Senate Bill No. 1923** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harmon	McCarter	Silverstein
Brady	Harris	McConnaughay	Stadelman
Bush	Hastings	McGuire	Steans
Clayborne	Holmes	Morrison	Sullivan
Collins	Hunter	Mulroe	Syverson
Connelly	Hutchinson	Muñoz	Van Pelt
Cullerton, T.	Jacobs	Murphy	Mr. President
Cunningham	Jones, E.	Noland	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Luechtefeld, **Senate Bill No. 1924** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Stears
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jacobs	Muñoz	Van Pelt
Cunningham	Jones, E.	Murphy	Mr. President
Delgado	Koehler	Noland	
Dillard	Kotowski	Oberweis	
Duffy	LaHood	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Bivins, **Senate Bill No. 1940** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	McCann	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Stears
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Duffy	LaHood	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

**SENATE BILL RECALLED**

On motion of Senator Althoff, **Senate Bill No. 1951** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1951**

AMENDMENT NO. 1. Amend Senate Bill 1951 as follows:

on page 60, by replacing line 6 with "which time the payments shall be made within 14 days of there being sufficient".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

**READING BILL OF THE SENATE A THIRD TIME**

On motion of Senator Barickman, **Senate Bill No. 1968** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS None.

The following voted in the affirmative:

Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Righter
Biss	Haine	Manar	Rose
Bivins	Harmon	McCann	Silverstein
Brady	Harris	McCarter	Stadelman
Bush	Hastings	McConnaughay	Steans
Clayborne	Holmes	McGuire	Sullivan
Collins	Hunter	Morrison	Syverson
Connelly	Hutchinson	Mulroe	Van Pelt
Cullerton, T.	Jones, E.	Muñoz	Mr. President
Cunningham	Koehler	Murphy	
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	
Duffy	Landek	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

**SENATE BILL RECALLED**

On motion of Senator Althoff, **Senate Bill No. 2047** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 2047**

AMENDMENT NO. 1. Amend Senate Bill 2047 by replacing everything after the enacting clause

[April 18, 2013]



with the following:

"Section 5. The Illinois Highway Code is amended by changing Section 6-701.8 as follows:  
(605 ILCS 5/6-701.8) (from Ch. 121, par. 6-701.8)

Sec. 6-701.8. The formula allocation for township and road districts for the distribution of motor fuel tax funds, provided for in Section 8 in the "Motor Fuel Tax Law", may be used by the highway commissioner, subject to the conditions set out in Sections 6-301, 6-701.1 and 6-701.2 as respects the methods, equipment and materials appropriate for such maintenance or improvement, and, in township counties, with the approval of the board of town trustees, for the maintenance or improvement of nondedicated subdivision roads established prior to July 23, 1959. Any such road improved becomes, by operation of law, a part of the township and district road system providing such road meets standards as established by the county. In township counties, the board of town trustees shall condition its approval, as required by this Section, upon proportional matching contributions, whether in cash, kind, services or otherwise, by property owners in the subdivision where such a road is situated. No more than the amount of the increase in allocation attributable to this amendatory Act of 1979 and any subsequent amendatory Act plus 50% of such funds otherwise allocated under the formula as provided in Section 8 in the "Motor Fuel Tax Law" and subsequently approved as provided in this Section, may be expended on eligible nondedicated subdivision roads. Funds may also be derived from other road district sources; not to exceed the amount that would be allocated under the motor fuel tax fund formula.  
(Source: P.A. 92-800, eff. 8-16-02.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

#### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Barickman, **Senate Bill No. 2101** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	LaHood	Oberweis
Barickman	Forby	Landek	Radogno
Bertino-Tarrant	Frerichs	Link	Raoul
Biss	Haine	Luechtefeld	Rezin
Bivins	Harmon	Manar	Righter
Brady	Harris	McCann	Rose
Bush	Hastings	McCarter	Silverstein
Clayborne	Holmes	McConnaughay	Stadelman
Collins	Hunter	McGuire	Steans
Connelly	Hutchinson	Morrison	Sullivan
Cullerton, T.	Jacobs	Mulroe	Syverson
Cunningham	Jones, E.	Muñoz	Van Pelt
Delgado	Koehler	Murphy	Mr. President
Dillard	Kotowski	Noland	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

[April 18, 2013]

**SENATE BILL RECALLED**

On motion of Senator Muñoz, **Senate Bill No. 2197** was recalled from the order of third reading to the order of second reading.

Senator Muñoz offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 2197**

AMENDMENT NO. 2. Amend Senate Bill 2197, on page 38, line 8, by replacing "repair" with "repair and prevention"; and

on page 38, line 22, by replacing "repair" with "repair, and also the prevention."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

**READING BILL OF THE SENATE A THIRD TIME**

On motion of Senator Righter, **Senate Bill No. 2245** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Landek	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Hutchinson	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

**SENATE BILL RECALLED**

On motion of Senator Harmon, **Senate Bill No. 2256** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 2256**

AMENDMENT NO. 2. Amend Senate Bill 2256, AS AMENDED, by replacing everything after the enacting clause with the following:

[April 18, 2013]

"Section 5. The Property Tax Code is amended by changing Section 18-185 as follows:  
(35 ILCS 200/18-185)

Sec. 18-185. Short title; definitions. This Division 5 may be cited as the Property Tax Extension Limitation Law. As used in this Division 5:

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18-205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1-150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this Law before the 1995 levy year and each non-home rule taxing district not subject to this Law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties. Beginning with the levy year in which this Law becomes applicable to a taxing district as provided in Section 18-213, "taxing district" also includes those taxing districts made subject to this Law as provided in Section 18-213.

"Aggregate extension" for taxing districts to which this Law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1, 1991; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), (e), and (h) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made by a school district that participates in the Special Education District of Lake County, created by special education joint agreement under Section 10-22.31 of the School Code, for payment of the school district's share of the amounts required to be contributed by the Special Education District of Lake County to the Illinois Municipal Retirement Fund under Article 7 of the Illinois Pension Code; the amount of any extension under this item (k) shall be certified by the school district to the county clerk; (l) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (m) made for temporary relocation loan repayment purposes pursuant to Sections 2-3.77 and 17-2.2d of the School Code; (n) made for payment of principal and interest on any bonds issued under the authority of Section 17-2.2d of the School Code; (o) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code; and (p) made for road purposes in the first year after a township assumes the rights, powers, duties, assets, property, liabilities, obligations, and responsibilities of a road district abolished under the provisions of Section 6-133 of the Illinois Highway Code.

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy

[April 18, 2013]

year (except taxing districts subject to this Law in accordance with Section 18-213) means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before March 1, 1995; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before March 1, 1995; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after March 1, 1995 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before March 1, 1995 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before March 1, 1995 to pay for the building project; (g) made for payments due under installment contracts entered into before March 1, 1995; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (h-4) made for stormwater management purposes by the Metropolitan Water Reclamation District of Greater Chicago under Section 12 of the Metropolitan Water Reclamation District Act; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum and bonds described in subsection (h) of this definition; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made for payments of principal and interest on bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium or museum projects; (l) made for payments of principal and interest on bonds authorized by Public Act 87-1191 or 93-601 and (i) issued pursuant to Section 21.2 of the Cook County Forest Preserve District Act, (ii) issued under Section 42 of the Cook County Forest Preserve District Act for zoological park projects, or (iii) issued under Section 44.1 of the Cook County Forest Preserve District Act for botanical gardens projects; (m) made pursuant to Section 34-53.5 of the School Code, whether levied annually or not; (n) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (o) made by the Chicago Park District for recreational programs for the handicapped under subsection (c) of Section 7.06 of the Chicago Park District Act; (p) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code; and (q) made by Ford Heights School District 169 under Section 17-9.02 of the School Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with Section 18-213, except for those taxing districts subject to paragraph (2) of subsection (e) of Section 18-213, means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the date on which the referendum making this Law applicable to the taxing district is held if the bonds were approved by referendum after the date on which the referendum making this Law applicable to the taxing district is held; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the date on which the referendum making this Law applicable to the taxing district is held for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the date on which the referendum making this Law applicable to the taxing district is held to pay for the building project; (g) made for payments due under installment contracts entered into before the date on which the referendum making this Law applicable to the taxing district is held; (h) made for payments of principal

and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code; and (m) made for the taxing district to pay interest or principal on general obligation bonds issued pursuant to Section 19-3.10 of the School Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with paragraph (2) of subsection (e) of Section 18-213 means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the effective date of this amendatory Act of 1997; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the effective date of this amendatory Act of 1997; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the effective date of this amendatory Act of 1997 if the bonds were approved by referendum after the effective date of this amendatory Act of 1997; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the effective date of this amendatory Act of 1997 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the effective date of this amendatory Act of 1997 to pay for the building project; (g) made for payments due under installment contracts entered into before the effective date of this amendatory Act of 1997; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Debt service extension base" means an amount equal to that portion of the extension for a taxing district for the 1994 levy year, or for those taxing districts subject to this Law in accordance with Section 18-213, except for those subject to paragraph (2) of subsection (e) of Section 18-213, for the levy year in which the referendum making this Law applicable to the taxing district is held, or for those taxing districts subject to this Law in accordance with paragraph (2) of subsection (e) of Section 18-213 for the 1996 levy year, constituting an extension for payment of principal and interest on bonds issued by the taxing district without referendum, but not including excluded non-referendum bonds. For park districts (i) that were first subject to this Law in 1991 or 1995 and (ii) whose extension for the 1994 levy year for the payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds) was less than 51% of the amount for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds), "debt service extension base" means an amount equal to that portion of the extension for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not

including excluded non-referendum bonds). A debt service extension base established or increased at any time pursuant to any provision of this Law, except Section 18-212, shall be increased each year commencing with the later of (i) the 2009 levy year or (ii) the first levy year in which this Law becomes applicable to the taxing district, by the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year. The debt service extension base may be established or increased as provided under Section 18-212. "Excluded non-referendum bonds" means (i) bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium and museum projects; (ii) bonds issued under Section 15 of the Local Government Debt Reform Act; or (iii) refunding obligations issued to refund or to continue to refund obligations initially issued pursuant to referendum.

"Special purpose extensions" include, but are not limited to, extensions for levies made on an annual basis for unemployment and workers' compensation, self-insurance, contributions to pension plans, and extensions made pursuant to Section 6-601 of the Illinois Highway Code for a road district's permanent road fund whether levied annually or not. The extension for a special service area is not included in the aggregate extension.

"Aggregate extension base" means: (i) for levy years before 2014, the taxing district's last preceding aggregate extension as adjusted under Sections 18-135, 18-215, and 18-230; and (ii) for levy years 2014 and later, modified aggregate extension base. An adjustment under Section 18-135 shall be made for the 2007 levy year and all subsequent levy years whenever one or more counties within which a taxing district is located (i) used estimated valuations or rates when extending taxes in the taxing district for the last preceding levy year that resulted in the over or under extension of taxes, or (ii) increased or decreased the tax extension for the last preceding levy year as required by Section 18-135(c). Whenever an adjustment is required under Section 18-135, the aggregate extension base of the taxing district shall be equal to the amount that the aggregate extension of the taxing district would have been for the last preceding levy year if either or both (i) actual, rather than estimated, valuations or rates had been used to calculate the extension of taxes for the last levy year, or (ii) the tax extension for the last preceding levy year had not been adjusted as required by subsection (c) of Section 18-135.

"Aggregate extension limit" means: (i) for the 2014 levy year, the equalized assessed value of the district in the 2013 levy year multiplied by the 2013 limiting rate; and (ii) for the 2015 levy year and thereafter, the previous levy year's maximum limiting rate multiplied by the equalized assessed value of the district in the previous levy year.

"Modified aggregate extension base" means the preceding year's aggregate extension base plus the recapture aggregate extension base.

"Recaptured aggregate extension base" means one-third of the difference between the aggregate extension limit and the previous year's aggregate extension base.

"Maximum limiting rate" means a fraction the numerator of which is the last preceding aggregate extension limit times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year.

Notwithstanding any other provision of law, for levy year 2012, the aggregate extension base for West Northfield School District No. 31 in Cook County shall be \$12,654,592.

"Levy year" has the same meaning as "year" under Section 1-155.

"New property" means (i) the assessed value, after final board of review or board of appeals action, of new improvements or additions to existing improvements on any parcel of real property that increase the assessed value of that real property during the levy year multiplied by the equalization factor issued by the Department under Section 17-30, (ii) the assessed value, after final board of review or board of appeals action, of real property not exempt from real estate taxation, which real property was exempt from real estate taxation for any portion of the immediately preceding levy year, multiplied by the equalization factor issued by the Department under Section 17-30, including the assessed value, upon final stabilization of occupancy after new construction is complete, of any real property located within the boundaries of an otherwise or previously exempt military reservation that is intended for residential use and owned by or leased to a private corporation or other entity, and (iii) in counties that classify in accordance with Section 4 of Article IX of the Illinois Constitution, an incentive property's additional assessed value resulting from a scheduled increase in the level of assessment as applied to the first year final board of review market value. In addition, the county clerk in a county containing a population of 3,000,000 or more shall include in the 1997 recovered tax increment value for any school district, any recovered tax increment value that was applicable to the 1995 tax year calculations.

"Qualified airport authority" means an airport authority organized under the Airport Authorities Act and located in a county bordering on the State of Wisconsin and having a population in excess of

200,000 and not greater than 500,000.

"Recovered tax increment value" means, except as otherwise provided in this paragraph, the amount of the current year's equalized assessed value, in the first year after a municipality terminates the designation of an area as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, previously established under the Economic Development Project Area Tax Increment Act of 1995, or previously established under the Economic Development Area Tax Increment Allocation Act, of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. For the taxes which are extended for the 1997 levy year, the recovered tax increment value for a non-home rule taxing district that first became subject to this Law for the 1995 levy year because a majority of its 1994 equalized assessed value was in an affected county or counties shall be increased if a municipality terminated the designation of an area in 1993 as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, by an amount equal to the 1994 equalized assessed value of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. In the first year after a municipality removes a taxable lot, block, tract, or parcel of real property from a redevelopment project area established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, the Industrial Jobs Recovery Law in the Illinois Municipal Code, or the Economic Development Area Tax Increment Allocation Act, "recovered tax increment value" means the amount of the current year's equalized assessed value of each taxable lot, block, tract, or parcel of real property removed from the redevelopment project area over and above the initial equalized assessed value of that real property before removal from the redevelopment project area.

Except as otherwise provided in this Section, "limiting rate" means a fraction the numerator of which is the last preceding aggregate extension base times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year. For those taxing districts that reduced their aggregate extension for the last preceding levy year, the highest aggregate extension in any of the last 3 preceding levy years shall be used for the purpose of computing the limiting rate. The denominator shall not include new property or the recovered tax increment value. If a new rate, a rate decrease, or a limiting rate increase has been approved at an election held after March 21, 2006, then (i) the otherwise applicable limiting rate shall be increased by the amount of the new rate or shall be reduced by the amount of the rate decrease, as the case may be, or (ii) in the case of a limiting rate increase, the limiting rate shall be equal to the rate set forth in the proposition approved by the voters for each of the years specified in the proposition, after which the limiting rate of the taxing district shall be calculated as otherwise provided.

(Source: P.A. 96-501, eff. 8-14-09; 96-517, eff. 8-14-09; 96-1000, eff. 7-2-10; 96-1202, eff. 7-22-10; 97-611, eff. 1-1-12; 97-1154, eff. 1-25-13.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2257** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

[April 18, 2013]

Althoff	Duffy	LaHood	Oberweis
Barickman	Forby	Landek	Radogno
Bertino-Tarrant	Frerichs	Link	Raoul
Biss	Haine	Luechtefeld	Rezin
Bivins	Harmon	Manar	Righter
Brady	Harris	McCann	Rose
Bush	Hastings	McCarter	Silverstein
Clayborne	Holmes	McConnaughay	Stadelman
Collins	Hunter	McGuire	Steans
Connelly	Hutchinson	Morrison	Sullivan
Cullerton, T.	Jacobs	Mulroe	Syverson
Cunningham	Jones, E.	Muñoz	Van Pelt
Delgado	Koehler	Murphy	Mr. President
Dillard	Kotowski	Noland	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Barickman, **Senate Bill No. 2270** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAY 1.

The following voted in the affirmative:

Althoff	Duffy	Landek	Radogno
Barickman	Forby	Link	Raoul
Bertino-Tarrant	Frerichs	Luechtefeld	Rezin
Biss	Haine	Manar	Righter
Bivins	Harmon	McCann	Silverstein
Brady	Harris	McCarter	Stadelman
Bush	Hastings	McConnaughay	Steans
Clayborne	Holmes	McGuire	Sullivan
Collins	Hunter	Morrison	Syverson
Connelly	Hutchinson	Mulroe	Van Pelt
Cullerton, T.	Jones, E.	Muñoz	Mr. President
Cunningham	Koehler	Murphy	
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

The following voted in the negative:

Rose

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

On motion of Senator Harmon, **Senate Bill No. 2335** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[April 18, 2013]



YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Link	Raoul
Barickman	Forby	Luechtefeld	Rezin
Bertino-Tarrant	Frerichs	Manar	Righter
Biss	Haine	McCann	Rose
Bivins	Harmon	McCarter	Silverstein
Brady	Harris	McConnaughay	Stadelman
Bush	Hastings	McGuire	Steans
Clayborne	Holmes	Morrison	Sullivan
Collins	Hunter	Mulroe	Syverson
Connelly	Jones, E.	Muñoz	Van Pelt
Cullerton, T.	Koehler	Murphy	Mr. President
Cunningham	Kotowski	Noland	
Delgado	LaHood	Oberweis	
Dillard	Landek	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

#### SENATE BILL RECALLED

On motion of Senator Mulroe, **Senate Bill No. 2339** was recalled from the order of third reading to the order of second reading.

Senator Mulroe offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO SENATE BILL 2339

AMENDMENT NO. 2. Amend Senate Bill 2339, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Intergovernmental Cooperation Act is amended by changing Section 6 as follows:  
(5 ILCS 220/6) (from Ch. 127, par. 746)

Sec. 6. Joint self-insurance. An intergovernmental contract may, among other undertakings, authorize public agencies to jointly self-insure and authorize each public agency member of the contract to utilize its funds to pay to a joint insurance pool its costs and reserves to protect, wholly or partially, itself or any public agency member of the contract against liability or loss in the designated insurable area.

A joint insurance pool shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director of Insurance no later than 150 days after the end of the pool's immediately preceding fiscal year. The Director of Insurance shall issue rules necessary to implement this audit and report requirement. The rule shall establish the due date for filing the initial annual audited financial report. Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter, public agencies that are jointly self-insured to protect against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation Commission a report indicating an election to self-insure.

The joint insurance pool shall also annually file with the Director a statement of actuarial opinion by an independent actuary who is an associate or fellow in a casualty actuarial society that the pool's reserves are in accordance with sound loss-reserving standards and adequate for the payment of claims. This opinion shall be filed no later than 150 days after the end of each fiscal year. The joint insurance pool shall be exempt from filing a statement of actuarial opinion by an independent actuary who is an associate or fellow in a casualty actuarial society that the joint insurance pool's reserves are in accordance with sound loss-reserving standards and payment of claims for the primary level of coverage if the joint insurance pool files with the Director, by the reporting deadline, a statement of actuarial opinion on the joint pool's aggregate coverage, reinsurance, or other similar excess insurance coverage.

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The Director may assess penalties against a joint insurance pool that fails to comply with the auditing, statement of actuarial opinion, and examination requirements of this Section in an amount equal to \$500 per day for each violation, up to a maximum of \$10,000 for each violation. The Director (or his or her staff) or a Director-selected independent auditor (or actuarial firm) that is not owned or affiliated with an insurance brokerage firm, insurance company, or other insurance industry affiliated entity may examine, as often as the Director deems advisable, the affairs, transactions, accounts, records, and assets and liabilities of each joint insurance pool that fails to comply with this Section. The joint insurance pool shall cooperate fully with the Director's representatives in all evaluations and audits of the joint insurance pool and resolve issues raised in those evaluations and audits. The failure to resolve those issues may constitute a violation of this Section, and may, after notice and an opportunity to be heard, result in the imposition of penalties pursuant to this Section. No sanctions under this Section may become effective until 30 days after the date that a notice of sanctions is delivered by registered or certified mail to the joint insurance pool. The Director shall have the authority to extend the time for filing any statement by any joint insurance pool for reasons that he or she considers good and sufficient.

If a joint insurance pool requires a member to submit written notice in order for the member to withdraw from a qualified pool, then the period in which the member must provide the written notice cannot be greater than 120 days, except that this requirement applies only to joint insurance pool agreements entered into, modified, or renewed on or after the effective date of this amendatory Act of the 98th General Assembly.

For purposes of this Section, "public agency member" means any public agency defined or created under this Act, any local public entity as defined in Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act, and any public agency, authority, instrumentality, council, board, service region, district, unit, bureau, or, commission, or any municipal corporation, college, or university, whether corporate or otherwise, and any other local governmental body or similar entity that is presently existing or created after the effective date of this amendatory Act of the 92nd General Assembly, whether or not specified in this Section. Only public agency members with tax receipts, tax revenues, taxing authority, or other resources sufficient to pay costs and to service debt related to intergovernmental activities described in this Section, or public agency members created by or as part of a public agency with these powers, may enter into contracts or otherwise associate among themselves as permitted in this Section.

No joint insurance pool or other intergovernmental cooperative offering health insurance shall interfere with the statutory obligation of any public agency member to bargain over or to reach agreement with a labor organization over a mandatory subject of collective bargaining as those terms are used in the Illinois Public Labor Relations Act. No intergovernmental contract of insurance offering health insurance shall limit the rights or obligations of public agency members to engage in collective bargaining, and it shall be unlawful for a joint insurance pool or other intergovernmental cooperative offering health insurance to discriminate against public agency members or otherwise retaliate against such members for limiting their participation in a joint insurance pool as a result of a collective bargaining agreement.

It shall not be considered a violation of this Section for an intergovernmental contract of insurance relating to health insurance coverage, life insurance coverage, or both to permit the pool or cooperative, if a member withdraws employees or officers into a union-sponsored program, to re-price the costs of benefits provided to the continuing employees or officers based upon the same underwriting criteria used by that pool or cooperative in the normal course of its business, but no member shall be expelled from a pool or cooperative if the continuing employees or officers meet the general criteria required of other members.

(Source: P.A. 93-721, eff. 1-1-05; 94-685, eff. 11-2-05.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Mulroe offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 3 TO SENATE BILL 2339**

AMENDMENT NO. 3. Amend Senate Bill 2339, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 3, by replacing line 1 with "deadline, a statement of actuarial opinion from the provider of the joint pool's".

The motion prevailed.

And the amendment was adopted and ordered printed.

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There being no further amendments, the foregoing Amendments numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Steans, **Senate Bill No. 2353** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS 3.

The following voted in the affirmative:

Althoff	Forby	Landek	Rezin
Barickman	Frerichs	Link	Righter
Bertino-Tarrant	Haine	Manar	Rose
Biss	Harmon	McCann	Silverstein
Bivins	Harris	McConnaughay	Stadelman
Brady	Hastings	McGuire	Steans
Bush	Holmes	Morrison	Sullivan
Clayborne	Hunter	Mulroe	Syverson
Collins	Hutchinson	Muñoz	Van Pelt
Connelly	Jacobs	Murphy	Mr. President
Cullerton, T.	Jones, E.	Noland	
Cunningham	Koehler	Oberweis	
Delgado	Kotowski	Radogno	
Dillard	LaHood	Raoul	

The following voted in the negative:

Duffy  
Luechtefeld  
McCarter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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

### SENATE BILL RECALLED

On motion of Senator Radogno, **Senate Bill No. 2381** was recalled from the order of third reading to the order of second reading.

Senator Radogno offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 2381

AMENDMENT NO. 1. Amend Senate Bill 2381 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Grant Information Collection Act.

Section 5. Definitions. For the purposes of this Act, unless the context otherwise requires:

"Grant funds" means any public funds dispensed by a grantor agency to any person or entity for obligation, expenditure, or use by that person or entity for a specific purpose or purposes and any funds disbursed by the State Comptroller pursuant to an appropriation made by the General Assembly to a named entity or person. Funds disbursed in accordance with a fee for service purchase of care contract

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are not grant funds for purposes of this Act.

Neither the method by which funds are dispensed whether by contract, agreement, grant subsidy, letter of credit, or any other method nor the purpose for which the funds are used can change the character of funds which otherwise would be considered grant funds as defined in this Section.

"Grantee" means the person or entity which may use grant funds.

"Grantor agency" means a State agency that dispenses grant funds.

"State agency" means State-supported universities and colleges and any department, office, commission, board, or authority within the Executive Department, other than the Office of the Lieutenant Governor, the Office of the Attorney General, the Office of the Secretary of State, the Office of the Comptroller, or the Office of the Treasurer.

Section 10. Grant information collection. The Chief Information Officer of the State, as designated by the Governor, shall coordinate with each State agency to develop, with any existing or newly available resources and technology, appropriate systems to accurately report data containing financial information. These systems shall include a module that is specific to the management and administration of grant funds.

Each grantor agency that is authorized to award grant funds to an entity other than the State of Illinois shall coordinate with the Chief Information Officer of the State to provide for the publication, at data.illinois.gov or any other publicly accessible website designated by the Chief Information Officer, of data sets containing information regarding awards of grant funds that the grantor agency has made during the previous fiscal year. Data sets shall be published on at least a quarterly basis and shall include, at a minimum, the following:

- (1) the name of the grantor agency;
- (2) the name and postal zip code of the grantee;
- (3) a short description of the purpose of the award of grant funds;
- (4) the amount of each award of grant funds;
- (5) the date of each award of grant funds; and
- (6) the duration of each award of grant funds.

In addition, each grantor agency shall make best efforts, with available resources and technology, to make available in the data sets any other data that is relevant to its award of grant funds.

Data not subject to the requirements of this Section include data to which a State agency may deny access pursuant to any provision of a federal, state, or local law, rule, or regulation."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

At the hour of 2:25 o'clock p.m., Senator Link, presiding.

#### SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 1404** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 1404

AMENDMENT NO. 1. Amend Senate Bill 1404 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 21-145 as follows:  
(35 ILCS 200/21-145)

Sec. 21-145. Scavenger sale. At the same time the County Collector annually publishes the collector's annual sale advertisement under Sections 21-110, 21-115 and 21-120, it is mandatory for the collector in counties with 3,000,000 or more inhabitants, and in other counties if the county board so orders by resolution, to publish an advertisement giving notice of the intended application for judgment and sale of all properties upon which all or a part of the general taxes for each of 3 ~~2~~ or more years, including the

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current tax year, are delinquent as of the date of the advertisement. In no event may there be more than 2 consecutive years without a sale under this Section. The term delinquent also includes forfeitures. The County Collector shall include in the advertisement and in the application for judgment and sale under this Section and Section 21-260 the total amount of all general taxes upon those properties which are delinquent as of the date of the advertisement. In lieu of a single annual advertisement and application for judgment and sale under this Section and Section 21-260, the County Collector may, from time to time, beginning on the date of the publication of the annual sale advertisement and before August 1 of the next year, publish separate advertisements and make separate applications on eligible properties described in one or more volumes of the delinquent list. The separate advertisements and applications shall, in the aggregate, include all the properties which otherwise would have been included in the single annual advertisement and application for judgment and sale under this Section. Upon the written request of the taxing district which levied the same, the County Collector shall also include in the advertisement the special taxes and special assessments, together with interest, penalties and costs thereon upon those properties which are delinquent as of the date of the advertisement. The advertisement and application for judgment and sale shall be in the manner prescribed by this Code relating to the annual advertisement and application for judgment and sale of delinquent properties.  
(Source: P.A. 88-455; 89-695, eff. 12-31-96.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

#### READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Sullivan, **Senate Bill No. 92** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was postponed in the Committee on Licensed Activities.

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

On motion of Senator Kotowski, **Senate Bill No. 114** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

#### AMENDMENT NO. 1 TO SENATE BILL 114

AMENDMENT NO. 1. Amend Senate Bill 114 by replacing everything after the enacting clause with the following:

"(5 ILCS 390/Act rep.)

Section 5. The Supported Employees Act is repealed.

Section 10. The School Code is amended by changing Section 14-8.04 as follows:

(105 ILCS 5/14-8.04) (from Ch. 122, par. 14-8.04)

Sec. 14-8.04. Supported employment. The school board that is the governing body of any secondary school in this State that provides special education services and facilities for children with disabilities shall include, as part of preparing the transition planning for disabled children who are 16 years of age or more, consideration of a supported employment component with experiences in integrated community settings for those eligible children with disabilities who have been determined at an IEP meeting to be in need of participation in the supported employment services offered pursuant to this Section.

Supported employment services made available as part of transition planning under this Section shall be designed and developed for school boards by the State Board of Education, in consultation with programs such as Project CHOICES (Children Have Opportunities In Integrated Community Environments), parents and advocates of children with disabilities, and the Departments of Central Management Services and Human Services; ~~and shall be maintained and operated in such manner as to coordinate with supported employee programs administered under the Supported Employees Act.~~

(Source: P.A. 89-397, eff. 8-20-95; 89-507, eff. 7-1-97.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 272** having been printed, was taken up, read by title a second time,

Senate Committee Amendment No. 1 was postponed in the Committee on Executive.

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

On motion of Senator Kotowski, **Senate Bill No. 1226** having been printed, was taken up, 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 SENATE BILL 1226**

AMENDMENT NO. 1. Amend Senate Bill 1226 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by adding Section 2310-665 as follows:

(20 ILCS 2310/2310-665 new)

Sec. 2310-665. Sudden, unexpected death in epilepsy awareness program. The General Assembly finds and declares that:

(1) Sudden, unexpected death in epilepsy (SUDEP) is a condition in which typically young or middle-aged individuals with epilepsy die without a clear cause and is generally defined by the medical community as a sudden, unexpected, non-traumatic, non-drowning death in an otherwise healthy individual with epilepsy, where the postmortem examination does not reveal an anatomic or toxicologic cause for the death.

(2) SUDEP is believed to account for up to 38% of deaths in people with epilepsy.

(3) Autopsy plays a key role in determining the diagnosis of SUDEP, yet the Institute of Medicine has found that SUDEP may be underreported for several reasons, including a lack of awareness about SUDEP among medical examiners and coroners."

Senator Kotowski offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1226**

AMENDMENT NO. 2. Amend Senate Bill 1226, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by adding Section 3-3016.5 as follows:

(55 ILCS 5/3-3016.5 new)

Sec. 3-3016.5. Sudden, unexpected death in epilepsy (SUDEP).

(a) All autopsies conducted in this State shall include an inquiry to determine whether the death was a direct result of a seizure or epilepsy. If the findings in an autopsy of a medical examiner, examining physician, or coroner are consistent with known or suspected sudden, unexpected death in epilepsy (SUDEP), then the medical examiner, examining physician, or coroner shall:

(1) cause to be indicated on the death certificate that SUDEP is the cause or suspected cause of death; and

(2) forward a copy of the death certificate to the North American SUDEP Registry at the Langone Medical Center at New York University within 30 days.

(b) For the purposes of this Section, "sudden unexpected death in epilepsy" refers to a death in a patient previously diagnosed with epilepsy that is not due to trauma, drowning, status epilepticus, or other known causes, but for which there is often evidence of an associated seizure. A finding of sudden, unexpected death in epilepsy is definite when clinical criteria are met and autopsy reveals no alternative cause of death, such as stroke, myocardial infarction, or drug intoxication, although there may be evidence of a seizure.

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Section 99. Effective date. This Act takes effect January 1, 2014."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

### SENATE BILL RECALLED

On motion of Senator Kotowski, **Senate Bill No. 272** was recalled from the order of third reading to the order of second reading.

And **Senate Bill No. 272** was held on the order of second reading.

### READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Raoul, **Senate Bill No. 1330** having been printed, was taken up, read by title a second time.

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

#### AMENDMENT NO. 1 TO SENATE BILL 1330

AMENDMENT NO. 1. Amend Senate Bill 1330 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 12-4.25 as follows:  
(305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

Sec. 12-4.25. Medical assistance program; vendor participation.

(A) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, and may deny, suspend, or recover payments, if after reasonable notice and opportunity for a hearing the Illinois Department finds:

(a) Such vendor is not complying with the Department's policy or rules and regulations, or with the terms and conditions prescribed by the Illinois Department in its vendor agreement, which document shall be developed by the Department as a result of negotiations with each vendor category, including physicians, hospitals, long term care facilities, pharmacists, optometrists, podiatrists and dentists setting forth the terms and conditions applicable to the participation of each vendor group in the program; or

(b) Such vendor has failed to keep or make available for inspection, audit or copying, after receiving a written request from the Illinois Department, such records regarding payments claimed for providing services. This section does not require vendors to make available patient records of patients for whom services are not reimbursed under this Code; or

(c) Such vendor has failed to furnish any information requested by the Department regarding payments for providing goods or services; or

(d) Such vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the medical assistance program; or

(e) Such vendor has furnished goods or services to a recipient which are (1) in excess of need, (2) harmful, or (3) of grossly inferior quality, all of such determinations to be based upon competent medical judgment and evaluations; or

(f) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) was previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or was terminated, suspended, or excluded from participation in another state or federal medical assistance or health care program; or

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(2) was a person with management responsibility for a vendor previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in another state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in a state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(4) was an owner of a sole proprietorship or partner of a partnership previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in a state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(f-1) Such vendor has a delinquent debt owed to the Illinois Department; or

(g) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) has engaged in practices prohibited by applicable federal or State law or regulation; or

(2) was a person with management responsibility for a vendor at the time that such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(4) was an owner of a sole proprietorship or partner of a partnership which was a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(h) The direct or indirect ownership of the vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is terminated, suspended, or excluded or barred from participating as a vendor to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(A-5) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that the vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship that is a vendor; or a partner in a partnership that is a vendor has been convicted of an offense based on fraud or willful misrepresentation related to any of the following:

(1) The medical assistance program under Article V of this Code.

(2) A medical assistance or health care program in another state.

(3) The Medicare program under Title XVIII of the Social Security Act.

(4) The provision of health care services.

(5) A violation of this Code, as provided in Article VIII A, or another state or federal medical assistance program or health care program.

(A-10) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that (i) the vendor, (ii) a person with management responsibility for a vendor, (iii) an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, (iv) an owner of a sole proprietorship that is



a vendor, or (v) a partner in a partnership that is a vendor has been convicted of an offense related to any of the following:

- (1) Murder.
- (2) A Class X felony under the Criminal Code of 1961 or the Criminal Code of 2012.
- (3) Sexual misconduct that may subject recipients to an undue risk of harm.
- (4) A criminal offense that may subject recipients to an undue risk of harm.
- (5) A crime of fraud or dishonesty.
- (6) A crime involving a controlled substance.
- (7) A misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct related to a health care program.

(A-15) The Illinois Department may deny the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V if, after reasonable notice and opportunity for a hearing, the Illinois Department finds:

(1) The applicant or any person with management responsibility for the applicant; an officer or member of the board of directors of an applicant; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant; an owner of a sole proprietorship applicant; a partner in a partnership applicant; or a technical or other advisor to an applicant has a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by the applicant.

(2) The applicant or any person with management responsibility for the applicant; an officer or member of the board of directors of an applicant; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant; an owner of a sole proprietorship applicant; a partner in a partnership vendor applicant; or a technical or other advisor to an applicant was (i) a person with management responsibility, (ii) an officer or member of the board of directors of an applicant, (iii) an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, (iv) an owner of a sole proprietorship, (v) a partner in a partnership vendor, (vi) a technical or other advisor to a vendor, during a period of time where the conduct of that vendor resulted in a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by that vendor.

(3) There is a credible allegation of the use, transfer, or lease of assets of any kind to an applicant from a current or prior vendor who has a debt owed to the Illinois Department, no payment arrangements acceptable to the Illinois Department have been made by that vendor or the vendor's alternate payee, and the applicant knows or should have known of such debt.

(4) There is a credible allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by that vendor or the vendor's alternate payee, and the applicant knows or should have known of such debt.

(5) There is a credible allegation of the use, transfer, or lease of assets of any kind to an applicant who is a spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, relative by marriage, nephew, cousin, or relative of a current or prior vendor who has a debt owed to the Illinois Department and no payment arrangements acceptable to the Illinois Department have been made.

(6) There is a credible allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the medical assistance program, poses a risk of fraud, waste, or abuse to the Illinois Department.

As used in this subsection, "credible allegation" is defined to include an allegation from any source, including, but not limited to, fraud hotline complaints, claims data mining, patterns identified through provider audits, civil actions filed under the Illinois False Claims Act, and law enforcement investigations. An allegation is considered to be credible when it has indicia of reliability.

(B) The Illinois Department shall deny, suspend or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor:

- (1) immediately, if such vendor is not properly licensed, certified, or authorized;

(2) within 30 days of the date when such vendor's professional license, certification or other authorization has been refused renewal, restricted, revoked, suspended, or otherwise terminated;  
or

(3) if such vendor has been convicted of a violation of this Code, as provided in Article VIII.A.

(C) Upon termination, suspension, or exclusion of a vendor of goods or services from participation in the medical assistance program authorized by this Article, a person with management responsibility for such vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion is barred from participation in the medical assistance program.

Upon termination, suspension, or exclusion of a corporate vendor, the officers and persons owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in the vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion are barred from participation in the medical assistance program. A person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a terminated, suspended, or excluded vendor may not transfer his or her ownership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Upon termination, suspension, or exclusion of a sole proprietorship or partnership, the owner or partners during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion are barred from participation in the medical assistance program. The owner of a terminated, suspended, or excluded vendor that is a sole proprietorship, and a partner in a terminated, suspended, or excluded vendor that is a partnership, may not transfer his or her ownership or partnership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

A person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor who owes a debt to the Department, if that vendor has not made payment arrangements acceptable to the Department, shall not transfer his or her ownership interest in that vendor, or vendor assets of any kind, to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Rules adopted by the Illinois Department to implement these provisions shall specifically include a definition of the term "management responsibility" as used in this Section. Such definition shall include, but not be limited to, typical job titles, and duties and descriptions which will be considered as within the definition of individuals with management responsibility for a provider.

A vendor or a prior vendor who has been terminated, excluded, or suspended from the medical assistance program, or from another state or federal medical assistance or health care program, and any individual currently or previously barred from the medical assistance program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion, may be required to post a surety bond as part of a condition of enrollment or participation in the medical assistance program. The Illinois Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

A vendor or a prior vendor who has a debt owed to the Illinois Department and any individual currently or previously barred from the medical assistance program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in that corporate or limited liability company vendor during the time of any conduct which served as the basis for the debt, may be required to post a surety bond as part of a condition of enrollment or participation in the medical assistance program. The Illinois Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

(D) If a vendor has been suspended from the medical assistance program under Article V of the Code, the Director may require that such vendor correct any deficiencies which served as the basis for the suspension. The Director shall specify in the suspension order a specific period of time, which shall not exceed one year from the date of the order, during which a suspended vendor shall not be eligible to participate. At the conclusion of the period of suspension the Director shall reinstate such vendor, unless he finds that such vendor has not corrected deficiencies upon which the suspension was based.

If a vendor has been terminated, suspended, or excluded from the medical assistance program under Article V, such vendor shall be barred from participation for at least one year, except that if a vendor has

been terminated, suspended, or excluded based on a conviction of a violation of Article VIII A or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services, then the vendor shall be barred from participation for 5 years or for the length of the vendor's sentence for that conviction, whichever is longer. At the end of one year a vendor who has been terminated, suspended, or excluded may apply for reinstatement to the program. Upon proper application to be reinstated such vendor may be deemed eligible by the Director providing that such vendor meets the requirements for eligibility under this Code. If such vendor is deemed not eligible for reinstatement, he shall be barred from again applying for reinstatement for one year from the date his application for reinstatement is denied.

A vendor whose termination, suspension, or exclusion from participation in the Illinois medical assistance program under Article V was based solely on an action by a governmental entity other than the Illinois Department may, upon reinstatement by that governmental entity or upon reversal of the termination, suspension, or exclusion, apply for rescission of the termination, suspension, or exclusion from participation in the Illinois medical assistance program. Upon proper application for rescission, the vendor may be deemed eligible by the Director if the vendor meets the requirements for eligibility under this Code.

If a vendor has been terminated, suspended, or excluded and reinstated to the medical assistance program under Article V and the vendor is terminated, suspended, or excluded a second or subsequent time from the medical assistance program, the vendor shall be barred from participation for at least 2 years, except that if a vendor has been terminated, suspended, or excluded a second time based on a conviction of a violation of Article VIII A or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services, then the vendor shall be barred from participation for life. At the end of 2 years, a vendor who has been terminated, suspended, or excluded may apply for reinstatement to the program. Upon application to be reinstated, the vendor may be deemed eligible if the vendor meets the requirements for eligibility under this Code. If the vendor is deemed not eligible for reinstatement, the vendor shall be barred from again applying for reinstatement for 2 years from the date the vendor's application for reinstatement is denied.

(E) The Illinois Department may recover money improperly or erroneously paid, or overpayments, either by setoff, crediting against future billings or by requiring direct repayment to the Illinois Department. The Illinois Department may suspend or deny payment, in whole or in part, if such payment would be improper or erroneous or would otherwise result in overpayment.

(1) Payments may be suspended, denied, or recovered from a vendor or alternate payee:

(i) for services rendered in violation of the Illinois Department's provider notices, statutes, rules, and regulations; (ii) for services rendered in violation of the terms and conditions prescribed by the Illinois Department in its vendor agreement; (iii) for any vendor who fails to grant the Office of Inspector General timely access to full and complete records, including, but not limited to, records relating to recipients under the medical assistance program for the most recent 6 years, in accordance with Section 140.28 of Title 89 of the Illinois Administrative Code, and other information for the purpose of audits, investigations, or other program integrity functions, after reasonable written request by the Inspector General; this subsection (E) does not require vendors to make available the medical records of patients for whom services are not reimbursed under this Code or to provide access to medical records more than 6 years old; (iv) when the vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the medical assistance program; or (v) when the vendor previously rendered services while terminated, suspended, or excluded from participation in the medical assistance program or while terminated or excluded from participation in another state or federal medical assistance or health care program.

(2) Notwithstanding any other provision of law, if a vendor has the same taxpayer identification number (assigned under Section 6109 of the Internal Revenue Code of 1986) as is assigned to a vendor with past-due financial obligations to the Illinois Department, the Illinois Department may make any necessary adjustments to payments to that vendor in order to satisfy any past-due obligations, regardless of whether the vendor is assigned a different billing number under the medical assistance program.

~~If the Illinois Department establishes through an administrative hearing that the overpayments resulted from the vendor or alternate payee knowingly making, using, or causing to be made or used, a false record or statement to obtain payment or other benefit from the medical assistance program under Article V, the Department may recover interest on the amount of the payment or other benefit at the rate of 5% per annum. In addition to any other penalties that may be prescribed by law, such a vendor or~~

alternate payee shall be subject to civil penalties consisting of an amount not to exceed 3 times the amount of payment or other benefit resulting from each such false record or statement, and the sum of \$2,000 for each such false record or statement for payment or other benefit. For purposes of this paragraph, "knowingly" means that a vendor or alternate payee with respect to information: (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(E-5) Civil monetary penalties for improperly filed claims.

(1) As used in this subsection (E-5):

(a) "Knowingly" means that a person, with respect to information: (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(b) "Overpayment" means any funds that a person receives or retains from the medical assistance program to which the person, after applicable reconciliation, is not entitled under this Code.

(c) "Remuneration" means the offer or transfer of items or services for free or for other than fair market value by a person; however, remuneration does not include items or services of a nominal value of no more than \$10 per item or service, or \$50 in the aggregate on an annual basis, or any other offer or transfer of the items or services as determined by the Department.

(d) "Should know" means that a person, with respect to information: (i) acts in deliberate ignorance of the truth or falsity of the information; or (ii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(2) Any person (including a vendor, provider, organization, agency, or other entity, or an alternate payee thereof, but excluding a recipient) who:

(a) knowingly presents or causes to be presented to an officer, employee, or agent of the Department or the State, a claim that the Department determines:

(i) is for a medical or other item or service that the person knows or should know was not provided as claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided;

(ii) is for a medical or other item or service and the person knows or should know that the claim is false or fraudulent;

(iii) is presented for a physician's service, or an item or service incident to a physician's service, by a person who knows or should know that the individual who furnished, or supervised the furnishing of, the service:

(AA) was not licensed as a physician;

(BB) was licensed as a physician but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing); or

(CC) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board, when the individual was not so certified;

(iv) is for a medical or other item or service furnished during a period in which the person was excluded from the medical assistance program or a federal or state health care program under which the claim was made pursuant to applicable law; or

(v) is for a pattern of medical or other items or services that a person knows or should know are not medically necessary;

(b) knowingly presents or causes to be presented to any person a request for payment which is in violation of the conditions for receipt of vendor payments under the medical assistance program under Section 11-13 of this Code;

(c) knowingly gives or causes to be given to any person, with respect to medical assistance program coverage of inpatient hospital services, information that he or she knows or should know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or other individual from the hospital;

(d) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in the medical assistance program or a federal or state health care program and who, at the time of a violation of this subsection (E-5):

(i) retains a direct or indirect ownership or control interest in an entity that is participating in the medical assistance program or a federal or state health care program, and who knows or should know of the action constituting the basis for the exclusion; or

(ii) is an officer or managing employee of such an entity;

(e) offers or transfers remuneration to any individual eligible for benefits under the medical assistance program that such person knows or should know is likely to influence such individual to order or receive from a particular vendor, provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under the medical assistance program;

(f) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in the medical assistance program or a federal or state health care program, for the provision of items or services for which payment may be made under such a program;

(g) commits an act described in subsection (b) or (c) of Section 8A-3;

(h) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under the medical assistance program;

(i) fails to grant timely access, upon reasonable request (as defined by the Department), to the Inspector General, for the purpose of audits, investigations, evaluations, or other statutory functions of the Inspector General of the Department;

(j) orders or prescribes a medical or other item or service during a period in which the person was excluded from the medical assistance program or a federal or state health care program, in the case where the person knows or should know that a claim for such medical or other item or service will be made under such a program;

(k) knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a vendor or provider of services or a supplier under the medical assistance program;

(l) knows of an overpayment and does not report and return the overpayment to the Department;

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than \$10,000 for each item or service (or, in cases under paragraph (c), \$15,000 for each individual with respect to whom false or misleading information was given; in cases under paragraph (d), \$10,000 for each day the prohibited relationship occurs; in cases under paragraph (g), \$50,000 for each such act; in cases under paragraph (h), \$50,000 for each false record or statement; in cases under paragraph (i), \$15,000 for each day of the failure described in such paragraph; or in cases under paragraph (k), \$50,000 for each false statement, omission, or misrepresentation of a material fact). In addition, such a person shall be subject to an assessment of not more than 3 times the amount claimed for each such item or service in lieu of damages sustained by State or the Department because of such claim (or, in cases under paragraph (g), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose; or in cases under paragraph (k), an assessment of not more than 3 times the total amount claimed for each item or service for which payment was made based upon the application, bid, or contract containing the false statement, omission, or misrepresentation of a material fact).

(3) In addition, the Department may make a determination in the same proceeding to exclude, terminate, suspend, or bar the person from participation in the medical assistance program.

(4) Prior to the imposition of any penalties or sanctions, the affected person shall be afforded an opportunity for a hearing after reasonable notice. The Department shall establish hearing procedures by rule.

Any final order, decision, or other determination made, issued, or executed by the Director under the provisions of this subsection, whereby a person is aggrieved, shall be subject to review in accordance with the provisions of the Administrative Review Law, and the rules adopted pursuant thereto, which shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Director.

(F) The Illinois Department may withhold payments to any vendor or alternate payee prior to or during the pendency of any audit or proceeding under this Section, and through the pendency of any administrative appeal or administrative review by any court proceeding. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be withheld under this Section. Payments may be denied for bills submitted with service dates occurring during the pendency of a proceeding, after a final decision has been rendered, or after the conclusion of any administrative appeal, where the final administrative decision is to terminate, exclude, or suspend eligibility to participate in the medical assistance program. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be denied for such bills. The Illinois Department shall state by rule a process and criteria by which a vendor or alternate

payee may request full or partial release of payments withheld under this subsection. The Department must complete a proceeding under this Section in a timely manner.

Notwithstanding recovery allowed under subsection (E) or this subsection (F), the Illinois Department may withhold payments to any vendor or alternate payee who is not properly licensed, certified, or in compliance with State or federal agency regulations. Payments may be denied for bills submitted with service dates occurring during the period of time that a vendor is not properly licensed, certified, or in compliance with State or federal regulations. Facilities licensed under the Nursing Home Care Act shall have payments denied or withheld pursuant to subsection (I) of this Section.

(F-5) The Illinois Department may temporarily withhold payments to a vendor or alternate payee if any of the following individuals have been indicted or otherwise charged under a law of the United States or this or any other state with an offense that is based on alleged fraud or willful misrepresentation on the part of the individual related to (i) the medical assistance program under Article V of this Code, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services:

(1) If the vendor or alternate payee is a corporation: an officer of the corporation or an individual who owns, either directly or indirectly, 5% or more of the shares of stock or other evidence of ownership of the corporation.

(2) If the vendor is a sole proprietorship: the owner of the sole proprietorship.

(3) If the vendor or alternate payee is a partnership: a partner in the partnership.

(4) If the vendor or alternate payee is any other business entity authorized by law to transact business in this State: an officer of the entity or an individual who owns, either directly or indirectly, 5% or more of the evidences of ownership of the entity.

If the Illinois Department withholds payments to a vendor or alternate payee under this subsection, the Department shall not release those payments to the vendor or alternate payee while any criminal proceeding related to the indictment or charge is pending unless the Department determines that there is good cause to release the payments before completion of the proceeding. If the indictment or charge results in the individual's conviction, the Illinois Department shall retain all withheld payments, which shall be considered forfeited to the Department. If the indictment or charge does not result in the individual's conviction, the Illinois Department shall release to the vendor or alternate payee all withheld payments.

(F-10) If the Illinois Department establishes that the vendor or alternate payee owes a debt to the Illinois Department, and the vendor or alternate payee subsequently fails to pay or make satisfactory payment arrangements with the Illinois Department for the debt owed, the Illinois Department may seek all remedies available under the law of this State to recover the debt, including, but not limited to, wage garnishment or the filing of claims or liens against the vendor or alternate payee.

(F-15) Enforcement of judgment.

(1) Any fine, recovery amount, other sanction, or costs imposed, or part of any fine, recovery amount, other sanction, or cost imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law is a debt due and owing the State and may be collected using all remedies available under the law.

(2) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final administrative decision, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Director may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(3) In any case in which any person or entity has failed to comply with a judgment ordering or imposing any fine or other sanction, any expenses incurred by the Illinois Department to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or the Director, shall be a debt due and owing the State and may be collected in accordance with applicable law. Prior to any expenses being fixed by a final administrative decision pursuant to this subsection (F-15), the Illinois Department shall provide notice to the individual or entity that states that the individual or entity shall appear at a hearing before the administrative hearing officer to determine whether the individual or entity has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

(4) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the individual or entity in the amount of any debt due and owing the State under this

Section. The lien may be enforced in the same manner as a judgment of a court of competent jurisdiction. A lien shall attach to all property and assets of such person, firm, corporation, association, agency, institution, or other legal entity until the judgment is satisfied.

(5) The Director may set aside any judgment entered by default and set a new hearing date upon a petition filed at any time (i) if the petitioner's failure to appear at the hearing was for good cause, or (ii) if the petitioner established that the Department did not provide proper service of process. If any judgment is set aside pursuant to this paragraph (5), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Illinois Department as a result of the vacated default judgment.

(G) The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Illinois Department under this Section. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(G-5) Vendors who pose a risk of fraud, waste, abuse, or harm.

(1) Notwithstanding any other provision in this Section, the Department may terminate, suspend, or exclude vendors who pose a risk of fraud, waste, abuse, or harm from participation in the medical assistance program prior to an evidentiary hearing but after reasonable notice and opportunity to respond as established by the Department by rule.

(2) Vendors who pose a risk of fraud, waste, abuse, or harm shall submit to a fingerprint-based criminal background check on current and future information available in the State system and current information available through the Federal Bureau of Investigation's system by submitting all necessary fees and information in the form and manner prescribed by the Department of State Police. The following individuals shall be subject to the check:

- (A) In the case of a vendor that is a corporation, every shareholder who owns, directly or indirectly, 5% or more of the outstanding shares of the corporation.
- (B) In the case of a vendor that is a partnership, every partner.
- (C) In the case of a vendor that is a sole proprietorship, the sole proprietor.
- (D) Each officer or manager of the vendor.

Each such vendor shall be responsible for payment of the cost of the criminal background check.

(3) Vendors who pose a risk of fraud, waste, abuse, or harm may be required to post a surety bond. The Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

(4) The Department, or its agents, may refuse to accept requests for authorization from specific vendors who pose a risk of fraud, waste, abuse, or harm, including prior-approval and post-approval requests, if:

- (A) the Department has initiated a notice of termination, suspension, or exclusion of the vendor from participation in the medical assistance program; or
- (B) the Department has issued notification of its withholding of payments pursuant to subsection (F-5) of this Section; or
- (C) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation.

(5) As used in this subsection, the following terms are defined as follows:

(A) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or State law.

(B) "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices and that result in an unnecessary cost to the medical assistance program or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the medical assistance program. Abuse does not include diagnostic or therapeutic measures conducted primarily as a safeguard against possible vendor liability.

(C) "Waste" means the unintentional misuse of medical assistance resources, resulting in unnecessary cost to the medical assistance program. Waste does not include diagnostic or therapeutic measures conducted primarily as a safeguard against possible vendor liability.

(D) "Harm" means physical, mental, or monetary damage to recipients or to the medical assistance program.

(G-6) The Illinois Department, upon making a determination based upon information in the possession

of the Illinois Department that continuation of participation in the medical assistance program by a vendor would constitute an immediate danger to the public, may immediately suspend such vendor's participation in the medical assistance program without a hearing. In instances in which the Illinois Department immediately suspends the medical assistance program participation of a vendor under this Section, a hearing upon the vendor's participation must be convened by the Illinois Department within 15 days after such suspension and completed without appreciable delay. Such hearing shall be held to determine whether to recommend to the Director that the vendor's medical assistance program participation be denied, terminated, suspended, placed on provisional status, or reinstated. In the hearing, any evidence relevant to the vendor constituting an immediate danger to the public may be introduced against such vendor; provided, however, that the vendor, or his or her counsel, shall have the opportunity to discredit, impeach, and submit evidence rebutting such evidence.

(H) Nothing contained in this Code shall in any way limit or otherwise impair the authority or power of any State agency responsible for licensing of vendors.

(I) Based on a finding of noncompliance on the part of a nursing home with any requirement for certification under Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department may impose one or more of the following remedies after notice to the facility:

- (1) Termination of the provider agreement.
- (2) Temporary management.
- (3) Denial of payment for new admissions.
- (4) Civil money penalties.
- (5) Closure of the facility in emergency situations or transfer of residents, or both.
- (6) State monitoring.
- (7) Denial of all payments when the U.S. Department of Health and Human Services has imposed this sanction.

The Illinois Department shall by rule establish criteria governing continued payments to a nursing facility subsequent to termination of the facility's provider agreement if, in the sole discretion of the Illinois Department, circumstances affecting the health, safety, and welfare of the facility's residents require those continued payments. The Illinois Department may condition those continued payments on the appointment of temporary management, sale of the facility to new owners or operators, or other arrangements that the Illinois Department determines best serve the needs of the facility's residents.

Except in the case of a facility that has a right to a hearing on the finding of noncompliance before an agency of the federal government, a facility may request a hearing before a State agency on any finding of noncompliance within 60 days after the notice of the intent to impose a remedy. Except in the case of civil money penalties, a request for a hearing shall not delay imposition of the penalty. The choice of remedies is not appealable at a hearing. The level of noncompliance may be challenged only in the case of a civil money penalty. The Illinois Department shall provide by rule for the State agency that will conduct the evidentiary hearings.

The Illinois Department may collect interest on unpaid civil money penalties.

The Illinois Department may adopt all rules necessary to implement this subsection (I).

(J) The Illinois Department, by rule, may permit individual practitioners to designate that Department payments that may be due the practitioner be made to an alternate payee or alternate payees.

(a) Such alternate payee or alternate payees shall be required to register as an alternate payee in the Medical Assistance Program with the Illinois Department.

(b) If a practitioner designates an alternate payee, the alternate payee and practitioner shall be jointly and severally liable to the Department for payments made to the alternate payee. Pursuant to subsection (E) of this Section, any Department action to suspend or deny payment or recover money or overpayments from an alternate payee shall be subject to an administrative hearing.

(c) Registration as an alternate payee or alternate payees in the Illinois Medical Assistance Program shall be conditional. At any time, the Illinois Department may deny or cancel any alternate payee's registration in the Illinois Medical Assistance Program without cause. Any such denial or cancellation is not subject to an administrative hearing.

(d) The Illinois Department may seek a revocation of any alternate payee, and all owners, officers, and individuals with management responsibility for such alternate payee shall be permanently prohibited from participating as an owner, an officer, or an individual with management responsibility with an alternate payee in the Illinois Medical Assistance Program, if after reasonable notice and opportunity for a hearing the Illinois Department finds that:

- (1) the alternate payee is not complying with the Department's policy or rules and



regulations, or with the terms and conditions prescribed by the Illinois Department in its alternate payee registration agreement; or

(2) the alternate payee has failed to keep or make available for inspection, audit, or copying, after receiving a written request from the Illinois Department, such records regarding payments claimed as an alternate payee; or

(3) the alternate payee has failed to furnish any information requested by the Illinois Department regarding payments claimed as an alternate payee; or

(4) the alternate payee has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Illinois Medical Assistance Program; or

(5) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) was previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code; or

(b) was a person with management responsibility for a vendor previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion or alternate payee's revocation; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(d) was an owner of a sole proprietorship or partner in a partnership previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion or alternate payee's revocation; or

(6) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) has engaged in conduct prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(b) was a person with management responsibility for a vendor or alternate payee at the time that the vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(d) was an owner of a sole proprietorship or partner in a partnership which was a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(7) the direct or indirect ownership of the vendor or alternate payee (including the

ownership of a vendor or alternate payee that is a partner's interest in a vendor or alternate payee, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor or alternate payee) has been transferred by an individual who is terminated, suspended, or excluded or barred from participating as a vendor or is prohibited or revoked as an alternate payee to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(K) The Illinois Department of Healthcare and Family Services may withhold payments, in whole or in part, to a provider or alternate payee where there is credible evidence, received from State or federal law enforcement or federal oversight agencies or from the results of a preliminary Department audit, that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance program. The Department shall by rule define what constitutes "credible" evidence for purposes of this subsection. The Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold such payments. A provider or alternate payee may request a reconsideration of payment withholding, and the Department must grant such a request. The Department shall state by rule a process and criteria by which a provider or alternate payee may request full or partial release of payments withheld under this subsection. This request may be made at any time after the Department first withholds such payments.

(a) The Illinois Department must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning its ongoing investigation. The notice must do all of the following:

(1) State that payments are being withheld in accordance with this subsection.

(2) State that the withholding is for a temporary period, as stated in paragraph (b) of this subsection, and cite the circumstances under which withholding will be terminated.

(3) Specify, when appropriate, which type or types of Medicaid claims withholding is effective.

(4) Inform the provider or alternate payee of the right to submit written evidence for reconsideration of the withholding by the Illinois Department.

(5) Inform the provider or alternate payee that a written request may be made to the Illinois Department for full or partial release of withheld payments and that such requests may be made at any time after the Department first withholds such payments.

(b) All withholding-of-payment actions under this subsection shall be temporary and shall not continue after any of the following:

(1) The Illinois Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.

(2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, violations of this Act, or violations of the Illinois Department's administrative rules are completed.

(3) The withholding of payments for a period of 3 years.

(c) The Illinois Department may adopt all rules necessary to implement this subsection (K).

(K-5) The Illinois Department may withhold payments, in whole or in part, to a provider or alternate payee upon initiation of an audit, quality of care review, investigation when there is a credible allegation of fraud, or the provider or alternate payee demonstrating a clear failure to cooperate with the Illinois Department such that the circumstances give rise to the need for a withholding of payments. As used in this subsection, "credible allegation" is defined to include an allegation from any source, including, but not limited to, fraud hotline complaints, claims data mining, patterns identified through provider audits, civil actions filed under the Illinois False Claims Act, and law enforcement investigations. An allegation is considered to be credible when it has indicia of reliability. The Illinois Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold such payments. A provider or alternate payee may request a hearing or a reconsideration of payment withholding, and the Illinois Department must grant such a request. The Illinois Department shall state by rule a process and criteria by which a provider or alternate payee may request a hearing or a reconsideration for the full or partial release of payments withheld under this subsection. This request may be made at any time after the Illinois Department first withholds such payments.

(a) The Illinois Department must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature

of the withholding action but need not disclose any specific information concerning its ongoing investigation. The notice must do all of the following:

- (1) State that payments are being withheld in accordance with this subsection.
  - (2) State that the withholding is for a temporary period, as stated in paragraph (b) of this subsection, and cite the circumstances under which withholding will be terminated.
  - (3) Specify, when appropriate, which type or types of claims are withheld.
  - (4) Inform the provider or alternate payee of the right to request a hearing or a reconsideration of the withholding by the Illinois Department, including the ability to submit written evidence.
  - (5) Inform the provider or alternate payee that a written request may be made to the Illinois Department for a hearing or a reconsideration for the full or partial release of withheld payments and that such requests may be made at any time after the Illinois Department first withholds such payments.
- (b) All withholding of payment actions under this subsection shall be temporary and shall not continue after any of the following:
- (1) The Illinois Department determines that there is insufficient evidence of fraud, or the provider or alternate payee demonstrates clear cooperation with the Illinois Department, as determined by the Illinois Department, such that the circumstances do not give rise to the need for withholding of payments; or
  - (2) The withholding of payments has lasted for a period in excess of 3 years.
- (c) The Illinois Department may adopt all rules necessary to implement this subsection (K-5).

(L) The Illinois Department shall establish a protocol to enable health care providers to disclose an actual or potential violation of this Section pursuant to a self-referral disclosure protocol, referred to in this subsection as "the protocol". The protocol shall include direction for health care providers on a specific person, official, or office to whom such disclosures shall be made. The Illinois Department shall post information on the protocol on the Illinois Department's public website. The Illinois Department may adopt rules necessary to implement this subsection (L). In addition to other factors that the Illinois Department finds appropriate, the Illinois Department may consider a health care provider's timely use or failure to use the protocol in considering the provider's failure to comply with this Code.

(M) Notwithstanding any other provision of this Code, the Illinois Department, at its discretion, may exempt an entity licensed under the Nursing Home Care Act and the ID/DD Community Care Act from the provisions of subsections (A-15), (B), and (C) of this Section if the licensed entity is in receivership. (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13.)

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

Senator Raoul offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1330**

AMENDMENT NO. 2. Amend Senate Bill 1330, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 12-4.25 as follows: (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

Sec. 12-4.25. Medical assistance program; vendor participation.

(A) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, and may deny, suspend, or recover payments, if after reasonable notice and opportunity for a hearing the Illinois Department finds:

(a) Such vendor is not complying with the Department's policy or rules and regulations, or with the terms and conditions prescribed by the Illinois Department in its vendor agreement, which document shall be developed by the Department as a result of negotiations with each vendor category, including physicians, hospitals, long term care facilities, pharmacists, optometrists, podiatrists and dentists setting forth the terms and conditions applicable to the participation of each vendor group in the program; or

(b) Such vendor has failed to keep or make available for inspection, audit or copying, after receiving a written request from the Illinois Department, such records regarding payments

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claimed for providing services. This section does not require vendors to make available patient records of patients for whom services are not reimbursed under this Code; or

(c) Such vendor has failed to furnish any information requested by the Department regarding payments for providing goods or services; or

(d) Such vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the medical assistance program; or

(e) Such vendor has furnished goods or services to a recipient which are (1) in excess of need, (2) harmful, or (3) of grossly inferior quality, all of such determinations to be based upon competent medical judgment and evaluations; or

(f) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) was previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or was terminated, suspended, or excluded from participation in another state or federal medical assistance or health care program; or

(2) was a person with management responsibility for a vendor previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in another state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in a state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(4) was an owner of a sole proprietorship or partner of a partnership previously terminated, suspended, or excluded from participation in the Illinois medical assistance program, or terminated, suspended, or excluded from participation in a state or federal medical assistance or health care program during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion; or

(f-1) Such vendor has a delinquent debt owed to the Illinois Department; or

(g) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) has engaged in practices prohibited by applicable federal or State law or regulation; or

(2) was a person with management responsibility for a vendor at the time that such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(4) was an owner of a sole proprietorship or partner of a partnership which was a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation; or

(h) The direct or indirect ownership of the vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is terminated, suspended, or excluded or barred from participating as a vendor to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(A-5) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that the vendor; a person with management responsibility for a

vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship that is a vendor; or a partner in a partnership that is a vendor has been convicted of an offense based on fraud or willful misrepresentation related to any of the following:

- (1) The medical assistance program under Article V of this Code.
- (2) A medical assistance or health care program in another state.
- (3) The Medicare program under Title XVIII of the Social Security Act.
- (4) The provision of health care services.
- (5) A violation of this Code, as provided in Article VIIIA, or another state or federal medical assistance program or health care program.

(A-10) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor, if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that (i) the vendor, (ii) a person with management responsibility for a vendor, (iii) an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, (iv) an owner of a sole proprietorship that is a vendor, or (v) a partner in a partnership that is a vendor has been convicted of an offense related to any of the following:

- (1) Murder.
- (2) A Class X felony under the Criminal Code of 1961 or the Criminal Code of 2012.
- (3) Sexual misconduct that may subject recipients to an undue risk of harm.
- (4) A criminal offense that may subject recipients to an undue risk of harm.
- (5) A crime of fraud or dishonesty.
- (6) A crime involving a controlled substance.
- (7) A misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct related to a health care program.

(A-15) The Illinois Department may deny the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V if, after reasonable notice and opportunity for a hearing, the Illinois Department finds:

(1) The applicant or any person with management responsibility for the applicant; an officer or member of the board of directors of an applicant; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant; an owner of a sole proprietorship applicant; a partner in a partnership applicant; or a technical or other advisor to an applicant has a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by the applicant.

(2) The applicant or any person with management responsibility for the applicant; an officer or member of the board of directors of an applicant; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant; an owner of a sole proprietorship applicant; a partner in a partnership vendor applicant; or a technical or other advisor to an applicant was (i) a person with management responsibility, (ii) an officer or member of the board of directors of an applicant, (iii) an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, (iv) an owner of a sole proprietorship, (v) a partner in a partnership vendor, (vi) a technical or other advisor to a vendor, during a period of time where the conduct of that vendor resulted in a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by that vendor.

(3) There is a credible allegation of the use, transfer, or lease of assets of any kind to an applicant from a current or prior vendor who has a debt owed to the Illinois Department, no payment arrangements acceptable to the Illinois Department have been made by that vendor or the vendor's alternate payee, and the applicant knows or should have known of such debt.

(4) There is a credible allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has a debt owed to the Illinois Department, and no payment arrangements acceptable to the Illinois Department have been made by that vendor or the vendor's alternate payee, and the applicant knows or should have known of such debt.

(5) There is a credible allegation of the use, transfer, or lease of assets of any kind to an applicant who is a spouse, child, brother, sister, parent, grandparent, grandchild, uncle,

aunt, niece, relative by marriage, nephew, cousin, or relative of a current or prior vendor who has a debt owed to the Illinois Department and no payment arrangements acceptable to the Illinois Department have been made.

(6) There is a credible allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the medical assistance program, poses a risk of fraud, waste, or abuse to the Illinois Department.

As used in this subsection, "credible allegation" is defined to include an allegation from any source, including, but not limited to, fraud hotline complaints, claims data mining, patterns identified through provider audits, civil actions filed under the Illinois False Claims Act, and law enforcement investigations. An allegation is considered to be credible when it has indicia of reliability.

(B) The Illinois Department shall deny, suspend or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, or may exclude any such person or entity from participation as such a vendor:

- (1) immediately, if such vendor is not properly licensed, certified, or authorized;
- (2) within 30 days of the date when such vendor's professional license, certification or other authorization has been refused renewal, restricted, revoked, suspended, or otherwise terminated; or
- (3) if such vendor has been convicted of a violation of this Code, as provided in Article VIII.A.

(C) Upon termination, suspension, or exclusion of a vendor of goods or services from participation in the medical assistance program authorized by this Article, a person with management responsibility for such vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion is barred from participation in the medical assistance program.

Upon termination, suspension, or exclusion of a corporate vendor, the officers and persons owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in the vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion are barred from participation in the medical assistance program. A person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a terminated, suspended, or excluded vendor may not transfer his or her ownership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Upon termination, suspension, or exclusion of a sole proprietorship or partnership, the owner or partners during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion are barred from participation in the medical assistance program. The owner of a terminated, suspended, or excluded vendor that is a sole proprietorship, and a partner in a terminated, suspended, or excluded vendor that is a partnership, may not transfer his or her ownership or partnership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

A person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor who owes a debt to the Department, if that vendor has not made payment arrangements acceptable to the Department, shall not transfer his or her ownership interest in that vendor, or vendor assets of any kind, to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Rules adopted by the Illinois Department to implement these provisions shall specifically include a definition of the term "management responsibility" as used in this Section. Such definition shall include, but not be limited to, typical job titles, and duties and descriptions which will be considered as within the definition of individuals with management responsibility for a provider.

A vendor or a prior vendor who has been terminated, excluded, or suspended from the medical assistance program, or from another state or federal medical assistance or health care program, and any individual currently or previously barred from the medical assistance program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor during the time of any conduct which served as the basis for that vendor's termination, suspension, or exclusion, may be required to post a surety bond as part of a condition of enrollment or participation in the medical assistance program. The Illinois Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and

the value of the bond.

A vendor or a prior vendor who has a debt owed to the Illinois Department and any individual currently or previously barred from the medical assistance program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in that corporate or limited liability company vendor during the time of any conduct which served as the basis for the debt, may be required to post a surety bond as part of a condition of enrollment or participation in the medical assistance program. The Illinois Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

(D) If a vendor has been suspended from the medical assistance program under Article V of the Code, the Director may require that such vendor correct any deficiencies which served as the basis for the suspension. The Director shall specify in the suspension order a specific period of time, which shall not exceed one year from the date of the order, during which a suspended vendor shall not be eligible to participate. At the conclusion of the period of suspension the Director shall reinstate such vendor, unless he finds that such vendor has not corrected deficiencies upon which the suspension was based.

If a vendor has been terminated, suspended, or excluded from the medical assistance program under Article V, such vendor shall be barred from participation for at least one year, except that if a vendor has been terminated, suspended, or excluded based on a conviction of a violation of Article VIII A or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services, then the vendor shall be barred from participation for 5 years or for the length of the vendor's sentence for that conviction, whichever is longer. At the end of one year a vendor who has been terminated, suspended, or excluded may apply for reinstatement to the program. Upon proper application to be reinstated such vendor may be deemed eligible by the Director providing that such vendor meets the requirements for eligibility under this Code. If such vendor is deemed not eligible for reinstatement, he shall be barred from again applying for reinstatement for one year from the date his application for reinstatement is denied.

A vendor whose termination, suspension, or exclusion from participation in the Illinois medical assistance program under Article V was based solely on an action by a governmental entity other than the Illinois Department may, upon reinstatement by that governmental entity or upon reversal of the termination, suspension, or exclusion, apply for rescission of the termination, suspension, or exclusion from participation in the Illinois medical assistance program. Upon proper application for rescission, the vendor may be deemed eligible by the Director if the vendor meets the requirements for eligibility under this Code.

If a vendor has been terminated, suspended, or excluded and reinstated to the medical assistance program under Article V and the vendor is terminated, suspended, or excluded a second or subsequent time from the medical assistance program, the vendor shall be barred from participation for at least 2 years, except that if a vendor has been terminated, suspended, or excluded a second time based on a conviction of a violation of Article VIII A or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services, then the vendor shall be barred from participation for life. At the end of 2 years, a vendor who has been terminated, suspended, or excluded may apply for reinstatement to the program. Upon application to be reinstated, the vendor may be deemed eligible if the vendor meets the requirements for eligibility under this Code. If the vendor is deemed not eligible for reinstatement, the vendor shall be barred from again applying for reinstatement for 2 years from the date the vendor's application for reinstatement is denied.

(E) The Illinois Department may recover money improperly or erroneously paid, or overpayments, either by setoff, crediting against future billings or by requiring direct repayment to the Illinois Department. The Illinois Department may suspend or deny payment, in whole or in part, if such payment would be improper or erroneous or would otherwise result in overpayment.

(1) Payments may be suspended, denied, or recovered from a vendor or alternate payee:

(i) for services rendered in violation of the Illinois Department's provider notices, statutes, rules, and regulations; (ii) for services rendered in violation of the terms and conditions prescribed by the Illinois Department in its vendor agreement; (iii) for any vendor who fails to grant the Office of Inspector General timely access to full and complete records, including, but not limited to, records relating to recipients under the medical assistance program for the most recent 6 years, in accordance with Section 140.28 of Title 89 of the Illinois Administrative Code, and other information for the purpose of audits, investigations, or other program integrity functions, after reasonable written request by the Inspector General; this subsection (E) does not require vendors to make available the medical records

of patients for whom services are not reimbursed under this Code or to provide access to medical records more than 6 years old; (iv) when the vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the medical assistance program; or (v) when the vendor previously rendered services while terminated, suspended, or excluded from participation in the medical assistance program or while terminated or excluded from participation in another state or federal medical assistance or health care program.

(2) Notwithstanding any other provision of law, if a vendor has the same taxpayer identification number (assigned under Section 6109 of the Internal Revenue Code of 1986) as is assigned to a vendor with past-due financial obligations to the Illinois Department, the Illinois Department may make any necessary adjustments to payments to that vendor in order to satisfy any past-due obligations, regardless of whether the vendor is assigned a different billing number under the medical assistance program.

If the Illinois Department establishes through an administrative hearing that the overpayments resulted from the vendor or alternate payee knowingly making, using, or causing to be made or used, a false record or statement to obtain payment or other benefit from the medical assistance program under Article V, the Department may recover interest on the amount of the payment or other benefit at the rate of 5% per annum. In addition to any other penalties that may be prescribed by law, such a vendor or alternate payee shall be subject to civil penalties consisting of an amount not to exceed 3 times the amount of payment or other benefit resulting from each such false record or statement, and the sum of \$2,000 for each such false record or statement for payment or other benefit. For purposes of this paragraph, "knowingly" means that a vendor or alternate payee with respect to information: (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(E-5) Civil monetary penalties.

(1) As used in this subsection (E-5):

(a) "Knowingly" means that a person, with respect to information: (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(b) "Overpayment" means any funds that a person receives or retains from the medical assistance program to which the person, after applicable reconciliation, is not entitled under this Code.

(c) "Remuneration" means the offer or transfer of items or services for free or for other than fair market value by a person; however, remuneration does not include items or services of a nominal value of no more than \$10 per item or service, or \$50 in the aggregate on an annual basis, or any other offer or transfer of items or services as determined by the Department.

(d) "Should know" means that a person, with respect to information: (i) acts in deliberate ignorance of the truth or falsity of the information; or (ii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(2) Any person (including a vendor, provider, organization, agency, or other entity, or an alternate payee thereof, but excluding a recipient) who:

(a) knowingly presents or causes to be presented to an officer, employee, or agent of the State, a claim that the Department determines:

(i) is for a medical or other item or service that the person knows or should know was not provided as claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided;

(ii) is for a medical or other item or service and the person knows or should know that the claim is false or fraudulent;

(iii) is presented for a vendor physician's service, or an item or service incident to a vendor physician's service, by a person who knows or should know that the individual who furnished, or supervised the furnishing of, the service:

(AA) was not licensed as a physician;

(BB) was licensed as a physician but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing); or

(CC) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board, when the individual was not so certified;

(iv) is for a medical or other item or service furnished during a period in which the person was



excluded from the medical assistance program or a federal or state health care program under which the claim was made pursuant to applicable law; or

(v) is for a pattern of medical or other items or services that a person knows or should know are not medically necessary;

(b) knowingly presents or causes to be presented to any person a request for payment which is in violation of the conditions for receipt of vendor payments under the medical assistance program under Section 11-13 of this Code;

(c) knowingly gives or causes to be given to any person, with respect to medical assistance program coverage of inpatient hospital services, information that he or she knows or should know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or other individual from the hospital;

(d) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in the medical assistance program or a federal or state health care program and who, at the time of a violation of this subsection (E-5):

(i) retains a direct or indirect ownership or control interest in an entity that is participating in the medical assistance program or a federal or state health care program, and who knows or should know of the action constituting the basis for the exclusion; or

(ii) is an officer or managing employee of such an entity;

(e) offers or transfers remuneration to any individual eligible for benefits under the medical assistance program that such person knows or should know is likely to influence such individual to order or receive from a particular vendor, provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under the medical assistance program;

(f) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in the medical assistance program or a federal or state health care program, for the provision of items or services for which payment may be made under such a program;

(g) commits an act described in subsection (b) or (c) of Section 8A-3;

(h) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under the medical assistance program;

(i) fails to grant timely access, upon reasonable request (as defined by the Department by rule), to the Inspector General, for the purpose of audits, investigations, evaluations, or other statutory functions of the Inspector General of the Department;

(j) orders or prescribes a medical or other item or service during a period in which the person was excluded from the medical assistance program or a federal or state health care program, in the case where the person knows or should know that a claim for such medical or other item or service will be made under such a program;

(k) knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a vendor or provider of services or a supplier under the medical assistance program;

(l) knows of an overpayment and does not report and return the overpayment to the Department in accordance with paragraph (6):

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than \$10,000 for each item or service (or, in cases under subparagraph (c), \$15,000 for each individual with respect to whom false or misleading information was given; in cases under subparagraph (d), \$10,000 for each day the prohibited relationship occurs; in cases under subparagraph (g), \$50,000 for each such act; in cases under subparagraph (h), \$50,000 for each false record or statement; in cases under subparagraph (i), \$15,000 for each day of the failure described in such subparagraph; or in cases under subparagraph (k), \$50,000 for each false statement, omission, or misrepresentation of a material fact). In addition, such a person shall be subject to an assessment of not more than 3 times the amount claimed for each such item or service in lieu of damages sustained by the State because of such claim (or, in cases under subparagraph (g), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose; or in cases under subparagraph (k), an assessment of not more than 3 times the total amount claimed for each item or service for which payment was made based upon the application, bid, or contract containing the false statement, omission, or misrepresentation of a material fact).

(3) In addition, the Director or his or her designee may make a determination in the same proceeding to exclude, terminate, suspend, or bar the person from participation in the medical assistance

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program.

(4) The Illinois Department may seek the civil monetary penalties and exclusion, termination, suspension, or barment identified in this subsection (E-5). Prior to the imposition of any penalties or sanctions, the affected person shall be afforded an opportunity for a hearing after reasonable notice. The Department shall establish hearing procedures by rule.

(5) Any final order, decision, or other determination made, issued, or executed by the Director under the provisions of this subsection (E-5), whereby a person is aggrieved, shall be subject to review in accordance with the provisions of the Administrative Review Law, and the rules adopted pursuant thereto, which shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Director.

(6) (a) If a person has received an overpayment, the person shall:

(i) report and return the overpayment to the Department at the correct address; and

(ii) notify the Department in writing of the reason for the overpayment.

(b) An overpayment must be reported and returned under subparagraph (a) by the later of:

(i) the date which is 60 days after the date on which the overpayment was identified; or

(ii) the date any corresponding cost report is due, if applicable.

(F) The Illinois Department may withhold payments to any vendor or alternate payee prior to or during the pendency of any audit or proceeding under this Section, and through the pendency of any administrative appeal or administrative review by any court proceeding. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be withheld under this Section. Payments may be denied for bills submitted with service dates occurring during the pendency of a proceeding, after a final decision has been rendered, or after the conclusion of any administrative appeal, where the final administrative decision is to terminate, exclude, or suspend eligibility to participate in the medical assistance program. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be denied for such bills. The Illinois Department shall state by rule a process and criteria by which a vendor or alternate payee may request full or partial release of payments withheld under this subsection. The Department must complete a proceeding under this Section in a timely manner.

Notwithstanding recovery allowed under subsection (E) or this subsection (F), the Illinois Department may withhold payments to any vendor or alternate payee who is not properly licensed, certified, or in compliance with State or federal agency regulations. Payments may be denied for bills submitted with service dates occurring during the period of time that a vendor is not properly licensed, certified, or in compliance with State or federal regulations. Facilities licensed under the Nursing Home Care Act shall have payments denied or withheld pursuant to subsection (I) of this Section.

(F-5) The Illinois Department may temporarily withhold payments to a vendor or alternate payee if any of the following individuals have been indicted or otherwise charged under a law of the United States or this or any other state with an offense that is based on alleged fraud or willful misrepresentation on the part of the individual related to (i) the medical assistance program under Article V of this Code, (ii) a federal or another state's medical assistance or health care program, or (iii) the provision of health care services:

(1) If the vendor or alternate payee is a corporation: an officer of the corporation or

an individual who owns, either directly or indirectly, 5% or more of the shares of stock or other evidence of ownership of the corporation.

(2) If the vendor is a sole proprietorship: the owner of the sole proprietorship.

(3) If the vendor or alternate payee is a partnership: a partner in the partnership.

(4) If the vendor or alternate payee is any other business entity authorized by law to

transact business in this State: an officer of the entity or an individual who owns, either directly or indirectly, 5% or more of the evidences of ownership of the entity.

If the Illinois Department withholds payments to a vendor or alternate payee under this subsection, the Department shall not release those payments to the vendor or alternate payee while any criminal proceeding related to the indictment or charge is pending unless the Department determines that there is good cause to release the payments before completion of the proceeding. If the indictment or charge results in the individual's conviction, the Illinois Department shall retain all withheld payments, which shall be considered forfeited to the Department. If the indictment or charge does not result in the individual's conviction, the Illinois Department shall release to the vendor or alternate payee all withheld payments.

(F-10) If the Illinois Department establishes that the vendor or alternate payee owes a debt to the Illinois Department, and the vendor or alternate payee subsequently fails to pay or make satisfactory payment arrangements with the Illinois Department for the debt owed, the Illinois Department may seek

all remedies available under the law of this State to recover the debt, including, but not limited to, wage garnishment or the filing of claims or liens against the vendor or alternate payee.

(F-15) Enforcement of judgment.

(1) Any fine, recovery amount, other sanction, or costs imposed, or part of any fine, recovery amount, other sanction, or cost imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law is a debt due and owing the State and may be collected using all remedies available under the law.

(2) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final administrative decision, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Director may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(3) In any case in which any person or entity has failed to comply with a judgment ordering or imposing any fine or other sanction, any expenses incurred by the Illinois Department to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or the Director, shall be a debt due and owing the State and may be collected in accordance with applicable law. Prior to any expenses being fixed by a final administrative decision pursuant to this subsection (F-15), the Illinois Department shall provide notice to the individual or entity that states that the individual or entity shall appear at a hearing before the administrative hearing officer to determine whether the individual or entity has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

(4) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the individual or entity in the amount of any debt due and owing the State under this Section. The lien may be enforced in the same manner as a judgment of a court of competent jurisdiction. A lien shall attach to all property and assets of such person, firm, corporation, association, agency, institution, or other legal entity until the judgment is satisfied.

(5) The Director may set aside any judgment entered by default and set a new hearing date upon a petition filed at any time (i) if the petitioner's failure to appear at the hearing was for good cause, or (ii) if the petitioner established that the Department did not provide proper service of process. If any judgment is set aside pursuant to this paragraph (5), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Illinois Department as a result of the vacated default judgment.

(G) The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Illinois Department under this Section. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(G-5) Vendors who pose a risk of fraud, waste, abuse, or harm.

(1) Notwithstanding any other provision in this Section, the Department may terminate, suspend, or exclude vendors who pose a risk of fraud, waste, abuse, or harm from participation in the medical assistance program prior to an evidentiary hearing but after reasonable notice and opportunity to respond as established by the Department by rule.

(2) Vendors who pose a risk of fraud, waste, abuse, or harm shall submit to a fingerprint-based criminal background check on current and future information available in the State system and current information available through the Federal Bureau of Investigation's system by submitting all necessary fees and information in the form and manner prescribed by the Department of State Police. The following individuals shall be subject to the check:

(A) In the case of a vendor that is a corporation, every shareholder who owns, directly or indirectly, 5% or more of the outstanding shares of the corporation.

(B) In the case of a vendor that is a partnership, every partner.

(C) In the case of a vendor that is a sole proprietorship, the sole proprietor.

(D) Each officer or manager of the vendor.

Each such vendor shall be responsible for payment of the cost of the criminal background check.

(3) Vendors who pose a risk of fraud, waste, abuse, or harm may be required to post a surety bond. The Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

(4) The Department, or its agents, may refuse to accept requests for authorization from specific vendors who pose a risk of fraud, waste, abuse, or harm, including prior-approval and post-approval requests, if:

(A) the Department has initiated a notice of termination, suspension, or exclusion of the vendor from participation in the medical assistance program; or

(B) the Department has issued notification of its withholding of payments pursuant to subsection (F-5) of this Section; or

(C) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation.

(5) As used in this subsection, the following terms are defined as follows:

(A) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or State law.

(B) "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices and that result in an unnecessary cost to the medical assistance program or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the medical assistance program. Abuse does not include diagnostic or therapeutic measures conducted primarily as a safeguard against possible vendor liability.

(C) "Waste" means the unintentional misuse of medical assistance resources, resulting in unnecessary cost to the medical assistance program. Waste does not include diagnostic or therapeutic measures conducted primarily as a safeguard against possible vendor liability.

(D) "Harm" means physical, mental, or monetary damage to recipients or to the medical assistance program.

(G-6) The Illinois Department, upon making a determination based upon information in the possession of the Illinois Department that continuation of participation in the medical assistance program by a vendor would constitute an immediate danger to the public, may immediately suspend such vendor's participation in the medical assistance program without a hearing. In instances in which the Illinois Department immediately suspends the medical assistance program participation of a vendor under this Section, a hearing upon the vendor's participation must be convened by the Illinois Department within 15 days after such suspension and completed without appreciable delay. Such hearing shall be held to determine whether to recommend to the Director that the vendor's medical assistance program participation be denied, terminated, suspended, placed on provisional status, or reinstated. In the hearing, any evidence relevant to the vendor constituting an immediate danger to the public may be introduced against such vendor; provided, however, that the vendor, or his or her counsel, shall have the opportunity to discredit, impeach, and submit evidence rebutting such evidence.

(H) Nothing contained in this Code shall in any way limit or otherwise impair the authority or power of any State agency responsible for licensing of vendors.

(I) Based on a finding of noncompliance on the part of a nursing home with any requirement for certification under Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department may impose one or more of the following remedies after notice to the facility:

(1) Termination of the provider agreement.

(2) Temporary management.

(3) Denial of payment for new admissions.

(4) Civil money penalties.

(5) Closure of the facility in emergency situations or transfer of residents, or both.

(6) State monitoring.

(7) Denial of all payments when the U.S. Department of Health and Human Services has imposed this sanction.

The Illinois Department shall by rule establish criteria governing continued payments to a nursing facility subsequent to termination of the facility's provider agreement if, in the sole discretion of the Illinois Department, circumstances affecting the health, safety, and welfare of the facility's residents require those continued payments. The Illinois Department may condition those continued payments on the appointment of temporary management, sale of the facility to new owners or operators, or other arrangements that the Illinois Department determines best serve the needs of the facility's residents.

Except in the case of a facility that has a right to a hearing on the finding of noncompliance before an agency of the federal government, a facility may request a hearing before a State agency on any finding

of noncompliance within 60 days after the notice of the intent to impose a remedy. Except in the case of civil money penalties, a request for a hearing shall not delay imposition of the penalty. The choice of remedies is not appealable at a hearing. The level of noncompliance may be challenged only in the case of a civil money penalty. The Illinois Department shall provide by rule for the State agency that will conduct the evidentiary hearings.

The Illinois Department may collect interest on unpaid civil money penalties.

The Illinois Department may adopt all rules necessary to implement this subsection (J).

(J) The Illinois Department, by rule, may permit individual practitioners to designate that Department payments that may be due the practitioner be made to an alternate payee or alternate payees.

(a) Such alternate payee or alternate payees shall be required to register as an alternate payee in the Medical Assistance Program with the Illinois Department.

(b) If a practitioner designates an alternate payee, the alternate payee and practitioner shall be jointly and severally liable to the Department for payments made to the alternate payee. Pursuant to subsection (E) of this Section, any Department action to suspend or deny payment or recover money or overpayments from an alternate payee shall be subject to an administrative hearing.

(c) Registration as an alternate payee or alternate payees in the Illinois Medical Assistance Program shall be conditional. At any time, the Illinois Department may deny or cancel any alternate payee's registration in the Illinois Medical Assistance Program without cause. Any such denial or cancellation is not subject to an administrative hearing.

(d) The Illinois Department may seek a revocation of any alternate payee, and all owners, officers, and individuals with management responsibility for such alternate payee shall be permanently prohibited from participating as an owner, an officer, or an individual with management responsibility with an alternate payee in the Illinois Medical Assistance Program, if after reasonable notice and opportunity for a hearing the Illinois Department finds that:

(1) the alternate payee is not complying with the Department's policy or rules and regulations, or with the terms and conditions prescribed by the Illinois Department in its alternate payee registration agreement; or

(2) the alternate payee has failed to keep or make available for inspection, audit, or copying, after receiving a written request from the Illinois Department, such records regarding payments claimed as an alternate payee; or

(3) the alternate payee has failed to furnish any information requested by the Illinois Department regarding payments claimed as an alternate payee; or

(4) the alternate payee has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Illinois Medical Assistance Program; or

(5) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) was previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code; or

(b) was a person with management responsibility for a vendor previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion or alternate payee's revocation; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis

for that vendor's termination, suspension, or exclusion; or

(d) was an owner of a sole proprietorship or partner in a partnership previously terminated, suspended, or excluded from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated, suspended, or excluded from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination, suspension, or exclusion or alternate payee's revocation; or

(6) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) has engaged in conduct prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(b) was a person with management responsibility for a vendor or alternate payee at the time that the vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(d) was an owner of a sole proprietorship or partner in a partnership which was a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(7) the direct or indirect ownership of the vendor or alternate payee (including the ownership of a vendor or alternate payee that is a partner's interest in a vendor or alternate payee, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor or alternate payee) has been transferred by an individual who is terminated, suspended, or excluded or barred from participating as a vendor or is prohibited or revoked as an alternate payee to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(K) The Illinois Department of Healthcare and Family Services may withhold payments, in whole or in part, to a provider or alternate payee where there is credible evidence, received from State or federal law enforcement or federal oversight agencies or from the results of a preliminary Department audit, that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance program. The Department shall by rule define what constitutes "credible" evidence for purposes of this subsection. The Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold such payments. A provider or alternate payee may request a reconsideration of payment withholding, and the Department must grant such a request. The Department shall state by rule a process and criteria by which a provider or alternate payee may request full or partial release of payments withheld under this subsection. This request may be made at any time after the Department first withholds such payments.

(a) The Illinois Department must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning its ongoing investigation. The notice must do all of the following:

(1) State that payments are being withheld in accordance with this subsection.

(2) State that the withholding is for a temporary period, as stated in paragraph (b) of this subsection, and cite the circumstances under which withholding will be terminated.

(3) Specify, when appropriate, which type or types of Medicaid claims withholding is effective.

(4) Inform the provider or alternate payee of the right to submit written evidence for reconsideration of the withholding by the Illinois Department.

(5) Inform the provider or alternate payee that a written request may be made to the Illinois Department for full or partial release of withheld payments and that such requests may be made at any time after the Department first withholds such payments.

(b) All withholding-of-payment actions under this subsection shall be temporary and shall not continue after any of the following:

(1) The Illinois Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.

(2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, violations of this Act, or violations of the Illinois Department's administrative rules are completed.

(3) The withholding of payments for a period of 3 years.

(c) The Illinois Department may adopt all rules necessary to implement this subsection (K).

(K-5) The Illinois Department may withhold payments, in whole or in part, to a provider or alternate payee upon initiation of an audit, quality of care review, investigation when there is a credible allegation of fraud, or the provider or alternate payee demonstrating a clear failure to cooperate with the Illinois Department such that the circumstances give rise to the need for a withholding of payments. As used in this subsection, "credible allegation" is defined to include an allegation from any source, including, but not limited to, fraud hotline complaints, claims data mining, patterns identified through provider audits, civil actions filed under the Illinois False Claims Act, and law enforcement investigations. An allegation is considered to be credible when it has indicia of reliability. The Illinois Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold such payments. A provider or alternate payee may request a hearing or a reconsideration of payment withholding, and the Illinois Department must grant such a request. The Illinois Department shall state by rule a process and criteria by which a provider or alternate payee may request a hearing or a reconsideration for the full or partial release of payments withheld under this subsection. This request may be made at any time after the Illinois Department first withholds such payments.

(a) The Illinois Department must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature of the withholding action but need not disclose any specific information concerning its ongoing investigation. The notice must do all of the following:

(1) State that payments are being withheld in accordance with this subsection.

(2) State that the withholding is for a temporary period, as stated in paragraph (b) of this subsection, and cite the circumstances under which withholding will be terminated.

(3) Specify, when appropriate, which type or types of claims are withheld.

(4) Inform the provider or alternate payee of the right to request a hearing or a reconsideration of the withholding by the Illinois Department, including the ability to submit written evidence.

(5) Inform the provider or alternate payee that a written request may be made to the Illinois Department for a hearing or a reconsideration for the full or partial release of withheld payments and that such requests may be made at any time after the Illinois Department first withholds such payments.

(b) All withholding of payment actions under this subsection shall be temporary and shall not continue after any of the following:

(1) The Illinois Department determines that there is insufficient evidence of fraud, or the provider or alternate payee demonstrates clear cooperation with the Illinois Department, as determined by the Illinois Department, such that the circumstances do not give rise to the need for withholding of payments; or

(2) The withholding of payments has lasted for a period in excess of 3 years.

(c) The Illinois Department may adopt all rules necessary to implement this subsection (K-5).

(L) The Illinois Department shall establish a protocol to enable health care providers to disclose an actual or potential violation of this Section pursuant to a self-referral disclosure protocol, referred to in this subsection as "the protocol". The protocol shall include direction for health care providers on a specific person, official, or office to whom such disclosures shall be made. The Illinois Department shall post information on the protocol on the Illinois Department's public website. The Illinois Department may adopt rules necessary to implement this subsection (L). In addition to other factors that the Illinois Department finds appropriate, the Illinois Department may consider a health care provider's timely use or failure to use the protocol in considering the provider's failure to comply with this Code.

(M) Notwithstanding any other provision of this Code, the Illinois Department, at its discretion, may exempt an entity licensed under the Nursing Home Care Act and the ID/DD Community Care Act from the provisions of subsections (A-15), (B), and (C) of this Section if the licensed entity is in receivership.

(Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 1332** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Criminal Law, adopted and ordered printed:

**AMENDMENT NO. 1 TO SENATE BILL 1332**

AMENDMENT NO. 1. Amend Senate Bill 1332 by replacing everything after the enacting clause with the following:

"Section 5. The Juvenile Court Act of 1987 is amended by changing Section 5-401.5 as follows:  
(705 ILCS 405/5-401.5)

Sec. 5-401.5. When statements by minor may be used.

(a) In this Section, "custodial interrogation" means any interrogation (i) during which a reasonable person in the subject's position would consider himself or herself to be in custody and (ii) during which a question is asked that is reasonably likely to elicit an incriminating response.

In this Section, "electronic recording" includes motion picture, audiotape, videotape, or digital recording.

In this Section, "place of detention" means a building or a police station that is a place of operation for a municipal police department or county sheriff department or other law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons or allegations that those persons are delinquent minors.

(b) An oral, written, or sign language statement of a minor who, at the time of the commission of the offense was under the age of 17 years, made as a result of a custodial interrogation conducted at a police station or other place of detention on or after the effective date of this amendatory Act of the 93rd General Assembly shall be presumed to be inadmissible as evidence against the minor in any criminal proceeding or juvenile court proceeding, for an act that if committed by an adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or the Criminal Code of 2012, or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or could be charged as a Class 1 felony or Class X felony unless:

(1) an electronic recording is made of the custodial interrogation; and

(2) the recording is substantially accurate and not intentionally altered.

(b-1) Unless the court has granted a pretrial motion to suppress the contents of an electronically recorded custodial interrogation, an electronic recording made of an accused for any offense may be admissible as evidence against the accused in any criminal proceeding provided:

(1) the recording was made while the accused was in custody for a violation of Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal Code of 2012 or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or a Class 1 felony or Class X felony;

(2) the recording was made as a result of a custodial interrogation at a police station or other place of detention; and

(3) the recording is substantially accurate and not intentionally altered.

(c) Every electronic recording required under this Section must be preserved until such time as the minor's adjudication for any offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or the prosecution of such offenses is barred by law.

(d) If the court finds, by a preponderance of the evidence, that the minor was subjected to a custodial interrogation in violation of this Section, then any statements made by the minor during or following that non-recorded custodial interrogation, even if otherwise in compliance with this Section, are presumed to be inadmissible in any criminal proceeding or juvenile court proceeding against the minor except for the purposes of impeachment.

(e) Nothing in this Section precludes the admission (i) of a statement made by the minor in open court

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in any criminal proceeding or juvenile court proceeding, before a grand jury, or at a preliminary hearing, (ii) of a statement made during a custodial interrogation that was not recorded as required by this Section because electronic recording was not feasible, (iii) of a voluntary statement, whether or not the result of a custodial interrogation, that has a bearing on the credibility of the accused as a witness, (iv) of a spontaneous statement that is not made in response to a question, (v) of a statement made after questioning that is routinely asked during the processing of the arrest of the suspect, (vi) of a statement made during a custodial interrogation by a suspect who requests, prior to making the statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, provided that an electronic recording is made of the statement of agreeing to respond to the interrogator's question, only if a recording is not made of the statement, (vii) of a statement made during a custodial interrogation that is conducted out-of-state, (viii) of a statement given at a time when the interrogators are unaware that the act, if committed by an adult could be brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal Code of 2012, or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code, or could be charged as a Class 1 felony or Class X felony a death has in fact occurred, or (ix) of any other statement that may be admissible under law. The State shall bear the burden of proving, by a preponderance of the evidence, that one of the exceptions described in this subsection (e) is applicable. Nothing in this Section precludes the admission of a statement, otherwise inadmissible under this Section, that is used only for impeachment and not as substantive evidence.

(f) The presumption of inadmissibility of a statement made by a suspect at a custodial interrogation at a police station or other place of detention may be overcome by a preponderance of the evidence that the statement was voluntarily given and is reliable, based on the totality of the circumstances.

(g) Any electronic recording of any statement made by a minor during a custodial interrogation that is compiled by any law enforcement agency as required by this Section for the purposes of fulfilling the requirements of this Section shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the information shall not be transmitted to anyone except as needed to comply with this Section.

(h) A statement, admission, confession, or incriminating information made by or obtained from a minor related to the instant offense, as part of any behavioral health screening, assessment, evaluation, or treatment, whether or not court-ordered, shall not be admissible as evidence against the minor on the issue of guilt only in the instant juvenile court proceeding. The provisions of this subsection (h) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency proceedings of information obtained during screening, assessment, or treatment.

(Source: P.A. 96-1251, eff. 1-1-11; 97-1150, eff. 1-25-13.)

Section 10. The Code of Criminal Procedure of 1963 is amended by changing Section 103-2.1 as follows:

(725 ILCS 5/103-2.1)

Sec. 103-2.1. When statements by accused may be used.

(a) In this Section, "custodial interrogation" means any interrogation during which (i) a reasonable person in the subject's position would consider himself or herself to be in custody and (ii) during which a question is asked that is reasonably likely to elicit an incriminating response.

In this Section, "place of detention" means a building or a police station that is a place of operation for a municipal police department or county sheriff department or other law enforcement agency, not a courthouse, that is owned or operated by a law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons.

In this Section, "electronic recording" includes motion picture, audiotape, videotape, or digital recording.

(b) An oral, written, or sign language statement of an accused made as a result of a custodial interrogation at a police station or other place of detention shall be presumed to be inadmissible as evidence against the accused in any criminal proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal Code of 2012 or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or in which the accused is charged with the commission of an offense that is a Class 1 felony or Class X felony unless:

- (1) an electronic recording is made of the custodial interrogation; and
- (2) the recording is substantially accurate and not intentionally altered.

(b-1) Unless the court has granted a pretrial motion to suppress the contents of an electronically recorded custodial interrogation, an electronic recording made of an accused for any offense may be

admissible as evidence against the accused in any criminal proceeding provided:

(1) the recording was made while the accused was in custody for a violation of Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal Code of 2012 or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or a Class 1 felony or Class X felony;

(2) the recording was made as a result of a custodial interrogation at a police station or other place of detention; and

(3) the recording is substantially accurate and not intentionally altered.

(c) Every electronic recording required under this Section must be preserved until such time as the defendant's conviction for any offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or the prosecution of such offenses is barred by law.

(d) If the court finds, by a preponderance of the evidence, that the defendant was subjected to a custodial interrogation in violation of this Section, then any statements made by the defendant during or following that non-recorded custodial interrogation, even if otherwise in compliance with this Section, are presumed to be inadmissible in any criminal proceeding against the defendant except for the purposes of impeachment.

(e) Nothing in this Section precludes the admission (i) of a statement made by the accused in open court at his or her trial, before a grand jury, or at a preliminary hearing, (ii) of a statement made during a custodial interrogation that was not recorded as required by this Section, because electronic recording was not feasible, (iii) of a voluntary statement, whether or not the result of a custodial interrogation, that has a bearing on the credibility of the accused as a witness, (iv) of a spontaneous statement that is not made in response to a question, (v) of a statement made after questioning that is routinely asked during the processing of the arrest of the suspect, (vi) of a statement made during a custodial interrogation by a suspect who requests, prior to making the statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, provided that an electronic recording is made of the statement of agreeing to respond to the interrogator's question, only if a recording is not made of the statement, (vii) of a statement made during a custodial interrogation that is conducted out-of-state, (viii) of a statement given at a time when the interrogators are unaware that the offense could be charged under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal Code of 2012, or under clause (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or as a Class 1 felony or Class X felony a death has in fact occurred, or (ix) of any other statement that may be admissible under law. The State shall bear the burden of proving, by a preponderance of the evidence, that one of the exceptions described in this subsection (e) is applicable. Nothing in this Section precludes the admission of a statement, otherwise inadmissible under this Section, that is used only for impeachment and not as substantive evidence.

(f) The presumption of inadmissibility of a statement made by a suspect at a custodial interrogation at a police station or other place of detention may be overcome by a preponderance of the evidence that the statement was voluntarily given and is reliable, based on the totality of the circumstances.

(g) Any electronic recording of any statement made by an accused during a custodial interrogation that is compiled by any law enforcement agency as required by this Section for the purposes of fulfilling the requirements of this Section shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the information shall not be transmitted to anyone except as needed to comply with this Section.

(Source: P.A. 97-1150, eff. 1-25-13)."

#### **AMENDMENT NO. 2 TO SENATE BILL 1332**

AMENDMENT NO. 2. Amend Senate Bill 1332, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, line 17, by inserting after "or" the following: "depending on capacity of the existing and available recording system and other necessary accommodations"; and

on page 7, line 7, by inserting after "or" the following:

"depending on capacity of the existing and available recording system and other necessary accommodations".

Senate Floor Amendment No. 3 was postponed in the Committee on Criminal Law.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

[April 18, 2013]

On motion of Senator Muñoz, as chief co-sponsor pursuant to Senate Rule 5-1(b)(ii), **Senate Bill No. 1354** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Executive.

Senate Committee Amendment No. 2 was held in the Committee on Executive.

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

**AMENDMENT NO. 3 TO SENATE BILL 1354**

AMENDMENT NO. 3. Amend Senate Bill 1354, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Horse Racing Act of 1975 is amended by adding Section 12.2 as follows:  
(230 ILCS 5/12.2 new)

Sec. 12.2. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority owned business", "female", "female owned business", "person with a disability", and "business owned by a person with a disability" have the meaning ascribed to them in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award of contracts by each organization licensee or inter-track wagering licensee to businesses owned by minorities, females, and persons with disabilities, expressed as percentages of an organization licensee's or inter-track wagering licensee's total dollar amount of contracts awarded during each calendar year. Each organization licensee or inter-track wagering licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) licensees are purchasing goods or services from vendors or suppliers or in markets where there are no or a limited number of minority owned businesses, women owned businesses, or businesses owned by persons with disabilities that would be sufficient to satisfy the goal; (2) there are no or a limited number of suppliers licensed by the Board; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each organization licensee or inter-track wagering licensee shall file with the Board an annual report of its utilization of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the organization licensee or inter-track wagering licensee to meet its goals under this Section.

(d) The organization licensee or inter-track wagering licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the organization licensee or inter-track wagering licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities.

(e) If the Board determines that its goals and policies are not being met by any organization licensee or inter-track wagering licensee, then the Board may:

(1) adopt remedies for such violations; and

(2) recommend that the organization licensee or inter-track wagering licensee provide additional opportunities for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities; such recommendations may include, but shall not be limited to:

(A) assurances of stronger and better focused solicitation efforts to obtain more minority owned businesses, female owned businesses, and businesses owned by persons with disabilities as potential sources of supply;

(B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;

(C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;

(D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each organization licensee or inter-track wagering licensee;

(2) a summary of the number of contracts awarded and the average contract amount by each organization licensee or inter-track wagering licensee;

(3) an analysis of the level of overall goal achievement concerning purchases from minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to businesses with annual gross sales of less than \$1,000,000; of \$1,000,000 or more, but less than \$5,000,000; of \$5,000,000 or more, but less than \$10,000,000; and of \$10,000,000 or more.

Section 10. The Riverboat Gambling Act is amended by adding Section 7.6 as follows:

(230 ILCS 10/7.6 new)

Sec. 7.6. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority owned business", "female", "female owned business", "person with a disability", and "business owned by a person with a disability" have the meaning ascribed to them in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award of contracts by each owners licensee to businesses owned by minorities, females, and persons with disabilities, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year. Each owners licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) any purchasing mandates would be dependent upon the availability of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices; (2) there are no or a limited number of licensed suppliers as defined by this Act for the goods or services provided to the licensee; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each owners licensee shall file with the Board an annual report of its utilization of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.

(d) The owners licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the owners licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities.

(e) If the Board determines that its goals and policies are not being met by any owners licensee, then the Board may:

(1) adopt remedies for such violations; and

(2) recommend that the owners licensee provide additional opportunities for participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities; such recommendations may include, but shall not be limited to:

(A) assurances of stronger and better focused solicitation efforts to obtain more minority owned businesses, female owned businesses, and businesses owned by persons with disabilities as potential sources of supply;

(B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;

(C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority owned businesses, female owned businesses, and businesses owned by persons with disabilities;

(D) identification of specific proposed contracts as particularly attractive or appropriate for

participation by minority owned businesses, female owned businesses, and businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each owners licensee; and

(2) an analysis of the level of overall goal achievement concerning purchases from minority owned businesses, female owned businesses, and businesses owned by persons with disabilities.

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

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Dillard, **Senate Bill No. 1415** having been printed, was taken up, read by title a second time.

Senator Dillard offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1415**

AMENDMENT NO. 1. Amend Senate Bill 1415 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Board of Legislative Repealers Act.

Section 5. Board of Legislative Repealers.

(a) The General Assembly authorizes the Joint Committee on Legislative Support Services to create the Board of Legislative Repealers. Under this authority, the Joint Committee on Legislative Support Services shall create the Board of Legislative Repealers as a not-for-profit foundation. The Joint Committee shall file articles of incorporation as required under the General Not For Profit Corporation Act of 1986 to create a not for profit corporation with the legal name "Board of Legislative Repealers". The members of the board of directors of the Board of Legislative Repealers shall be appointed as follows:

One member of the public appointed by the President of the Senate;

One member of the public appointed by the Minority Leader of the Senate;

One member of the public appointed by the Speaker of the House of Representatives; and

One member of the public appointed by the Minority Leader of the House of Representatives.

The members of the board of directors of the Board shall elect from their number a chairperson, and such other officers as they may choose.

(b) The members of the board of directors of the Board shall serve at the pleasure of their respective appointing authorities.

(c) The members of the board of directors of the Board shall serve without compensation, but may be reimbursed for expenses from funds held in the Board of Legislative Repealers Fund.

(d) As directed by the Joint Committee on Legislative Support Services, the Joint Committee on Administrative Rules, the Legislative Information System, the Legislative Reference Bureau, and the Legislative Research Unit shall provide technical support and information to the Board in fulfilling its mission.

Section 10. Purpose and duties.

(a) The Board of Legislative Repealers shall:

(1) Identify, according to a schedule set by the Board, specific State laws or regulations that are duplicative, in conflict, contradictory, anachronistic, or obsolete or have been held unconstitutional by the United States Supreme Court or the Illinois Supreme Court.

(2) Create, at the earliest possible date, a system for soliciting and receiving public comments on various laws or regulations to be considered by the Board of Legislative Repealers for possible repeal, modification, or revision due to being duplicative, in conflict, contradictory,

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anachronistic, or obsolete or having been held unconstitutional by the United States Supreme Court or the Illinois Supreme Court. That system for receiving comments shall include a public online portal that is accessible through the website maintained by the Illinois General Assembly.

(3) Determine, based on criteria adopted by the Board, that a State law or regulation is duplicative, in conflict, contradictory, anachronistic, or obsolete or has been held unconstitutional by the United States Supreme Court or the Illinois Supreme Court, and, upon making that determination, recommending to the originating body either the repeal, modification, or revision of the law or regulation. The recommendation shall set forth with specificity the justification for the requested repeal, modification, or revision.

(4) Implement a tracking system to follow the action taken by any originating body on any recommendation made by the Board of Legislative Repealers in order to prepare annual reports to the Joint Committee on Legislative Support Services regarding the progress of repeal, modification, or revision.

(5) Receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally regarding State laws or regulations that are duplicative, in conflict, contradictory, anachronistic, or obsolete or have been held unconstitutional by the United States Supreme Court or the Illinois Supreme Court, and make that information available to members of the General Assembly upon request.

(6) Report its proceedings to the Joint Committee on Legislative Support Services on or before February 1, 2015, and every February 1 thereafter, and, if it deems doing so is advisable, to accompany its report with proposed legislation to carry out any of its recommendations.

(7) Recommend, as a part of its annual report, revisions in the law that the Board of Legislative Repealers deems necessary to repeal, modify, or revise State laws or regulations that are duplicative, in conflict, contradictory, anachronistic, or obsolete or have been held unconstitutional by the United States Supreme Court or the Illinois Supreme Court.

(b) Official action by the Board shall require the affirmative vote of 3 members of the board of directors of the Board, and the presence of 3 members of the board of directors of the Board shall constitute a quorum.

(c) The Board shall operate within the provisions of the General Not For Profit Corporation Act of 1986.

(d) As soon as practical after the Board is created, the members of the board of directors of the Board shall meet, organize, and designate, by majority vote, a chairperson and any additional officers that may be needed to carry out the activities of the Board as provided for in this Section, and shall adopt bylaws of the Board. The Board may adopt any bylaws that are necessary to implement the requirements of this Act.

(e) The Board shall conduct its activities in accordance with the requirements of the Internal Revenue Code to ensure the tax deductibility of gifts and contributions from private parties.

(f) The Joint Committee on Legislative Support Services may adopt other rules deemed necessary to govern Board procedures.

#### Section 15. Funding.

(a) The Board may accept gifts or grants from the federal government, its agencies or officers, or from any person, firm, or corporation, and may expend receipts on activities that it considers suitable to the performance of its duties under this Act and consistent with any requirement of the grant, gift, or bequest. Funds collected by the Board shall be considered private funds, except those received from public entities, and shall be deposited and held by the State Treasurer, as ex-officio custodian thereof, in an special trust fund outside of the State Treasury. The trust fund shall be known as the "Board of Legislative Repealers Fund", and shall be administered by a majority vote of the board of directors of the Board. Private funds collected by the Board are not subject to the Public Funds Investment Act.

(b) Board procurement is exempt from the Illinois Procurement Code when private funds are used for procurement expenditures. The Board's accounts and books shall be set up and maintained according to generally accepted accounting principles, and the Board and its officers shall be responsible for the approval of recording of receipts, approval of payments, and the proper filing of required reports.

(c) The Board must provide a written notice to any entity providing a gift, grant, or bequest to the Board that the Board is not subject to the provisions of the Public Funds Investment Act which Act places limitations on the types of securities in which a public agency may invest public funds.

Section 20. The Legislative Commission Reorganization Act of 1984 is amended by changing Sections 2-1 and 4-2 as follows:

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(25 ILCS 130/2-1) (from Ch. 63, par. 1002-1)

Sec. 2-1. The Joint Committee on Administrative Rules is hereby established as a legislative support services agency. The Joint Committee on Administrative Rules is subject to the provisions of this Act and shall perform the powers and duties delegated to it under "The Illinois Administrative Procedure Act", as now or hereafter amended, and such other functions as may be provided by law. As directed by the Joint Committee on Legislative Support Services, the Joint Committee on Administrative Rules shall provide technical support and information to the Board of Legislative Repealers.

(Source: P.A. 83-1257.)

(25 ILCS 130/4-2) (from Ch. 63, par. 1004-2)

Sec. 4-2. Intergovernmental functions. It shall be the function of the Legislative Research Unit:

- (1) To carry forward the participation of this State as a member of the Council of State Governments.
- (2) To encourage and assist the legislative, executive, administrative and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other States, of the Federal Government, and of local units of government.
- (3) To endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:
  - (a) The adoption of compacts.
  - (b) The enactment of uniform or reciprocal statutes.
  - (c) The adoption of uniform or reciprocal administrative rules and regulations.
  - (d) The informal cooperation of governmental offices with one another.
  - (e) The personal cooperation of governmental officials and employees with one another individually.
  - (f) The interchange and clearance of research and information.
  - (g) Any other suitable process, and
  - (h) To do all such acts as will enable this State to do its part in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose.
- (4) As directed by the Joint Committee on Legislative Support Services, to provide technical support and information to the Board of Legislative Repealers.

(Source: P.A. 93-632, eff. 2-1-04.)

Section 25. The Legislative Reference Bureau Act is amended by amending Section 5 and adding Section 5.08 as follows:

(25 ILCS 135/5) (from Ch. 63, par. 29)

Sec. 5. The reference bureau has the duties enumerated in Sections 5.01 through 5.08 5.07.

(Source: P.A. 83-1257.)

(25 ILCS 135/5.08 new)

Sec. 5.08. Cooperation with Board of Legislative Repealers. As directed by the Joint Committee on Legislative Support Services, the Legislative Reference Bureau shall provide technical support and information to the Board of Legislative Repealers.

Section 30. The Legislative Information System Act is amended by adding Section 5.10 as follows:

(25 ILCS 145/5.10 new)

Sec. 5.10. Cooperation with Board of Legislative Repealers. As directed by the Joint Committee on Legislative Support Services, the Legislative Information System shall provide technical support and information to the Board of Legislative Repealers.

Section 99. Effective date. This Act takes effect July 1, 2014."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 1417** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was postponed in the Committee on Local Government.

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Senator Noland offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1417**

AMENDMENT NO. 2. Amend Senate Bill 1417 on page 2, on lines 25 and 26, by deleting "or the owner of the property on which the open burning took place".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 1458** having been printed, was taken up, read by title a second time.

Senator Noland offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1458**

AMENDMENT NO. 1. Amend Senate Bill 1458 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Gas Pipeline Safety Act is amended by adding Sections 2.08, 2.09, 2.10, 2.11, and 7.5 and by changing Section 7 as follows:

(220 ILCS 20/2.08 new)

Sec. 2.08. Notice of probable violation. "Notice of probable violation" or "NOPV" means a written notice, satisfying the criteria set forth in Section 7.5 of this Act, given by the pipeline safety manager to a person who engages in the transportation of gas or who owns or operates pipeline facilities that identifies a failure of such person to comply with the provisions of this Act, the federal Natural Gas Pipeline Safety Act of 1968, or any Commission order or rule issued under this Act and may recommend a penalty in connection therewith, subject to the terms of this Act.

(220 ILCS 20/2.09 new)

Sec. 2.09. Pipeline safety manager. "Pipeline safety manager" means the manager of the Commission's Pipeline Safety Program or other staff of the Commission assigned to gas pipeline safety issues.

(220 ILCS 20/7) (from Ch. 111 2/3, par. 557)

Sec. 7. Penalties; action for penalties; Commission approval of penalties.

(a) Any person violating paragraph (a) of Section 6 of this Act or any rule or order issued under this Act is subject to a civil penalty not to exceed the maximum penalties established by Section 60122(a)(1) of Title 49 of the United States Code for each day the violation persists. Such civil penalties do not apply to a violation with respect to a pipeline facility in existence on the effective date of this Act unless such violation persists one year from the effective date.

(b) Any civil penalty may be compromised by the Commission or, subject to this Act, by the pipeline safety manager. In determining the amount of the penalty, or the amount agreed upon in compromise, the Commission or, subject to this Act, the pipeline safety manager, as the case may be, shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The amount of the penalty when finally determined, or the amount agreed upon in compromise, shall be paid or may be deducted from any sums owing by the State of Illinois to the person charged pursuant to the terms and conditions of the NOPV or the agreed compromise or Commission order, as the case may be, or may be recovered in a civil action in accordance with paragraph (c) of this Section 7. Unless specifically stated otherwise in the terms and conditions of any compromise agreement, any compromise of a penalty recommended in an NOPV by the person charged shall not be deemed to be an admission of liability.

(c) Actions to recover penalties under this Act shall be brought in the name of the People of the State of Illinois in the circuit court in and for the county in which the cause or some part thereof, arose or in which the corporation complained of, if any, has its principal place of business or in which the person, if any, complained of, resides. All penalties recovered by the State in any action shall be paid into the general fund of the State Treasury. The action shall be commenced and prosecuted to final judgment by the Attorney General on behalf of the Commission. In all such actions, the procedure and rules of evidence shall conform with the Civil Practice Law and other rules of court governing civil trials.

(d) In addition the Commission may proceed under Section 4-202 of the Public Utilities Act, either by

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mandamus or injunction, to secure compliance with its rules, regulations and orders issued under this Act.

(e) Any person penalized under this Section is not subject, for the same cause, to any other penalty provided in the Public Utilities Act.

(f) In the event any penalty recommended by the pipeline safety manager is paid by the person charged in the applicable NOPV in accordance with subsection (b) of this Section or in accordance with the terms and conditions of a compromise, agreed upon by such person and the pipeline safety manager, then the pipeline safety manager shall report, and request approval of, each such payment of a recommended penalty or agreed compromise, as the case may be, to the Commission at a public meeting of the Commission and shall also post such report on the Commission's website as a public document subject to the requirements of Section 4-404 of the Public Utilities Act. Whenever such report and request for approval shall be made to the Commission, the Commission shall have the power, and it is hereby given authority, either upon complaint or upon its own motion, upon reasonable notice given within 45 days after such report and request for approval was made at a public meeting of the Commission, to enter upon a hearing concerning the propriety of the applicable NOPV, payment, or compromise. In the event the Commission does not exercise this power within the 45-day period, the payment or agreed compromise referenced in the report shall be deemed approved by the Commission by operation of law at the expiration of the 45-day period and the NOPV and related investigation shall be deemed closed.

(Source: P.A. 91-814, eff. 6-13-00.)

(220 ILCS 20/7.5 new)

Sec. 7.5. NOPV; Commission hearing.

(a) For the purposes of this Section "violation" means a failure to comply with any provision of this Act or any Commission order or rule issued under this Act.

(b) After investigation and determination of a probable violation, the pipeline safety manager may issue and deposit in the United States mail an NOPV. Any NOPV so issued and mailed may also be posted on the Commission's website as a public document, subject to the requirements of Section 4-404 of the Public Utilities Act.

(c) An NOPV shall set forth, at a minimum, the following: (1) the date the NOPV was issued and deposited in the United States mail; (2) a description of the violation or violations alleged; (3) the date and location of the safety incident, if applicable, related to each alleged violation; (4) a detailed description of the circumstances that support the determination of each proposed violation; (5) a detailed description of the corrective action required with respect to each proposed violation; (6) the amount of the penalty, if any, recommended with respect to each proposed violation; (7) the applicable recommended deadline for payment of each proposed penalty and for completion of each proposed corrective action (in no event shall any recommended deadline be less than 30 days after the date of the NOPV); (8) notification that any such recommended deadline may be extended by mutual agreement of the parties for the purpose of facilitating settlement or compromise; and (9) a brief description of the procedures by which any recommended penalty or proposed corrective action may be challenged at the Commission or approved pursuant to subsection (f) of Section 7.

(d) Payment in full of each of the recommended penalties and full completion of each of the proposed corrective actions, as identified in the NOPV and in accordance with the terms and conditions set forth in the NOPV, including without limitation the respective recommended deadlines set forth in the NOPV for such payment or completion, shall constitute a final resolution of the NOPV, subject to the approval by the Commission of the recommended penalty and payment in accordance with subsection (f) of Section 7.

(e) If one or more of the alleged violations set forth in an NOPV is contested, then the Commission shall have the power and it is hereby given authority, either upon complaint or upon its own motion, upon reasonable notice, to enter upon a hearing under this Act concerning the incident referenced in the NOPV, in accordance with Article X of the Public Utilities Act. If a recommended penalty is not paid prior to the deadline recommended in the NOPV or other mutually agreed upon date, or if one or more of the proposed corrective actions set forth in an NOPV is not fully and timely completed in accordance with the terms and conditions set forth in the NOPV, the NOPV shall be deemed contested.

(f) The Commission shall have the power to adopt rules to implement this Section, to the extent the Commission deems such rules necessary or desirable.

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

The motion prevailed.

[April 18, 2013]

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Rose, **Senate Bill No. 1528** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was postponed in the Committee on Criminal Law.

Senator Rose offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1528**

AMENDMENT NO. 2. Amend Senate Bill 1528 by replacing everything after the enacting clause with the following:

"Section 5. The Rights of Crime Victims and Witnesses Act is amended by changing Section 4.5 as follows:

(725 ILCS 120/4.5)

Sec. 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(a-5) When law enforcement authorities re-open a closed case to resume investigating, they shall provide notice of the re-opening of the case, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(3.5) or victim advocate personnel shall provide information about available victim services, including referrals to programs, counselors, and agencies that assist a victim to deal with trauma, loss, and grief;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings and, in compliance with the federal Americans with Disabilities Act of 1990, the right to communications access through a sign language interpreter or by other means;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case;

(9.5) shall inform the victim of (A) the victim's right under Section 6 of this Act to make a victim

impact statement at the sentencing hearing; and (B) if a presentence report is to be prepared, the right of the victim's spouse, guardian, parent, grandparent and other immediate family and household to submit information to the preparer of the presentence report about the effect the offense has had on the victim and the person;

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section;

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law; and

(12) shall, upon the court entering a verdict of not guilty by reason of insanity, inform the victim of the notification services available from the Department of Human Services, including the statewide telephone number, under subparagraph (d)(2) of this Section.

(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings:

preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority.

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the approval by the court of an on-grounds pass, a supervised off-grounds pass, an unsupervised off-grounds pass, or conditional release; the release on an off-grounds pass; the return from an off-grounds pass; transfer to another facility; conditional release; escape; death; or final discharge from State custody. The Department of Human Services shall establish and maintain a statewide telephone number to be used by victims to make notification requests under these provisions and shall publicize this telephone number on its website and to the State's Attorney of each county.

(3) In the event of an escape from State custody, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 30 days prior to the parole interview and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole interview or if a victim of a violent crime, by calling the toll-free number established in subsection (f) of this Section, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced or the State's Attorney of the county where the person seeking parole was prosecuted, the Prisoner Review Board shall notify the victim and the State's Attorney of the county where the person seeking parole was prosecuted of the death of the prisoner if the prisoner died while on parole or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections, the Department of Juvenile Justice, or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge, conditional release, death, or escape from State custody, the releasing authority shall provide to the Department of Human Services such information that would allow the Department of Human Services to contact the victim.

(8) When a defendant has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act and has been sentenced to the Department of Corrections or the Department of Juvenile Justice, the Prisoner Review Board shall notify the victim of the sex offense of the prisoner's eligibility for release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a sex offense from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The notification shall be made to the victim at least 30 days, whenever possible, before release of the sex offender.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(f) To permit a victim of a violent crime to provide information to the Prisoner Review Board for consideration by the Board at a parole hearing of a person who committed the crime against the victim in accordance with clause (d)(4) of this Section or at a proceeding to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on revocation of mandatory supervised release of a person sentenced to a determinate sentence, the Board shall establish a toll-free number that may be accessed by the victim of a violent crime to present that information to the Board.

(Source: P.A. 96-328, eff. 8-11-09; 96-875, eff. 1-22-10; 97-457, eff. 1-1-12; 97-572, eff. 1-1-12; 97-813, eff. 7-13-12; 97-815, eff. 1-1-13.)

Section 10. The Unified Code of Corrections is amended by changing Section 5-3-2 as follows:  
(730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)  
Sec. 5-3-2. Presentence Report.

(a) In felony cases, the presentence report shall set forth:

(1) the defendant's history of delinquency or criminality, physical and mental history and condition, family situation and background, economic status, education, occupation and personal habits;

(2) information about special resources within the community which might be available to assist the defendant's rehabilitation, including treatment centers, residential facilities, vocational

training services, correctional manpower programs, employment opportunities, special educational programs, alcohol and drug abuse programming, psychiatric and marriage counseling, and other programs and facilities which could aid the defendant's successful reintegration into society;

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

(3.5) information provided by the victim's spouse, guardian, parent, grandparent, and other immediate family and household members about the effect the offense committed has had on the victim and on the person providing the information; if the victim's spouse, guardian, parent, grandparent, or other immediate family or household member has provided a written statement, the statement shall be attached to the report;

(4) information concerning the defendant's status since arrest, including his record if released on his own recognizance, or the defendant's achievement record if released on a conditional pre-trial supervision program;

(5) when appropriate, a plan, based upon the personal, economic and social adjustment needs of the defendant, utilizing public and private community resources as an alternative to institutional sentencing;

(6) any other matters that the investigatory officer deems relevant or the court directs to be included; and

(7) information concerning defendant's eligibility for a sentence to a county impact incarceration program under Section 5-8-1.2 of this Code.

(b) The investigation shall include a physical and mental examination of the defendant when so ordered by the court. If the court determines that such an examination should be made, it shall issue an order that the defendant submit to examination at such time and place as designated by the court and that such examination be conducted by a physician, psychologist or psychiatrist designated by the court. Such an examination may be conducted in a court clinic if so ordered by the court. The cost of such examination shall be paid by the county in which the trial is held.

(b-5) In cases involving felony sex offenses in which the offender is being considered for probation only or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in which the offender is being considered for probation only, the investigation shall include a sex offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act. In cases in which the offender is being considered for any mandatory prison sentence, the investigation shall not include a sex offender evaluation.

(c) In misdemeanor, business offense or petty offense cases, except as specified in subsection (d) of this Section, when a presentence report has been ordered by the court, such presentence report shall contain information on the defendant's history of delinquency or criminality and shall further contain only those matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court in its order for the report.

(d) In cases under Sections 11-1.50, 12-15, and 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, the presentence report shall set forth information about alcohol, drug abuse, psychiatric, and marriage counseling or other treatment programs and facilities, information on the defendant's history of delinquency or criminality, and shall contain those additional matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court.

(e) Nothing in this Section shall cause the defendant to be held without bail or to have his bail revoked for the purpose of preparing the presentence report or making an examination.

(Source: P.A. 96-322, eff. 1-1-10; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065, eff. 7-1-11; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 1545** having been printed, was taken up, read by title a second time.

Senator Noland offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 1545

[April 18, 2013]

AMENDMENT NO. 1. Amend Senate Bill 1545 on page 1, line 14, by replacing "essential fire department training materials" with "the "Basic Firefighting Essentials DVD/CD-ROM Program"".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Koehler, **Senate Bill No. 1609** having been printed, was taken up, read by title a second time.

Senator Koehler offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1609**

AMENDMENT NO. 1. Amend Senate Bill 1609 on page 3, by replacing line 11 with the following:

"from the Department of Human Services, the Department of Children and Family Services, the Department of Healthcare and Family Services, or the Department on Aging."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 1606** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1606**

AMENDMENT NO. 1. Amend Senate Bill 1606 by replacing everything after the enacting clause with the following:

"Section 5. The Condominium Property Act is amended by changing Section 27 as follows:  
(765 ILCS 605/27) (from Ch. 30, par. 327)

Sec. 27. (a) If there is any unit owner other than the developer, and unless otherwise provided in this Act, the condominium instruments shall be amended only as follows:

- (i) upon the affirmative vote of 2/3 of those voting or upon the majority specified by the condominium instruments, provided that in no event shall the condominium instruments require more than a three-quarters vote of all unit owners; and
- (ii) with the approval of any mortgagees required under the provisions of the condominium instruments.

~~Except in cases where this Act provides different methods of amendment or with respect to property whose declaration is recorded on or after July 1, 1984, no condominium instrument shall require more than a three-quarters vote of unit owners to amend the bylaws. Except to the extent authorized by other provisions of this Act, no amendment to the condominium instrument shall change the boundaries of any unit or the undivided interest in the common elements, the number of votes in the unit owners' association, or the liability for common expenses appertaining to a unit.~~

(b)(1) If there is an omission or error in the declaration, bylaws or other condominium instrument, the association may correct the error or omission by an amendment to the declaration, bylaws, or other condominium instrument in such respects as may be required to conform to this Act, and any other applicable statute or to the declaration by vote of two-thirds of the members of the Board of Managers or by a majority vote of the unit owners at a meeting called for this purpose, unless the Act or the condominium instruments specifically provide for greater percentages or different procedures.

(2) If through a scrivener's error, a unit has not been designated as owning an appropriate undivided share of the common elements or does not bear an appropriate share of the common expenses or that all the common expenses or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses fail to equal 100%, or if it appears that more than 100% of the common elements or common expenses have been distributed, the error may be corrected

by operation of law by filing an amendment to the declaration approved by vote of two-thirds of the members of the Board of Managers or a majority vote of the unit owners at a meeting called for this purpose which proportionately adjusts all percentage interests so that the total is equal to 100% unless the condominium instruments specifically provide for a different procedure or different percentage vote by the owners of the units and the owners of mortgages thereon affected by modification being made in the undivided interest in the common elements, the number of votes in the unit owners association or the liability for common expenses appertaining to the unit.

(3) If an omission or error or a scrivener's error in the declaration, bylaws or other condominium instrument is corrected by vote of two-thirds of the members of the Board of Managers pursuant to the authority established in subsections (b)(1) or (b)(2) of Section 27 of this Act, the Board upon written petition by unit owners with 20 percent of the votes of the association filed within 30 days of the Board action shall call a meeting of the unit owners within 30 days of the filing of the petition to consider the Board action. Unless a majority of the votes of the unit owners of the association are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.

(4) The procedures for amendments set forth in this subsection (b) cannot be used if such an amendment would materially or adversely affect property rights of the unit owners unless the affected unit owners consent in writing. This Section does not restrict the powers of the association to otherwise amend the declaration, bylaws, or other condominium instruments, but authorizes a simple process of amendment requiring a lesser vote for the purpose of correcting defects, errors, or omissions when the property rights of the unit owners are not materially or adversely affected.

(5) If there is an omission or error in the declaration, bylaws, or other condominium instruments, which may not be corrected by an amendment procedure set forth in paragraphs (1) and (2) of subsection (b) of Section 27 in the declaration then the Circuit Court in the County in which the condominium is located shall have jurisdiction to hear a petition of one or more of the unit owners thereon or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners in the association must be joined as parties to the action. Service of process on owners may be by publication, but the plaintiff shall furnish all unit owners not personally served with process with copies of the petition and final judgment of the court by certified mail return receipt requested, at their last known address.

(6) Nothing contained in this Section shall be construed to invalidate any provision of a condominium instrument authorizing the developer to amend a condominium instrument prior to the latest date on which the initial membership meeting of the unit owners must be held, whether or nor it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Veterans Administration or their respective successors and assigns. (Source: P.A. 94-886, eff. 6-20-06.)"

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Collins, **Senate Bill No. 1625** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1625**

AMENDMENT NO. 1. Amend Senate Bill 1625 by replacing everything after the enacting clause with the following:

"Section 5. The School Safety Drill Act is amended by changing Sections 15 and 20 as follows:  
(105 ILCS 128/15)

Sec. 15. Types of drills. Under this Act, the following school safety drills shall be instituted by all schools in this State:

(1) School evacuation drills, which shall address and prepare students and school personnel for situations that occur when conditions outside of a school building are safer than inside a school building. Evacuation incidents are based on the needs of particular communities and may include without limitation the following:

(A) fire;

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- (B) suspicious items or persons;
- (C) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives; and
- (D) bomb threats.

(2) Bus evacuation drills, which shall address and prepare students and school personnel for situations that occur when conditions outside of a bus are safer than inside the bus. Evacuation incidents are based on the needs of particular communities and may include without limitation the following:

- (A) fire;
- (B) suspicious items; and
- (C) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives.

(3) Law enforcement drills, which shall address and prepare students and school personnel for situations calling for the involvement of law enforcement when conditions inside a school building are safer than outside of a school building and it is necessary to protect building occupants from potential dangers in a school building. Law enforcement drills may involve situations that call for the reverse-evacuation or the lock-down of a school building. Evacuation or reverse-evacuation Evacuations incidents shall ~~may~~ include a shooting incident. ~~without limitation the following:~~

- ~~(A) shooting incidents;~~
- ~~(B) bomb threats;~~
- ~~(C) suspicious persons; and~~
- ~~(D) incidents involving hazardous materials.~~

(4) Severe weather and shelter-in-place drills, which shall address and prepare students for situations involving severe weather emergencies or the release of external gas or chemicals. Severe weather and shelter-in-place incidents shall be based on the needs and environment of particular communities and may include without limitation the following:

- (A) severe weather, including, but not limited to, shear winds, lightning, and earthquakes;
- (B) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives; and
- (C) incidents involving weapons of mass destruction, including, but not limited to, biological, chemical, and nuclear weapons.

(Source: P.A. 94-600, eff. 8-16-05.)

(105 ILCS 128/20)

Sec. 20. Number of drills; incidents covered; local authority participation.

(a) During each academic year, schools must conduct a minimum of 3 school evacuation drills to address and prepare students and school personnel for fire incidents. These drills must meet all of the following criteria:

(1) One of the 3 school evacuation drills shall require the participation of the appropriate local fire department or district.

(A) Each local fire department or fire district must contact the appropriate school administrator or his or her designee no later than September 1 of each year in order to arrange for the participation of the department or district in the school evacuation drill.

(B) Each school administrator or his or her designee must contact the responding local fire official no later than September 15 of each year and propose to the local fire official 4 dates within the month of October, during at least 2 different weeks of October, on which the drill shall occur. The fire official may choose any of the 4 available dates, and if he or she does so, the drill shall occur on that date.

(C) The school administrator or his or her designee and the local fire official may also, by mutual agreement, set any other date for the drill, including a date outside of the month of October.

(D) If the fire official does not select one of the 4 offered dates in October or set another date by mutual agreement, the requirement that the school include the local fire service in one of its mandatory school evacuation drills shall be waived. Schools, however, shall continue to be strongly encouraged to include the fire service in a school evacuation drill at a mutually agreed-upon time.

(E) Upon the participation of the local fire service, the appropriate local fire official shall certify that the school evacuation drill was conducted.



(F) When scheduling the school evacuation drill, the school administrator or his or her designee and the local fire department or fire district may, by mutual agreement on or before September 14, choose to waive the provisions of subparagraphs (B), (C), and (D) of this paragraph (1).

Additional school evacuation drills for fire incidents may involve the participation of the appropriate local fire department or district.

(2) Schools may conduct additional school evacuation drills to account for other evacuation incidents, including without limitation suspicious items or bomb threats.

(3) All drills shall be conducted at each school building that houses school children.

(b) During each academic year, schools must conduct a minimum of one bus evacuation drill. This drill shall be accounted for in the curriculum in all public schools and in all other educational institutions in this State that are supported or maintained, in whole or in part, by public funds and that provide instruction in any of the grades kindergarten through 12. This curriculum shall include instruction in safe bus riding practices for all students. Schools may conduct additional bus evacuation drills. All drills shall be conducted at each school building that houses school children.

(c) During each academic year, schools must conduct a law enforcement drill to address a school shooting incident incidents, ~~including without limitation reverse evacuations, lock-downs, shootings, bomb threats, or hazardous materials~~. Such drills must be conducted according to the school district's or private school's emergency and crisis response plans, protocols, and procedures, with the participation of the appropriate law enforcement agency. Law enforcement drills may be conducted on days and times when students are not present in the school building.

(1) A law enforcement drill must meet all of the following criteria:

(A) During each calendar year, the appropriate local law enforcement agency shall contact the appropriate school administrator to request to participate in a law enforcement drill and must ~~may~~ actively participate on-site in a drill.

(B) Upon the participation of a local law enforcement agency in a law enforcement drill, the appropriate local law enforcement official shall certify that the law enforcement drill was conducted.

(2) Schools may conduct additional law enforcement drills at their discretion.

(3) (Blank).

(d) During each academic year, schools must conduct a minimum of one severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents and may conduct additional severe weather and shelter-in-place drills to account for other incidents, including without limitation earthquakes or hazardous materials. All drills shall be conducted at each school building that houses school children.

(Source: P.A. 94-600, eff. 8-16-05; 95-1015, eff. 12-15-08.)

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

Senator Collins offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1625**

AMENDMENT NO. 2. Amend Senate Bill 1625, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Safety Drill Act is amended by changing Sections 15 and 20 as follows: (105 ILCS 128/15)

Sec. 15. Types of drills. Under this Act, the following school safety drills shall be instituted by all schools in this State:

(1) School evacuation drills, which shall address and prepare students and school personnel for situations that occur when conditions outside of a school building are safer than inside a school building. Evacuation incidents are based on the needs of particular communities and may include without limitation the following:

(A) fire;

(B) suspicious items or persons;

(C) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives; and

(D) bomb threats.

(2) Bus evacuation drills, which shall address and prepare students and school personnel

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for situations that occur when conditions outside of a bus are safer than inside the bus. Evacuation incidents are based on the needs of particular communities and may include without limitation the following:

- (A) fire;
- (B) suspicious items; and
- (C) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives.

(3) Law enforcement drills, which shall address and prepare ~~students and~~ school personnel for situations calling for the involvement of law enforcement when conditions inside a school building are safer than outside of a school building and it is necessary to protect building occupants from potential dangers in a school building. Law enforcement drills may involve situations that call for the reverse-evacuation or the lock-down of a school building. Evacuation or reverse-evacuation ~~Evacuations~~ incidents shall ~~may include a shooting incident, without limitation the following:~~

- ~~(A) shooting incidents;~~
- ~~(B) bomb threats;~~
- ~~(C) suspicious persons; and~~
- ~~(D) incidents involving hazardous materials.~~

(4) Severe weather and shelter-in-place drills, which shall address and prepare students for situations involving severe weather emergencies or the release of external gas or chemicals. Severe weather and shelter-in-place incidents shall be based on the needs and environment of particular communities and may include without limitation the following:

- (A) severe weather, including, but not limited to, shear winds, lightning, and earthquakes;
- (B) incidents involving hazardous materials, including, but not limited to, chemical, incendiary, and explosives; and
- (C) incidents involving weapons of mass destruction, including, but not limited to, biological, chemical, and nuclear weapons.

(Source: P.A. 94-600, eff. 8-16-05.)

(105 ILCS 128/20)

Sec. 20. Number of drills; incidents covered; local authority participation.

(a) During each academic year, schools must conduct a minimum of 3 school evacuation drills to address and prepare students and school personnel for fire incidents. These drills must meet all of the following criteria:

(1) One of the 3 school evacuation drills shall require the participation of the appropriate local fire department or district.

(A) Each local fire department or fire district must contact the appropriate school administrator or his or her designee no later than September 1 of each year in order to arrange for the participation of the department or district in the school evacuation drill.

(B) Each school administrator or his or her designee must contact the responding local fire official no later than September 15 of each year and propose to the local fire official 4 dates within the month of October, during at least 2 different weeks of October, on which the drill shall occur. The fire official may choose any of the 4 available dates, and if he or she does so, the drill shall occur on that date.

(C) The school administrator or his or her designee and the local fire official may also, by mutual agreement, set any other date for the drill, including a date outside of the month of October.

(D) If the fire official does not select one of the 4 offered dates in October or set another date by mutual agreement, the requirement that the school include the local fire service in one of its mandatory school evacuation drills shall be waived. Schools, however, shall continue to be strongly encouraged to include the fire service in a school evacuation drill at a mutually agreed-upon time.

(E) Upon the participation of the local fire service, the appropriate local fire official shall certify that the school evacuation drill was conducted.

(F) When scheduling the school evacuation drill, the school administrator or his or her designee and the local fire department or fire district may, by mutual agreement on or before September 14, choose to waive the provisions of subparagraphs (B), (C), and (D) of this paragraph (1).

Additional school evacuation drills for fire incidents may involve the participation of the appropriate local fire department or district.

(2) Schools may conduct additional school evacuation drills to account for other evacuation incidents, including without limitation suspicious items or bomb threats.

(3) All drills shall be conducted at each school building that houses school children.

(b) During each academic year, schools must conduct a minimum of one bus evacuation drill. This drill shall be accounted for in the curriculum in all public schools and in all other educational institutions in this State that are supported or maintained, in whole or in part, by public funds and that provide instruction in any of the grades kindergarten through 12. This curriculum shall include instruction in safe bus riding practices for all students. Schools may conduct additional bus evacuation drills. All drills shall be conducted at each school building that houses school children.

(c) During each academic year, schools must conduct a law enforcement drill to address a school shooting incident incidents, including without limitation reverse evacuations, lock-downs, shootings, bomb threats, or hazardous materials. Such drills must be conducted according to the school district's or private school's emergency and crisis response plans, protocols, and procedures, with the participation of the appropriate law enforcement agency. Law enforcement drills may be conducted on days and times when students are not present in the school building. All drills must be conducted at each school building that houses school children.

(1) A law enforcement drill must meet all of the following criteria:

(A) During each calendar year, the appropriate local law enforcement agency shall contact the appropriate school administrator to request to participate in a law enforcement drill. The school administrator and local law enforcement agency shall set, by mutual agreement, a date for the drill.

(A-5) The drill shall require the on-site participation of the local law enforcement agency. If a mutually agreeable date cannot be reached between the school administrator and the appropriate local law enforcement agency, then the school shall still hold the drill without participation from the agency, and may actively participate on-site in a drill.

(B) Upon the participation of a local law enforcement agency in a law enforcement drill, the appropriate local law enforcement official shall certify that the law enforcement drill was conducted and notify the school in a timely manner of any deficiencies noted during the drill.

(2) Schools may conduct additional law enforcement drills at their discretion.

(3) (Blank).

(d) During each academic year, schools must conduct a minimum of one severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents and may conduct additional severe weather and shelter-in-place drills to account for other incidents, including without limitation earthquakes or hazardous materials. All drills shall be conducted at each school building that houses school children.

(Source: P.A. 94-600, eff. 8-16-05; 95-1015, eff. 12-15-08.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 1621** having been printed, was taken up, read by title a second time.

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

#### **AMENDMENT NO. 1 TO SENATE BILL 1621**

AMENDMENT NO. 1. Amend Senate Bill 1621 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 605-345 as follows:

(20 ILCS 605/605-345) (was 20 ILCS 605/46.67)

Sec. 605-345. Pollution control industry incentives. Subject to appropriation, the ~~The~~ Department shall examine policies and incentives that will attract industries involved in the design, development, and construction of pollution control devices and shall implement those policies and incentives that the

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Department determines will attract those businesses.

(Source: P.A. 91-239, eff. 1-1-00.)

(20 ILCS 605/605-75 rep.)

Section 10. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by repealing Section 605-75.

Section 15. The Energy Conservation and Coal Development Act is amended by changing Section 3 as follows:

(20 ILCS 1105/3) (from Ch. 96 1/2, par. 7403)

Sec. 3. Powers and Duties.

(a) In addition to its other powers, the Department has the following powers:

(1) To administer for the State any energy programs and activities under federal law, regulations or guidelines, and to coordinate such programs and activities with other State agencies, units of local government, and educational institutions.

(2) To represent the State in energy matters involving the federal government, other states, units of local government, and regional agencies.

(3) To prepare energy contingency plans for consideration by the Governor and the General Assembly. Such plans shall include procedures for determining when a foreseeable danger exists of energy shortages, including shortages of petroleum, coal, nuclear power, natural gas, and other forms of energy, and shall specify the actions to be taken to minimize hardship and maintain the general welfare during such energy shortages.

(4) To cooperate with State colleges and universities and their governing boards in energy programs and activities.

(5) (Blank).

(6) To accept, receive, expend, and administer, including by contracts and grants to other State agencies, any energy-related gifts, grants, cooperative agreement funds, and other funds made available to the Department by the federal government and other public and private sources.

(7) To investigate practical problems, seek and utilize financial assistance, implement studies and conduct research relating to the production, distribution and use of alcohol fuels.

(8) To serve as a clearinghouse for information on alcohol production technology; provide assistance, information and data relating to the production and use of alcohol; develop informational packets and brochures, and hold public seminars to encourage the development and utilization of the best available technology.

(9) To coordinate with other State agencies in order to promote the maximum flow of information and to avoid unnecessary overlapping of alcohol fuel programs. In order to effectuate this goal, the Director of the Department or his representative shall consult with the Directors, or their representatives, of the Departments of Agriculture, Central Management Services, Transportation, and Revenue, the Office of the State Fire Marshal, and the Environmental Protection Agency.

(10) To operate, within the Department, an Office of Coal Development and Marketing for the promotion and marketing of Illinois coal both domestically and internationally. The Department may use monies appropriated for this purpose for necessary administrative expenses.

The Office of Coal Development and Marketing shall develop and implement an initiative to assist the coal industry in Illinois to increase its share of the international coal market.

(11) To assist the Department of Central Management Services in establishing and maintaining a system to analyze and report energy consumption of facilities leased by the Department of Central Management Services.

(12) To consult with the Departments of Natural Resources and Transportation and the Illinois Environmental Protection Agency for the purpose of developing methods and standards that encourage the utilization of coal combustion by-products as value added products in productive and benign applications.

(13) To provide technical assistance and information to sellers and distributors of storage hot water heaters doing business in Illinois, pursuant to Section 1 of the Hot Water Heater Efficiency Act.

(b) (Blank).

(c) (Blank).

(d) The Department shall develop a package of educational materials regarding the necessity of waste reduction and recycling to reduce dependence on landfills and to maintain environmental quality. The materials developed shall be suitable for instructional use in grades 3, 4 and 5. The Department shall distribute such instructional material to all public elementary and unit school districts no later than

November 1, of each year.

(e) ~~(Blank).~~ The Department shall study the feasibility of requiring that wood and sawdust from construction waste, demolition projects, sawmills, or other projects or industries where wood is used in a large amount be shredded and composted, and that such wood be prohibited from being disposed of in a landfill. The Department shall report the results of this study to the General Assembly by January 1, 1991.

(f) ~~(Blank).~~

(g) ~~(Blank).~~ The Department shall develop a program designated to encourage the recycling of outdated telephone directories and to encourage the printing of new directories on recycled paper. The Department shall work in conjunction with printers and distributors of telephone directories distributed in the State to provide them with any technical assistance available in their efforts to procure appropriate recycled paper. The Department shall also encourage directory distributors to pick up outdated directories as they distribute new ones, and shall assist any distributor who is willing to do so in finding a recycler willing to purchase the old directories and in publicizing and promoting with citizens of the area the distributor's collection efforts and schedules.

(h) ~~(Blank).~~ The Department shall assist, cooperate with and provide necessary staff and resources for the Interagency Energy Conservation Committee, which shall be chaired by the Director of the Department.

(i) ~~(Blank).~~

(Source: P.A. 92-736, eff. 7-25-02.)

Section 25. The Illinois Emergency Management Agency Act is amended by changing Section 18 as follows:

(20 ILCS 3305/18) (from Ch. 127, par. 1068)

Sec. 18. Orders, Rules and Regulations.

(a) The Governor shall file a copy of every rule, regulation or order, and any amendment thereof made by the Governor under the provisions of this Act in the office of the Secretary of State. No rule, regulation or order, or any amendment thereof shall be effective until 10 days after the filing, provided, however, that upon the declaration of a disaster by the Governor as is described in Section 7 the provision relating to the effective date of any rule, regulation, order or amendment issued under this Act and during the state of disaster is abrogated, and the rule, regulation, order or amendment shall become effective immediately upon being filed with the Secretary of State accompanied by a certificate stating the reason as required by the Illinois Administrative Procedure Act.

(b) Every emergency services and disaster agency established pursuant to this Act and the coordinators thereof shall execute and enforce the orders, rules and regulations as may be made by the Governor under authority of this Act. Each emergency services and disaster agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under the Governor's authority. The Illinois Emergency Management Agency shall furnish on the Department's website the orders, rules and regulations to each such emergency services and disaster agency. Upon the written request of an emergency services or disaster agency, copies thereof shall be mailed to the emergency services or disaster agency.

(Source: P.A. 92-73, eff. 1-1-02.)

(20 ILCS 4020/Act rep.)

Section 27. The Prairie State 2000 Authority Act is repealed.

Section 30. The State Finance Act is amended by changing Sections 5h and 6z-17 as follows:

(30 ILCS 105/5h)

Sec. 5h. Cash flow borrowing and general funds liquidity.

(a) In order to meet cash flow deficits and to maintain liquidity in the General Revenue Fund, the Healthcare Provider Relief Fund, and the Common School Fund, on and after July 1, 2010 and through June 30, 2011, the State Treasurer and the State Comptroller shall make transfers to the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, as directed by the Governor, out of special funds of the State, to the extent allowed by federal law. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. No such transfer may reduce the cumulative balance of all of the special funds of the State to an amount less than the total debt service payable during the 12 months immediately following the date of the transfer on any bonded indebtedness of the State and any certificates issued under the Short Term Borrowing Act. Notwithstanding any other

provision of this Section, no such transfer may be made from any special fund that is exclusively collected by or appropriated to any other constitutional officer without the written approval of that constitutional officer.

(b) If moneys have been transferred to the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund pursuant to subsection (a) of this Section, this amendatory Act of the 96th General Assembly shall constitute the irrevocable and continuing authority for and direction to the State Treasurer and State Comptroller to reimburse the funds of origin from the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, as appropriate, by transferring to the funds of origin, at such times and in such amounts as directed by the Governor when necessary to support appropriated expenditures from the funds, an amount equal to that transferred from them plus any interest that would have accrued thereon had the transfer not occurred, except that any moneys transferred pursuant to subsection (a) of this Section shall be repaid to the fund of origin within 18 months after the date on which they were borrowed.

(c) On the first day of each quarterly period in each fiscal year, until such time as a report indicates that all moneys borrowed and interest pursuant to this Section have been repaid, the Governor's Office of Management and Budget shall provide to the President and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the Commission on Government Forecasting and Accountability a report on all transfers made pursuant to this Section in the prior quarterly period. The report must be provided in both written and electronic format. The report must include all of the following:

(1) The date each transfer was made.

(2) The amount of each transfer.

(3) In the case of a transfer from the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund to a fund of origin pursuant to subsection (b) of this Section, the amount of interest being paid to the fund of origin.

(4) The end of day balance of both the fund of origin and the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, whichever the case may be, on the date the transfer was made.

(Source: P.A. 96-958, eff. 7-1-10; 96-1500, eff. 1-18-11; 97-72, eff. 7-1-11 (see also P.A. 97-613 regarding effective date of P.A. 97-72).)

(30 ILCS 105/6z-17) (from Ch. 127, par. 142z-17)

Sec. 6z-17. Of the money paid into the State and Local Sales Tax Reform Fund: (i) subject to appropriation to the Department of Revenue, Municipalities having 1,000,000 or more inhabitants shall receive 20% and may expend such amount to fund and establish a program for developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income and very low-income households within such municipality, (ii) 10% shall be transferred into the Regional Transportation Authority Occupation and Use Tax Replacement Fund, a special fund in the State treasury which is hereby created, (iii) until July 1, 2013, subject to appropriation to the Department of Transportation, the The Madison County Mass Transit District shall receive .6%, and beginning on July 1, 2013, subject to appropriation to the Department of Revenue, 0.6% shall be distributed each month out of the Fund to the Madison County Mass Transit District. (iv) the following amounts, plus any cumulative deficiency in such transfers for prior months, shall be transferred monthly into the Build Illinois Fund and credited to the Build Illinois Bond Account therein:

Fiscal Year	Amount
1990	\$2,700,000
1991	1,850,000
1992	2,750,000
1993	2,950,000

From Fiscal Year 1994 through Fiscal Year 2025 the transfer shall total \$3,150,000 monthly, plus any cumulative deficiency in such transfers for prior months, and (v) the remainder of the money paid into the State and Local Sales Tax Reform Fund shall be transferred into the Local Government Distributive Fund and, except for municipalities with 1,000,000 or more inhabitants which shall receive no portion of such remainder, shall be distributed, subject to appropriation, in the manner provided by Section 2 of "An Act in relation to State revenue sharing with local government entities", approved July 31, 1969, as now or hereafter amended. Municipalities with more than 50,000 inhabitants according to the 1980 U.S. Census and located within the Metro East Mass Transit District receiving funds pursuant to provision (v) of this paragraph may expend such amounts to fund and establish a program for developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income and very low-income households within such municipality.

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(Source: P.A. 95-708, eff. 1-18-08.)

Section 35. The Federal Stimulus Tracking Act is amended by changing Section 5 as follows:  
(30 ILCS 270/5)

(Section scheduled to be repealed on January 1, 2015)

Sec. 5. Federal stimulus tracking.

(a) The Governor's Office, or a designated State agency, shall track and report by means of a quarterly ~~monthly~~ report the State's spending of the federal stimulus moneys provided pursuant to the American Recovery and Reinvestment Act of 2009.

(b) Each quarterly ~~monthly~~ report shall list the amount of the State's federal stimulus spending, by category, based on available federal and State data. The reports may also list any required matching funds required by the State to be eligible for federal stimulus funding. The reports may make recommendations (i) concerning ways for Illinois to maximize its share of federal stimulus spending or (ii) suggesting changes to Illinois law that could help to maximize its share of federal stimulus spending. A final report compiling data from the quarterly ~~monthly~~ reports shall be available online at the conclusion of the American Recovery and Reinvestment Act program or by December 31, 2014, whichever occurs first.

(c) The reports shall be available on a State of Illinois website and filed with the Speaker and Minority Leader of the House and the President and Minority Leader of the Senate.

(d) The General Assembly may by resolution request that specific data, findings, or analyses be included in a monthly report. The Commission on Government Forecasting and Accountability shall provide the Governor's Office technical, analytical, and substantive assistance in preparing the requested data, findings, or analyses.

(e) This Act is repealed on January 1, 2015.

(Source: P.A. 96-169, eff. 8-10-09.)

Section 40. The General Obligation Bond Act is amended by changing Section 11 as follows:  
(30 ILCS 330/11) (from Ch. 127, par. 661)

Sec. 11. Sale of Bonds. Except as otherwise provided in this Section, Bonds shall be sold from time to time pursuant to notice of sale and public bid or by negotiated sale in such amounts and at such times as is directed by the Governor, upon recommendation by the Director of the Governor's Office of Management and Budget. At least 25%, based on total principal amount, of all Bonds issued each fiscal year shall be sold pursuant to notice of sale and public bid. At all times during each fiscal year, no more than 75%, based on total principal amount, of the Bonds issued each fiscal year, shall have been sold by negotiated sale. Failure to satisfy the requirements in the preceding 2 sentences shall not affect the validity of any previously issued Bonds; provided that all Bonds authorized by Public Act 96-43 and this amendatory Act of the 96th General Assembly shall not be included in determining compliance for any fiscal year with the requirements of the preceding 2 sentences; and further provided that refunding Bonds satisfying the requirements of Section 16 of this Act and sold during fiscal year 2009, 2010, or 2011 shall not be subject to the requirements in the preceding 2 sentences.

If any Bonds, including refunding Bonds, are to be sold by negotiated sale, the Director of the Governor's Office of Management and Budget shall comply with the competitive request for proposal process set forth in the Illinois Procurement Code and all other applicable requirements of that Code.

If Bonds are to be sold pursuant to notice of sale and public bid, the Director of the Governor's Office of Management and Budget may shall, from time to time, as Bonds are to be sold, advertise the sale of the Bonds in at least 2 daily newspapers, one of which is published in the City of Springfield and one in the City of Chicago. The sale of the Bonds shall also be advertised in the volume of the Illinois Procurement Bulletin that is published by the Department of Central Management Services and ~~Each of the advertisements for proposals shall be published once at least 10 days prior to the date fixed for the opening of the bids. The Director of the Governor's Office of Management and Budget may reschedule the date of sale upon the giving of such additional notice as the Director deems adequate to inform prospective bidders of such change; provided, however, that all other conditions of the sale shall continue as originally advertised.~~

Executed Bonds shall, upon payment therefor, be delivered to the purchaser, and the proceeds of Bonds shall be paid into the State Treasury as directed by Section 12 of this Act.

(Source: P.A. 96-18, eff. 6-26-09; 96-43, eff. 7-15-09; 96-1497, eff. 1-14-11.)

Section 45. The Build Illinois Bond Act is amended by changing Section 8 as follows:  
(30 ILCS 425/8) (from Ch. 127, par. 2808)

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Sec. 8. Sale of Bonds. Bonds, except as otherwise provided in this Section, shall be sold from time to time pursuant to notice of sale and public bid or by negotiated sale in such amounts and at such times as are directed by the Governor, upon recommendation by the Director of the Governor's Office of Management and Budget. At least 25%, based on total principal amount, of all Bonds issued each fiscal year shall be sold pursuant to notice of sale and public bid. At all times during each fiscal year, no more than 75%, based on total principal amount, of the Bonds issued each fiscal year shall have been sold by negotiated sale. Failure to satisfy the requirements in the preceding 2 sentences shall not affect the validity of any previously issued Bonds; and further provided that refunding Bonds satisfying the requirements of Section 15 of this Act and sold during fiscal year 2009, 2010, or 2011 shall not be subject to the requirements in the preceding 2 sentences.

If any Bonds are to be sold pursuant to notice of sale and public bid, the Director of the Governor's Office of Management and Budget shall comply with the competitive request for proposal process set forth in the Illinois Procurement Code and all other applicable requirements of that Code.

If Bonds are to be sold pursuant to notice of sale and public bid, the Director of the Governor's Office of Management and Budget may shall, from time to time, as Bonds are to be sold, advertise the sale of the Bonds in at least 2 daily newspapers, one of which is published in the City of Springfield and one in the City of Chicago. The sale of the Bonds shall also be advertised in the volume of the Illinois Procurement Bulletin that is published by the Department of Central Management Services and ~~Each of the advertisements for proposals shall be published once at least 10 days prior to the date fixed for the opening of the bids. The Director of the Governor's Office of Management and Budget may reschedule the date of sale upon the giving of such additional notice as the Director deems adequate to inform prospective bidders of the change; provided, however, that all other conditions of the sale shall continue as originally advertised. Executed Bonds shall, upon payment therefor, be delivered to the purchaser, and the proceeds of Bonds shall be paid into the State Treasury as directed by Section 9 of this Act. The Governor or the Director of the Governor's Office of Management and Budget is hereby authorized and directed to execute and deliver contracts of sale with underwriters and to execute and deliver such certificates, indentures, agreements and documents, including any supplements or amendments thereto, and to take such actions and do such things as shall be necessary or desirable to carry out the purposes of this Act. Any action authorized or permitted to be taken by the Director of the Governor's Office of Management and Budget pursuant to this Act is hereby authorized to be taken by any person specifically designated by the Governor to take such action in a certificate signed by the Governor and filed with the Secretary of State.~~

(Source: P.A. 96-18, eff. 6-26-09.)

Section 50. The Industrial Development Assistance Law is amended by changing Section 3 as follows:

(30 ILCS 720/3) (from Ch. 85, par. 893)

Sec. 3. Definitions. "Department" means the Department of Commerce and Economic Opportunity.

"Governing bodies" means, as to any county, municipality or township, the body empowered to enact ordinances or to adopt resolutions for the governance of such county, municipality or township.

"Industrial development agency" means any nonprofit corporation, organization, association or agency which shall be designated by proper resolution of the governing body of any county, concurred in by resolution of the governing bodies of municipalities or townships within said county having in the aggregate over 50% of the population of said county, as determined by the last preceding decennial United States Census, as the agency authorized to make application to and receive grants, subject to appropriation, from the Department of Commerce and Economic Opportunity for the purposes specified in this Act. Any two or more counties may, by the procedures provided in this Act, designate a single industrial development agency to represent such counties for the purposes of this Act.

(Source: P.A. 94-793, eff. 5-19-06.)

Section 55. The Build Illinois Act is amended by changing Section 9-4.5 as follows:

(30 ILCS 750/9-4.5)

Sec. 9-4.5. Community economic development project.

(a) Subject to appropriation, the ~~The~~ Department shall establish a comprehensive community economic development project. The project shall provide technical assistance to 5 communities for the following purposes:

- (1) To develop a comprehensive understanding of the community.
- (2) To plan for industrial retention and development.
- (3) To establish an early warning network to warn of potential business closings.



(4) To provide on-going technical assistance in areas including, but not limited to, succession planning; acquisition of companies by local entrepreneurs, with special encouragement for minorities, women, and groups of employees; job training; and technology improvement.

(b) Subject to appropriation, the ~~The~~ Department shall select the communities that participate in the project through a competitive process open to all communities in Illinois. For purposes of this Section, "community" includes municipalities, other units of local government, and neighborhoods and regions within municipalities or other units of local government. Community direction of the project and the capacity of the community to fulfill project goals established by the Department shall be prerequisites for participation. The Department shall issue rules establishing the competitive process.  
(Source: P.A. 88-191; 88-670, eff. 12-2-94.)

(50 ILCS 330/5 rep.)

Section 57. The Illinois Municipal Budget Law is amended by repealing Section 5.

Section 60. The Illinois Banking Act is amended by changing Section 5 as follows:

(205 ILCS 5/5) (from Ch. 17, par. 311)

Sec. 5. General corporate powers. A bank organized under this Act or subject hereto shall be a body corporate and politic and shall, without specific mention thereof in the charter, have all the powers conferred by this Act and the following additional general corporate powers:

(1) To sue and be sued, complain, and defend in its corporate name.

(2) To have a corporate seal, which may be altered at pleasure, and to use the same by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced, provided that the affixing of a corporate seal to an instrument shall not give the instrument additional force or effect, or change the construction thereof, and the use of a corporate seal is not mandatory.

(3) To make, alter, amend, and repeal bylaws, not inconsistent with its charter or with law, for the administration of the affairs of the bank. If this Act does not provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act of 1983 may be used if so provided in the bylaws, and if the bank is a limited liability company, the provisions of the Limited Liability Company Act shall be used.

(4) To elect or appoint and remove officers and agents of the bank and define their duties and fix their compensation.

(5) To adopt and operate reasonable bonus plans, profit-sharing plans, stock-bonus plans, stock-option plans, pension plans and similar incentive plans for its directors, officers and employees.

(5.1) To manage, operate and administer a fund for the investment of funds by a public agency or agencies, including any unit of local government or school district, or any person. The fund for a public agency shall invest in the same type of investments and be subject to the same limitations provided for the investment of public funds. The fund for public agencies shall maintain a separate ledger showing the amount of investment for each public agency in the fund. "Public funds" and "public agency" as used in this Section shall have the meanings ascribed to them in Section 1 of the Public Funds Investment Act.

(6) To make reasonable donations for the public welfare or for charitable, scientific, religious or educational purposes.

(7) To borrow or incur an obligation; and to pledge its assets:

(a) to secure its borrowings, its lease of personal or real property or its other nondeposit obligations;

(b) to enable it to act as agent for the sale of obligations of the United States;

(c) to secure deposits of public money of the United States, whenever required by the laws of the United States, including without being limited to, revenues and funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees and Postal Savings funds;

(d) to secure deposits of public money of any state or of any political corporation or subdivision thereof including, without being limited to, revenues and funds the deposit of which is subject to the control or regulation of any state or of any political corporation or subdivisions thereof or of any of their officers, agents, or employees;

(e) to secure deposits of money whenever required by the National Bankruptcy Act;

(f) (blank); and

(g) to secure trust funds commingled with the bank's funds, whether deposited by the bank or an affiliate of the bank, pursuant to Section 2-8 of the Corporate Fiduciary Act.

(8) To own, possess, and carry as assets all or part of the real estate necessary in or with which to do its banking business, either directly or indirectly through the ownership of all or part of the capital stock,

shares or interests in any corporation, association, trust engaged in holding any part or parts or all of the bank premises, engaged in such business and in conducting a safe deposit business in the premises or part of them, or engaged in any activity that the bank is permitted to conduct in a subsidiary pursuant to paragraph (12) of this Section 5.

(9) To own, possess, and carry as assets other real estate to which it may obtain title in the collection of its debts or that was formerly used as a part of the bank premises, but title to any real estate except as herein permitted shall not be retained by the bank, either directly or by or through a subsidiary, as permitted by subsection (12) of this Section for a total period of more than 10 years after acquiring title, either directly or indirectly.

(10) To do any act, including the acquisition of stock, necessary to obtain insurance of its deposits, or part thereof, and any act necessary to obtain a guaranty, in whole or in part, of any of its loans or investments by the United States or any agency thereof, and any act necessary to sell or otherwise dispose of any of its loans or investments to the United States or any agency thereof, and to acquire and hold membership in the Federal Reserve System.

(11) Notwithstanding any other provisions of this Act or any other law, to do any act and to own, possess, and carry as assets property of the character, including stock, that is at the time authorized or permitted to national banks by an Act of Congress, but subject always to the same limitations and restrictions as are applicable to national banks by the pertinent federal law and subject to applicable provisions of the Financial Institutions Insurance Sales Law.

(12) To own, possess, and carry as assets stock of one or more corporations that is, or are, engaged in one or more of the following businesses:

(a) holding title to and administering assets acquired as a result of the collection or liquidating of loans, investments, or discounts; or

(b) holding title to and administering personal property acquired by the bank, directly or indirectly through a subsidiary, for the purpose of leasing to others, provided the lease or leases and the investment of the bank, directly or through a subsidiary, in that personal property otherwise comply with Section 35.1 of this Act; or

(c) carrying on or administering any of the activities excepting the receipt of deposits or the payment of checks or other orders for the payment of money in which a bank may engage in carrying on its general banking business; provided, however, that nothing contained in this paragraph (c) shall be deemed to permit a bank organized under this Act or subject hereto to do, either directly or indirectly through any subsidiary, any act, including the making of any loan or investment, or to own, possess, or carry as assets any property that if done by or owned, possessed, or carried by the State bank would be in violation of or prohibited by any provision of this Act.

The provisions of this subsection (12) shall not apply to and shall not be deemed to limit the powers of a State bank with respect to the ownership, possession, and carrying of stock that a State bank is permitted to own, possess, or carry under this Act.

Any bank intending to establish a subsidiary under this subsection (12) shall give written notice to the Commissioner 60 days prior to the subsidiary's commencing of business or, as the case may be, prior to acquiring stock in a corporation that has already commenced business. After receiving the notice, the Commissioner may waive or reduce the balance of the 60 day notice period. The Commissioner may specify the form of the notice, may designate the types of subsidiaries not subject to this notice requirement, and may promulgate rules and regulations to administer this subsection (12).

(13) To accept for payment at a future date not exceeding one year from the date of acceptance, drafts drawn upon it by its customers; and to issue, advise, or confirm letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents.

(14) To own and lease personal property acquired by the bank at the request of a prospective lessee and upon the agreement of that person to lease the personal property provided that the lease, the agreement with respect thereto, and the amount of the investment of the bank in the property comply with Section 35.1 of this Act.

(15) (a) To establish and maintain, in addition to the main banking premises, branches offering any banking services permitted at the main banking premises of a State bank.

(b) To establish and maintain, after May 31, 1997, branches in another state that may conduct any activity in that state that is authorized or permitted for any bank that has a banking charter issued by that state, subject to the same limitations and restrictions that are applicable to banks chartered by that state.

(16) (Blank).

(17) To establish and maintain terminals, as authorized by the Electronic Fund Transfer Act.

(18) To establish and maintain temporary service booths at any International Fair held in this State

which is approved by the United States Department of Commerce, for the duration of the international fair for the sole purpose of providing a convenient place for foreign trade customers at the fair to exchange their home countries' currency into United States currency or the converse. This power shall not be construed as establishing a new place or change of location for the bank providing the service booth.

(19) To indemnify its officers, directors, employees, and agents, as authorized for corporations under Section 8.75 of the Business Corporation Act of 1983.

(20) To own, possess, and carry as assets stock of, or be or become a member of, any corporation, mutual company, association, trust, or other entity formed exclusively for the purpose of providing directors' and officers' liability and bankers' blanket bond insurance or reinsurance to and for the benefit of the stockholders, members, or beneficiaries, or their assets or businesses, or their officers, directors, employees, or agents, and not to or for the benefit of any other person or entity or the public generally.

(21) To make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all of these corporations and in all of these projects does not exceed 10% of the unimpaired capital and unimpaired surplus of the bank and provided that this limitation shall not apply to creditworthy loans by the bank to those corporations or projects. Upon written application to the Commissioner, a bank may make an investment that would, when aggregated with all other such investments, exceed 10% of the unimpaired capital and unimpaired surplus of the bank. The Commissioner may approve the investment if he is of the opinion and finds that the proposed investment will not have a material adverse effect on the safety and soundness of the bank.

(22) To own, possess, and carry as assets the stock of a corporation engaged in the ownership or operation of a travel agency or to operate a travel agency as a part of its business.

(23) With respect to affiliate facilities:

(a) to conduct at affiliate facilities for and on behalf of another commonly owned bank, if so authorized by the other bank, all transactions that the other bank is authorized or permitted to perform; and

(b) to authorize a commonly owned bank to conduct for and on behalf of it any of the transactions it is authorized or permitted to perform at one or more affiliate facilities.

Any bank intending to conduct or to authorize a commonly owned bank to conduct at an affiliate facility any of the transactions specified in this paragraph (23) shall give written notice to the Commissioner at least 30 days before any such transaction is conducted at the affiliate facility.

(24) To act as the agent for any fire, life, or other insurance company authorized by the State of Illinois, by soliciting and selling insurance and collecting premiums on policies issued by such company; and to receive for services so rendered such fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent; provided, however, that no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal; and provided further, that the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(25) Notwithstanding any other provisions of this Act or any other law, to offer any product or service that is at the time authorized or permitted to any insured savings association or out-of-state bank by applicable law, provided that powers conferred only by this subsection (25):

(a) shall always be subject to the same limitations and restrictions that are applicable to the insured savings association or out-of-state bank for the product or service by such applicable law;

(b) shall be subject to applicable provisions of the Financial Institutions Insurance Sales Law;

(c) shall not include the right to own or conduct a real estate brokerage business for which a license would be required under the laws of this State; and

(d) shall not be construed to include the establishment or maintenance of a branch, nor shall they be construed to limit the establishment or maintenance of a branch pursuant to subsection (11).

Not less than 30 days before engaging in any activity under the authority of this subsection, a bank shall provide written notice to the Commissioner of its intent to engage in the activity. The notice shall indicate the specific federal or state law, rule, regulation, or interpretation the bank intends to use as authority to engage in the activity.

(Source: P.A. 92-483, eff. 8-23-01; 92-811, eff. 8-21-02; 93-561; eff. 1-1-04.)

Section 65. The Savings Bank Act is amended by changing Section 8006 as follows:

[April 18, 2013]

(205 ILCS 205/8006) (from Ch. 17, par. 7308-6)

Sec. 8006. Merger; Secretary's certificate. The executed merger agreement together with copies of the resolutions of the members or stockholders of each merging depository institution approving it, certified by the president or vice president, and attested to by the secretary of the savings bank, shall be filed with the Secretary. The Secretary shall then issue to the continuing savings bank a certificate of merger, setting forth the name of each merging depository institution, the name of the continuing savings bank, and the articles of incorporation of the continuing savings bank. The merger takes effect upon the ~~issuance of the certificate of merger recording of the certificate in the same manner as the articles of incorporation in each county in which the business office of any of the merging depository institutions was located and in the county in which the business office of the continuing savings bank is located. When duly recorded, the certificate shall be conclusive evidence of the merger and of the correctness of the proceedings therefor except against the State.~~

(Source: P.A. 97-492, eff. 1-1-12.)

Section 70. The Sales Finance Agency Act is amended by changing Section 13 as follows:

(205 ILCS 660/13) (from Ch. 17, par. 5231)

Sec. 13. Rules. The Department may make and enforce such reasonable rules, regulations, directions, orders, decisions and findings as the execution and enforcement of this Act require, and as are not inconsistent therewith. In addition, the Department may promulgate rules in connection with the activities of licensees that are necessary and appropriate for the protection of consumers in this State. All rules and regulations shall be ~~sent electronically to printed and copies thereof mailed to~~ all licensees.

(Source: P.A. 90-437, eff. 1-1-98; 91-698, eff. 5-6-00.)

Section 75. The Consumer Installment Loan Act is amended by changing Section 22 as follows:

(205 ILCS 670/22) (from Ch. 17, par. 5428)

Sec. 22. Rules and regulations. The Department may make and enforce such reasonable rules, regulations, directions, orders, decisions, and findings as the execution and enforcement of the provisions of this Act require, and as are not inconsistent therewith. In addition, the Department may promulgate rules in connection with the activities of licensees that are necessary and appropriate for the protection of consumers in this State. All rules, regulations and directions of a general character shall be ~~sent electronically to printed and copies thereof mailed to~~ all licensees.

(Source: P.A. 90-437, eff. 1-1-98; 91-698, eff. 5-6-00.)

Section 80. The Illinois Chemical Safety Act is amended by changing Section 3 as follows:

(430 ILCS 45/3) (from Ch. 111 1/2, par. 953)

Sec. 3. Definitions. For the purposes of this Act:

"Agency" means the Illinois Environmental Protection Agency.

"Business" means any individual, partnership, corporation, or association in the State engaged in a business operation that has 5 or more full-time employees, or 20 or more part-time employees, and that is properly assigned or included within one of the following Standard Industrial Classifications (SIC), as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget:

2295 Coated fabrics, not rubberized;

2491 Wood preserving;

2671 Packaging paper and plastics film, coated and laminated;

2672 Coated and laminated paper, not elsewhere classified;

2812 Alkalies and chlorine;

2813 Industrial gases;

2819 Industrial inorganic chemicals, not elsewhere classified;

2821 Plastic materials, synthetic resins, and non-vulcanizable elastomers;

2834 Pharmaceutical preparations;

2842 Specialty cleaning, polishing and sanitation preparations;

2851 Paints, varnishes, lacquers, enamels, and allied products;

2865 Cyclic (coal tar) crudes, and cyclic intermediaries, dyes and organic pigments (lakes and toners);

2869 Industrial organic chemicals, not elsewhere classified;

2873 Nitrogenous fertilizer;

2874 Phosphatic fertilizers;

2879 Pesticides and agricultural chemicals, not elsewhere classified;

2891 Adhesives and sealants;

2892 Explosives;  
 2911 Petroleum refining;  
 2952 Asphalt felts and coatings;  
 2999 Products of petroleum and coal, not elsewhere classified;  
 3081 Unsupported plastics, film and sheet;  
 3082 Unsupported plastics profile shapes;  
 3083 Laminated plastics plate, sheet and profile shapes;  
 3084 Plastic pipe;  
 3085 Plastic bottles;  
 3086 Plastic foam products;  
 3087 Custom compounding of purchased plastic resin;  
 3088 Plastic plumbing fixtures;  
 3089 Plastic products, not elsewhere classified;  
 3111 Leather tanning and finishing;  
 3339 Primary smelting and refining of nonferrous metals, except copper and aluminum;  
 3432 Plumbing fixture fittings and trim;  
 3471 Electroplating, plating, polishing, anodizing and coloring;  
 4953 Refuse systems;  
 5085 Industrial supplies;  
 5162 Plastic materials and basic forms and shapes;  
 5169 Chemicals and allied products, not elsewhere classified;  
 5171 Petroleum bulk stations and terminals;  
 5172 Petroleum and petroleum products, wholesalers, except bulk stations and terminals.

For the purposes of this Act, the SIC Code that a business uses for determining its coverage under The Unemployment Insurance Act shall be the SIC Code for determining the applicability of this Act. ~~On an annual basis, the Department of Employment Security shall provide the IEMA with a list of those regulated facilities covered by the above mentioned SIC codes.~~

"Business" also means any facility not covered by the above SIC codes that is subject to the provisions of Section 302 of the federal Emergency Planning and Community Right-to-Know Act of 1986 and that is found by the Agency to use, store, or manufacture a chemical substance in a quantity that poses a threat to the environment or public health. Such a determination shall be based on an on-site inspection conducted by the Agency and certified to the IEMA. The Agency shall also conduct inspections at the request of IEMA or upon a written request setting forth a justification to the IEMA from the chairman of the local emergency planning committee upon recommendation of the committee. The IEMA shall transmit a copy of the request to the Agency. The Agency may, in the event of a reportable release that occurs at any facility operated or owned by a business not covered by the above SIC codes, conduct inspections if the site hazard appears to warrant such action. The above notwithstanding, any farm operation shall not be considered as a facility subject to this definition.

Notwithstanding the above, for purposes of this Act, "business" does not mean any facility for which the requirements promulgated at Part 1910.119 of Title 29 of the Code of Federal Regulations are applicable or which has completed and submitted the plan required by Part 68 of Title 40 of the Code of Federal Regulations, provided that such business conducts and documents in writing an assessment for any instance where the Agency provides notice that a significant release of a chemical substance has occurred at a facility. Such assessment shall explain the nature, cause and known effects of the release, any mitigating actions taken, and preventive measures that can be employed to avoid a future release. Such assessment shall be available at the facility for review within 30 days after the Agency notifies the facility that a significant release has occurred. The Agency may provide written comments to the business following an on-site review of an assessment.

"Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the American Chemical Society's Chemical Abstracts Service (CAS) rules of nomenclature, or a name that will clearly identify the chemical for hazard evaluation purposes.

"Chemical substance" means any "extremely hazardous substance" listed in Appendix A of 40 C.F.R. Part 355 that is present at a facility in an amount in excess of its threshold planning quantity, any "hazardous substance" listed in 40 C.F.R. Section 302.4 that is present at a facility in an amount in excess of its reportable quantity or in excess of its threshold planning quantity if it is also an "extremely hazardous substance", and any petroleum including crude oil or any fraction thereof that is present at a facility in an amount exceeding 100 pounds unless it is specifically listed as a "hazardous substance" or an "extremely hazardous substance". "Chemical substance" does not mean any substance to the extent it

is used for personal, family, or household purposes or to the extent it is present in the same form and concentration as a product packaged for distribution to and use by the general public.

"IEMA" means the Illinois Emergency Management Agency.

"Facility" means the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business.

"Local emergency planning committee" means the committee that is appointed for an emergency planning district under the provisions of Section 301 of the federal Emergency Planning and Community Right-to-Know Act of 1986.

"Release" means any sudden spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing into the environment beyond the boundaries of a facility, but excludes the following:

(a) Any release that results in exposure to persons solely within a workplace, with respect to a claim that such persons may assert against their employer.

(b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

(c) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the Atomic Energy Act of 1954.

(d) The normal application of fertilizer.

"Significant release" means any release which is so designated in writing by the Agency or the IEMA based upon an inspection at the site of an emergency incident, or any release which results in any evacuation, hospitalization, or fatalities of the public.

(Source: P.A. 97-333, eff. 8-12-11.)

(625 ILCS 5/15-115 rep.)

Section 85. The Illinois Vehicle Code is amended by repealing Section 15-115.

Section 90. The Payday Loan Reform Act is amended by changing Section 4-30 as follows:

(815 ILCS 122/4-30)

Sec. 4-30. Rulemaking; industry review.

(a) The Department may make and enforce such reasonable rules, regulations, directions, orders, decisions, and findings as the execution and enforcement of the provisions of this Act require, and as are not inconsistent therewith. All rules, regulations, and directions of a general character shall be sent electronically to printed and copies thereof mailed to all licensees.

(b) Within 6 months after the effective date of this Act, the Department shall promulgate reasonable rules regarding the issuance of payday loans by banks, savings banks, savings and loan associations, credit unions, and insurance companies. These rules shall be consistent with this Act and shall be limited in scope to the actual products and services offered by lenders governed by this Act.

(c) After the effective date of this Act, the Department shall, over a 3-year period, conduct a study of the payday loan industry to determine the impact and effectiveness of this Act. The Department shall report its findings to the General Assembly within 3 months of the third anniversary of the effective date of this Act. The study shall determine the effect of this Act on the protection of consumers in this State and on the fair and reasonable regulation of the payday loan industry. The study shall include, but shall not be limited to, an analysis of the ability of the industry to use private reporting tools that:

(1) ensure substantial compliance with this Act, including real time reporting of outstanding payday loans; and

(2) provide data to the Department in an appropriate form and with appropriate content to allow the Department to adequately monitor the industry.

The report of the Department shall, if necessary, identify and recommend specific amendments to this Act to further protect consumers and to guarantee fair and reasonable regulation of the payday loan industry.

(Source: P.A. 94-13, eff. 12-6-05.)

Section 999. Effective date. This Act takes effect upon becoming law."

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

[April 18, 2013]

On motion of Senator Collins, **Senate Bill No. 1667** having been printed, was taken up, read by title a second time.

Senator Collins offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1667**

AMENDMENT NO. 1. Amend Senate Bill 1667 by replacing everything after the enacting clause with the following:

"Section 5. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-3 and 4-2 and adding Section 7-15 as follows:

(205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

Sec. 1-3. Necessity for License; Scope of Act.

(a) No person, partnership, association, corporation or other entity shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans without first obtaining a license from the ~~Secretary Commissioner~~ in accordance with the licensing procedure provided in this Article I and such regulations as may be promulgated by the ~~Secretary Commissioner~~. The licensing provisions of this Section shall not apply to any entity engaged solely in commercial mortgage lending or to any person, partnership association, corporation or other entity exempted pursuant to Section 1-4, subsection (d), of this Act or in accordance with regulations promulgated by the ~~Secretary Commissioner~~ hereunder. No provision of this Act shall apply to an exempt person or entity as defined in items (1) and (1.5) of subsection (d) of Section 1-4 of this Act. Notwithstanding anything to the contrary in the preceding sentence, an individual acting as a mortgage loan originator who is not employed by and acting for an entity described in item (1) of subsection (tt) of Section 1-4 of this Act shall be subject to the mortgage loan originator licensing requirements of Article VII of this Act.

Effective January 1, 2011, no provision of this Act shall apply to an exempt person or entity as defined in item (1.8) of subsection (d) of Section 1-4 of this Act. Notwithstanding anything to the contrary in the preceding sentence, an individual acting as a mortgage loan originator who is not employed by and acting for an entity described in item (1) of subsection (tt) of Section 1-4 of this Act shall be subject to the mortgage loan originator licensing requirements of Article VII of this Act, and provided that an individual acting as a mortgage loan originator under item (1.8) of subsection (d) of Section 1-4 of this Act shall be further subject to a determination by the U.S. Department of Housing and Urban Development through final rulemaking or other authorized agency determination under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

(a-1) A person who is exempt from licensure pursuant to paragraph (ii) of item (1) of subsection (d) of Section 1-4 of this Act as a federally chartered savings bank that is registered with the Nationwide Mortgage Licensing System and Registry may apply to the Secretary for an exempt company registration for the purpose of sponsoring one or more individuals subject to the mortgage loan originator licensing requirements of Article VII of this Act. Registration with the Division of Banking of the Department shall not affect the exempt status of the applicant.

(1) A mortgage loan originator eligible for licensure under this subsection shall (A) be covered under an exclusive written contract with, and originate residential mortgage loans solely on behalf of, that exempt person; and (B) hold a current, valid insurance producer license under Article XXXI of the Illinois Insurance Code.

(2) An exempt person shall: (A) fulfill any reporting requirements required by the Nationwide Mortgage Licensing System and Registry or the Secretary; (B) provide a blanket surety bond pursuant to Section 7-12 of this Act covering the activities of all its sponsored mortgage loan originators; (C) reasonably supervise the activities of all its sponsored mortgage loan originators; (D) comply with all rules and orders (including the averments contained in Section 2-4 of this Act as applicable to a non-licensed exempt entity provided for in this Section) that the Secretary deems necessary to ensure compliance with the federal SAFE Act; and (E) pay an annual registration fee established by the Director.

(3) The Secretary may deny an exempt company registration to an exempt person or fine, suspend, or revoke an exempt company registration if the Secretary finds one of the following:

(A) that the exempt person is not a person of honesty, truthfulness, or good character;

(B) that the exempt person violated any applicable law, rule, or order;

(C) that the exempt person refused or failed to furnish, within a reasonable time, any information or make any report that may be required by the Secretary;

(D) that the exempt person had a final judgment entered against him or her in a civil action on grounds of fraud, deceit, or misrepresentation, and the conduct on which the judgment is based indicates

that it would be contrary to the interest of the public to permit the exempt person to manage a loan originator;

(E) that the exempt person had an order entered against him or her involving fraud, deceit, or misrepresentation by an administrative agency of this State, the federal government, or any other state or territory of the United States, and the facts relating to the order indicate that it would be contrary to the interest of the public to permit the exempt person to manage a loan originator;

(F) that the exempt person made a material misstatement or suppressed or withheld information on the application for an exempt company registration or any document required to be filed with the Secretary; or

(G) that the exempt person violated Section 4-5 of this Act.

(b) No person, partnership, association, corporation, or other entity except a licensee under this Act or an entity exempt from licensing pursuant to Section 1-4, subsection (d), of this Act shall do any business under any name or title, or circulate or use any advertising or make any representation or give any information to any person, which indicates or reasonably implies activity within the scope of this Act.

(c) The Secretary Commissioner may, through the Attorney General, request the circuit court of either Cook or Sangamon County to issue an injunction to restrain any person from violating or continuing to violate any of the foregoing provisions of this Section.

(d) When the Secretary Commissioner has reasonable cause to believe that any entity which has not submitted an application for licensure is conducting any of the activities described in subsection (a) hereof, the Secretary Commissioner shall have the power to examine all books and records of the entity and any additional documentation necessary in order to determine whether such entity should become licensed under this Act.

(d-1) The Secretary Commissioner may issue orders against any person if the Secretary Commissioner has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary Commissioner, or for the purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.

(e) Any person, partnership, association, corporation or other entity who violates any provision of this Section commits a business offense and shall be fined an amount not to exceed \$25,000.

(f) Each person, partnership, association, corporation or other entity conducting activities regulated by this Act shall be issued one license. Each office, place of business or location at which a residential mortgage licensee conducts any part of his or her business must be recorded with the Secretary Commissioner pursuant to Section 2-8 of this Act.

(g) Licensees under this Act shall solicit, broker, fund, originate, service and purchase residential mortgage loans only in conformity with the provisions of this Act and such rules and regulations as may be promulgated by the Secretary Commissioner.

(h) This Act applies to all entities doing business in Illinois as residential mortgage bankers, as defined by "An Act to provide for the regulation of mortgage bankers", approved September 15, 1977, as amended, regardless of whether licensed under that or any prior Act. Any existing residential mortgage lender or residential mortgage broker in Illinois whether or not previously licensed, must operate in accordance with this Act.

(i) This Act is a successor Act to and a continuance of the regulation of residential mortgage bankers provided in, "An Act to provide for the regulation of mortgage bankers", approved September 15, 1977, as amended.

Entities and persons subject to the predecessor Act shall be subject to this Act from and after its effective date.

(Source: P.A. 96-112, eff. 7-31-09; 96-1216, eff. 1-1-11; 97-143, eff. 7-14-11.)

(205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

Sec. 4-2. Examination; prohibited activities.

(a) The business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Secretary Commissioner deems necessary and proper. The Secretary Commissioner shall promulgate rules with respect to the frequency and manner of examination. The Secretary Commissioner shall appoint a suitable person to perform such examination. The Secretary Commissioner and his appointees may examine the entire books, records, documents, and operations of each licensee and its subsidiary, affiliate, or agent, and may examine any of the licensee's or its subsidiary's, affiliate's, or agent's officers, directors, employees and agents under oath. For purposes of this Section, "agent" includes service providers such as accountants, closing services providers, providers of outsourced services such as call centers, marketing consultants, and loan processors, even if exempt from licensure under this Act. This Section does not apply to an attorney's privileged work product or communications.

[April 18, 2013]



(b) The Secretary Commissioner shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of such report to each licensee's principals, officers, or directors and shall take appropriate steps to ensure correction of violations of this Act.

(c) Affiliates of a licensee shall be subject to examination by the Secretary Commissioner on the same terms as the licensee, but only when reports from, or examination of a licensee provides for documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting or deriving from the activities regulated by this Act.

(d) The expenses of any examination of the licensee and affiliates shall be borne by the licensee and assessed by the Secretary Commissioner as established by regulation.

(e) Upon completion of the examination, the Secretary Commissioner shall issue a report to the licensee. All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Secretary's Commissioner's office and may not be disclosed to anyone other than the licensee, law enforcement officials or other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary Commissioner, or to a party presenting a lawful subpoena to the Office of the Secretary Commissioner. The Secretary Commissioner may immediately appeal to the court of jurisdiction the disclosure of such confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Secretary Commissioner under this Act and results of examinations performed by the Secretary Commissioner under this Act shall be the property of only the Secretary Commissioner, but may be shared with the licensee. Access under this Act to the books and records of each licensee shall be limited to the Secretary Commissioner and his agents as provided in this Act and to the licensee and its authorized agents and designees. No other person shall have access to the books and records of a licensee under this Act. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary Commissioner of the demand, at which time the Secretary Commissioner is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Secretary Commissioner may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Secretary Commissioner, no person obtaining access to confidential supervisory information may make a copy of the confidential supervisory information. The Secretary Commissioner may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Secretary Commissioner, the Secretary Commissioner may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Secretary Commissioner may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Secretary Commissioner may impose on either or both parties. The requestor shall promptly notify other parties to a case of the release of confidential supervisory information obtained and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(f) The Secretary Commissioner, deputy commissioners, and employees of the Office of Banks and Real Estate shall be subject to the restrictions provided in Section 2.5 of the Division of Banking Act including, without limitation, the restrictions on (i) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

(g) After the initial examination for those licensees whose only mortgage activity is servicing fewer than 1,000 Illinois residential loans, the examination required in subsection (a) may be waived upon submission of a letter from the licensee's independent certified auditor that the licensee serviced fewer than 1,000 Illinois residential loans during the year in which the audit was performed.

(h) An exempt entity under subsection (a-1) of Section 1-3 of this Act shall cooperate with the Secretary in the examination and investigation of its sponsored and licensed mortgage loan originators at a frequency determined by the Secretary. The exempt entity under subsection (a-1) of Section 1-3 of this Act shall cooperate with the Secretary in providing mortgage loan originator documents and access to mortgage loan originator offices for the purposes of examination and investigation. The activities of the exempt entity shall not relieve a mortgage loan originator of his or her individual requirements under Section 7-15 of this Act. An exempt entity under subsection (a-1) of Section 1-3 of this Act shall pay to

the Department any examination fees invoiced by the Secretary for examination of its sponsored mortgage loan originators. The Secretary shall have the authority to make oral or written inquiries regarding the management of an exempt entity under subsection (a-1) of Section 1-3 of this Act and it shall be the duty of the exempt entity to promptly reply by telephone, in writing, or other means to the inquiry.

(Source: P.A. 96-112, eff. 7-31-09; 96-1365, eff. 7-28-10.)

(205 ILCS 635/7-15 new)

Sec. 7-15. Examination and investigation of certain mortgage loan originators. The activities requiring a licensee of a mortgage loan originator that are sponsored by an exempt entity under subsection (a-1) of Section 1-3 of this Act are subject to examination and investigation by the Secretary. Mortgage loan originators sponsored by an exempt entity shall keep and maintain records of his or her loan activities for a period of 36 months and shall produce records on demand by the Secretary. The records shall include a loan log or loan production log as approved by the Secretary and any loan application entered, prepared, or created through or from the mortgage loan originator's activities. Mortgage loan originators sponsored by an exempt entity shall provide access, upon the Secretary's demand, to his or her offices for the purposes of the Department's examination and investigation. The Secretary shall determine the manner and frequency at which the Department shall conduct examinations of the mortgage loan originators. Mortgage loan originators sponsored by an exempt entity shall cooperate at all times with the Department pursuant to requirements of this Section and shall be subject to penalties under Section 7-11 of this Act for failure to comply.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Muñoz, as chief co-sponsor pursuant to Senate Rule 5-1(b)(ii), **Senate Bill No. 1697** having been printed, was taken up, read by title a second time.

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

#### **AMENDMENT NO. 1 TO SENATE BILL 1697**

AMENDMENT NO. 1. Amend Senate Bill 1697 by replacing everything after the enacting clause with the following:

"Section 5. The Regional Transportation Authority Act is amended by changing Sections 3A.09 and 3B.09 as follows:

(70 ILCS 3615/3A.09) (from Ch. 111 2/3, par. 703A.09)

Sec. 3A.09. General Powers. In addition to any powers elsewhere provided to the Suburban Bus Board, it shall have all of the powers specified in Section 2.20 of this Act except for the powers specified in Section 2.20(a)(v). The Board shall also have the power:

(a) to cooperate with the Regional Transportation Authority in the exercise by the Regional Transportation Authority of all the powers granted it by such Act;

(b) to receive funds from the Regional Transportation Authority pursuant to Sections 2.02, 4.01, 4.02, 4.09 and 4.10 of the Regional Transportation Authority Act, all as provided in the Regional Transportation Authority Act;

(c) to receive financial grants from the Regional Transportation Authority or a Service Board, as defined in the Regional Transportation Authority Act, upon such terms and conditions as shall be set forth in a grant contract between either the Division and the Regional Transportation Authority or the Division and another Service Board, which contract or agreement may be for such number of years or duration as the parties agree, all as provided in the Regional Transportation Authority Act;

(d) to perform all functions necessary for the provision of paratransit services under Section 2.30 of this Act; and

(e) to borrow money for the purposes of: (i) constructing a new garage in the northwestern Cook County suburbs at an estimated cost of \$60,000,000, (ii) converting the South Cook garage in Markham to a Compressed Natural Gas facility at an estimated cost of \$12,000,000,

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(iii) constructing a new paratransit garage in DuPage County at an estimated cost of \$25,000,000, and (iv) expanding the North Shore garage in Evanston to accommodate additional indoor bus parking at an estimated cost of \$3,000,000. For the purpose of evidencing the obligation of the Suburban Bus Board to repay any money borrowed as provided in this subsection, the Suburban Bus Board may issue revenue bonds from time to time pursuant to ordinance adopted by the Suburban Bus Board, subject to the approval of the Regional Transportation Authority of each such issuance by the affirmative vote of 12 of its then Directors; provided that the Suburban Bus Board may not issue bonds for the purpose of financing the acquisition, construction, or improvement of any facility other than those listed in this subsection (e). All such bonds shall be payable solely from the revenues or income or any other funds that the Suburban Bus Board may receive, provided that the Suburban Bus Board may not pledge as security for such bonds the moneys, if any, that the Suburban Bus Board receives from the Regional Transportation Authority pursuant to Section 4.03.3(f) of the Regional Transportation Authority Act. The bonds shall bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act and shall mature at such time or times not exceeding 25 years from their respective dates. Bonds issued pursuant to this paragraph must be issued with scheduled principal or mandatory redemption payments in equal amounts in each fiscal year over the term of the bonds, with the first principal or mandatory redemption payment scheduled within the fiscal year in which bonds are issued or within the next succeeding fiscal year. At least 25%, based on total principal amount, of all bonds authorized pursuant to this Section shall be sold pursuant to notice of sale and public bid. No more than 75%, based on total principal amount, of all bonds authorized pursuant to this Section shall be sold by negotiated sale. The maximum principal amount of the bonds that may be issued may not exceed \$100,000,000. The bonds shall have all the qualities of negotiable instruments under the laws of this State. To secure the payment of any or all of such bonds and for the purpose of setting forth the covenants and undertakings of the Suburban Bus Board in connection with the issuance thereof and the issuance of any additional bonds payable from such revenue or income as well as the use and application of the revenue or income received by the Suburban Bus Board, the Suburban Bus Board may execute and deliver a trust agreement or agreements; provided that no lien upon any physical property of the Suburban Bus Board shall be created thereby. A remedy for any breach or default of the terms of any such trust agreement by the Suburban Bus Board may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted. Under no circumstances shall any bonds issued by the Suburban Bus Board or any other obligation of the Suburban Bus Board in connection with the issuance of such bonds be or become an indebtedness or obligation of the State of Illinois, the Regional Transportation Authority, or any other political subdivision of or municipality within the State, nor shall any such bonds or obligations be or become an indebtedness of the Suburban Bus Board within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid.

(f) for the sole purposes of protecting, managing, and insuring against the risk associated with volatile fuel prices, enter into any option contract, forward contract, futures contract, swap, cap, or collar agreements with price floors or ceilings, or both, for fuel risk management, but only to the extent determined by the Board of Directors of the Regional Transportation Authority or the Suburban Bus Board to be in the best interests of the Authority or the Suburban Bus Board.

(Source: P.A. 97-770, eff. 1-1-13.)

(70 ILCS 3615/3B.09) (from Ch. 111 2/3, par. 703B.09)

Sec. 3B.09. General Powers. In addition to any powers elsewhere provided to the Commuter Rail Board, it shall have all of the powers specified in Section 2.20 of this Act except for the powers specified in Section 2.20(a)(v). The Board shall also have the power:

(a) to cooperate with the Regional Transportation Authority in the exercise by the Regional Transportation Authority of all the powers granted it by such Act;

(b) to receive funds from the Regional Transportation Authority pursuant to Sections 2.02, 4.01, 4.02, 4.09 and 4.10 of the "Regional Transportation Authority Act", all as provided in the "Regional Transportation Authority Act";

(c) to receive financial grants from the Regional Transportation Authority or a Service Board, as defined in the "Regional Transportation Authority Act", upon such terms and conditions as shall be set forth in a grant contract between either the Division and the Regional Transportation Authority or the Division and another Service Board, which contract or agreement may be for such number of years or duration as the parties may agree, all as provided in the "Regional Transportation Authority Act"; and

(d) to borrow money for the purpose of acquiring, constructing, reconstructing, extending, or

improving any Public Transportation Facilities (as defined in Section 1.03 of the Regional Transportation Authority Act) operated by or to be operated by or on behalf of the Commuter Rail Division. For the purpose of evidencing the obligation of the Commuter Rail Board to repay any money borrowed as provided in this subsection, the Commuter Rail Board may issue revenue bonds from time to time pursuant to ordinance adopted by the Commuter Rail Board, subject to the approval of the Regional Transportation Authority of each such issuance by the affirmative vote of 12 of its then Directors; provided that the Commuter Rail Board may not issue bonds for the purpose of financing the acquisition, construction, or improvement of a corporate headquarters building. All such bonds shall be payable solely from the revenues or income or any other funds that the Commuter Rail Board may receive, provided that the Commuter Rail Board may not pledge as security for such bonds the moneys, if any, that the Commuter Rail Board receives from the Regional Transportation Authority pursuant to Section 4.03.3(f) of the Regional Transportation Authority Act. The bonds shall bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act and shall mature at such time or times not exceeding 25 years from their respective dates. Bonds issued pursuant to this paragraph must be issued with scheduled principal or mandatory redemption payments in equal amounts in each fiscal year over the term of the bonds, with the first principal or mandatory redemption payment scheduled within the fiscal year in which bonds are issued or within the next succeeding fiscal year. At least 25%, based on total principal amount, of all bonds authorized pursuant to this Section shall be sold pursuant to notice of sale and public bid. No more than 75%, based on total principal amount, of all bonds authorized pursuant to this Section shall be sold by negotiated sale. The maximum principal amount of the bonds that may be issued and outstanding at any time may not exceed \$1,000,000,000. The bonds shall have all the qualities of negotiable instruments under the laws of this State. To secure the payment of any or all of such bonds and for the purpose of setting forth the covenants and undertakings of the Commuter Rail Board in connection with the issuance thereof and the issuance of any additional bonds payable from such revenue or income as well as the use and application of the revenue or income received by the Commuter Rail Board, the Commuter Rail Board may execute and deliver a trust agreement or agreements; provided that no lien upon any physical property of the Commuter Rail Board shall be created thereby. A remedy for any breach or default of the terms of any such trust agreement by the Commuter Rail Board may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted. Under no circumstances shall any bonds issued by the Commuter Rail Board or any other obligation of the Commuter Rail Board in connection with the issuance of such bonds be or become an indebtedness or obligation of the State of Illinois, the Regional Transportation Authority, or any other political subdivision of or municipality within the State, nor shall any such bonds or obligations be or become an indebtedness of the Commuter Rail Board within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid.

(e) for the sole purposes of protecting, managing, and insuring against the risk associated with volatile fuel prices, enter into any option contract, forward contract, futures contract, swap, cap, or collar agreements with price floors or ceilings, or both, for fuel risk management, but only to the extent determined by the Board of Directors of the Regional Transportation Authority or the Commuter Rail Board to be in the best interests of the Authority or the Commuter Rail Board.

(Source: P.A. 95-708, eff. 1-18-08.)"

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Holmes, **Senate Bill No. 1704** having been printed, was taken up, read by title a second time.

Senator Holmes offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1704**

AMENDMENT NO. 1. Amend Senate Bill 1704 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Sections 9.1 and 39 as follows:

[April 18, 2013]

(415 ILCS 5/9.1) (from Ch. 111 1/2, par. 1009.1)

Sec. 9.1. (a) The General Assembly finds that the federal Clean Air Act, as amended, and regulations adopted pursuant thereto establish complex and detailed provisions for State-federal cooperation in the field of air pollution control, provide for a Prevention of Significant Deterioration program to regulate the issuance of preconstruction permits to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards, and that the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

It is the purpose of this Section to avoid the existence of duplicative, overlapping or conflicting State and federal regulatory systems.

(b) The provisions of Section 111 of the federal Clean Air Act (42 USC 7411), as amended, relating to standards of performance for new stationary sources, and Section 112 of the federal Clean Air Act (42 USC 7412), as amended, relating to the establishment of national emission standards for hazardous air pollutants are applicable in this State and are enforceable under this Act. Any such enforcement shall be stayed consistent with any stay granted in any federal judicial action to review such standards. Enforcement shall be consistent with the results of any such judicial review.

(c) The Board may adopt regulations establishing permit programs meeting the requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken (A) without a permit granted by the Agency whenever a permit is required pursuant to (i) this Act or Board regulations or (ii) Section 111, 112, 165, or 173 of the Clean Air Act or federal regulations adopted pursuant thereto or (B) in violation of any conditions imposed by such permit. Any denial of such a permit or any conditions imposed in such a permit shall be reviewable by the Board in accordance with Section 40 of this Act.

(e) The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity. In accordance with subsection (b) of Section 7.2, the Board shall adopt regulations identical in substance to the U.S. Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of volatile organic compounds in the Federal Register by amending the list of exemptions to the Board's definition of volatile organic material found at 35 Ill. Adm. Code Part 211. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, does not apply to regulations adopted under this subsection. However, the Board shall provide for notice, a hearing if required by the U.S. Environmental Protection Agency, and public comment before adopted rules are filed with the Secretary of State. The Board may consolidate into a single rulemaking under this subsection all such federal policy statements published in the Federal Register within a period of time not to exceed 6 months.

(f) ~~(Blank). If a complete application for a permit renewal is submitted to the Agency at least 90 days prior to expiration of the permit, all of the terms and conditions of the permit shall remain in effect until final administrative action has been taken on the application.~~

(Source: P.A. 97-95, eff. 7-12-11.)

(415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

Sec. 39. Issuance of permits; procedures.

(a) When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such procedures as are necessary to carry out its duties under this

Section. In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment. In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with this Act as necessary to correct, detect, or prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit under this Section, the Agency shall transmit to the applicant within the time limitations of this Section specific, detailed statements as to the reasons the permit application was denied. Such statements shall include, but not be limited to the following:

- (i) the Sections of this Act which may be violated if the permit were granted;
- (ii) the provision of the regulations, promulgated under this Act, which may be violated if the permit were granted;
- (iii) the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and
- (iv) a statement of specific reasons why the Act and the regulations might not be met if the permit were granted.

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for public hearing are required by State or federal law or regulation, (2) the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

The Agency shall publish notice of all final permit determinations for development permits for MSWLF units and for significant permit modifications for lateral expansions for existing MSWLF units one time in a newspaper of general circulation in the county in which the unit is or is proposed to be located.

After January 1, 1994 and until July 1, 1998, operating permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days after the date of such a request. The Board shall revise its regulations for the existing State air pollution operating permit program consistent with this provision by January 1, 1994.

After June 30, 1998, operating permits issued under this Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required to have a federally enforceable State operating permit shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and its rules. Such operating permits shall expire 180 days after the date of such a request. Before July 1, 1998, the Board shall revise its rules for the existing State air pollution operating permit program consistent with this paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this paragraph.

(b) The Agency may issue NPDES permits exclusively under this subsection for the discharge of contaminants from point sources into navigable waters, all as defined in the Federal Water Pollution Control Act, as now or hereafter amended, within the jurisdiction of the State, or into any well.

All NPDES permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act.

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

The Agency may include, among such conditions, effluent limitations and other requirements established under this Act, Board regulations, the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto, and schedules for achieving compliance therewith at the earliest reasonable date.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for

the issuance of NPDES permits, and which are consistent with the Act or regulations adopted by the Board, and with the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

The Agency, subject to any conditions which may be prescribed by Board regulations, may issue NPDES permits to allow discharges beyond deadlines established by this Act or by regulations of the Board without the requirement of a variance, subject to the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.

In the event that siting approval granted pursuant to Section 39.2 has been transferred to a subsequent owner or operator, that subsequent owner or operator may apply to the Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner or operator, the permit applicant shall cause written notice of the permit application to be served upon the appropriate county board or governing body of the municipality that granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval was granted. In that event, the Agency shall conduct an evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner conducted under subsection (i) of Section 39 of this Act.

Beginning August 20, 1993, if the pollution control facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an unincorporated area of a county with a population of less than 100,000 and includes all or a portion of a parcel of land that was, on April 1, 1993, adjacent to a municipality having a population of less than 5,000, then the local siting review required under this subsection (c) in conjunction with any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than the county board of the county in which the proposed site is located; and for the purposes of that local siting review, any references in this Act to the county board shall be deemed to mean the governing body of that adjacent municipality; provided, however, that the provisions of this paragraph shall not apply to any proposed site which was, on April 1, 1993, owned in whole or in part by another municipality.

In the case of a pollution control facility for which a development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved by the appropriate county board or municipal governing body pursuant to Section 39.2 of this Act.

After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been issued by the Agency, has not accepted waste disposal for 5 or more consecutive calendars years, before that facility may accept any new or additional waste for disposal, the owner and operator must obtain a new operating permit under this Act for that facility unless the owner and operator have applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved or re-approved by the appropriate county board or municipal governing body under Section 39.2 of this Act after the facility ceased accepting waste.

Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, and except for new pollution control facilities governed by Section 39.2, and except for fossil fuel mining facilities, the granting of a permit under this Act shall not relieve the applicant from meeting and securing all necessary zoning approvals from the unit of government having zoning jurisdiction over the proposed facility.

Before beginning construction on any new sewage treatment plant or sludge drying site to be owned or operated by a sanitary district organized under the Metropolitan Water Reclamation District Act for which a new permit (rather than the renewal or amendment of an existing permit) is required, such

sanitary district shall hold a public hearing within the municipality within which the proposed facility is to be located, or within the nearest community if the proposed facility is to be located within an unincorporated area, at which information concerning the proposed facility shall be made available to the public, and members of the public shall be given the opportunity to express their views concerning the proposed facility.

The Agency may issue a permit for a municipal waste transfer station without requiring approval pursuant to Section 39.2 provided that the following demonstration is made:

- (1) the municipal waste transfer station was in existence on or before January 1, 1979 and was in continuous operation from January 1, 1979 to January 1, 1993;
  - (2) the operator submitted a permit application to the Agency to develop and operate the municipal waste transfer station during April of 1994;
  - (3) the operator can demonstrate that the county board of the county, if the municipal waste transfer station is in an unincorporated area, or the governing body of the municipality, if the station is in an incorporated area, does not object to resumption of the operation of the station; and
  - (4) the site has local zoning approval.
- (d) The Agency may issue RCRA permits exclusively under this subsection to persons owning or operating a facility for the treatment, storage, or disposal of hazardous waste as defined under this Act.

All RCRA permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith as soon as possible. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a RCRA permit.

In the case of a permit to operate a hazardous waste or PCB incinerator as defined in subsection (k) of Section 44, the Agency shall require, as a condition of the permit, that the operator of the facility perform such analyses of the waste to be incinerated as may be necessary and appropriate to ensure the safe operation of the incinerator.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(e) The Agency may issue UIC permits exclusively under this subsection to persons owning or operating a facility for the underground injection of contaminants as defined under this Act.

All UIC permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a UIC permit.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of UIC permits, and which are consistent with the Act or regulations adopted by the Board, and with the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection, all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(f) In making any determination pursuant to Section 9.1 of this Act:

- (1) The Agency shall have authority to make the determination of any question required to be determined by the Clean Air Act, as now or hereafter amended, this Act, or the regulations of the Board, including the determination of the Lowest Achievable Emission Rate, Maximum Achievable



Control Technology, or Best Available Control Technology, consistent with the Board's regulations, if any.

(2) The Agency shall, after conferring with the applicant, give written notice to the applicant of its proposed decision on the application including the terms and conditions of the permit to be issued and the facts, conduct or other basis upon which the Agency will rely to support its proposed action.

(3) Following such notice, the Agency shall give the applicant an opportunity for a hearing in accordance with the provisions of Sections 10-25 through 10-60 of the Illinois Administrative Procedure Act.

(g) The Agency shall include as conditions upon all permits issued for hazardous waste disposal sites such restrictions upon the future use of such sites as are reasonably necessary to protect public health and the environment, including permanent prohibition of the use of such sites for purposes which may create an unreasonable risk of injury to human health or to the environment. After administrative and judicial challenges to such restrictions have been exhausted, the Agency shall file such restrictions of record in the Office of the Recorder of the county in which the hazardous waste disposal site is located.

(h) A hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific authorization is obtained from the Agency by the generator and disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous. In granting authorization under this Section, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and are consistent with this Act and regulations promulgated by the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as if the Agency refused to grant a permit, pursuant to the provisions of subsection (a) of Section 40 of this Act. For purposes of this subsection (h), the term "generator" has the meaning given in Section 3.205 of this Act, unless: (1) the hazardous waste is treated, incinerated, or partially recycled for reuse prior to disposal, in which case the last person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or (2) the hazardous waste is from a response action, in which case the person performing the response action is the generator. This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 728.

(i) Before issuing any RCRA permit, any permit for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste incinerator, or any waste-transportation operation, or any permit or interim authorization for a clean construction or demolition debris fill operation, the Agency shall conduct an evaluation of the prospective owner's or operator's prior experience in waste management operations and clean construction or demolition debris fill operations. The Agency may deny such a permit, or deny or revoke interim authorization, if the prospective owner or operator or any employee or officer of the prospective owner or operator has a history of:

(1) repeated violations of federal, State, or local laws, regulations, standards, or ordinances in the operation of waste management facilities or sites or clean construction or demolition debris fill operation facilities or sites; or

(2) conviction in this or another State of any crime which is a felony under the laws of this State, or conviction of a felony in a federal court; or conviction in this or another state or federal court of any of the following crimes: forgery, official misconduct, bribery, perjury, or knowingly submitting false information under any environmental law, regulation, or permit term or condition; or

(3) proof of gross carelessness or incompetence in handling, storing, processing, transporting or disposing of waste or clean construction or demolition debris, or proof of gross carelessness or incompetence in using clean construction or demolition debris as fill.

(i-5) Before issuing any permit or approving any interim authorization for a clean construction or demolition debris fill operation in which any ownership interest is transferred between January 1, 2005, and the effective date of the prohibition set forth in Section 22.52 of this Act, the Agency shall conduct an evaluation of the operation if any previous activities at the site or facility may have caused or allowed contamination of the site. It shall be the responsibility of the owner or operator seeking the permit or interim authorization to provide to the Agency all of the information necessary for the Agency to conduct its evaluation. The Agency may deny a permit or interim authorization if previous activities at the site may have caused or allowed contamination at the site, unless such contamination is authorized under any permit issued by the Agency.

(j) The issuance under this Act of a permit to engage in the surface mining of any resources other than fossil fuels shall not relieve the permittee from its duty to comply with any applicable local law regulating the commencement, location or operation of surface mining facilities.

(k) A development permit issued under subsection (a) of Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at the end of 2 calendar years from the date upon which it was issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that review of the conditions of the development permit is sought pursuant to Section 40 or 41, or permittee is prevented from commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year period shall be deemed to begin on the date upon which such review process or litigation is concluded.

(l) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

(m) The Agency may issue permits to persons owning or operating a facility for composting landscape waste. In granting such permits, the Agency may impose such conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with applicable regulations promulgated by the Board. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit pursuant to this subsection, the Agency shall transmit to the applicant within the time limitations of this subsection specific, detailed statements as to the reasons the permit application was denied. Such statements shall include but not be limited to the following:

- (1) the Sections of this Act that may be violated if the permit were granted;
- (2) the specific regulations promulgated pursuant to this Act that may be violated if the permit were granted;
- (3) the specific information, if any, the Agency deems the applicant did not provide in its application to the Agency; and
- (4) a statement of specific reasons why the Act and the regulations might be violated if the permit were granted.

If no final action is taken by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of 200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

- (1) the facility includes a setback of at least 200 feet from the nearest potable water supply well;
- (2) the facility is located outside the boundary of the 10-year floodplain or the site will be floodproofed;
- (3) the facility is located so as to minimize incompatibility with the character of the surrounding area, including at least a 200 foot setback from any residence, and in the case of a facility that is developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is located at least 1/8 mile from the nearest residence (other than a residence located on the same property as the facility);
- (4) the design of the facility will prevent any compost material from being placed within 5 feet of the water table, will adequately control runoff from the site, and will collect and manage any leachate that is generated on the site;
- (5) the operation of the facility will include appropriate dust and odor control measures, limitations on operating hours, appropriate noise control measures for shredding, chipping and similar equipment, management procedures for composting, containment and disposal of non-compostable wastes, procedures to be used for terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, composted and otherwise disposed of; and
- (6) the operation will be conducted in accordance with any applicable rules adopted by the Board.

The Agency shall issue renewable permits of not longer than 10 years in duration for the composting of landscape wastes, as defined in Section 3.155 of this Act, based on the above requirements.

The operator of any facility permitted under this subsection (m) must submit a written annual statement to the Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for composting.

(n) The Agency shall issue permits jointly with the Department of Transportation for the dredging or deposit of material in Lake Michigan in accordance with Section 18 of the Rivers, Lakes, and Streams Act.

(o) (Blank.)

(p) (1) Any person submitting an application for a permit for a new MSWLF unit or for a lateral expansion under subsection (t) of Section 21 of this Act for an existing MSWLF unit that has not received and is not subject to local siting approval under Section 39.2 of this Act shall publish notice of the application in a newspaper of general circulation in the county in which the MSWLF unit is or is proposed to be located. The notice must be published at least 15 days before submission of the permit application to the Agency. The notice shall state the name and address of the applicant, the location of the MSWLF unit or proposed MSWLF unit, the nature and size of the MSWLF unit or proposed MSWLF unit, the nature of the activity proposed, the probable life of the proposed activity, the date the permit application will be submitted, and a statement that persons may file written comments with the Agency concerning the permit application within 30 days after the filing of the permit application unless the time period to submit comments is extended by the Agency.

When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the Agency, the applicant shall not be required to reissue the notice under this subsection.

(2) The Agency shall accept written comments concerning the permit application that are postmarked no later than 30 days after the filing of the permit application, unless the time period to accept comments is extended by the Agency.

(3) Each applicant for a permit described in part (1) of this subsection shall file a copy of the permit application with the county board or governing body of the municipality in which the MSWLF unit is or is proposed to be located at the same time the application is submitted to the Agency. The permit application filed with the county board or governing body of the municipality shall include all documents submitted to or to be submitted to the Agency, except trade secrets as determined under Section 7.1 of this Act. The permit application and other documents on file with the county board or governing body of the municipality shall be made available for public inspection during regular business hours at the office of the county board or the governing body of the municipality and may be copied upon payment of the actual cost of reproduction.

(q) Within 6 months after the effective date of this amendatory Act of the 97th General Assembly, the Agency, in consultation with the regulated community, shall develop a web portal to be posted on its website for the purpose of enhancing review and promoting timely issuance of permits required by this Act. At a minimum, the Agency shall make the following information available on the web portal:

(1) Checklists and guidance relating to the completion of permit applications,

developed pursuant to subsection (s) of this Section, which may include, but are not limited to, existing instructions for completing the applications and examples of complete applications. As the Agency develops new checklists and develops guidance, it shall supplement the web portal with those materials.

(2) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, permit application forms or portions of permit applications that can be completed and saved electronically, and submitted to the Agency electronically with digital signatures.

(3) Within 2 years after the effective date of this amendatory Act of the 97th General

Assembly, an online tracking system where an applicant may review the status of its pending application, including the name and contact information of the permit analyst assigned to the application. Until the online tracking system has been developed, the Agency shall post on its website semi-annual permitting efficiency tracking reports that include statistics on the timeframes for Agency action on the following types of permits received after the effective date of this amendatory Act of the 97th General Assembly: air construction permits, new NPDES permits and associated water construction permits, and modifications of major NPDES permits and associated water construction permits. The reports must be posted by February 1 and August 1 each year and shall include:

(A) the number of applications received for each type of permit, the number of applications on which the Agency has taken action, and the number of applications still pending; and

(B) for those applications where the Agency has not taken action in accordance with the timeframes set forth in this Act, the date the application was received and the reasons for any delays, which may include, but shall not be limited to, (i) the application being inadequate or incomplete, (ii) scientific or technical disagreements with the applicant, USEPA, or other local, state, or federal agencies involved in the permitting approval process, (iii) public opposition to the permit, or (iv) Agency staffing shortages. To the extent practicable, the tracking report shall provide

approximate dates when cause for delay was identified by the Agency, when the Agency informed the applicant of the problem leading to the delay, and when the applicant remedied the reason for the delay.

(r) Upon the request of the applicant, the Agency shall notify the applicant of the permit analyst assigned to the application upon its receipt.

(s) The Agency is authorized to prepare and distribute guidance documents relating to its administration of this Section and procedural rules implementing this Section. Guidance documents prepared under this subsection shall not be considered rules and shall not be subject to the Illinois Administrative Procedure Act. Such guidance shall not be binding on any party.

(t) Except as otherwise prohibited by federal law or regulation, any person submitting an application for a permit may include with the application suggested permit language for Agency consideration. The Agency is not obligated to use the suggested language or any portion thereof in its permitting decision. If requested by the permit applicant, the Agency shall meet with the applicant to discuss the suggested language.

(u) If requested by the permit applicant, the Agency shall provide the permit applicant with a copy of the draft permit prior to any public review period.

(v) If requested by the permit applicant, the Agency shall provide the permit applicant with a copy of the final permit prior to its issuance.

(w) An air pollution permit shall not be required due to emissions of greenhouse gases, as specified by Section 9.15 of this Act.

(x) If, before the expiration of a State operating permit that is issued pursuant to subsection (a) of this Section and contains federally enforceable conditions limiting the potential to emit of the source to a level below the major source threshold for that source so as to exclude the source from the Clean Air Act Permit Program, the Agency receives a complete application for the renewal of that permit, then all of the terms and conditions of the permit shall remain in effect until final administrative action has been taken on the application for the renewal of the permit.

(Source: P.A. 97-95, eff. 7-12-11.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Rose, **Senate Bill No. 1735** having been printed, was taken up, read by title a second time.

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

#### AMENDMENT NO. 1 TO SENATE BILL 1735

AMENDMENT NO. 1. Amend Senate Bill 1735 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 6-303 as follows:

(625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

Sec. 6-303. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Except as otherwise provided in subsection (a-5), any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit issued prior to January 1, 2009, monitoring device driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(a-3) A second or subsequent violation of subsection (a) of this Section is a Class 4 felony, if committed by a person whose driving or operation of a motor vehicle is the proximate cause of a motor vehicle accident that causes personal injury or death to another. For purposes of this subsection, a personal injury includes any Type A injury as indicated on the traffic accident report completed by a law

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

(a-5) Any person who violates this Section as provided in subsection (a) while his or her driver's license, permit or privilege is revoked because of a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide or a similar provision of a law of another state, is guilty of a Class 4 felony. The person shall be required to undergo a professional evaluation, as provided in Section 11-501 of this Code, to determine if an alcohol, drug, or intoxicating compound problem exists and the extent of the problem, and to undergo the imposition of treatment as appropriate.

(b) (Blank).

(b-1) Upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle during the time when the person's driver's license, permit or privilege was suspended by the Secretary of State or the driver's licensing administrator of another state, except as specifically allowed by a probationary license, judicial driving permit, restricted driving permit or monitoring device driving permit the Secretary shall extend the suspension for the same period of time as the originally imposed suspension unless the suspension has already expired, in which case the Secretary shall be authorized to suspend the person's driving privileges for the same period of time as the originally imposed suspension.

(b-2) Except as provided in subsection (b-6), upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle when the person's driver's license, permit or privilege was revoked by the Secretary of State or the driver's license administrator of any other state, except as specifically allowed by a restricted driving permit issued pursuant to this Code or the law of another state, the Secretary shall not issue a driver's license for an additional period of one year from the date of such conviction indicating such person was operating a vehicle during such period of revocation.

(b-3) (Blank).

(b-4) When the Secretary of State receives a report of a conviction of any violation indicating a person was operating a motor vehicle that was not equipped with an ignition interlock device during a time when the person was prohibited from operating a motor vehicle not equipped with such a device, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of the conviction.

(b-5) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 30 consecutive days or 300 hours of community service when the person's driving privilege was revoked or suspended as a result of a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(b-6) Upon receiving a report of a first conviction of operating a motor vehicle while the person's driver's license, permit or privilege was revoked where the revocation was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide or a similar out-of-state offense, the Secretary shall not issue a driver's license for an additional period of three years from the date of such conviction.

(c) Except as provided in subsections (c-3) and (c-4), any person convicted of violating this Section shall serve a minimum term of imprisonment of 10 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code or a similar provision of a local

ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, any other drug or any combination thereof; or

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension or revocation under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall not be subject to suspension in order to reduce such sentence.

(c-1) Except as provided in subsections (c-5) and (d), any person convicted of a second violation of this Section shall be ordered by the court to serve a minimum of 100 hours of community service.

(c-2) In addition to other penalties imposed under this Section, the court may impose on any person convicted a fourth time of violating this Section any of the following:

(1) Seizure of the license plates of the person's vehicle.

(2) Immobilization of the person's vehicle for a period of time to be determined by the court.

(c-3) Any person convicted of a violation of this Section during a period of summary suspension imposed pursuant to Section 11-501.1 when the person was eligible for a MDDP shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-4) Any person who has been issued a MDDP and who is convicted of a violation of this Section as a result of operating or being in actual physical control of a motor vehicle not equipped with an ignition interlock device at the time of the offense shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-5) Any person convicted of a second violation of this Section is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and shall serve a mandatory term of imprisonment, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d) Any person convicted of a second violation of this Section shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, if the original revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-1) Except as provided in subsections (d-2), (d-2.5), and (d-3), any person convicted of a third or subsequent violation of this Section shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court.

(d-2) Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-2.5) Any person convicted of a third violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense. The person's driving privileges shall be revoked for the remainder of the person's life.

(d-3) Any person convicted of a fourth, fifth, sixth, seventh, eighth, or ninth violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-3.5) Any person convicted of a fourth or subsequent violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, and is eligible for an extended term, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-4) Any person convicted of a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of this Section is guilty of a Class 3 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-5) Any person convicted of a fifteenth or subsequent violation of this Section is guilty of a Class 2 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(e) Any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(g) The motor vehicle used in a violation of this Section is subject to seizure and forfeiture as provided in Sections 36-1 and 36-2 of the Criminal Code of 2012 if the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code, a similar provision of a local

ordinance, or a similar provision of a law of another state;  
 (2) a violation of paragraph (b) of Section 11-401 of this Code, a similar provision of a local ordinance, or a similar provision of a law of another state;  
 (3) a statutory summary suspension or revocation under Section 11-501.1 of this Code or a similar provision of a law of another state; or  
 (4) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, or a similar provision of a law of another state.  
 (Source: P.A. 96-502, eff. 1-1-10; 96-607, eff. 8-24-09; 96-1000, eff. 7-2-10; 96-1344, eff. 7-1-11; 97-984, eff. 1-1-13; 97-1150, eff. 1-25-13)."

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator McGuire, **Senate Bill No. 1757** having been printed, was taken up, read by title a second time.

Senator McGuire offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 1757**

AMENDMENT NO. 1. Amend Senate Bill 1757 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 1-111.6, 1-115.3, 1-204.4, 2-119, 6-101, 6-118, 6-201, 6-204, 6-207, 6-500, 6-502, 6-503, 6-506, 6-507, 6-508, 6-508.1, 6-509, 6-510, 6-511, 6-512, 6-513, 6-514, 6-518, 6-523, and 6-704 and by adding Sections 1-110.1a, 1-111.7a, 1-148.5a, 6-507.5, and 6-512.5 as follows:

(625 ILCS 5/1-110.1a new)

Sec. 1-110.1a. CDL Driver. A person holding a CDL or a person required to hold a CDL.

(625 ILCS 5/1-111.6)

Sec. 1-111.6. Commercial driver's license (CDL). A license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 C.F.R. Part 383, ~~to an individual~~ which authorizes the individual to operate a class of a commercial motor vehicle.

(Source: P.A. 95-382, eff. 8-23-07.)

(625 ILCS 5/1-111.7a new)

Sec. 1-111.7a. Commercial Learner's Permit (CLP). A permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 C.F.R. Part 383, which, when carried with a valid driver's license issued by the same state or jurisdiction of domicile, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current CDL is not valid.

(625 ILCS 5/1-115.3)

Sec. 1-115.3. Disqualification. Disqualification means any of the following 3 actions:

(a) The suspension, revocation, or cancellation of a CLP or CDL by the State or jurisdiction of issuance.

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

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. Part 391.

(Source: P.A. 94-307, eff. 9-30-05.)

(625 ILCS 5/1-148.5a new)

Sec. 1-148.5a. Non-CDL. Any other type of motor vehicle license, such as an automobile driver's license or a motorcycle license.

(625 ILCS 5/1-204.4)

Sec. 1-204.4. Tank vehicle. Any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to

a flatbed trailer is not considered a tank vehicle. Those vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, for the purposes of Article V of Chapter 6 of this Code, this definition does not include portable tanks having a rated capacity of less than 1,000 gallons.

(Source: P.A. 90-89, eff. 1-1-98.)

(625 ILCS 5/2-119) (from Ch. 95 1/2, par. 2-119)

Sec. 2-119. Disposition of fees and taxes.

(a) All moneys received from Salvage Certificates shall be deposited in the Common School Fund in the State Treasury.

(b) Beginning January 1, 1990 and concluding December 31, 1994, of the money collected for each certificate of title, duplicate certificate of title and corrected certificate of title, \$0.50 shall be deposited into the Used Tire Management Fund. Beginning January 1, 1990 and concluding December 31, 1994, of the money collected for each certificate of title, duplicate certificate of title and corrected certificate of title, \$1.50 shall be deposited in the Park and Conservation Fund.

Beginning January 1, 1995, of the money collected for each certificate of title, duplicate certificate of title and corrected certificate of title, \$3.25 shall be deposited in the Park and Conservation Fund. The moneys deposited in the Park and Conservation Fund pursuant to this Section shall be used for the acquisition and development of bike paths as provided for in Section 805-420 of the Department of Natural Resources (Conservation) Law (20 ILCS 805/805-420). The monies deposited into the Park and Conservation Fund under this subsection shall not be subject to administrative charges or chargebacks unless otherwise authorized by this Act.

Beginning January 1, 2000, of the moneys collected for each certificate of title, duplicate certificate of title, and corrected certificate of title, \$48 shall be deposited into the Road Fund and \$4 shall be deposited into the Motor Vehicle License Plate Fund, except that if the balance in the Motor Vehicle License Plate Fund exceeds \$40,000,000 on the last day of a calendar month, then during the next calendar month the \$4 shall instead be deposited into the Road Fund.

Beginning January 1, 2005, of the moneys collected for each delinquent vehicle registration renewal fee, \$20 shall be deposited into the General Revenue Fund.

Except as otherwise provided in this Code, all remaining moneys collected for certificates of title, and all moneys collected for filing of security interests, shall be placed in the General Revenue Fund in the State Treasury.

(c) All moneys collected for that portion of a driver's license fee designated for driver education under Section 6-118 shall be placed in the Driver Education Fund in the State Treasury.

(d) Beginning January 1, 1999, of the monies collected as a registration fee for each motorcycle, motor driven cycle and moped, 27% of each annual registration fee for such vehicle and 27% of each semiannual registration fee for such vehicle is deposited in the Cycle Rider Safety Training Fund.

(e) Of the monies received by the Secretary of State as registration fees or taxes or as payment of any other fee, as provided in this Act, except fees received by the Secretary under paragraph (7) of subsection (b) of Section 5-101 and Section 5-109 of this Code, 37% shall be deposited into the State Construction Fund.

(f) Of the total money collected for a commercial learner's permit (CLP) ~~CDL instruction permit~~ or original or renewal issuance of a commercial driver's license (CDL) pursuant to the Uniform Commercial Driver's License Act (UCDLA): (i) \$6 of the total fee for an original or renewal CDL, and \$6 of the total CLP ~~CDL instruction permit~~ fee when such permit is issued to any person holding a valid Illinois driver's license, shall be paid into the CDLIS/AAMVAnet Trust Fund (Commercial Driver's License Information System/American Association of Motor Vehicle Administrators network Trust Fund) and shall be used for the purposes provided in Section 6z-23 of the State Finance Act and (ii) \$20 of the total fee for an original or renewal CDL or CLP ~~commercial driver instruction permit~~ shall be paid into the Motor Carrier Safety Inspection Fund, which is hereby created as a special fund in the State Treasury, to be used by the Department of State Police, subject to appropriation, to hire additional officers to conduct motor carrier safety inspections pursuant to Chapter 18b of this Code.

(g) All remaining moneys received by the Secretary of State as registration fees or taxes or as payment of any other fee, as provided in this Act, except fees received by the Secretary under paragraph (7)(A) of subsection (b) of Section 5-101 and Section 5-109 of this Code, shall be deposited in the Road Fund in the State Treasury. Moneys in the Road Fund shall be used for the purposes provided in Section 8.3 of the State Finance Act.

(h) (Blank).

(i) (Blank).

(j) (Blank).



(k) There is created in the State Treasury a special fund to be known as the Secretary of State Special License Plate Fund. Money deposited into the Fund shall, subject to appropriation, be used by the Office of the Secretary of State (i) to help defray plate manufacturing and plate processing costs for the issuance and, when applicable, renewal of any new or existing registration plates authorized under this Code and (ii) for grants made by the Secretary of State to benefit Illinois Veterans Home libraries.

On or before October 1, 1995, the Secretary of State shall direct the State Comptroller and State Treasurer to transfer any unexpended balance in the Special Environmental License Plate Fund, the Special Korean War Veteran License Plate Fund, and the Retired Congressional License Plate Fund to the Secretary of State Special License Plate Fund.

(l) The Motor Vehicle Review Board Fund is created as a special fund in the State Treasury. Moneys deposited into the Fund under paragraph (7) of subsection (b) of Section 5-101 and Section 5-109 shall, subject to appropriation, be used by the Office of the Secretary of State to administer the Motor Vehicle Review Board, including without limitation payment of compensation and all necessary expenses incurred in administering the Motor Vehicle Review Board under the Motor Vehicle Franchise Act.

(m) Effective July 1, 1996, there is created in the State Treasury a special fund to be known as the Family Responsibility Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Office of the Secretary of State for the purpose of enforcing the Family Financial Responsibility Law.

(n) The Illinois Fire Fighters' Memorial Fund is created as a special fund in the State Treasury. Moneys deposited into the Fund shall, subject to appropriation, be used by the Office of the State Fire Marshal for construction of the Illinois Fire Fighters' Memorial to be located at the State Capitol grounds in Springfield, Illinois. Upon the completion of the Memorial, moneys in the Fund shall be used in accordance with Section 3-634.

(o) Of the money collected for each certificate of title for all-terrain vehicles and off-highway motorcycles, \$17 shall be deposited into the Off-Highway Vehicle Trails Fund.

(p) For audits conducted on or after July 1, 2003 pursuant to Section 2-124(d) of this Code, 50% of the money collected as audit fees shall be deposited into the General Revenue Fund.

(Source: P.A. 96-554, eff. 1-1-10; 97-1136, eff. 1-1-13.)

(625 ILCS 5/6-101) (from Ch. 95 1/2, par. 6-101)

Sec. 6-101. Drivers must have licenses or permits.

(a) No person, except those expressly exempted by Section 6-102, shall drive any motor vehicle upon a highway in this State unless such person has a valid license or permit, or a restricted driving permit, issued under the provisions of this Act.

(b) No person shall drive a motor vehicle unless he holds a valid license or permit, or a restricted driving permit issued under the provisions of Section 6-205, 6-206, or 6-113 of this Act. Any person to whom a license is issued under the provisions of this Act must surrender to the Secretary of State all valid licenses or permits, except that an applicant for a non-domiciled commercial learner's permit or commercial driver's license shall not be required to surrender a license or permit issued by the applicant's state or country of domicile. No drivers license or instruction permit shall be issued to any person who holds a valid Foreign State license, identification card, or permit unless such person first surrenders to the Secretary of State any such valid Foreign State license, identification card, or permit.

(b-5) Any person who commits a violation of subsection (a) or (b) of this Section is guilty of a Class A misdemeanor, if at the time of the violation the person's driver's license or permit was cancelled under clause (a)9 of Section 6-201 of this Code.

(c) Any person licensed as a driver hereunder shall not be required by any city, village, incorporated town or other municipal corporation to obtain any other license to exercise the privilege thereby granted.

(d) In addition to other penalties imposed under this Section, any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the motor vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(e) In addition to other penalties imposed under this Section, the vehicle of any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements and who, in violating this Section, has caused death or personal injury to another person is subject to forfeiture under Sections 36-1 and 36-2 of the Criminal Code of 2012. For the purposes of this Section, a personal injury shall include any type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or a medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(Source: P.A. 97-229, eff. 7-28-11; 97-1150, eff. 1-25-13.)  
 (625 ILCS 5/6-118)

Sec. 6-118. Fees.

(a) The fee for licenses and permits under this Article is as follows:

Original driver's license.....	\$30
Original or renewal driver's license issued to 18, 19 and 20 year olds.....	5
All driver's licenses for persons age 69 through age 80.....	5
All driver's licenses for persons age 81 through age 86.....	2
All driver's licenses for persons age 87 or older.....	0
Renewal driver's license (except for applicants ages 18, 19 and 20 or age 69 and older).....	30
Original instruction permit issued to persons (except those age 69 and older) who do not hold or have not previously held an Illinois instruction permit or driver's license.....	20
Instruction permit issued to any person holding an Illinois driver's license who wishes a change in classifications, other than at the time of renewal.....	5
Any instruction permit issued to a person age 69 and older.....	5
Instruction permit issued to any person, under age 69, not currently holding a valid Illinois driver's license or instruction permit but who has previously been issued either document in Illinois.....	10
Restricted driving permit.....	8
Monitoring device driving permit.....	8
Duplicate or corrected driver's license or permit.....	5
Duplicate or corrected restricted driving permit.....	5
Duplicate or corrected monitoring device driving permit.....	5
Duplicate driver's license or permit issued to an active-duty member of the United States Armed Forces, the member's spouse, or the dependent children living with the member.....	0
Original or renewal M or L endorsement.....	5

**SPECIAL FEES FOR COMMERCIAL DRIVER'S LICENSE**

The fees for commercial driver licenses and permits under Article V shall be as follows:

Commercial driver's license:

- \$6 for the CDLIS/AAMVAnet Trust Fund  
(Commercial Driver's License Information  
System/American Association of Motor Vehicle  
Administrators network Trust Fund);
- \$20 for the Motor Carrier Safety Inspection Fund;
- \$10 for the driver's license;
- and \$24 for the CDL:.....

\$60

Renewal commercial driver's license:

\$6 for the CDLIS/AAMVAnet Trust Fund;  
 \$20 for the Motor Carrier Safety Inspection Fund;  
 \$10 for the driver's license; and  
 \$24 for the CDL:..... \$60

Commercial ~~learner's driver instruction~~ permit  
 issued to any person holding a valid  
 Illinois driver's license for the  
 purpose of changing to a  
 CDL classification: \$6 for the  
 CDLIS/AAMVAnet Trust Fund;  
 \$20 for the Motor Carrier  
 Safety Inspection Fund; and  
 \$24 for the CDL classification..... \$50

Commercial ~~learner's driver instruction~~ permit  
 issued to any person holding a valid  
 Illinois CDL for the purpose of  
 making a change in a classification,  
 endorsement or restriction..... \$5

CDL duplicate or corrected license..... \$5

In order to ensure the proper implementation of the Uniform Commercial Driver License Act, Article V of this Chapter, the Secretary of State is empowered to pro-rate the \$24 fee for the commercial driver's license proportionate to the expiration date of the applicant's Illinois driver's license.

The fee for any duplicate license or permit shall be waived for any person who presents the Secretary of State's office with a police report showing that his license or permit was stolen.

The fee for any duplicate license or permit shall be waived for any person age 60 or older whose driver's license or permit has been lost or stolen.

No additional fee shall be charged for a driver's license, or for a commercial driver's license, when issued to the holder of an instruction permit for the same classification or type of license who becomes eligible for such license.

(b) Any person whose license or privilege to operate a motor vehicle in this State has been suspended or revoked under Section 3-707, any provision of Chapter 6, Chapter 11, or Section 7-205, 7-303, or 7-702 of the Family Financial Responsibility Law of this Code, shall in addition to any other fees required by this Code, pay a reinstatement fee as follows:

Suspension under Section 3-707..... \$100  
 Summary suspension under Section 11-501.1.....\$250  
 Summary revocation under Section 11-501.1.....\$500  
 Other suspension.....\$70  
 Revocation.....\$500

However, any person whose license or privilege to operate a motor vehicle in this State has been suspended or revoked for a second or subsequent time for a violation of Section 11-501 or 11-501.1 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 and each suspension or revocation was for a violation of Section 11-501 or 11-501.1 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 shall pay, in addition to any other fees required by this Code, a reinstatement fee as follows:

Summary suspension under Section 11-501.1.....\$500  
 Summary revocation under Section 11-501.1.....\$500  
 Revocation.....\$500

(c) All fees collected under the provisions of this Chapter 6 shall be paid into the Road Fund in the State Treasury except as follows:

1. The following amounts shall be paid into the Driver Education Fund:

- (A) \$16 of the \$20 fee for an original driver's instruction permit;
- (B) \$5 of the \$30 fee for an original driver's license;
- (C) \$5 of the \$30 fee for a 4 year renewal driver's license;
- (D) \$4 of the \$8 fee for a restricted driving permit; and
- (E) \$4 of the \$8 fee for a monitoring device driving permit.

2. \$30 of the \$250 fee for reinstatement of a license summarily suspended under Section 11-501.1 shall be deposited into the Drunk and Drugged Driving Prevention Fund. However, for a person whose license or privilege to operate a motor vehicle in this State has been suspended or

revoked for a second or subsequent time for a violation of Section 11-501 or 11-501.1 of this Code or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, \$190 of the \$500 fee for reinstatement of a license summarily suspended under Section 11-501.1, and \$190 of the \$500 fee for reinstatement of a revoked license shall be deposited into the Drunk and Drugged Driving Prevention Fund. \$190 of the \$500 fee for reinstatement of a license summarily revoked pursuant to Section 11-501.1 shall be deposited into the Drunk and Drugged Driving Prevention Fund.

3. \$6 of ~~the such~~ original or renewal fee for a commercial driver's license and \$6 of the commercial ~~learner's driver-instruction~~ permit fee when ~~the such~~ permit is issued to any person holding a valid Illinois driver's license, shall be paid into the CDLIS/AAMVAnet Trust Fund.

4. \$30 of the \$70 fee for reinstatement of a license suspended under the Family Financial Responsibility Law shall be paid into the Family Responsibility Fund.

5. The \$5 fee for each original or renewal M or L endorsement shall be deposited into the Cycle Rider Safety Training Fund.

6. \$20 of any original or renewal fee for a commercial driver's license or commercial ~~learner's driver-instruction~~ permit shall be paid into the Motor Carrier Safety Inspection Fund.

7. The following amounts shall be paid into the General Revenue Fund:

(A) \$190 of the \$250 reinstatement fee for a summary suspension under Section 11-501.1;

(B) \$40 of the \$70 reinstatement fee for any other suspension provided in subsection (b) of this Section; and

(C) \$440 of the \$500 reinstatement fee for a first offense revocation and \$310 of the \$500 reinstatement fee for a second or subsequent revocation.

(d) All of the proceeds of the additional fees imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

(e) The additional fees imposed by this amendatory Act of the 96th General Assembly shall become effective 90 days after becoming law.

(f) As used in this Section, "active-duty member of the United States Armed Forces" means a member of the Armed Services or Reserve Forces of the United States or a member of the Illinois National Guard who is called to active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor.

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-1231, eff. 7-23-10; 96-1344, eff. 7-1-11; 97-333, eff. 8-12-11; 97-1150, eff. 1-25-13.)

(625 ILCS 5/6-201)

Sec. 6-201. Authority to cancel licenses and permits.

(a) The Secretary of State is authorized to cancel any license or permit upon determining that the holder thereof:

1. was not entitled to the issuance thereof hereunder; or
2. failed to give the required or correct information in his application; or
3. failed to pay any fees, civil penalties owed to the Illinois Commerce Commission, or taxes due under this Act and upon reasonable notice and demand; or
4. committed any fraud in the making of such application; or
5. is ineligible therefor under the provisions of Section 6-103 of this Act, as amended;

or

6. has refused or neglected to submit an alcohol, drug, and intoxicating compound evaluation or to submit to examination or re-examination as required under this Act; or

7. has been convicted of violating the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Use of Intoxicating Compounds Act while that individual was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the

petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner or a household member of the petitioner's family for the receipt of necessary medical care, or provide transportation for the petitioner to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution. The petitioner must demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue such restricted driving permit for such period as he deems appropriate, except that such permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under this Code; or

8. failed to submit a report as required by Section 6-116.5 of this Code; or

9. has been convicted of a sex offense as defined in the Sex Offender Registration Act.

The driver's license shall remain cancelled until the driver registers as a sex offender as required by the Sex Offender Registration Act, proof of the registration is furnished to the Secretary of State and the sex offender provides proof of current address to the Secretary; or

10. is ineligible for a license or permit under Section 6-107, 6-107.1, or 6-108 of this Code; or

11. refused or neglected to appear at a Driver Services facility to have the license or permit corrected and a new license or permit issued or to present documentation for verification of identity; or

12. failed to submit a medical examiner's certificate or medical variance as required by 49 C.F.R. 383.71 or submitted a fraudulent medical examiner's certificate or medical variance; or

13. has had his or her medical examiner's certificate, medical variance, or both removed or rescinded by the Federal Motor Carrier Safety Administration; or

14. failed to self-certify as to the type of driving in which the CDL driver engages or expects to engage; or

15. was convicted of fraud relating to the testing or issuance of a CDL or CLP, in which case only the CDL or CLP shall be cancelled. After cancellation, the Secretary shall not issue a CLP or CDL for a period of one year from the date of cancellation.

(b) Upon such cancellation the licensee or permittee must surrender the license or permit so cancelled to the Secretary of State.

(c) Except as provided in Sections 6-206.1 and 7-702.1, the Secretary of State shall have exclusive authority to grant, issue, deny, cancel, suspend and revoke driving privileges, drivers' licenses and restricted driving permits.

(d) The Secretary of State may adopt rules to implement this Section.

(Source: P.A. 97-208, eff. 1-1-12; 97-229; eff. 7-28-11; 97-813, eff. 7-13-12; 97-835, eff. 7-20-12.)

(625 ILCS 5/6-204) (from Ch. 95 1/2, par. 6-204)

Sec. 6-204. When Court to forward License and Reports.

(a) For the purpose of providing to the Secretary of State the records essential to the performance of the Secretary's duties under this Code to cancel, revoke or suspend the driver's license and privilege to drive motor vehicles of certain minors adjudicated truant minors in need of supervision, addicted, or delinquent and of persons found guilty of the criminal offenses or traffic violations which this Code recognizes as evidence relating to unfitness to safely operate motor vehicles, the following duties are imposed upon public officials:

(1) Whenever any person is convicted of any offense for which this Code makes mandatory the cancellation or revocation of the driver's license or permit of such person by the Secretary of State, the judge of the court in which such conviction is had shall require the surrender to the clerk of the court of all driver's licenses or permits then held by the person so convicted, and the clerk of the court shall, within 5 days thereafter, forward the same, together with a report of such conviction, to the Secretary.

(2) Whenever any person is convicted of any offense under this Code or similar offenses under a municipal ordinance, other than regulations governing standing, parking or weights of vehicles, and excepting the following enumerated Sections of this Code: Sections 11-1406 (obstruction to driver's view or control), 11-1407 (improper opening of door into traffic), 11-1410 (coasting on downgrade), 11-1411 (following fire apparatus), 11-1419.01 (Motor Fuel Tax I.D. Card), 12-101 (driving vehicle which is in unsafe condition or improperly equipped), 12-201(a) (daytime lights on motorcycles), 12-202 (clearance, identification and side marker lamps), 12-204 (lamp or flag on projecting load), 12-205 (failure to display the safety lights required), 12-401 (restrictions as to tire equipment), 12-502 (mirrors), 12-503 (windshields must be unobstructed and equipped with wipers), 12-601 (horns and warning devices), 12-602 (mufflers, prevention of noise or smoke), 12-603 (seat safety belts), 12-702 (certain vehicles to carry flares or other warning devices), 12-703 (vehicles for oiling roads operated on highways), 12-710 (splash guards and replacements), 13-101 (safety tests), 15-101 (size, weight and load), 15-102 (width), 15-103 (height), 15-104 (name and address on second division vehicles), 15-107 (length of vehicle), 15-109.1 (cover or tarpaulin), 15-111 (weights), 15-112 (weights), 15-301 (weights), 15-316 (weights), 15-318 (weights), and also excepting the following enumerated Sections of the Chicago Municipal Code: Sections 27-245 (following fire apparatus), 27-254 (obstruction of traffic), 27-258 (driving vehicle which is in unsafe condition), 27-259 (coasting on downgrade), 27-264 (use of horns and signal devices), 27-265 (obstruction to driver's view or driver mechanism), 27-267 (dimming of headlights), 27-268 (unattended motor vehicle), 27-272 (illegal funeral procession), 27-273 (funeral procession on boulevard), 27-275 (driving freight hauling vehicles on boulevard), 27-276 (stopping and standing of buses or taxicabs), 27-277 (cruising of public passenger vehicles), 27-305 (parallel parking), 27-306 (diagonal parking), 27-307 (parking not to obstruct traffic), 27-308 (stopping, standing or parking regulated), 27-311 (parking regulations), 27-312 (parking regulations), 27-313 (parking regulations), 27-314 (parking regulations), 27-315 (parking regulations), 27-316 (parking regulations), 27-317 (parking regulations), 27-318 (parking regulations), 27-319 (parking regulations), 27-320 (parking regulations), 27-321 (parking regulations), 27-322 (parking regulations), 27-324 (loading and unloading at an angle), 27-333 (wheel and axle loads), 27-334 (load restrictions in the downtown district), 27-335 (load restrictions in residential areas), 27-338 (width of vehicles), 27-339 (height of vehicles), 27-340 (length of vehicles), 27-352 (reflectors on trailers), 27-353 (mufflers), 27-354 (display of plates), 27-355 (display of city vehicle tax sticker), 27-357 (identification of vehicles), 27-358 (projecting of loads), and also excepting the following enumerated paragraphs of Section 2-201 of the Rules and Regulations of the Illinois State Toll Highway Authority: (l) (driving unsafe vehicle on tollway), (m) (vehicles transporting dangerous cargo not properly indicated), it shall be the duty of the clerk of the court in which such conviction is had within 5 days thereafter to forward to the Secretary of State a report of the conviction and the court may recommend the suspension of the driver's license or permit of the person so convicted.

The reporting requirements of this subsection shall apply to all violations stated in paragraphs (1) and (2) of this subsection when the individual has been adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987. Such reporting requirements shall also apply to individuals adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987 who have committed a violation of Section 11-501 of this Code, or similar provision of a local ordinance, or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide. These reporting requirements also apply to individuals adjudicated under the Juvenile Court Act of 1987 based on any offense determined to have been committed in furtherance of the criminal activities of an organized gang, as provided in Section 5-710 of that Act, and that involved the operation or use of a motor vehicle or the use of a driver's license or permit. The reporting requirements of this subsection shall also apply to a truant minor in need of supervision, an addicted minor, or a delinquent minor and whose driver's license and privilege to drive a motor vehicle has been ordered suspended for such times as determined by the Court, but only until he or she attains 18 years of age. It shall be the duty of the clerk of the court in which adjudication is had within 5 days thereafter to forward to the Secretary of State a report of the adjudication and the court order requiring the Secretary of State to suspend the minor's driver's license and driving privilege for such time as determined by the Court, but only until he or she attains the age of 18 years. All juvenile court dispositions reported to the Secretary of State under this provision shall be processed by the Secretary of State as if the cases had been adjudicated in traffic or criminal court. However, information reported relative to the offense of reckless homicide, or Section 11-501 of this Code, or a similar provision of a local ordinance, shall be privileged and available only to the Secretary of State, courts, and police officers.

The reporting requirements of this subsection (a) apply to all violations listed in paragraphs (1) and (2) of this subsection (a), excluding parking violations, when the driver holds a

CLP or CDL, regardless of the type of vehicle in which the violation occurred, or when any driver committed the violation in a commercial motor vehicle as defined in Section 6-500 of this Code.

(3) Whenever an order is entered vacating the forfeiture of any bail, security or bond given to secure appearance for any offense under this Code or similar offenses under municipal ordinance, it shall be the duty of the clerk of the court in which such vacation was had or the judge of such court if such court has no clerk, within 5 days thereafter to forward to the Secretary of State a report of the vacation.

(4) A report of any disposition of court supervision for a violation of Sections 6-303, 11-401, 11-501 or a similar provision of a local ordinance, 11-503, 11-504, and 11-506 shall be forwarded to the Secretary of State. A report of any disposition of court supervision for a violation of an offense defined as a serious traffic violation in this Code or a similar provision of a local ordinance committed by a person under the age of 21 years shall be forwarded to the Secretary of State.

(5) Reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium shall be forwarded to the Secretary of State via the Supreme Court in the form and format required by the Illinois Supreme Court and established by a written agreement between the Supreme Court and the Secretary of State. In counties with a population over 300,000, instead of forwarding reports to the Supreme Court, reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium may be forwarded to the Secretary of State by the Circuit Court Clerk in a form and format required by the Secretary of State and established by written agreement between the Circuit Court Clerk and the Secretary of State. Failure to forward the reports of conviction or sentencing hearing under the Juvenile Court Act of 1987 as required by this Section shall be deemed an omission of duty and it shall be the duty of the several State's Attorneys to enforce the requirements of this Section.

(b) Whenever a restricted driving permit is forwarded to a court, as a result of confiscation by a police officer pursuant to the authority in Section 6-113(f), it shall be the duty of the clerk, or judge, if the court has no clerk, to forward such restricted driving permit and a facsimile of the officer's citation to the Secretary of State as expeditiously as practicable.

(c) For the purposes of this Code, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court when forfeiture has not been vacated, or the failure of a defendant to appear for trial after depositing his driver's license in lieu of other bail, shall be equivalent to a conviction.

(d) For the purpose of providing the Secretary of State with records necessary to properly monitor and assess driver performance and assist the courts in the proper disposition of repeat traffic law offenders, the clerk of the court shall forward to the Secretary of State, on a form prescribed by the Secretary, records of a driver's participation in a driver remedial or rehabilitative program which was required, through a court order or court supervision, in relation to the driver's arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance. The clerk of the court shall also forward to the Secretary, either on paper or in an electronic format or a computer processible medium as required under paragraph (5) of subsection (a) of this Section, any disposition of court supervision for any traffic violation, excluding those offenses listed in paragraph (2) of subsection (a) of this Section. These reports shall be sent within 5 days after disposition, or, if the driver is referred to a driver remedial or rehabilitative program, within 5 days of the driver's referral to that program. These reports received by the Secretary of State, including those required to be forwarded under paragraph (a)(4), shall be privileged information, available only (i) to the affected driver, (ii) to the parent or guardian of a person under the age of 18 years holding an instruction permit or a graduated driver's license, and (iii) for use by the courts, police officers, prosecuting authorities, the Secretary of State, and the driver licensing administrator of any other state. In accordance with 49 C.F.R. Part 384, all reports of court supervision, except violations related to parking, shall be forwarded to the Secretary of State for all holders of a CLP or CDL or any driver who commits an offense while driving a commercial motor vehicle. These reports shall be recorded to the driver's record as a conviction for use in the disqualification of the driver's commercial motor vehicle privileges and shall not be privileged information.

(Source: P.A. 97-1150, eff. 1-25-13.)

(625 ILCS 5/6-207) (from Ch. 95 1/2, par. 6-207)

Sec. 6-207. Secretary of State may require reexamination or reissuance of a license.

(a) The Secretary of State, having good cause to believe that a licensed driver or person holding a permit or applying for a license or license renewal is incompetent or otherwise not qualified to hold a license or permit, may upon written notice of at least 5 days to the person require the person to submit to an examination as prescribed by the Secretary.

Refusal or neglect of the person to submit an alcohol, drug, or intoxicating compound evaluation or

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submit to or failure to successfully complete the examination is grounds for suspension of the person's license or permit under Section 6-206 of this Act or cancellation of his license or permit under Section 6-201 of this Act.

(b) The Secretary of State, having issued a driver's license or permit in error, may upon written notice of at least 5 days to the person, require the person to appear at a Driver Services facility to have the license or permit error corrected and a new license or permit issued.

Refusal or neglect of the person to appear is grounds for cancellation of the person's license or permit under Section 6-201 of this Act.

(c) The Secretary of State, having issued a driver's license or permit to a person who subsequently becomes ineligible to retain that license or permit as currently issued, may, upon written notice of at least 5 days to the person, require the person to appear at a Driver Services facility to have the license or permit corrected and a new license or permit issued.

(d) The Secretary of State, having good cause to believe that a driver's license or permit was issued based on invalid, fictitious, or fraudulent documents, may upon written notice of at least 5 days require the person to appear at a Driver Services facility to present valid documents for verification of identity. Refusal or neglect of the person to appear shall result in cancellation of the person's license or permit.

(e) Under 49 C.F.R. 383.73, if the Secretary of State receives credible information that a CLP or CDL was issued and fraud was committed relating to the issuance of the CLP or CDL, the Secretary shall require the CLP or CDL holder to re-submit to all testing required for the issuance of the CLP or CDL (written, pre-trip, skills, and road exams). Upon written notification by the Secretary, the holder shall have 5 days to submit to re-examination. Failure to appear or successfully complete the examination shall result in the cancellation of the CLP or CDL under Section 6-201 of this Act.

(Source: P.A. 97-229, eff. 7-28-11.)

(625 ILCS 5/6-500) (from Ch. 95 1/2, par. 6-500)

Sec. 6-500. Definitions of words and phrases. Notwithstanding the definitions set forth elsewhere in this Code, for purposes of the Uniform Commercial Driver's License Act (UCDLA), the words and phrases listed below have the meanings ascribed to them as follows:

(1) Alcohol. "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) Alcohol concentration. "Alcohol concentration" means:

(A) the number of grams of alcohol per 210 liters of breath; or

(B) the number of grams of alcohol per 100 milliliters of blood; or

(C) the number of grams of alcohol per 67 milliliters of urine.

Alcohol tests administered within 2 hours of the driver being "stopped or detained" shall be considered that driver's "alcohol concentration" for the purposes of enforcing this UCDLA.

(3) (Blank).

(4) (Blank).

(5) (Blank).

(5.3) CDLIS driver record. "CDLIS driver record" means the electronic record of the individual CDL driver's status and history stored by the State-of-Record as part of the Commercial Driver's License Information System, or CDLIS, established under 49 U.S.C. 31309.

(5.5) CDLIS motor vehicle record. "CDLIS motor vehicle record" or "CDLIS MVR" means a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by states to users authorized in 49 C.F.R. 384.225(e)(3) and (4), subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. 2721–2725.

(5.7) Commercial driver's license downgrade. "Commercial driver's license downgrade" or "CDL downgrade" means either:

(A) a state allows the driver to change his or her self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 C.F.R. Part 391, as provided in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

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

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

(D) a state removes the CDL privilege from the driver license.

(6) Commercial Motor Vehicle.

(A) "Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce, except



those referred to in subdivision (B), designed to transport passengers or property if the motor vehicle:

(i) has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater the vehicle has a GVWR of 26,001 pounds or more or such a lesser GVWR as subsequently determined by federal regulations or the Secretary of State; or any combination of vehicles with a GCWR of 26,001 pounds or more, provided the GVWR of any vehicle or vehicles being towed is 10,000 pounds or more; or

(i-5) has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or

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

(iii) the vehicle is of any size and is used in transporting hazardous materials as defined in 49 C.F.R. 383.5 and is required to be placarded in accordance with 49 C.F.R. Part 172, subpart F.

(B) Pursuant to the interpretation of the Commercial Motor Vehicle Safety Act of 1986 by the Federal Highway Administration, the definition of "commercial motor vehicle" does not include:

(i) recreational vehicles, when operated primarily for personal use;

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

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

(7) Controlled Substance. "Controlled substance" shall have the same meaning as defined in Section 102 of the Illinois Controlled Substances Act, and shall also include cannabis as defined in Section 3 of the Cannabis Control Act and methamphetamine as defined in Section 10 of the Methamphetamine Control and Community Protection Act.

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

(8.5) Day. "Day" means calendar day.

(9) (Blank).

(10) (Blank).

(11) (Blank).

(12) (Blank).

(13) Driver. "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, any person who is required to hold a CDL, or any person who is a holder of a CDL while operating a non-commercial motor vehicle.

(13.5) Driver applicant. "Driver applicant" means an individual who applies to a state or other jurisdiction to obtain, transfer, upgrade, or renew a CDL or to obtain or renew a CLP.

(13.8) Electronic device. "Electronic device" includes, but is not limited to, a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.

(14) Employee. "Employee" means a person who is employed as a commercial motor vehicle driver. A person who is self-employed as a commercial motor vehicle driver must comply with the requirements of this UCDLA pertaining to employees. An owner-operator on a long-term lease shall be considered an employee.

(15) Employer. "Employer" means a person (including the United States, a State or a local authority) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle. A person who is self-employed as a commercial motor vehicle driver must comply with the requirements of this UCDLA.

(15.1) Endorsement. "Endorsement" means an authorization to an individual's CLP or CDL required to permit the individual to operate certain types of commercial motor vehicles.

(15.3) Excepted interstate. "Excepted interstate" means a person who operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or part of the qualification requirements of 49 C.F.R. Part 391 and is not required to obtain a medical examiner's certificate by 49 C.F.R. 391.45.

(15.5) Excepted intrastate. "Excepted intrastate" means a person who operates in intrastate commerce but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(16) (Blank).

(16.5) Fatality. "Fatality" means the death of a person as a result of a motor vehicle accident.

(17) Foreign jurisdiction. "Foreign jurisdiction" means a sovereign jurisdiction that does not fall within the definition of "State".

(18) (Blank).

(19) (Blank).

(20) Hazardous materials. "Hazardous Material" means any material that has been designated under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

(20.5) Imminent Hazard. "Imminent hazard" means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.

(20.6) Issuance. "Issuance" means initial issuance, transfer, renewal, or upgrade of a CLP or CDL and non-domiciled CLP or CDL.

(20.7) Issue. "Issue" means initial issuance, transfer, renewal, or upgrade of a CLP or CDL and non-domiciled CLP or non-domiciled CDL.

(21) Long-term lease. "Long-term lease" means a lease of a commercial motor vehicle by the owner-lessee to a lessee, for a period of more than 29 days.

(21.01) Manual transmission. "Manual transmission" means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated either by hand or foot including those known as a stick shift, stick, straight drive, or standard transmission. All other transmissions, whether semi-automatic or automatic, shall be considered automatic for the purposes of the standardized restriction code.

(21.1) Medical examiner. "Medical examiner" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

(21.2) Medical examiner's certificate. "Medical examiner's certificate" means a document prescribed or approved by the Secretary of State that is issued by a medical examiner to a driver to medically qualify him or her to drive.

(21.5) Medical variance. "Medical variance" means a driver has received one of the following from the Federal Motor Carrier Safety Administration which allows the driver to be issued a medical certificate: (1) an exemption letter permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. Part 381, Subpart C or 49 C.F.R. 391.64; or (2) a skill performance evaluation (SPE) certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49.

(21.7) Mobile telephone. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It does not include two-way or citizens band radio services.

(22) Motor Vehicle. "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs.

(22.2) Motor vehicle record. "Motor vehicle record" means a report of the driving status and history of a driver generated from the driver record provided to users, such as drivers or employers, and is subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. 2721-2725.

(22.5) Non-CMV. "Non-CMV" means a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle" or "CMV" in this Section.

(22.7) Non-excepted interstate. "Non-excepted interstate" means a person who operates or expects to operate in interstate commerce, is subject to and meets the qualification requirements under 49 C.F.R.

Part 391, and is required to obtain a medical examiner's certificate by 49 C.F.R. 391.45.

(22.8) Non-expected intrastate. "Non-expected intrastate" means a person who operates only in intrastate commerce and is subject to State driver qualification requirements.

(23) ~~Non-domiciled CLP or Non-domiciled Non-resident CDL.~~ " Non-domiciled CLP" or "Non-domiciled Non-resident CDL" means a CLP or CDL, respectively, commercial driver's license issued by a state or other jurisdiction under either of the following two conditions:

(i) to an individual domiciled in a foreign country meeting the requirements of Part 383.23(b)(1) of 49 C.F.R. of the Federal Motor Carrier Safety Administration.

(ii) to an individual domiciled in another state meeting the requirements of Part 383.23(b)(2) of 49 C.F.R. of the Federal Motor Carrier Safety Administration.

(24) (Blank).

(25) (Blank).

(25.5) Railroad-Highway Grade Crossing Violation. "Railroad-highway grade crossing violation" means a violation, while operating a commercial motor vehicle, of any of the following:

(A) Section 11-1201, 11-1202, or 11-1425 of this Code.

(B) Any other similar law or local ordinance of any state relating to railroad-highway grade crossing.

(25.7) School Bus. "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. "School bus" does not include a bus used as a common carrier.

(26) Serious Traffic Violation. "Serious traffic violation" means:

(A) a conviction when operating a commercial motor vehicle, or when operating a non-CMV while holding a CLP or CDL, of:

(i) a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or

(ii) a violation relating to reckless driving; or

(iii) a violation of any State law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; or

(iv) a violation of Section 6-501, relating to having multiple driver's licenses; or

(v) a violation of paragraph (a) of Section 6-507, relating to the requirement to have a valid CDL; or

(vi) a violation relating to improper or erratic traffic lane changes; or

(vii) a violation relating to following another vehicle too closely; or

(viii) a violation relating to texting while driving; or

(ix) a violation relating to the use of a hand-held mobile telephone while driving;

or

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

(27) State. "State" means a state of the United States, the District of Columbia and any province or territory of Canada.

(28) (Blank).

(29) (Blank).

(30) (Blank).

(31) (Blank).

(32) Texting. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device.

(1) Texting includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication.

(2) Texting does not include:

(i) inputting, selecting, or reading information on a global positioning system or navigation system; or

(ii) pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

(iii) using a device capable of performing multiple functions (for example, a fleet management system, dispatching device, smart phone, citizens band radio, or music player) for a purpose that is not otherwise prohibited by Part 392 of the Federal Motor Carrier Safety

Regulations.

(32.3) Third party skills test examiner. "Third party skills test examiner" means a person employed by a third party tester who is authorized by the State to administer the CDL skills tests specified in 49 C.F.R. Part 383, subparts G and H.

(32.5) Third party tester. "Third party tester" means a person (including, but not limited to, another state, a motor carrier, a private driver training facility or other private institution, or a department, agency, or instrumentality of a local government) authorized by the State to employ skills test examiners to administer the CDL skills tests specified in 49 C.F.R. Part 383, subparts G and H.

(32.7) United States. "United States" means the 50 states and the District of Columbia.

(33) Use a hand-held mobile telephone. "Use a hand-held mobile telephone" means:

- (1) using at least one hand to hold a mobile telephone to conduct a voice communication;
- (2) dialing or answering a mobile telephone by pressing more than a single button; or
- (3) reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

(Source: P.A. 97-208, eff. 1-1-12; 97-750, eff. 7-6-12; 97-829, eff. 1-1-13; revised 8-3-12.)

(625 ILCS 5/6-502) (from Ch. 95 1/2, par. 6-502)

Sec. 6-502. Commercial motor vehicle drivers - reporting of traffic violations to the Secretary of State. When required by the Commercial Motor Vehicle Safety Act of 1986, every person who has been issued an Illinois non-domiciled non-resident CLP or non-domiciled CDL or who is a domiciliary of this State and drives a commercial motor vehicle in violation of a law or local ordinance of any State relating to motor vehicle traffic control (other than parking violations) in any other state, shall notify the Secretary of State, on a form and in a manner prescribed by the Secretary, of such violation within 30 days after the date such person has been convicted of such offense.

(Source: P.A. 86-845.)

(625 ILCS 5/6-503) (from Ch. 95 1/2, par. 6-503)

Sec. 6-503. Commercial motor vehicle drivers - reporting of traffic violations to employer. Every person who is a domiciliary of this State or who has been issued an Illinois non-domiciled non-resident CLP or non-domiciled CDL and drives a commercial motor vehicle in violation of a law or local ordinance of any State relating to motor vehicle traffic control (other than parking violations) in this or any other state, shall notify such person's employer of such violation within 30 days after the date such person is convicted of such offense.

In the event such person is a "common carrier of property by motor vehicle", as defined in Section 18c-1104 of this Code, such person shall notify the principal lessor of such within 30 days after the date such person is convicted of the violation. However, if such person is an independent contractor or owner operator, such report shall be kept at the principal place of business and available during normal office hours for inspection and auditing purposes by an authorized agency.

(Source: P.A. 86-845.)

(625 ILCS 5/6-506) (from Ch. 95 1/2, par. 6-506)

Sec. 6-506. Commercial motor vehicle driver - employer/owner responsibilities.

(a) No employer or commercial motor vehicle owner shall knowingly allow, permit, authorize, or require an employee to drive a commercial motor vehicle on the highways during any period in which such employee:

- (1) has a driver's license suspended, revoked or cancelled by any state; or
- (2) has lost the privilege to drive a commercial motor vehicle in any state; or
- (3) has been disqualified from driving a commercial motor vehicle; or
- (4) has more than one CLP or CDL driver's license, except as provided by this UCDLA; or
- (5) is subject to or in violation of an "out-of-service" order; or -

(6) does not have a current CLP or CDL or a CLP or CDL with the proper class or endorsements.

An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL.

(b) No employer or commercial motor vehicle owner shall knowingly allow, permit, authorize, or require a driver to operate a commercial motor vehicle in violation of any law or regulation pertaining to railroad-highway grade crossings.

(b-3) No employer or commercial motor vehicle owner shall knowingly allow, permit, authorize, or require a driver to operate a commercial motor vehicle during any period in which the commercial motor vehicle is subject to an "out-of-service" order.

(b-5) No employer or commercial motor vehicle owner shall knowingly allow, permit, authorize, or

require a driver to operate a commercial motor vehicle during any period in which the motor carrier operation is subject to an "out-of-service" order.

(c) Any employer convicted of violating subsection (a), (b-3), or (b-5) of this Section, whether individually or in connection with one or more other persons, or as principal agent, or accessory, shall be guilty of a Class A misdemeanor.

(Source: P.A. 95-382, eff. 8-23-07.)

(625 ILCS 5/6-507) (from Ch. 95 1/2, par. 6-507)

Sec. 6-507. Commercial Driver's License (CDL) or Commercial Learner's Permit (CLP) Required.

(a) Except as expressly permitted by this UCDLA, or when driving pursuant to the issuance of a commercial learner's driver instruction permit and accompanied by the holder of a CDL valid for the vehicle being driven; no person shall drive a commercial motor vehicle on the highways without:

- (1) a CDL in the driver's possession;
- (2) having obtained a CLP or CDL;
- (3) the proper class of CLP or CDL or endorsements or both for the specific vehicle group being operated or for the passengers or type of cargo being transported; or
- (4) a copy of a medical variance document, if one exists, such as an exemption letter or a skill performance evaluation certificate.

(a-5) A CLP or CDL holder whose CLP or CDL is held by this State or any other state in the course of enforcement of a motor vehicle traffic code and who has not been convicted of a disqualifying offense under 49 C.F.R. 383.51 based on this enforcement, may drive a CMV while holding a dated receipt for the CLP or CDL.

(b) Except as otherwise provided by this Code, no person may drive a commercial motor vehicle on the highways while such person's driving privilege, license, or permit is:

(1) Suspended, revoked, cancelled, or subject to disqualification. Any person convicted of violating this provision or a similar provision of this or any other state shall have their driving privileges revoked under paragraph 12 of subsection (a) of Section 6-205 of this Code.

(2) Subject to or in violation of an "out-of-service" order. Any person who has been issued a CLP or CDL and is convicted of violating this provision or a similar provision of any other state shall be disqualified from operating a commercial motor vehicle under subsection (i) of Section 6-514 of this Code.

(3) Subject to or in violation of a driver or vehicle "out of service" order while operating a vehicle designed to transport 16 or more passengers, including the driver, or transporting hazardous materials required to be placarded. Any person who has been issued a CLP or CDL and is convicted of violating this provision or a similar provision of this or any other state shall be disqualified from operating a commercial motor vehicle under subsection (i) of Section 6-514 of this Code.

(b-3) Except as otherwise provided by this Code, no person may drive a commercial motor vehicle on the highways during a period which the commercial motor vehicle or the motor carrier operation is subject to an "out-of-service" order. Any person who is convicted of violating this provision or a similar provision of any other state shall be disqualified from operating a commercial motor vehicle under subsection (i) of Section 6-514 of this Code.

(b-5) Except as otherwise provided by this Code, no person may operate a vehicle designed to transport 16 or more passengers including the driver or hazardous materials of a type or quantity that requires the vehicle to be placarded during a period in which the commercial motor vehicle or the motor carrier operation is subject to an "out-of-service" order. Any person who is convicted of violating this provision or a similar provision of any other state shall be disqualified from operating a commercial motor vehicle under subsection (i) of Section 6-514 of this Code.

(c) Pursuant to the options provided to the States by FHWA Docket No. MC-88-8, the driver of any motor vehicle controlled or operated by or for a farmer is waived from the requirements of this Section, when such motor vehicle is being used to transport: agricultural products; implements of husbandry; or farm supplies; to and from a farm, as long as such movement is not over 150 air miles from the originating farm. This waiver does not apply to the driver of any motor vehicle being used in a common or contract carrier type operation. However, for those drivers of any truck-tractor semitrailer combination or combinations registered under subsection (c) of Section 3-815 of this Code, this waiver shall apply only when the driver is a farmer or a member of the farmer's family and the driver is 21 years of age or more and has successfully completed any tests the Secretary of State deems necessary.

In addition, the farmer or a member of the farmer's family who operates a truck-tractor semitrailer combination or combinations pursuant to this waiver shall be granted all of the rights and shall be subject to all of the duties and restrictions with respect to Sections 6-514 and 6-515 of this Code

applicable to the driver who possesses a commercial driver's license issued under this Code, except that the driver shall not be subject to any additional duties or restrictions contained in Part 382 of the Federal Motor Carrier Safety Regulations that are not otherwise imposed under Section 6-514 or 6-515 of this Code.

For purposes of this subsection (c), a member of the farmer's family is a natural or in-law spouse, child, parent, or sibling.

(c-5) An employee of a township or road district with a population of less than 3,000 operating a vehicle within the boundaries of the township or road district for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting is waived from the requirements of this Section when the employee is needed to operate the vehicle because the employee of the township or road district who ordinarily operates the vehicle and who has a commercial driver's license is unable to operate the vehicle or is in need of additional assistance due to a snow emergency.

(c-10) A driver of a commercial motor vehicle used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency is waived from the requirements of this Section if such requirements would prevent the driver from responding to an emergency condition requiring immediate response as defined in 49 C.F.R. Part 390.5.

(d) Any person convicted of violating this Section, shall be guilty of a Class A misdemeanor.

(e) Any person convicted of violating paragraph (1) of subsection (b) of this Section, shall have all driving privileges revoked by the Secretary of State.

(f) This Section shall not apply to:

(1) A person who currently holds a valid Illinois driver's license, for the type of vehicle being operated, until the expiration of such license or April 1, 1992, whichever is earlier; or

(2) A non-Illinois domiciliary who is properly licensed in another State, until April 1, 1992. A non-Illinois domiciliary, if such domiciliary is properly licensed in another State or foreign jurisdiction, until April 1, 1992.

(Source: P.A. 96-544, eff. 1-1-10; 97-208, eff. 1-1-12; 97-229, eff. 7-28-11; 97-813, eff. 7-13-12.)

(625 ILCS 5/6-507.5 new)

Sec. 6-507.5. Application for Commercial Learner's Permit (CLP).

(a) The application for a CLP must include, but is not limited to, the following:

(1) the driver applicant's full legal name and current Illinois domiciliary address, unless the driver applicant is from a foreign country and is applying for a non-domiciled CLP in which case the driver applicant shall submit proof of Illinois residency or the driver applicant is from another state and is applying for a non-domiciled CLP in which case the driver applicant shall submit proof of domicile in the state which issued the driver applicant's Non-CDL;

(2) a physical description of the driver applicant including gender, height, weight, color of eyes, and hair color;

(3) date of birth;

(4) the driver applicant's social security number;

(5) the driver applicant's signature;

(6) the names of all states where the driver applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years under 49 C.F.R. Part 383;

(7) proof of citizenship or lawful permanent residency as set forth in Table 1 of 49 C.F.R. 383.71, unless the driver applicant is from a foreign country and is applying for a non-domiciled CLP, in which case the applicant must provide an unexpired employment authorization document (EAD) issued by USCIS or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States; and

(8) any other information required by the Secretary of State.

(b) No CLP shall be issued to a driver applicant unless the applicant has taken and passed a general knowledge test that meets the federal standards contained in 49 C.F.R. Part 383, subparts F, G, and H for the commercial motor vehicle the applicant expects to operate.

(c) No CLP shall be issued to a driver applicant unless the applicant possesses a valid Illinois driver's license or if the applicant is applying for a non-domiciled CLP under subsection (b) of Section 6-509 of this Code, in which case the driver applicant must possess a valid driver's license from his or her state of domicile.

(d) No CLP shall be issued to a person under 18 years of age.

(e) No person shall be issued a CLP unless the person certifies to the Secretary one of the following types of driving operations in which he or she will be engaged:

(1) non-excepted interstate;

(2) non-excepted intrastate;

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(3) excepted interstate; or

(4) excepted intrastate.

(f) No person shall be issued a CLP unless the person certifies to the Secretary that he or she is not subject to any disqualification under 49 C.F.R. 383.51, or any license disqualification under State law, and that he or she does not have a driver's license from more than one state or jurisdiction.

(g) No CLP shall be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, unless otherwise permitted by this Code, while the person's driver's license is suspended, revoked, or cancelled in any state, or any territory or province of Canada; nor may a CLP be issued to a person who has a CLP or CDL issued by any other state or foreign jurisdiction, unless the person surrenders all of these licenses. No CLP shall be issued to or renewed for a person who does not meet the requirement of 49 C.F.R. 391.41(b)(11). The requirement may be met with the aid of a hearing aid.

(h) No CLP with a Passenger, School Bus or Tank Vehicle endorsement shall be issued to a person unless the driver applicant has taken and passed the knowledge test for each endorsement.

(1) A CLP holder with a Passenger (P) endorsement is prohibited from operating a CMV carrying passengers, other than federal or State auditors and inspectors, test examiners, or other trainees, and the CDL holder accompanying the CLP holder as prescribed by subsection (a) of Section 6-507 of this Code. The P endorsement must be class specific.

(2) A CLP holder with a School Bus (S) endorsement is prohibited from operating a school bus with passengers other than federal or State auditors and inspectors, test examiners, or other trainees, and the CDL holder accompanying the CLP holder as prescribed by subsection (a) of Section 6-507 of this Code.

(3) A CLP holder with a Tank Vehicle (N) endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous material that has not been purged of all residue.

(4) All other federal endorsements are prohibited on a CLP.

(i) No CLP holder may operate a commercial motor vehicle transporting hazardous material as defined in paragraph (20) of Section 6-500 of this Code.

(j) The CLP holder must be accompanied by the holder of a valid CDL who has the proper CDL group and endorsement necessary to operate the CMV. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

(k) A CLP is valid for 180 days from the date of issuance. A CLP may be renewed for an additional 180 days without requiring the CLP holder to retake the general and endorsement knowledge tests.

(l) A CLP issued prior to July 1, 2014 for a limited time period according to state requirements, shall be considered a valid commercial driver's license for purposes of behind-the-wheel training on public roads or highways.

(625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

Sec. 6-508. Commercial Driver's License (CDL) - qualification standards.

(a) Testing.

(1) General. No person shall be issued an original or renewal CDL unless that person is domiciled in this State or is applying for a non-domiciled CDL under Sections 6-509 and 6-510 of this Code. The Secretary shall cause to be administered such tests as the Secretary deems necessary to meet the requirements of 49 C.F.R. Part 383, subparts F, G, H, and J.

(1.5) Effective July 1, 2014, no person shall be issued an original CDL or an upgraded CDL that requires a skills test unless that person has held a CLP, for a minimum of 14 calendar days, for the classification of vehicle and endorsement, if any, for which the person is seeking a CDL.

(2) Third party testing. The Secretary of state may authorize a "third party tester",

pursuant to 49 C.F.R. Part 383.75 and 49 C.F.R. 384.228 and 384.229, to administer the skills test or tests specified by Federal Motor Carrier Safety Administration pursuant to the Commercial Motor Vehicle Safety Act of 1986 and any appropriate federal rule.

(b) Waiver of Skills Test. The Secretary of State may waive the skills test specified in this Section for a driver applicant for a commercial driver license who meets the requirements of 49 C.F.R. Part 383.77 and Part 383.123.

(b-1) No person shall be issued a ~~commercial driver instruction permit~~ or CDL unless the person certifies to the Secretary one of the following types of driving operations in which he or she will be engaged:

(1) non-excepted interstate;

- (2) non-accepted intrastate;
- (3) accepted interstate; or
- (4) accepted intrastate.

(b-2) ~~(Blank). Persons who hold a commercial driver instruction permit or CDL on January 30, 2012 must certify to the Secretary no later than January 30, 2014 one of the following applicable self-certifications:~~

- ~~(1) non-accepted interstate;~~
- ~~(2) non-accepted intrastate;~~
- ~~(3) accepted interstate; or~~
- ~~(4) accepted intrastate.~~

(c) ~~Limitations on issuance of a CDL. A CDL, or a commercial driver instruction permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or unless otherwise permitted by this Code, while the person's driver's license is suspended, revoked or cancelled in any state, or any territory or province of Canada; nor may a CLP or CDL be issued to a person who has a CLP or CDL issued by any other state, or foreign jurisdiction, nor may a CDL be issued to a person who has an Illinois CLP unless the person first surrenders all of these such licenses or permits. However, a person may hold an Illinois CLP and an Illinois CDL providing the CLP is necessary to train or practice for an endorsement or vehicle classification not present on the current CDL. No CDL shall be issued to or renewed for a person who does not meet the requirement of 49 CFR 391.41(b)(11). The requirement may be met with the aid of a hearing aid.~~

(c-1) The Secretary may issue a CDL with a school bus driver endorsement to allow a person to drive the type of bus described in subsection (d-5) of Section 6-104 of this Code. The CDL with a school bus driver endorsement may be issued only to a person meeting the following requirements:

(1) the person has submitted his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases;

(2) the person has passed a written test, administered by the Secretary of State, on charter bus operation, charter bus safety, and certain special traffic laws relating to school buses determined by the Secretary of State to be relevant to charter buses, and submitted to a review of the driver applicant's driving habits by the Secretary of State at the time the written test is given;

(3) the person has demonstrated physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use; and

(4) the person has not been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-5.1, 10-6, 10-7, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6, 11-9, 11-9.1, 11-9.3, 11-9.4, 11-14, 11-14.1, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-23, 11-24, 11-25, 11-26, 11-30, 12-2.6, 12-3.1, 12-4, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-4.9, 12-5.01, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 12C-5, 12C-10, 12C-20, 12C-30, 12C-45, 16-16, 16-16.1, 18-1, 18-2, 18-3, 18-4, 18-5, 19-6, 20-1, 20-1.1, 20-1.2, 20-1.3, 20-2, 24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.6, 24-1.7, 24-2.1, 24-3.3, 24-3.5, 24-3.8, 24-3.9, 31A-1, 31A-1.1, 33A-2, and 33D-1, and in subsection (b) of Section 8-1, and in subdivisions (a)(1), (a)(2), (b)(1), (e)(1), (e)(2), (e)(3), (e)(4), and (f)(1) of Section 12-3.05, and in subsection (a) and subsection (b), clause (1), of Section 12-4, and in subsection (A), clauses (a) and (b), of Section 24-3, and those offenses contained in Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012; (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934; and (viii) those offenses defined in the Methamphetamine Precursor Control Act.

The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and may not exceed the actual cost of the records check.

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(c-2) The Secretary shall issue a CDL with a school bus endorsement to allow a person to drive a school bus as defined in this Section. The CDL shall be issued according to the requirements outlined in 49 C.F.R. 383. A person may not operate a school bus as defined in this Section without a school bus endorsement. The Secretary of State may adopt rules consistent with Federal guidelines to implement this subsection (c-2).

~~(d) (Blank). Commercial driver instruction permit. A commercial driver instruction permit may be issued to any person holding a valid Illinois driver's license if such person successfully passes such tests as the Secretary determines to be necessary. A commercial driver instruction permit shall not be issued to a person who does not meet the requirements of 49 CFR 391.41 (b)(11), except for the renewal of a commercial driver instruction permit for a person who possesses a commercial instruction permit prior to the effective date of this amendatory Act of 1999.~~

(Source: P.A. 96-1182, eff. 7-22-10; 96-1551, Article 1, Section 95, eff. 7-1-11; 96-1551, Article 2, Section 1025, eff. 7-1-11; 97-208, eff. 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(625 ILCS 5/6-508.1)

Sec. 6-508.1. Medical Examiner's Certificate.

(a) It shall be unlawful for any person to drive a CMV in non-excepted interstate commerce unless the person holds a CLP or CDL and is medically certified as physically qualified to do so.

(b) No person who has certified to non-excepted interstate driving as provided in Sections 6-507.5 and Section 6-508 of this Code shall be issued a commercial learner's driver instruction permit or CDL unless that person presents to the Secretary a medical examiner's certificate or has a current medical examiner's certificate on the CDLIS driver record.

(c) Persons who hold a commercial driver instruction permit or CDL on January 30, 2012 who have certified as non-excepted interstate as provided in Section 6-508 of this Code must provide to the Secretary a medical examiner's certificate no later than January 30, 2014.

~~(d) On and after As of January 30, 2014, all persons who hold a commercial driver instruction permit or CDL who have certified as non-excepted interstate shall maintain a current medical examiner's certificate on file with the Secretary. On and after July 1, 2014, all persons issued a CLP who have certified as non-excepted interstate shall maintain a current medical examiner's certificate on file with the Secretary.~~

(e) Within 10 calendar days of receipt of a medical examiner's certificate of a driver who has certified as non-excepted interstate, the Secretary shall post the following to the CDLIS driver record:

- (1) the medical examiner's name;
- (2) the medical examiner's telephone number;
- (3) the date of issuance of the medical examiner's certificate;
- (4) the medical examiner's license number and the state that issued it;
- (5) the medical certification status;
- (6) the expiration date of the medical examiner's certificate;
- (7) the existence of any medical variance on the medical examiner's certificate or grandfather provisions;
- (8) any restrictions noted on the medical examiner's certificate; and
- (9) the date the medical examiner's certificate information was posted to the CDLIS driver record.

(f) Within 10 calendar days of the expiration or rescission of the driver's medical examiner's certificate or medical variance or both, the Secretary shall update the medical certification status to "not certified".

(g) Within 10 calendar days of receipt of information from the Federal Motor Carrier Safety Administration regarding issuance or renewal of a medical variance, the Secretary shall update the CDLIS driver record to include the medical variance information provided by the Federal Motor Carrier Safety Administration.

(h) The Secretary shall notify the driver of his or her non-certified status and that his or her CDL will be canceled unless the driver submits a current medical examiner's certificate or medical variance or changes his or her self-certification to driving only in excepted or intrastate commerce.

(i) Within 60 calendar days of a driver's medical certification status becoming non-certified, the Secretary shall cancel the CDL.

(Source: P.A. 97-208, eff. 1-1-12.)

(625 ILCS 5/6-509) (from Ch. 95 1/2, par. 6-509)

Sec. 6-509. Non-domiciled commercial learner's permit and non-domiciled ~~Non-resident~~ commercial driver's license.

(a) The Secretary of State may issue a non-domiciled CLP or non-domiciled ~~non-resident~~ CDL to a

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domiciliary of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards, in that foreign jurisdiction, do not meet the testing standards established in 49 C.F.R. Part 383. ~~The Secretary of State may also issue a non-resident CDL to an individual domiciled in another state while that state is prohibited from issuing CDLs in accordance with 49 C.F.R. Part 384. A non-domiciled CLP or non-domiciled non-resident CDL shall be issued in accordance with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. Part 383. The word "Non-domiciled" "Non-resident" must appear on the face of the non-domiciled CLP or non-domiciled non-resident CDL. A driver applicant must surrender any non-domiciled CLP or non-domiciled non-resident CDL, license or permit issued by any other state.~~

(b) If an individual is domiciled in a state while that state is prohibited from issuing CDLs in accordance with 49 C.F.R. Part 384.405, that individual is eligible to obtain a non-domiciled CLP or non-domiciled non-resident CDL from any state that elects to issue a non-domiciled CLP or non-domiciled non-resident CDL and which complies with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. Part 383.23. "Non-domiciled" must appear on the face of the non-domiciled CLP or non-domiciled CDL. A driver applicant must surrender any non-domiciled CLP or non-domiciled CDL issued in any other state.

(Source: P.A. 94-307, eff. 9-30-05; 95-382, eff. 8-23-07.)

(625 ILCS 5/6-510) (from Ch. 95 1/2, par. 6-510)

Sec. 6-510. Application for Commercial Driver's License (CDL). The application for a CDL ~~or commercial driver instruction permit~~, must include, but is not necessarily be limited to, the following:

(1) the driver applicant's full legal name and current Illinois domiciliary address, (unless the driver applicant is from a foreign country and is applying application is for a non-domiciled Non-resident CDL) in which case the driver applicant shall submit proof of Illinois residency or the driver applicant is from another state and is applying for a non-domiciled CDL in which case the driver applicant shall submit proof of domicile in the state which issued the driver applicant's Non-CDL of the driver applicant;

(2) a physical description of the driver applicant including gender sex, height, weight, color of eyes, and hair color;

(3) date of birth;

(4) the driver applicant's social security number;

(5) the driver applicant's signature;

(6) certifications required by 49 C.F.R. Part 383.71;

(6.1) the names of all states where the driver applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years pursuant to 49 C.F.R. Part 383; and

(6.2) proof of citizenship or lawful permanent residency as set forth in Table 1 of 49 C.F.R. 383.71, unless the driver applicant is from a foreign country and is applying for a non-domiciled CDL, in which case the applicant must provide an unexpired employment authorization document (EAD) issued by USCIS or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States; and

(7) any other information required by the Secretary of State.

(Source: P.A. 97-263, eff. 8-5-11.)

(625 ILCS 5/6-511) (from Ch. 95 1/2, par. 6-511)

Sec. 6-511. Change of legal name or domiciliary address.

(a) All persons to whom a CLP or CDL has been issued, shall notify the Driver Services Department of the Secretary of State's Office within 10 days of any change in domiciliary address. In addition, the such person shall make application for a corrected CLP or CDL within 30 days after the of any such change.

(b) Any person to whom a CLP or CDL has been issued whose legal name has changed from the name on the previously-issued CLP or CDL shall apply for a corrected card within 30 days after the change.

(Source: P.A. 93-895, eff. 1-1-05.)

(625 ILCS 5/6-512) (from Ch. 95 1/2, par. 6-512)

Sec. 6-512. Unlawful operation of a commercial motor vehicle pursuant to a non-Illinois issued CLP or CDL. No person, after becoming a domiciliary of this State for 30 days or more, shall drive a commercial motor vehicle on the highways of this State pursuant to the authority of a CLP or CDL issued by any other State or foreign jurisdiction.

(Source: P.A. 86-845.)

(625 ILCS 5/6-512.5 new)

Sec. 6-512.5. Commercial Learner's Permit or CLP.

(a) The content of the CLP shall include, but is not limited to, the following:

(1) A CLP shall be distinctly marked "Commercial Learner's Permit" or "CLP" and that it is invalid unless accompanied by the underlying driver's license issued by the State of Illinois;

(2) the full legal name and the Illinois domiciliary address (unless it is a non-domiciled CLP) of the person to whom the CLP is issued;

(3) a physical description of the person including gender, height, weight, color of eyes, and hair color;

(4) date of birth;

(5) the Illinois driver's license number assigned by the Secretary of State;

(6) the person's signature;

(7) an indicator showing that the CLP was issued by the State of Illinois;

(8) the date of issuance and the date of expiration of the CLP;

(9) the class or type of commercial vehicle or vehicles which the person is authorized to drive together with any endorsement or restriction.

(b) If the CLP is a non-domiciled CLP, it must contain the prominent statement that the permit is a "Non-domiciled Commercial Learner's Permit" or "Non-domiciled CLP".

(c) Applicant Record Check. Prior to issuing, renewing, upgrading, or transferring a CLP, the Secretary of State shall obtain, review, and maintain upon issuance, renewal, upgrade, or transfer the driver applicant's driving record as required by 49 C.F.R. Parts 383 and 384 and the United States Secretary of Transportation.

(d) Notification of Commercial Learner's Permit (CLP) Issuance and Self-Certification. Within 10 days after issuing a CLP, the Secretary of State must notify the Commercial Driver License Information System of that fact, and provide all information required to ensure identification of the person. The Secretary shall also post the driver's self-certification for the type of driving operations to the CDLIS driver record.

(625 ILCS 5/6-513) (from Ch. 95 1/2, par. 6-513)

Sec. 6-513. Commercial Driver's License or CDL. The content of the CDL shall include, but is not necessarily be limited to the following:

(a) A CDL shall be distinctly marked "Commercial Driver's License" or "CDL". It must include, but is not necessarily be limited to, the following information:

(1) the full legal name and the Illinois domiciliary address (unless it is a non-domiciled Non-resident CDL) of the

person to whom the CDL is issued;

(2) a the person's color photograph of the person;

(3) a physical description of the person including gender sex, height, and may include weight, color of eyes , and

hair color;

(4) date of birth;

(5) a CDL or file number assigned by the Secretary of State;

(6) the person's signature;

(7) the class or type of commercial vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;

(8) the name of the issuing state;

(9) the issuance and expiration dates of the CDL; and

(10) the restriction code "V" if the driver has been issued a medical variance.

(a-5) If the CDL is a non-domiciled CDL it must contain the prominent statement that the license is a "Non-domiciled Commercial Driver's License" or "Non-domiciled CDL".

(b) Applicant Record Check.

Prior to issuing, renewing, upgrading, or transferring a CDL, the Secretary of State shall obtain, review, and maintain upon issuance, renewal, upgrade, or transfer the driver applicant's driving record as required by 49 C.F.R. Part 383 and Part 384 and the United States Secretary of Transportation.

(c) Notification of Commercial Driver's License (CDL) Issuance and Self-Certification.

Within 10 days after issuing a CDL, the Secretary of State must notify the Commercial Driver License Information System of that fact, and provide all information required to ensure identification of the person. The Secretary shall also post the driver's self-certification for the type of driving operations to the CDLIS driver record.

(c-5) Change in driver identification information.

Within 10 days of any change of driver identification information on any CDL holder, the Secretary of State must notify the Commercial Driver License Information System of the change.

(d) Renewal.

Every person applying for a renewal of a CDL must complete the appropriate application form required by this Code and any other test deemed necessary by the Secretary.

(Source: P.A. 97-208, eff. 1-1-12.)

(625 ILCS 5/6-514) (from Ch. 95 1/2, par. 6-514)

Sec. 6-514. Commercial Driver's License (CDL) - Disqualifications.

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of not less than 12 months for the first violation of:

(1) Refusing to submit to or failure to complete a test or tests to determine the

driver's blood concentration of alcohol, other drug, or both, while driving a commercial motor vehicle or, if the driver is a CLP or CDL holder, while driving a non-CMV; or

(2) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or urine is at least 0.04, or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as indicated by a police officer's sworn report or other verified evidence; or operating a non-commercial motor vehicle while the alcohol concentration of the person's blood, breath, or urine was above the legal limit defined in Section 11-501.1 or 11-501.8 or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as indicated by a police officer's sworn report or other verified evidence while holding a CLP or CDL commercial driver's license; or

(3) Conviction for a first violation of:

(i) Driving a commercial motor vehicle or, if the driver is a CLP or CDL holder, driving a non-CMV while under the influence of alcohol, or any other drug, or combination of drugs to a degree which renders such person incapable of safely driving; or

(ii) Knowingly leaving the scene of an accident while operating a commercial motor vehicle or, if the driver is a CLP or CDL holder, while driving a non-CMV; or

(iii) Driving a commercial motor vehicle or, if the driver is a CLP or CDL holder, driving a non-CMV while committing any felony; or

(iv) Driving a commercial motor vehicle while the person's driving privileges or driver's license or permit is revoked, suspended, or cancelled or the driver is disqualified from operating a commercial motor vehicle; or

(v) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of motor vehicle manslaughter, homicide by a motor vehicle, and negligent homicide.

As used in this subdivision (a)(3)(v), "motor vehicle manslaughter" means the offense of involuntary manslaughter if committed by means of a vehicle; "homicide by a motor vehicle" means the offense of first degree murder or second degree murder, if either offense is committed by means of a vehicle; and "negligent homicide" means reckless homicide under Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 and aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof under subdivision (d)(1)(F) of Section 11-501 of this Code.

If any of the above violations or refusals occurred while transporting hazardous material(s) required to be placarded, the person shall be disqualified for a period of not less than 3 years.

(b) A person is disqualified for life for a second conviction of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from 2 or more separate incidents.

(c) A person is disqualified from driving a commercial motor vehicle for life if the person either (i) uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance or (ii) if the person is a CLP or CDL holder, uses a non-CMV in the commission of a felony involving any of those activities.

(d) The Secretary of State may, when the United States Secretary of Transportation so authorizes, issue regulations in which a disqualification for life under paragraph (b) may be reduced to a period of not less than 10 years. If a reinstated driver is subsequently convicted of another disqualifying offense, as specified in subsection (a) of this Section, he or she shall be permanently disqualified for life and shall be ineligible to again apply for a reduction of the lifetime disqualification.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than 2 months if convicted of 2 serious traffic violations, committed in a commercial motor vehicle, non-CMV while holding a CLP or CDL, or any combination thereof, arising from separate incidents, occurring within a 3 year period, provided the serious traffic violation committed in a non-CMV would result in the suspension or revocation of the CLP or CDL holder's non-CMV privileges. However, a person will be disqualified from driving a commercial motor vehicle for a period of not less than 4 months if convicted of 3 serious traffic violations, committed in a commercial motor vehicle, non-CMV while holding a CLP or CDL, or any combination thereof, arising from separate incidents, occurring within a 3 year period, provided the serious traffic violation committed in a non-CMV would result in the suspension or revocation of the CLP or CDL holder's non-CMV privileges. If all the convictions occurred in a non-CMV, the disqualification shall be entered only if the convictions would result in the suspension or revocation of the CLP or CDL holder's non-CMV privileges.

(e-1) (Blank).

(f) Notwithstanding any other provision of this Code, any driver disqualified from operating a commercial motor vehicle, pursuant to this UCCLA, shall not be eligible for restoration of commercial driving privileges during any such period of disqualification.

(g) After suspending, revoking, or cancelling a CLP or CDL ~~commercial driver's license~~, the Secretary of State must update the driver's records to reflect such action within 10 days. After suspending or revoking the driving privilege of any person who has been issued a CLP or CDL ~~or commercial driver instruction permit~~ from another jurisdiction, the Secretary shall originate notification to such issuing jurisdiction within 10 days.

(h) The "disqualifications" referred to in this Section shall not be imposed upon any commercial motor vehicle driver, by the Secretary of State, unless the prohibited action(s) occurred after March 31, 1992.

(i) A person is disqualified from driving a commercial motor vehicle in accordance with the following:

(1) For 6 months upon a first conviction of paragraph (2) of subsection (b) or subsection (b-3) of Section 6-507 of this Code.

(2) For 2 years upon a second conviction of paragraph (2) of subsection (b) or subsection (b-3) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the second conviction is a violation of paragraph (2) of subsection (b) or subsection (b-3).

(3) For 3 years upon a third or subsequent conviction of paragraph (2) of subsection (b) or subsection (b-3) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the third or subsequent conviction is a violation of paragraph (2) of subsection (b) or subsection (b-3).

(4) For one year upon a first conviction of paragraph (3) of subsection (b) or subsection (b-5) of Section 6-507 of this Code.

(5) For 3 years upon a second conviction of paragraph (3) of subsection (b) or subsection (b-5) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the second conviction is a violation of paragraph (3) of subsection (b) or (b-5).

(6) For 5 years upon a third or subsequent conviction of paragraph (3) of subsection (b) or subsection (b-5) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the third or subsequent conviction is a violation of paragraph (3) of subsection (b) or (b-5).

(j) Disqualification for railroad-highway grade crossing violation.

(1) General rule. A driver who is convicted of a violation of a federal, State, or local law or regulation pertaining to one of the following 6 offenses at a railroad-highway grade crossing must be disqualified from operating a commercial motor vehicle for the period of time specified in paragraph (2) of this subsection (j) if the offense was committed while operating a commercial motor vehicle:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train or railroad track equipment, as described in subsection (a-5) of Section 11-1201 of this Code;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear, as described in subsection (a) of Section 11-1201 of this Code;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing, as described in Section 11-1202 of this Code;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping, as described in subsection (b) of Section 11-1425 of this Code;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing, as described in subdivision (a)2 of Section 11-1201 of this Code;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance, as described in subsection (d-1) of Section 11-1201 of this Code.

(2) Duration of disqualification for railroad-highway grade crossing violation.

(i) First violation. A driver must be disqualified from operating a commercial motor vehicle for not less than 60 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had no convictions for a violation described in paragraph (1) of this subsection (j).

(ii) Second violation. A driver must be disqualified from operating a commercial motor vehicle for not less than 120 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had one other conviction for a violation described in paragraph (1) of this subsection (j) that was committed in a separate incident.

(iii) Third or subsequent violation. A driver must be disqualified from operating a commercial motor vehicle for not less than one year if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had 2 or more other convictions for violations described in paragraph (1) of this subsection (j) that were committed in separate incidents.

(k) Upon notification of a disqualification of a driver's commercial motor vehicle privileges imposed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, in accordance with 49 C.F.R. 383.52, the Secretary of State shall immediately record to the driving record the notice of disqualification and confirm to the driver the action that has been taken.

(Source: P.A. 96-544, eff. 1-1-10; 96-1080, eff. 7-16-10; 96-1244, eff. 1-1-11; 97-333, eff. 8-12-11; 97-1150, eff. 1-25-13.)

(625 ILCS 5/6-518) (from Ch. 95 1/2, par. 6-518)

Sec. 6-518. Notification of Traffic Convictions.

(a) Within 5 days after receiving a report of an Illinois conviction, or other verified evidence, of any driver who has been issued a CLP or CDL by another State, for a violation of any law or local ordinance of this State, relating to motor vehicle traffic control, other than parking violations, committed in any motor vehicle, the Secretary of State must notify the driver licensing authority which issued such CLP or CDL of said conviction.

(b) Within 5 days after receiving a report of an Illinois conviction, or other verified evidence, of any driver from another state, for a violation of any law or local ordinance of this State, relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the Secretary of State must notify the driver licensing authority which issued the person's driver's license of the conviction.

(Source: P.A. 96-1080, eff. 7-16-10.)

(625 ILCS 5/6-523) (from Ch. 95 1/2, par. 6-523)

Sec. 6-523. Reciprocity.

(a) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this State if ~~the such~~ person has a valid CDL, non-domiciled CDL, CLP, or non-domiciled CLP commercial driver's license or CDL instruction permit issued by another State or foreign jurisdiction as long as ~~that~~ such person has not been an established domiciliary of this State for 30 days or more.

(b) The Secretary of State shall give out of state convictions full faith and credit and treat them for sanctioning purposes, under this UCCLA, just as if they occurred in this State.

(c) A CLP or CDL issued by this State or any other state before the date on and after which the state is prohibited from issuing CLPs or CDLs under 49 C.F.R. Part 384, remains valid until its stated expiration date.

(Source: P.A. 94-307, eff. 9-30-05.)

(625 ILCS 5/6-704) (from Ch. 95 1/2, par. 6-704)

Sec. 6-704. Applications for New Licenses.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

1. The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

2. The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

3. The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders this such license, except that if an applicant is applying only for a non-domiciled commercial learner's permit or non-domiciled commercial driver's license, the applicant is not required to surrender the license issued by the applicant's state or country of domicile.

(Source: P.A. 76-1615.)

(625 ILCS 5/1-111.5 rep.)

Section 10. The Illinois Vehicle Code is amended by repealing Section 1-111.5.

Section 99. Effective date. This Act takes effect July 1, 2014."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 1764** having been printed, was taken up, read by title a second time.

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

#### **AMENDMENT NO. 1 TO SENATE BILL 1764**

AMENDMENT NO. 1. Amend Senate Bill 1764 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 6-303 as follows:

(625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

Sec. 6-303. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Except as otherwise provided in subsection (a-5), any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit issued prior to January 1, 2009, monitoring device driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(a-5) Any person who violates this Section as provided in subsection (a) while his or her driver's license, permit or privilege is revoked because of a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide or a similar provision of a law of another state, is guilty of a Class 4 felony. The person shall be required to undergo a professional evaluation, as provided in Section 11-501 of this Code, to determine if an alcohol, drug, or intoxicating compound problem exists and the extent of the problem, and to undergo the imposition of treatment as appropriate.

(a-10) A person's driver's license, permit, or privilege to obtain a driver's license or permit may be subject to multiple revocations, multiple suspensions, or any combination of both simultaneously. No revocation or suspension shall serve to negate, invalidate, cancel, postpone, or in any way lessen the effect of any other revocation or suspension entered prior or subsequent to any other revocation or suspension.

(b) (Blank).

(b-1) Upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle during the time when the person's driver's license, permit or privilege was suspended by the Secretary of State or the driver's licensing administrator of another state, except as specifically

allowed by a probationary license, judicial driving permit, restricted driving permit or monitoring device driving permit the Secretary shall extend the suspension for the same period of time as the originally imposed suspension unless the suspension has already expired, in which case the Secretary shall be authorized to suspend the person's driving privileges for the same period of time as the originally imposed suspension.

(b-2) Except as provided in subsection (b-6), upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle when the person's driver's license, permit or privilege was revoked by the Secretary of State or the driver's license administrator of any other state, except as specifically allowed by a restricted driving permit issued pursuant to this Code or the law of another state, the Secretary shall not issue a driver's license for an additional period of one year from the date of such conviction indicating such person was operating a vehicle during such period of revocation.

(b-3) (Blank).

(b-4) When the Secretary of State receives a report of a conviction of any violation indicating a person was operating a motor vehicle that was not equipped with an ignition interlock device during a time when the person was prohibited from operating a motor vehicle not equipped with such a device, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of the conviction.

(b-5) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 30 consecutive days or 300 hours of community service when the person's driving privilege was revoked or suspended as a result of a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(b-6) Upon receiving a report of a first conviction of operating a motor vehicle while the person's driver's license, permit or privilege was revoked where the revocation was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide or a similar out-of-state offense, the Secretary shall not issue a driver's license for an additional period of three years from the date of such conviction.

(c) Except as provided in subsections (c-3) and (c-4), any person convicted of violating this Section shall serve a minimum term of imprisonment of 10 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, any other drug or any combination thereof; or

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension or revocation under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall not be subject to suspension in order to reduce such sentence.

(c-1) Except as provided in subsections (c-5) and (d), any person convicted of a second violation of this Section shall be ordered by the court to serve a minimum of 100 hours of community service.

(c-2) In addition to other penalties imposed under this Section, the court may impose on any person convicted a fourth time of violating this Section any of the following:

(1) Seizure of the license plates of the person's vehicle.

(2) Immobilization of the person's vehicle for a period of time to be determined by the court.

(c-3) Any person convicted of a violation of this Section during a period of summary suspension imposed pursuant to Section 11-501.1 when the person was eligible for a MDDP shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-4) Any person who has been issued a MDDP and who is convicted of a violation of this Section as a result of operating or being in actual physical control of a motor vehicle not equipped with an ignition interlock device at the time of the offense shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-5) Any person convicted of a second violation of this Section is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and shall serve a mandatory term of imprisonment, if:

(1) ~~the current violation occurred when the person's driver's license was suspended or revoked the revocation or suspension was~~ for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of

2012, relating to the offense of reckless homicide, or a similar out-of-state offense; and

(2) the prior conviction under this Section occurred while the person's driver's license was



suspended or revoked for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, or a similar out-of-state offense, or was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d) Any person convicted of a second violation of this Section shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked ~~the original revocation or suspension was~~ for a violation of Section 11-401 or 11-501 of this Code, ~~or a similar out-of-state~~

~~offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code ; and~~

(2) the prior conviction under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code, or for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-1) Except as provided in subsections (d-2), (d-2.5), and (d-3), any person convicted of a third or subsequent violation of this Section shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court.

(d-2) Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked ~~the revocation or suspension was~~ for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state

~~offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code; and~~

(2) the prior convictions under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code, or for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-2.5) Any person convicted of a third violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, if:

(1) the current violation occurred while the person's driver's license was suspended or revoked ~~the revocation or suspension was~~ for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of

2012, relating to the offense of reckless homicide, or a similar out-of-state offense. The person's driving privileges shall be revoked for the remainder of the person's life; and

(2) the prior convictions under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense, or was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-3) Any person convicted of a fourth, fifth, sixth, seventh, eighth, or ninth violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked ~~the revocation or suspension was~~ for a violation of Section 11-401 or 11-501 of this Code, ~~or a similar out-of-state~~

~~offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code ; and~~

(2) the prior convictions under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code, or for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-3.5) Any person convicted of a fourth or subsequent violation of this Section is guilty of a Class 1

felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, and is eligible for an extended term, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of

2012, relating to the offense of reckless homicide, or a similar out-of-state offense; and

(2) the prior convictions under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense, or was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code.

(d-4) Any person convicted of a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of this Section is guilty of a Class 3 felony, and is not eligible for probation or conditional discharge, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state

offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code; and

(2) the prior convictions under this Section occurred while the person's driver's license license was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory suspension or revocation under Section 11-501.1 of this Code, or for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-5) Any person convicted of a fifteenth or subsequent violation of this Section is guilty of a Class 2 felony, and is not eligible for probation or conditional discharge, if:

(1) the current violation occurred when the person's driver's license was suspended or revoked the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state

offense, or a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code; and

(2) the prior convictions under this Section occurred while the person's driver's license was suspended or revoked for a violation of Section 11-401 or 11-501 of this Code, a similar out-of-state offense, a similar provision of a local ordinance, or a statutory summary suspension or revocation under Section 11-501.1 of this Code, or for a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar out-of-state offense.

(e) Any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(g) The motor vehicle used in a violation of this Section is subject to seizure and forfeiture as provided in Sections 36-1 and 36-2 of the Criminal Code of 2012 if the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code, a similar provision of a local ordinance, or a similar provision of a law of another state;

(2) a violation of paragraph (b) of Section 11-401 of this Code, a similar provision of a local ordinance, or a similar provision of a law of another state;

(3) a statutory summary suspension or revocation under Section 11-501.1 of this Code or a similar provision of a law of another state; or

(4) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, or a similar provision of a law of another state.

(Source: P.A. 96-502, eff. 1-1-10; 96-607, eff. 8-24-09; 96-1000, eff. 7-2-10; 96-1344, eff. 7-1-11; 97-984, eff. 1-1-13; 97-1150, eff. 1-25-13.)

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

[April 18, 2013]

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Muñoz, as chief co-sponsor pursuant to Senate Rule 5-1(b)(ii), **Senate Bill No. 1772** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1772**

AMENDMENT NO. 1. Amend Senate Bill 1772 on page 37, by replacing lines 4 through 14 with the following

""Automobile" means (1) any motor vehicle of the first division, or (2) a motor vehicle of the second division which: (A) is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is ~~or a motor vehicle of the second division which is~~ of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code ; or (C) ~~has a weight of 8,000 pounds or less.~~."

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Biss, **Senate Bill No. 1689** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Brady, **Senate Bill No. 1831** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1831**

AMENDMENT NO. 1. Amend Senate Bill 1831 by replacing everything after the enacting clause with the following:

"Section 5. The Wildlife Code is amended by changing Section 2.33 as follows:

(520 ILCS 5/2.33) (from Ch. 61, par. 2.33)

Sec. 2.33. Prohibitions.

(a) It is unlawful to carry or possess any gun in any State refuge unless otherwise permitted by administrative rule.

(b) It is unlawful to use or possess any snare or snare-like device, deadfall, net, or pit trap to take any species, except that snares not powered by springs or other mechanical devices may be used to trap fur-bearing mammals, in water sets only, if at least one-half of the snare noose is located underwater at all times.

(c) It is unlawful for any person at any time to take a wild mammal protected by this Act from its den by means of any mechanical device, spade, or digging device or to use smoke or other gases to dislodge or remove such mammal except as provided in Section 2.37.

(d) It is unlawful to use a ferret or any other small mammal which is used in the same or similar manner for which ferrets are used for the purpose of frightening or driving any mammals from their dens or hiding places.

(e) (Blank).

(f) It is unlawful to use spears, gigs, hooks or any like device to take any species protected by this Act.

(g) It is unlawful to use poisons, chemicals or explosives for the purpose of taking any species protected by this Act.

(h) It is unlawful to hunt adjacent to or near any peat, grass, brush or other inflammable substance when it is burning.

(i) It is unlawful to take, pursue or intentionally harass or disturb in any manner any wild birds or mammals by use or aid of any vehicle or conveyance, except as permitted by the Code of Federal Regulations for the taking of waterfowl. It is also unlawful to use the lights of any vehicle or conveyance or any light from or any light connected to the vehicle or conveyance in any area where wildlife may be found except in accordance with Section 2.37 of this Act; however, nothing in this Section shall prohibit

the normal use of headlamps for the purpose of driving upon a roadway. Striped skunk, opossum, red fox, gray fox, raccoon and coyote may be taken during the open season by use of a small light which is worn on the body or hand-held by a person on foot and not in any vehicle.

(j) It is unlawful to use any shotgun larger than 10 gauge while taking or attempting to take any of the species protected by this Act.

(k) It is unlawful to use or possess in the field any shotgun shell loaded with a shot size larger than lead BB or steel T (.20 diameter) when taking or attempting to take any species of wild game mammals (excluding white-tailed deer), wild game birds, migratory waterfowl or migratory game birds protected by this Act, except white-tailed deer as provided for in Section 2.26 and other species as provided for by subsection (l) or administrative rule.

(l) It is unlawful to take any species of wild game, except white-tailed deer, with a shotgun loaded with slugs unless otherwise provided for by administrative rule.

(m) It is unlawful to use any shotgun capable of holding more than 3 shells in the magazine or chamber combined, except on game breeding and hunting preserve areas licensed under Section 3.27 and except as permitted by the Code of Federal Regulations for the taking of waterfowl. If the shotgun is capable of holding more than 3 shells, it shall, while being used on an area other than a game breeding and shooting preserve area licensed pursuant to Section 3.27, be fitted with a one piece plug that is irremovable without dismantling the shotgun or otherwise altered to render it incapable of holding more than 3 shells in the magazine and chamber, combined.

(n) It is unlawful for any person, except persons who possess a permit to hunt from a vehicle as provided in this Section and persons otherwise permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case, except that at field trials authorized by Section 2.34 of this Act, unloaded guns or guns loaded with blank cartridges only, may be carried on horseback while not contained in a case, or to have or carry any bow or arrow device in or on any vehicle unless such bow or arrow device is unstrung or enclosed in a case, or otherwise made inoperable.

(o) It is unlawful to use any crossbow for the purpose of taking any wild birds or mammals, except as provided for in Section 2.5.

(p) It is unlawful to take game birds, migratory game birds or migratory waterfowl with a rifle, pistol, revolver or airgun.

(q) It is unlawful to fire a rifle, pistol, revolver or airgun on, over or into any waters of this State, including frozen waters.

(r) It is unlawful to discharge any gun or bow and arrow device along, upon, across, or from any public right-of-way or highway in this State.

(s) It is unlawful to use a silencer or other device to muffle or mute the sound of the explosion or report resulting from the firing of any gun.

(t) It is unlawful for any person to ~~take trap or attempt to take any species of wildlife or parts thereof hunt, or intentionally or wantonly allow a dog to hunt, within or upon the land of another, or upon waters flowing over or standing on the land of another, or to knowingly shoot a gun, bow and arrow, or crossbow onto the property of another for the purposes of taking or attempting to take any species of wildlife, without first obtaining permission from the owner or the owner's designee. For the purposes of this Section, the owner's designee means anyone who the owner designates in a written authorization and the authorization must contain (i) the legal or common description of property for such authority is given, (ii) the extent that the owner's designee is authorized to make decisions regarding who is allowed to take or attempt to take any species of wildlife or parts thereof, and (iii) the owner's notarized signature.~~ ~~tenant. It shall be prima facie evidence that a person does not have permission of the owner or tenant if the person is unable to demonstrate to the law enforcement officer in the field that permission had been obtained. This provision may only be rebutted by testimony of the owner or tenant that permission had been given. Before enforcing this Section the law enforcement officer must have received notice from the owner or the owner's designee tenant of a violation of this Section. Statements made to the law enforcement officer regarding this notice shall not be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice.~~

(u) It is unlawful for any person to discharge any firearm for the purpose of taking any of the species protected by this Act, or hunt with gun or dog, or intentionally or wantonly allow a dog to hunt, within 300 yards of an inhabited dwelling without first obtaining permission from the owner or tenant, except that while trapping, hunting with bow and arrow, hunting with dog and shotgun using shot shells only, or hunting with shotgun using shot shells only, or on licensed game breeding and hunting preserve areas, as defined in Section 3.27, on property operated under a Migratory Waterfowl Hunting Area Permit, on federally owned and managed lands and on Department owned, managed, leased or controlled lands, a

100 yard restriction shall apply.

(v) It is unlawful for any person to remove fur-bearing mammals from, or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so.

(w) It is unlawful for any owner of a dog to knowingly or wantonly allow his or her dog to pursue, harass or kill deer, except that nothing in this Section shall prohibit the tracking of wounded deer with a dog in accordance with the provisions of Section 2.26 of this Code.

(x) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in hunting or trapping thereon.

(y) It is unlawful to hunt wild game protected by this Act between one half hour after sunset and one half hour before sunrise, except that hunting hours between one half hour after sunset and one half hour before sunrise may be established by administrative rule for fur-bearing mammals.

(z) It is unlawful to take any game bird (excluding wild turkeys and crippled pheasants not capable of normal flight and otherwise irretrievable) protected by this Act when not flying. Nothing in this Section shall prohibit a person from carrying an uncased, unloaded shotgun in a boat, while in pursuit of a crippled migratory waterfowl that is incapable of normal flight, for the purpose of attempting to reduce the migratory waterfowl to possession, provided that the attempt is made immediately upon downing the migratory waterfowl and is done within 400 yards of the blind from which the migratory waterfowl was downed. This exception shall apply only to migratory game birds that are not capable of normal flight. Migratory waterfowl that are crippled may be taken only with a shotgun as regulated by subsection (j) of this Section using shotgun shells as regulated in subsection (k) of this Section.

(aa) It is unlawful to use or possess any device that may be used for tree climbing or cutting, while hunting fur-bearing mammals, excluding coyotes.

(bb) It is unlawful for any person, except licensed game breeders, pursuant to Section 2.29 to import, carry into, or possess alive in this State any species of wildlife taken outside of this State, without obtaining permission to do so from the Director.

(cc) It is unlawful for any person to have in his or her possession any freshly killed species protected by this Act during the season closed for taking.

(dd) It is unlawful to take any species protected by this Act and retain it alive except as provided by administrative rule.

(ee) It is unlawful to possess any rifle while in the field during gun deer season except as provided in Section 2.26 and administrative rules.

(ff) It is unlawful for any person to take any species protected by this Act, except migratory waterfowl, during the gun deer hunting season in those counties open to gun deer hunting, unless he or she wears, when in the field, a cap and upper outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material.

(gg) It is unlawful during the upland game season for any person to take upland game with a firearm unless he or she wears, while in the field, a cap of solid blaze orange color. For purposes of this Act, upland game is defined as Bobwhite Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern Cottontail and Swamp Rabbit.

(hh) It shall be unlawful to kill or cripple any species protected by this Act for which there is a daily bag limit without making a reasonable effort to retrieve such species and include such in the daily bag limit.

(ii) This Section shall apply only to those species protected by this Act taken within the State. Any species or any parts thereof, legally taken in and transported from other states or countries, may be possessed within the State, except as provided in this Section and Sections 2.35, 2.36 and 3.21.

(jj) (Blank).

(kk) Nothing contained in this Section shall prohibit the Director from issuing permits to paraplegics or to other disabled persons who meet the requirements set forth in administrative rule to shoot or hunt from a vehicle as provided by that rule, provided that such is otherwise in accord with this Act.

(ll) Nothing contained in this Act shall prohibit the taking of aquatic life protected by the Fish and Aquatic Life Code or birds and mammals protected by this Act, except deer and fur-bearing mammals, from a boat not camouflaged or disguised to alter its identity or to further provide a place of concealment and not propelled by sail or mechanical power. However, only shotguns not larger than 10 gauge nor smaller than .410 bore loaded with not more than 3 shells of a shot size no larger than lead BB or steel T (.20 diameter) may be used to take species protected by this Act.

(mm) Nothing contained in this Act shall prohibit the use of a shotgun, not larger than 10 gauge nor smaller than a 20 gauge, with a rifled barrel.

(Source: P.A. 96-390, eff. 8-13-09; 97-645, eff. 12-30-11; 97-907, eff. 8-7-12.)

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

Senate Committee Amendment No. 2 was held in the Committee on Assignments.  
 Senator Brady offered the following amendment and moved its adoption:

**AMENDMENT NO. 3 TO SENATE BILL 1831**

AMENDMENT NO. 3. Amend Senate Bill 1831, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Wildlife Code is amended by changing Section 2.33 as follows:

(520 ILCS 5/2.33) (from Ch. 61, par. 2.33)

Sec. 2.33. Prohibitions.

(a) It is unlawful to carry or possess any gun in any State refuge unless otherwise permitted by administrative rule.

(b) It is unlawful to use or possess any snare or snare-like device, deadfall, net, or pit trap to take any species, except that snares not powered by springs or other mechanical devices may be used to trap furbearing mammals, in water sets only, if at least one-half of the snare noose is located underwater at all times.

(c) It is unlawful for any person at any time to take a wild mammal protected by this Act from its den by means of any mechanical device, spade, or digging device or to use smoke or other gases to dislodge or remove such mammal except as provided in Section 2.37.

(d) It is unlawful to use a ferret or any other small mammal which is used in the same or similar manner for which ferrets are used for the purpose of frightening or driving any mammals from their dens or hiding places.

(e) (Blank).

(f) It is unlawful to use spears, gigs, hooks or any like device to take any species protected by this Act.

(g) It is unlawful to use poisons, chemicals or explosives for the purpose of taking any species protected by this Act.

(h) It is unlawful to hunt adjacent to or near any peat, grass, brush or other inflammable substance when it is burning.

(i) It is unlawful to take, pursue or intentionally harass or disturb in any manner any wild birds or mammals by use or aid of any vehicle or conveyance, except as permitted by the Code of Federal Regulations for the taking of waterfowl. It is also unlawful to use the lights of any vehicle or conveyance or any light from or any light connected to the vehicle or conveyance in any area where wildlife may be found except in accordance with Section 2.37 of this Act; however, nothing in this Section shall prohibit the normal use of headlamps for the purpose of driving upon a roadway. Striped skunk, opossum, red fox, gray fox, raccoon and coyote may be taken during the open season by use of a small light which is worn on the body or hand-held by a person on foot and not in any vehicle.

(j) It is unlawful to use any shotgun larger than 10 gauge while taking or attempting to take any of the species protected by this Act.

(k) It is unlawful to use or possess in the field any shotgun shell loaded with a shot size larger than lead BB or steel T (.20 diameter) when taking or attempting to take any species of wild game mammals (excluding white-tailed deer), wild game birds, migratory waterfowl or migratory game birds protected by this Act, except white-tailed deer as provided for in Section 2.26 and other species as provided for by subsection (l) or administrative rule.

(l) It is unlawful to take any species of wild game, except white-tailed deer, with a shotgun loaded with slugs unless otherwise provided for by administrative rule.

(m) It is unlawful to use any shotgun capable of holding more than 3 shells in the magazine or chamber combined, except on game breeding and hunting preserve areas licensed under Section 3.27 and except as permitted by the Code of Federal Regulations for the taking of waterfowl. If the shotgun is capable of holding more than 3 shells, it shall, while being used on an area other than a game breeding and shooting preserve area licensed pursuant to Section 3.27, be fitted with a one piece plug that is irremovable without dismantling the shotgun or otherwise altered to render it incapable of holding more than 3 shells in the magazine and chamber, combined.

(n) It is unlawful for any person, except persons who possess a permit to hunt from a vehicle as provided in this Section and persons otherwise permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case, except that at field trials authorized by Section 2.34 of this Act, unloaded guns or guns loaded with blank cartridges only,

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may be carried on horseback while not contained in a case, or to have or carry any bow or arrow device in or on any vehicle unless such bow or arrow device is unstrung or enclosed in a case, or otherwise made inoperable.

(o) It is unlawful to use any crossbow for the purpose of taking any wild birds or mammals, except as provided for in Section 2.5.

(p) It is unlawful to take game birds, migratory game birds or migratory waterfowl with a rifle, pistol, revolver or airgun.

(q) It is unlawful to fire a rifle, pistol, revolver or airgun on, over or into any waters of this State, including frozen waters.

(r) It is unlawful to discharge any gun or bow and arrow device along, upon, across, or from any public right-of-way or highway in this State.

(s) It is unlawful to use a silencer or other device to muffle or mute the sound of the explosion or report resulting from the firing of any gun.

(t) It is unlawful for any person to ~~take trap or attempt to take any species of wildlife or parts thereof, hunt, or~~ intentionally or wantonly allow a dog to hunt, within or upon the land of another, or upon waters flowing over or standing on the land of another, ~~or to knowingly shoot a gun or bow and arrow device at any wildlife physically on or flying over the property of another without first obtaining permission from the owner or the owner's designee. For the purposes of this Section, the owner's designee means anyone who the owner designates in a written authorization and the authorization must contain (i) the legal or common description of property for such authority is given, (ii) the extent that the owner's designee is authorized to make decisions regarding who is allowed to take or attempt to take any species of wildlife or parts thereof, and (iii) the owner's notarized signature.~~ ~~tenant. It shall be prima facie evidence that a person does not have permission of the owner or tenant if the person is unable to demonstrate to the law enforcement officer in the field that permission had been obtained. This provision may only be rebutted by testimony of the owner or tenant that permission had been given.~~ Before enforcing this Section the law enforcement officer must have received notice from the owner or the owner's designee ~~tenant~~ of a violation of this Section. Statements made to the law enforcement officer regarding this notice shall not be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice.

(u) It is unlawful for any person to discharge any firearm for the purpose of taking any of the species protected by this Act, or hunt with gun or dog, or intentionally or wantonly allow a dog to hunt, within 300 yards of an inhabited dwelling without first obtaining permission from the owner or tenant, except that while trapping, hunting with bow and arrow, hunting with dog and shotgun using shot shells only, or hunting with shotgun using shot shells only, or on licensed game breeding and hunting preserve areas, as defined in Section 3.27, on property operated under a Migratory Waterfowl Hunting Area Permit, on federally owned and managed lands and on Department owned, managed, leased or controlled lands, a 100 yard restriction shall apply.

(v) It is unlawful for any person to remove fur-bearing mammals from, or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so.

(w) It is unlawful for any owner of a dog to knowingly or wantonly allow his or her dog to pursue, harass or kill deer, except that nothing in this Section shall prohibit the tracking of wounded deer with a dog in accordance with the provisions of Section 2.26 of this Code.

(x) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in hunting or trapping thereon.

(y) It is unlawful to hunt wild game protected by this Act between one half hour after sunset and one half hour before sunrise, except that hunting hours between one half hour after sunset and one half hour before sunrise may be established by administrative rule for fur-bearing mammals.

(z) It is unlawful to take any game bird (excluding wild turkeys and crippled pheasants not capable of normal flight and otherwise irretrievable) protected by this Act when not flying. Nothing in this Section shall prohibit a person from carrying an uncased, unloaded shotgun in a boat, while in pursuit of a crippled migratory waterfowl that is incapable of normal flight, for the purpose of attempting to reduce the migratory waterfowl to possession, provided that the attempt is made immediately upon downing the migratory waterfowl and is done within 400 yards of the blind from which the migratory waterfowl was downed. This exception shall apply only to migratory game birds that are not capable of normal flight. Migratory waterfowl that are crippled may be taken only with a shotgun as regulated by subsection (j) of this Section using shotgun shells as regulated in subsection (k) of this Section.

(aa) It is unlawful to use or possess any device that may be used for tree climbing or cutting, while hunting fur-bearing mammals, excluding coyotes.

(bb) It is unlawful for any person, except licensed game breeders, pursuant to Section 2.29 to import, carry into, or possess alive in this State any species of wildlife taken outside of this State, without obtaining permission to do so from the Director.

(cc) It is unlawful for any person to have in his or her possession any freshly killed species protected by this Act during the season closed for taking.

(dd) It is unlawful to take any species protected by this Act and retain it alive except as provided by administrative rule.

(ee) It is unlawful to possess any rifle while in the field during gun deer season except as provided in Section 2.26 and administrative rules.

(ff) It is unlawful for any person to take any species protected by this Act, except migratory waterfowl, during the gun deer hunting season in those counties open to gun deer hunting, unless he or she wears, when in the field, a cap and upper outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material.

(gg) It is unlawful during the upland game season for any person to take upland game with a firearm unless he or she wears, while in the field, a cap of solid blaze orange color. For purposes of this Act, upland game is defined as Bobwhite Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern Cottontail and Swamp Rabbit.

(hh) It shall be unlawful to kill or cripple any species protected by this Act for which there is a daily bag limit without making a reasonable effort to retrieve such species and include such in the daily bag limit.

(ii) This Section shall apply only to those species protected by this Act taken within the State. Any species or any parts thereof, legally taken in and transported from other states or countries, may be possessed within the State, except as provided in this Section and Sections 2.35, 2.36 and 3.21.

(jj) (Blank).

(kk) Nothing contained in this Section shall prohibit the Director from issuing permits to paraplegics or to other disabled persons who meet the requirements set forth in administrative rule to shoot or hunt from a vehicle as provided by that rule, provided that such is otherwise in accord with this Act.

(ll) Nothing contained in this Act shall prohibit the taking of aquatic life protected by the Fish and Aquatic Life Code or birds and mammals protected by this Act, except deer and fur-bearing mammals, from a boat not camouflaged or disguised to alter its identity or to further provide a place of concealment and not propelled by sail or mechanical power. However, only shotguns not larger than 10 gauge nor smaller than .410 bore loaded with not more than 3 shells of a shot size no larger than lead BB or steel T (.20 diameter) may be used to take species protected by this Act.

(mm) Nothing contained in this Act shall prohibit the use of a shotgun, not larger than 10 gauge nor smaller than a 20 gauge, with a rifled barrel.

(Source: P.A. 96-390, eff. 8-13-09; 97-645, eff. 12-30-11; 97-907, eff. 8-7-12.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Mulroe, **Senate Bill No. 1842** having been printed, was taken up, read by title a second time.

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

#### **AMENDMENT NO. 1 TO SENATE BILL 1842**

AMENDMENT NO. 1. Amend Senate Bill 1842 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by adding Article 4-4 as follows:

(625 ILCS 5/Art. 4-4 heading new)

#### ARTICLE 4-4. MECHANIC'S LIENS AGAINST VEHICLES

(625 ILCS 5/4-400 new)

Sec. 4-400. Applicability. This Article applies to any person or entity providing labor, services,

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material, or storage for any vehicle at the request of the vehicle owner or authorized agent of the owner.

(625 ILCS 5/4-401 new)

Sec. 4-401. Creation of lien. Any person or entity providing labor, services, material, or storage for any vehicle with the consent of the vehicle owner or authorized agent of the owner shall be entitled to have a lien upon the vehicle for the contracted price of the services provided. Any charges incurred as a result of enforcing a mechanic's lien shall not be added to the contracted price of the services originally provided to the vehicle owner.

(625 ILCS 5/4-402 new)

Sec. 4-402. Consent of vehicle owner.

(a) In order to establish a lien under this Article, the claimant must provide proof of consent by the vehicle owner of the contracted services. The vehicle owner's consent shall be demonstrated by a signed work order or estimate. If the vehicle owner's consent is oral, the claimant must provide the work order or estimate that contains the date, time, name of person authorizing the services, the name of the employee who spoke to the person authorizing the services, and the telephone number of the claimant, if any. If the service provided is for storage of a vehicle, the claimant must provide a formal storage agreement, signed by the vehicle owner, setting forth the storage charge.

(b) Any vehicle for which the claimant has possession but cannot provide proof of consent of the vehicle owner for labor, services, material, or storage shall be deemed an abandoned vehicle and disposal of the vehicle shall be governed by Chapter 4, Article II of this Code.

(625 ILCS 5/4-403 new)

Sec. 4-403. Foreclosing mechanic's liens.

(a) If the vehicle is not redeemed by the owner 30 days after completion of the contracted services or 30 days after the date agreed upon by the parties, whichever is later, the claimant may begin to enforce a mechanic's lien.

(b) The sale of a vehicle shall occur only after providing notice to the owner of the time and place of the sale. The claimant shall request the title records of the vehicle from the Secretary of State. If the Secretary of State cannot provide ownership information, the following means shall be used to identify the owner:

(1) using the vehicle identification number to conduct a search through a commercial, nation-wide motor vehicle information service; and

(2) inspecting the vehicle for any evidence of the name or address of the owner or state of registration.

If evidence of the state of registration is found by these means, the motor vehicle department of that particular state shall be contacted and requested to perform a record search for the name and address of any owner or lienholder.

(c) The claimant shall send notice by certified mail, no less than 30 days prior to the sale, to the owner of the vehicle and any lienholder. The notice, in addition to being mailed to the addresses provided on the record search, shall also be sent to any secondary address provided to the claimant by the vehicle owner. The notice shall include the name, address and telephone number of the claimant, the hours of operation, the total amount owed, and the time and place of the sale. The sale must be held at the business location of the claimant.

(d) In addition to the certified notice under subsection (c) of this Section, the claimant shall publish two notices of the sale in a newspaper of general circulation in the city, village, or township where the claimant provided services for the vehicle. The first notice shall be published no less than 14 days prior to the date and time of the sale and shall set forth:

(1) the date, time, and location of the sale;

(2) the name of the vehicle owner, a description of the vehicle, including a vehicle identification number, make, model, year of manufacture, and the amount owed; and

(3) a statement that unless the vehicle is redeemed prior to the date of the sale, it will be sold at sale.

(e) The second notice shall contain the same information as the first notice and shall be published no less than 2 days prior to the sale.

(f) The owner or lienholder of the vehicle may redeem the vehicle at any time prior to the date of the sale. If the vehicle is not redeemed prior to the sale, the claimant may sell the vehicle at the time and place specified in the notice to satisfy the lien amount. The proceeds of the sale of the vehicle in excess of the charges of the claimant shall be deposited with the county treasurer where the services of the claimant were provided. If the excess proceeds are not reclaimed by the vehicle owner or lienholder within a period of 6 months, the excess proceeds shall be deposited by the county treasurer to the general revenue fund of the county.

(g) After the sale of the vehicle, the entity or individual purchasing the vehicle at sale shall apply for a

certificate of title, salvage certificate, or junking certificate for the purchased vehicle as required by law.

(h) The entity or individual who purchased the vehicle at sale shall submit a title application along with the following documentation to the Secretary of State:

(1) a detailed, itemized estimate or invoice, including labor and parts, as originally prepared by the repairer, rebuildler or other entity;

(2) pictures of the vehicle;

(3) a mechanic's lien affirmation, completed by the purchaser and the mechanic;

(4) proof of a title record search;

(5) proof of certified mail notification to the owner and lienholder;

(6) proof of published notices; and

(7) any other information as required by the Secretary of State.

(i) The Secretary of State may adopt rules to implement this Article.

Section 10. The Labor and Storage Lien Act is amended by changing Section 1 as follows:

(770 ILCS 45/1) (from Ch. 82, par. 40)

Sec. 1. Every person, firm or corporation who has expended labor, skill or materials upon any chattel, or has furnished storage for said chattel, at the request of its owner, reputed owner, or authorized agent of the owner, or lawful possessor thereof, shall have a lien upon such chattel beginning on the date of the commencement of such expenditure of labor, skill and materials or of such storage for the contract price for all such expenditure of labor, skill or materials, or for all such storage, or in the absence of such contract price, for the reasonable worth of such expenditure of labor, skill and materials, or of such storage, for a period of one year from and after the completion of such expenditure of labor, skill or materials, or of such storage, notwithstanding the fact that the possession of such chattel has been surrendered to the owner, or lawful possessor thereof. The lien established in this Section shall not apply to labor, services, skill, or material upon or furnishing storage for motor vehicles. The provisions of the Illinois Vehicle Code shall apply for labor, services, skill, or materials provided for motor vehicles. (Source: Laws 1921, p. 508.)

Section 15. The Labor and Storage Lien (Small Amount) Act is amended by changing Section 1 as follows:

(770 ILCS 50/1) (from Ch. 82, par. 47a)

Sec. 1. Every person expending labor, services, skill or material upon or furnishing storage for any chattel at the request of or with the consent of its owner, authorized agent of the owner, or lawful possessor thereof, in the amount of \$2,000 or less, shall have a lien upon such chattel beginning upon the date of commencement of such expenditure of labor, services, skill, or materials or furnishing of storage, for the contract price for all such expenditure of labor, services, skill, or material, until the possession of such chattel is voluntarily relinquished to such owner or authorized agent, or to one entitled to the possession thereof.

For the purposes of this Act, a person, other than a driver or a person otherwise in control of a fire, police, emergency or public utility vehicle on official business, consents to removal by towing of his or her vehicle when he or she without authorization parks such vehicle upon private property while having notice that unauthorized vehicles will be towed from such property by the owner of such property, or agent thereof, at the vehicle owner's expense, where such notice is provided pursuant to State law, local ordinances or regulation by any state or local agency. Such notice must include a sign of at least 24 inches in height by 36 inches in width posted in a conspicuous place in the affected area at least 4 feet from the ground but not more than 8 feet from the ground. Such sign shall be either illuminated or painted with reflective paint, or both and shall state the amount of towing charges to which the person may be subjected. However, the requirement of the sign provided for in this section shall not apply to residential property which, paying due regard to the circumstances and the surrounding area, is clearly reserved or intended exclusively for the use or occupation of residents or their vehicles.

The lien established herein shall not also apply to labor, services, skills or material upon or furnishing storage for motor towed vehicles performed by any relocater or any other towing service pursuant to the order of a law enforcement official or agency in accordance with Sections 4-201 through 4-214 of The Illinois Vehicle Code. The provisions of the Illinois Vehicle Code shall apply for labor, services, skill, or materials provided for motor vehicles. The lien created herein shall be valid even though the towing and storage is performed without the vehicle owner's consent. (Source: P.A. 85-1283.)".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Connelly, **Senate Bill No. 1849** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1849**

AMENDMENT NO. 1. Amend Senate Bill 1849 on page 6, line 12, after "Section 11-501.1", by inserting "or subdivision (c)(2) of Section 11-501.2 of this Code"; and

on page 6, line 19, after "responds", by inserting ", whether at a law enforcement facility or a health care facility.".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Connelly, **Senate Bill No. 1851** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Rose, **Senate Bill No. 1867** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1867**

AMENDMENT NO. 1. Amend Senate Bill 1867 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Parentage Act of 1984 is amended by changing Section 6 as follows:  
(750 ILCS 45/6) (from Ch. 40, par. 2506)

Sec. 6. Establishment of Parent and Child Relationship by Consent of the Parties.

(a) A parent and child relationship may be established voluntarily by the signing and witnessing of a voluntary acknowledgment of parentage in accordance with Section 12 of the Vital Records Act, Section 10-17.7 of the Illinois Public Aid Code, or the provisions of the Gestational Surrogacy Act. The voluntary acknowledgment of parentage shall contain the social security numbers of the persons signing the voluntary acknowledgment of parentage; however, failure to include the social security numbers of the persons signing a voluntary acknowledgment of parentage does not invalidate the voluntary acknowledgment of parentage.

(1) A parent-child relationship may be established in the event of gestational surrogacy if all of the following conditions are met prior to the birth of the child:

(A) The gestational surrogate certifies that she is not the biological mother of the child, and that she is carrying the child for the intended parents.

(B) The husband, if any, of the gestational surrogate certifies that he is not the biological father of the child.

(C) The intended mother certifies that she provided or an egg donor donated the egg from which the child being carried by the gestational surrogate was conceived.

(D) The intended father certifies that he provided or a sperm donor donated the sperm from which the child being carried by the gestational surrogate was conceived.

(E) A physician licensed to practice medicine in all its branches in the State of Illinois certifies that the child being carried by the gestational surrogate is the biological child of the intended mother or the intended father or both and that neither the gestational surrogate nor the gestational surrogate's husband, if any, is a biological parent of the child being carried by the gestational surrogate.

(E-5) The attorneys for the intended parents and the gestational surrogate each certifies that the parties entered into a gestational surrogacy contract intended to satisfy the requirements of Section 25 of the Gestational Surrogacy Act with respect to the child.

(F) All certifications shall be in writing and witnessed by 2 competent adults who

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are not the gestational surrogate, gestational surrogate's husband, if any, intended mother, or intended father. Certifications shall be on forms prescribed by the Illinois Department of Public Health, shall be executed prior to the birth of the child, and shall be placed in the medical records of the gestational surrogate prior to the birth of the child. Copies of all certifications shall be delivered to the Illinois Department of Public Health prior to the birth of the child.

(2) Unless otherwise determined by order of the Circuit Court, the child shall be presumed to be the child of the gestational surrogate and of the gestational surrogate's husband, if any, if all requirements of subdivision (a)(1) are not met prior to the birth of the child. This presumption may be rebutted by clear and convincing evidence. The circuit court may order the gestational surrogate, gestational surrogate's husband, intended mother, intended father, and child to submit to such medical examinations and testing as the court deems appropriate.

(b) Notwithstanding any other provisions of this Act, paternity established in accordance with subsection (a) has the full force and effect of a judgment entered under this Act and serves as a basis for seeking a child support order without any further proceedings to establish paternity.

(c) A judicial or administrative proceeding to ratify paternity established in accordance with subsection (a) is neither required nor permitted.

(d) A signed acknowledgment of paternity entered under this Act or an administrative determination of paternity made pursuant to Section 10-17.7 of the Illinois Public Aid Code may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. Pending outcome of the challenge to the acknowledgment of paternity or administrative determination of paternity, the legal responsibilities of the parties signatories shall remain in full force and effect, except upon order of the court upon a showing of good cause. A party challenging an administrative determination of paternity made pursuant to Section 10-17.7 of the Illinois Public Aid Code must consent to and submit to deoxyribonucleic acid (DNA) testing, in accordance with Department of Healthcare and Family Services rules, in order to challenge paternity.

(e) Once a parent and child relationship is established in accordance with subsection (a), an order for support may be established pursuant to a petition to establish an order for support by consent filed with the clerk of the circuit court. A copy of the properly completed acknowledgment of parentage form shall be attached to the petition. The petition shall ask that the circuit court enter an order for support. The petition may ask that an order for visitation, custody, or guardianship be entered. The filing and appearance fees provided under the Clerks of Courts Act shall be waived for all cases in which an acknowledgment of parentage form has been properly completed by the parties and in which a petition to establish an order for support by consent has been filed with the clerk of the circuit court. This subsection shall not be construed to prohibit filing any petition for child support, visitation, or custody under this Act, the Illinois Marriage and Dissolution of Marriage Act, or the Non-Support Punishment Act. This subsection shall also not be construed to prevent the establishment of an administrative support order in cases involving persons receiving child support enforcement services under Article X of the Illinois Public Aid Code.

(Source: P.A. 92-16, eff. 6-28-01; 93-921, eff. 1-1-05; 93-1095, eff. 3-29-05.)

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

Senator Rose offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO SENATE BILL 1867**

AMENDMENT NO. 2. Amend Senate Bill 1867, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 10-14.1 as follows:  
(305 ILCS 5/10-14.1)

Sec. 10-14.1. Relief from administrative orders.

(a) Subject to subsection (b), notwithstanding ~~Notwithstanding~~ the 30-day appeal period provided in Sections 10-12 and 10-12.1 and the limitation on review of final administrative decisions contained in Section 10-14, a responsible relative or a person receiving child support enforcement services under this Article who is aggrieved by an administrative order entered under Section 10-11 or 10-11.1 or an administrative determination of paternity entered under Section 10-17.7 and who did not petition within the 30-day appeal period may petition the Illinois Department for relief from the administrative order or determination on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure. The petition must be filed not later than 2 years after the entry of the order

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or determination by the Illinois Department. The day immediately subsequent to the mailing of the order or determination shall be considered as the first day and the day the petition is received by the Illinois Department shall be considered as the last day in computing the 2-year period. Any period during which the person seeking relief is under a legal disability or duress or during which the grounds for relief are fraudulently concealed shall be excluded in computing the period of 2 years.

Upon receiving a petition within the 2-year period, the Illinois Department shall provide for a hearing to be held on the petition.

(b) Nothing in this Section shall be construed to prohibit an action under subsection (b) of Section 4.1 of the Illinois Parentage Act of 1984 to challenge an administrative determination of paternity entered under Section 10-17.7.

(Source: P.A. 92-590, eff. 7-1-02.)

Section 10. The Illinois Parentage Act of 1984 is amended by changing Sections 4.1 and 8 as follows:  
(750 ILCS 45/4.1)

Sec. 4.1. Administrative paternity determinations.

(a) Notwithstanding any other provision of this Act, the Department of Healthcare and Family Services may make administrative determinations of paternity and nonpaternity in accordance with Section 10-17.7 of the Illinois Public Aid Code. These determinations of paternity or nonpaternity shall have the full force and effect of judgments entered under this Act.

(b) An administrative determination of paternity that is not based on a voluntary acknowledgment of paternity made in accordance with Section 10-17.7 of the Illinois Public Aid Code may be challenged in court on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. Pending outcome of the challenge to the administrative determination of paternity, the legal responsibilities of the parties shall remain in full force and effect, except upon order of the court upon a showing of good cause. A party challenging an administrative determination of paternity made in accordance with Section 10-17.7 of the Illinois Public Aid Code must consent to and submit to deoxyribonucleic acid (DNA) testing, in accordance with Department of Healthcare and Family Services rules, in order to challenge paternity.

(c) For purposes of subsection (b), evidence that, based on deoxyribonucleic acid (DNA) testing, the man who has been found to be the father of a child under an administrative determination of paternity is not the natural father of the child constitutes a material mistake of fact.

(Source: P.A. 95-331, eff. 8-21-07.)

(750 ILCS 45/8) (from Ch. 40, par. 2508)

Sec. 8. Statute of limitations.

(a) (1) An action brought by or on behalf of a child, an action brought by a party alleging that he or she is the child's natural parent, or an action brought by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid), if it is providing or has provided financial support to the child or if it is assisting with child support collection services, shall be barred if brought later than 2 years after the child reaches the age of majority; however, if the action on behalf of the child is brought by a public agency, other than the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) if it is providing or has provided financial support to the child or if it is assisting with child support collection services, it shall be barred 2 years after the agency has ceased to provide assistance to the child.

(2) Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the non-existence of the parent and child relationship.

(3) An action to declare the non-existence of the parent and child relationship brought under subsection (b) of Section 7 of this Act shall be barred if brought later than 2 years after the petitioner obtains knowledge of relevant facts. The 2-year period for bringing an action to declare the nonexistence of the parent and child relationship shall not extend beyond the date on which the child reaches the age of 18 years. Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the existence of the parent and child relationship.

(4) An action to declare the non-existence of the parent and child relationship brought under subsection (b-5) of Section 7 of this Act shall be barred if brought more than 6 months after the effective date of this amendatory Act of 1998 or more than 2 years after the petitioner obtains actual knowledge of relevant facts, whichever is later. The 2-year period shall not apply to periods of time where the natural mother or the child refuses to submit to deoxyribonucleic acid (DNA) tests. The 2-year period for bringing an action to declare the nonexistence of the parent and child relationship shall not extend beyond the date on which the child reaches the age of 18 years. Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the existence of

the parent and child relationship.

(5) An action under subsection (b) of Section 4.1 of this Act to challenge an administrative determination of paternity shall be barred if brought more than 6 months after the effective date of this amendatory Act of the 98th General Assembly or more than 2 years after the petitioner obtains actual knowledge of relevant facts, whichever is later. The 2-year period shall not apply to periods of time where the natural mother or the child refuses to submit to deoxyribonucleic acid (DNA) tests. The 2-year period for bringing an action under subsection (b) of Section 4.1 of this Act to challenge an administrative determination of paternity shall not extend beyond the date on which the child reaches the age of 18 years. Failure to bring an action within 2 years shall not bar any party from asserting a defense in any action to declare the existence of the parent and child relationship.

(b) The time during which any party is not subject to service of process or is otherwise not subject to the jurisdiction of the courts of this State shall toll the aforementioned periods.

(c) This Act does not affect the time within which any rights under the Probate Act of 1975 may be asserted beyond the time provided by law relating to distribution and closing of decedent's estates or to the determination of heirship, or otherwise.

(Source: P.A. 95-331, eff. 8-21-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Biss, **Senate Bill No. 1900** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Higher Education.

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

#### **AMENDMENT NO. 2 TO SENATE BILL 1900**

AMENDMENT NO. 2. Amend Senate Bill 1900 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Open Access to Research Articles Act.

Section 5. Purpose. The General Assembly finds and declares the following:

(1) to maximize the social and economic benefits of research to the public, the published research articles produced by faculty at public universities should be made as widely available as possible, wide availability referring both to the depth of availability of a given research article (including immediate availability where practicable, long-term preservation and free public access, and broad accessibility for reuse and further research) and the breadth of research articles made available;

(2) the public support these employees receive and the increased impact that broad public dissemination of research has is an important public purpose;

(3) many public universities have developed, or are developing, the capacity to provide free access over the Internet to such research through institutional repositories or otherwise; and

(4) a substantial portion of the research currently is not freely available over the Internet because the faculty have entered into publication agreements with terms that restrict public access to the fruits of unclassified research conducted by these State employees.

Section 10. Definitions. In this Act, "public university" means the University of Illinois; Southern Illinois University; Chicago State University; Eastern Illinois University; Governors State University; Illinois State University; Northeastern Illinois University; Northern Illinois University; Western Illinois University; or any other public university or college now or hereafter established or authorized by the General Assembly.

Section 15. Task forces.

(a) By January 1, 2014, each public university shall establish an Open Access to Research Task Force.

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Each task force shall be appointed by the chairperson of the board of trustees for the public university, with the advice and consent of that board. Each task force shall include, without limitation, members representing the university's library, members representing faculty, including, where applicable, a labor organization that represents faculty at the public university, and members representing university administration. In the instance of public universities that have multiple campuses, each campus shall have representation on the task force. The task force shall review current practices and design a proposed policy regarding open access to research articles, based on criteria that are specific to each public university's needs.

(b) Each task force shall (i) consider how the public university can best further the open access goals laid out in this Act, whether by creation of an open access policy for the public university, creation of an open access policy for the State, or some other mechanism; (ii) review how peer institutions and the federal government are addressing issues related to open access and ensure that any institutional or statewide policies are consistent with steps taken by federal grant-making agencies; and (iii) consider academic, legal, ethical, and fiscal ramifications of and questions regarding an open access policy, including but not limited to the following:

- (1) the question of how to preserve the academic freedom of scholars to publish as they wish while still providing public access to research;
- (2) the design of a copyright policy that meets the needs of the public as well as of authors and publishers;
- (3) the design of reporting, oversight, and enforcement mechanisms;
- (4) the cost of maintaining and, where applicable, creating, institutional repositories;
- (5) the potential for collaboration between public universities regarding the use and maintenance of repositories;
- (6) the potential use of existing scholarly repositories;
- (7) the fiscal feasibility and benefits and drawbacks to researchers of institutional

support for Gold open access fees (where publication costs are covered by author fees rather than by subscription or advertising fees);

(8) the differences between academic and publishing practices in different fields and the manner in which these differences should be reflected in an open access policy;

(9) the determination of which version of a research article should be made publicly accessible; and

(10) the determination of which researchers and which research ought to be covered by an open access policy, including, but not limited to, the question of whether a policy should cover theses and dissertations written by students at public institutions; research conducted by employees of State agencies; research supported by State grants, but not conducted by employees of public institutions or State agencies; research materials digitized using State funding; data collected by covered researchers; research conducted by faculty at institutions that receive Monetary Award Program grants under Section 35 of the Higher Education Student Assistance Act; research conducted by part-time, adjunct, or other non-permanent faculty; research at least one of whose co-authors is covered by the policy; research progress reports presented at professional meetings or conferences; laboratory notes, preliminary data analyses, notes of the author, phone logs, or other information used to produce final manuscripts; or classified research, research resulting in works that generate revenue or royalties for authors (such as books), or patentable discoveries.

(c) Each task force shall conduct open meetings with advance notice and shall allow individuals to address the task force regarding open access issues.

(d) On or before January 1, 2015, each task force shall adopt a report setting forth its findings and recommendations. These recommendations shall include a detailed description of any open access policy the task force recommends that the public university or State adopt, as well as, in the case of the public university, a plan for implementation. This report must be approved by a majority of the appointed task force members. A task force may also issue minority reports. Each report shall be submitted to the board of trustees of the respective public university, the Board of Higher Education, both chambers of the General Assembly, and the Governor. The Board of Higher Education shall publish, on its Internet website, a list of all public universities subject to this Act. The list shall indicate which public universities have submitted the report required pursuant to this subsection (d).

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

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

[April 18, 2013]

On motion of Senator Koehler, **Senate Bill No. 1925** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 1925**

AMENDMENT NO. 1. Amend Senate Bill 1925 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 22.54 as follows:  
(415 ILCS 5/22.54)

Sec. 22.54. Beneficial Use Determinations. The purpose of this Section is to allow the Agency to determine that a material otherwise required to be managed as waste may be managed as non-waste if that material is used beneficially and in a manner that is protective of human health and the environment.

(a) To the extent allowed by federal law, the Agency may, upon the request of an applicant, make a written determination that a material is used beneficially (rather than discarded) and, therefore, not a waste if the applicant demonstrates all of the following:

- (1) The chemical and physical properties of the material are comparable to similar commercially available materials.
- (2) The market demand for the material is such that all of the following requirements are met:
  - (A) The material will be used within a reasonable time.
  - (B) The material's storage prior to use will be minimized.
  - (C) The material will not be abandoned.

(3) The material is legitimately beneficially used. For the purposes of this item (3) of subsection (a) of this Section, a material is "legitimately beneficially used" if the applicant demonstrates all of the following:

(A) The material is managed separately from waste, as a valuable material, and in a manner that maintains its beneficial usefulness, including, but not limited to, storing in a manner that minimizes the material's loss and maintains its beneficial usefulness.

(B) The material is used as an effective substitute for a similar commercially available material. For the purposes of this paragraph (B) of item (3) of subsection (a) of this Section, a material is "used as an effective substitute for a commercially available material" if the applicant demonstrates one or more of the following:

- (i) The material is used as a valuable raw material or ingredient to produce a legitimate end product.
- (ii) The material is used directly as a legitimate end product in place of a similar commercially available product.
- (iii) The material replaces a catalyst or carrier to produce a legitimate end product.

The applicant's demonstration under this paragraph (B) of item (3) of subsection (a) of this Section must include, but is not limited to, a description of the use of the material, a description of the use of the legitimate end product, and a demonstration that the use of the material is comparable to the use of similar commercially available products.

(C) The applicant demonstrates all of the following:

- (i) The material is used under paragraph (B) of item (3) of subsection (a) of this Section within a reasonable time.
- (ii) The material's storage prior to use is minimized.
- (iii) The material is not abandoned.

(4) The management and use of the material will not cause, threaten, or allow the release of any contaminant into the environment, except as authorized by law.

(5) The management and use of the material otherwise protects human health and safety and the environment.

(b) Applications for beneficial use determinations must be submitted on forms and in a format prescribed by the Agency. Agency approval, approval with conditions, or disapproval of an application for a beneficial use determination must be in writing. Approvals with conditions and disapprovals of applications for a beneficial use determination must include the Agency's reasons for the conditions or disapproval, and they are subject to review under Section 40 of this Act.

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(c) Beneficial use determinations shall be effective for a period approved by the Agency, but that period may not exceed 5 years. Material that is beneficially used (i) in accordance with a beneficial use determination, (ii) during the effective period of the beneficial use determination, and (iii) by the recipient of a beneficial use determination shall maintain its non-waste status after the effective period of the beneficial use determination unless its use no longer complies with the terms of the beneficial use determination or the material otherwise becomes waste.

(d) No recipient of a beneficial use determination shall manage or use the material that is the subject of the determination in violation of the determination or any conditions in the determination, unless the material is managed as waste.

(e) A beneficial use determination shall terminate by operation of law if, due to a change in law, it conflicts with the law; however, the recipient of the determination may apply for a new beneficial use determination that is consistent with the law as amended.

(f) This Section does not apply to hazardous waste, coal combustion waste, coal combustion by-product, sludge applied to the land, potentially infectious medical waste, or used oil.

(g) This Section does not apply to material that is burned for energy recovery, that is used to produce a fuel, or that is otherwise contained in a fuel.

(h) This Section does not apply to waste from the steel and foundry industries that is (i) classified as beneficially usable waste under Board rules and (ii) beneficially used in accordance with Board rules governing the management of beneficially usable waste from the steel and foundry industries. This Section does apply to other beneficial uses of waste from the steel and foundry industries, including, but not limited to, waste that is classified as beneficially usable waste but not used in accordance with the Board's rules governing the management of beneficially usable waste from the steel and foundry industries. No person shall use iron slags, steelmaking slags, or foundry sands for land reclamation purposes unless they have obtained a beneficial use determination for such use under this Section.

(i) For purposes of this Section, the term "commercially available material" means virgin material that (i) meets industry standards for a specific use and (ii) is normally sold for such use. For purposes of this Section, the term "commercially available product" means a product made of virgin material that (i) meets industry standards for a specific use and (ii) is normally sold for such use.

(j) Before issuing a beneficial use determination for the beneficial use of asphalt shingles, the Agency shall conduct an evaluation of the applicant's prior experience in asphalt shingle recycling operations. The Agency may deny such a beneficial use determination if the applicant, or any employee or officer of the applicant, has a history of any one or more of the following:

(1) repeated violations of federal, state, or local laws, rules, regulations, standards, or ordinances in the operation of asphalt shingle recycling operation facilities or sites;

(2) conviction in a court of this State or another state of any crime that is a felony under the laws of this State;

(3) conviction in a federal court of any crime that is a felony under federal law;

(4) conviction in a court of this State or another state, or in a federal court, of forgery, official misconduct, bribery, perjury, or knowingly submitting false information under any environmental law, rule, regulation, or permit term or condition; or

(5) gross carelessness or incompetence in the handling, storing, processing, transporting, disposing, or recycling of asphalt shingles.

(Source: P.A. 96-489, eff. 8-14-09.)"

Senator Koehler offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 2 TO SENATE BILL 1925**

AMENDMENT NO. 2. Amend Senate Bill 1925, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 6, by replacing lines 13 through 17 with the following:

"of the following related to the operation of asphalt shingle recycling operation facilities or sites:

(1) repeated violations of federal, State, or local laws, rules, regulations, standards, or ordinances;"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Bivins, **Senate Bill No. 1932** having been printed, was taken up, read by title a second time.

Senator Bivins offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1932**

AMENDMENT NO. 1. Amend Senate Bill 1932 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Sections 10-20.55 and 34-18.48 as follows:  
(105 ILCS 5/10-20.55 new)

Sec. 10-20.55. School building construction; consultation.

(a) A school board must consult with law enforcement and security experts in the design and planning stages of the construction of any new school building or any additions to or major remodeling of an existing school building.

(b) This Section applies only to buildings that students physically occupy. This Section does not apply to out-buildings, maintenance buildings that are not affixed to existing school buildings, or concession stands. This Section applies only to construction, additions, or remodeling that meets the requirements of Section 10-20.21 of this Code.

(105 ILCS 5/34-18.48 new)

Sec. 34-18.48. School building construction; consultation.

(a) The board must consult with law enforcement and security experts in the design and planning stages of the construction of any new school building or any additions to or major remodeling of an existing school building.

(b) This Section applies only to buildings that students physically occupy. This Section does not apply to out-buildings, maintenance buildings that are not affixed to existing school buildings, or concession stands. This Section applies only to construction, additions, or remodeling that meets the requirements of Section 34-21.3 of this Code."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1961** having been printed, was taken up, read by title a second time.

Senator Haine offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1961**

AMENDMENT NO. 1. Amend Senate Bill 1961 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 1 as follows:  
(415 ILCS 5/1) (from Ch. 111 1/2, par. 1001)

Sec. 1. This Act shall be known and ~~and~~ may be cited as the "Environmental Protection Act".

(Source: P.A. 76-2429.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was postponed in the Committee on Environment.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Righter, **Senate Bill No. 1988** having been printed, was taken up, read by title a second time.

Senator Righter offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1988**

AMENDMENT NO. 1. Amend Senate Bill 1988 by replacing everything after the enacting clause with the following:

[April 18, 2013]

"Section 5. The Uniform Disposition of Unclaimed Property Act is amended by changing Section 11 as follows:

(765 ILCS 1025/11) (from Ch. 141, par. 111)

Sec. 11. Report of holder.

(a) Except as otherwise provided in subsection (c) of Section 4, every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report and remit all abandoned property specified in the report to the State Treasurer with respect to the property as hereinafter provided. The State Treasurer may exempt any businesses from the reporting requirement if he deems such businesses unlikely to be holding unclaimed property.

(b) The information shall be obtained in one or more reports as required by the State Treasurer. The information shall be verified and shall include:

(1) the name, social security or federal tax identification number, if known, and last known address, including zip code, of each person appearing from the records of the holder to be the owner of any property of the value of \$5 \$25 or more presumed abandoned under this Act;

(2) in case of unclaimed funds of life insurance corporations the full name of the insured and any beneficiary or annuitant and the last known address according to the life insurance corporation's records;

(3) the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(4) other information which the State Treasurer prescribes by rule as necessary for the administration of this Act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report and remittance of the property specified in the report shall be filed by banking organizations, financial organizations, insurance companies other than life insurance corporations, and governmental entities before November 1 of each year as of June 30 next preceding. The report and remittance of the property specified in the report shall be filed by business associations, utilities, and life insurance corporations before May 1 of each year as of December 31 next preceding. The Director may postpone the reporting date upon written request by any person required to file a report. The report and remittance of the property specified in the report for property subject to subsection (a) of Section 3a of this Act shall be filed before a date established by the State Treasurer that is on or after the later of: (i) 30 days after the effective date of this amendatory Act of the 94th General Assembly; or (ii) November 1, 2005.

(d-5) Notwithstanding the foregoing, currency exchanges shall be required to report and remit property specified in the report within 30 days after the conclusion of its annual examination by the Department of Financial Institutions. As part of the examination of a currency exchange, the Department of Financial Institutions shall instruct the currency exchange to submit a complete unclaimed property report using the State Treasurer's formatted diskette reporting program or an alternative reporting format approved by the State Treasurer. The Department of Financial Institutions shall provide the State Treasurer with an accounting of the money orders located in the course of the annual examination including, where available, the amount of service fees deducted and the date of the conclusion of the examination.

(e) Before filing the annual report, the holder of property presumed abandoned under this Act shall communicate with the owner at his last known address if any address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed. If the holder has not communicated with the owner at his last known address at least 120 days before the deadline for filing the annual report, the holder shall mail, at least 60 days before that deadline, a letter by first class mail to the owner at his last known address unless any address is shown to be inaccurate, setting forth the provisions hereof necessary to prevent abandonment from being presumed.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(g) Any person who has possession of property which he has reason to believe will be reportable in the future as unclaimed property, may report and deliver it prior to the date required for such reporting in accordance with this Section and is then relieved of responsibility as provided in Section 14.

(h) (1) Records pertaining to presumptively abandoned property held by a trust division or trust department or by a trust company, or affiliate of any of the foregoing that provides nondealer corporate

custodial services for securities or securities transactions, organized under the laws of this or another state or the United States shall be retained until the property is delivered to the State Treasurer.

As of January 1, 1998, this subdivision (h)(1) shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(2) In the case of all other holders commencing on the effective date of this amendatory Act of 1993, property records for the period required for presumptive abandonment plus the 9 years immediately preceding the beginning of that period shall be retained for 5 years after the property was reportable.

(i) The State Treasurer may promulgate rules establishing the format and media to be used by a holder in submitting reports required under this Act.

(j) Other than the Notice to Owners required by Section 12 and other discretionary means employed by the State Treasurer for notifying owners of the existence of abandoned property, the State Treasurer shall not disclose any information provided in reports filed with the State Treasurer or any information obtained in the course of an examination by the State Treasurer to any person other than governmental agencies for the purposes of returning abandoned property to its owners or to those individuals who appear to be the owner of the property or otherwise have a valid claim to the property, unless written consent from the person entitled to the property is obtained by the State Treasurer.

(Source: P.A. 93-531, eff. 8-14-03; 94-686, eff. 11-2-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Syverson, **Senate Bill No. 2071** having been printed, was taken up, read by title a second time.

Senator Syverson offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 2071**

AMENDMENT NO. 1. Amend Senate Bill 2071 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Sections 367h and 367j as follows:  
(215 ILCS 5/367h) (from Ch. 73, par. 979h)

Sec. 367h. Deputy's continuance privilege. As used in this Section:

1. The terms "municipality" and "creditable service" shall have the meaning ascribed to such terms by Sections 7-105 and 7-113, respectively, of the Illinois Pension Code, as now or hereafter amended.

The term "deferred pensioner" means a deputy who has retired, having accumulated enough creditable service to qualify for a pension, but who has not attained the required age.

2. The term "deputy" shall mean a "sheriff's law enforcement employee" as defined in Section 7-109.3 of the Illinois Pension Code, and include only persons under the coverage of Article 7 of that Code, as heretofore or hereafter amended.

3. The "retirement or disability period" of a deputy means the period:

a. which begins on the day the deputy is removed from a sheriff's police department payroll because of the occurrence of any of the following events, to wit: (i) the deputy retires as a deferred pensioner, (ii) the deputy retires from active service as a deputy with an attained age and accumulated creditable service which together qualify the deputy for immediate receipt of retirement pension benefits under Section 7-142.1 of the Illinois Pension Code, or (iii) the deputy's disability is established under Article 7 of the Illinois Pension Code; and

b. which ends on the first to occur of any of the following events, to wit: (i) the deputy's reinstatement or reentry into active service in the sheriff's police department as provided for under Article 7 of the Illinois Pension Code, (ii) the deputy's exercise of any refund option or acceptance of any separation benefit available under Article 7 of the Illinois Pension Code, (iii) the deputy's loss pursuant to Section 7-219 of the Illinois Pension Code of any benefits provided for in Article 7 of that Code, or (iv) the deputy's death or -- if at the time of the deputy's death the deputy is survived by a spouse who, in that capacity, is entitled to receive a surviving spouse's monthly pension pursuant to Article 7 of the Illinois Pension Code -- the death or remarriage of that spouse.

[April 18, 2013]

No policy of group accident and health insurance under which deputies employed by a municipality are insured for their individual benefit shall be issued or delivered in this State to any municipality unless such group policy provides for the election of continued group insurance coverage for the retirement or disability period of each deputy who is insured under the provisions of the group policy on the day immediately preceding the day on which the retirement or disability period of such deputy begins. So long as any required premiums for continued group insurance coverage are paid in accordance with the provisions of the group policy, an election made pursuant to this Section shall provide continued group insurance coverage for a deputy throughout the retirement or disability period of the deputy and, unless the deputy otherwise elects and subject to any other provisions of the group policy which relate either to the provision or to the termination of dependents' coverage and which are not inconsistent with this Section, for any dependents of the deputy who are insured under the group policy on the day immediately preceding the day on which the retirement or disability period of the deputy begins; provided, however, that when such continued group insurance coverage is in effect with respect to a deputy on the date of the deputy's death but the retirement or disability period of the deputy does not end with such deputy's death, then the deceased deputy's surviving spouse upon whose death or remarriage such retirement or disability period will end shall be entitled, without further election and upon payment of any required premiums in accordance with the provisions of the group policy, to maintain such continued group insurance coverage in effect until the end of such retirement or disability period. Continued group insurance coverage shall be provided in accordance with this Section at the same premium rate from time to time charged for equivalent coverage provided under the group policy with respect to covered deputies whose retirement or disability period has not begun, and no distinction or discrimination in the amount or rate of premiums or in any waiver of premium or other benefit provision shall be made between continued group insurance coverage elected pursuant to this Section and equivalent coverage provided to deputies under the group policy other than pursuant to the provisions of this Section; provided that no municipality shall be required by reason of any provision of this Section to pay any group insurance premium other than one that may be negotiated in a collective bargaining agreement. Continuation is not required for an insured who becomes eligible for medicare. If the group policy provides for a reduction in benefits and premium for insureds who become eligible for medicare, such provision shall apply to persons electing continued coverage under this Section.

Within 15 days of the beginning of the retirement or disability period of any deputy entitled to elect continued group insurance coverage under any group policy affected by this Section, the municipality last employing such deputy shall give written notice of such beginning by certified mail, return receipt requested, to the insurance company issuing such policy. The notice shall include the deputy's name and last known place of residence and the beginning date of the deputy's retirement or disability period.

Within 15 days of the date of receipt of such notice from the municipality, the insurance company by certified mail, return receipt requested, shall give written notice to the deputy at the deputy's last known place of residence that coverage under the group policy may be continued for the retirement or disability period of the deputy as provided in this Section. Such notice shall set forth: (i) a statement of election to be filed by the deputy if the deputy wishes to continue such group insurance coverage, (ii) the amount of monthly premium, including a statement of the portion of such monthly premium attributable to any dependents' coverage which the deputy may elect, and (iii) instructions as to the return of the election form to the insurance company issuing such policy. Election shall be made, if at all, by returning the statement of election to the insurance company by certified mail, return receipt requested, within 15 days after having received it.

If the deputy elects to continue coverage, it shall be the obligation of the deputy to pay the monthly premium directly to the municipality which shall forward it to the insurance company issuing the group insurance policy, or as otherwise directed by the insurance company; provided, however, that the deputy shall be entitled to designate on the statement of election required to be filed with the insurance company that the total monthly premium, or such portion thereof as is not contributed by a municipality, be deducted by the Illinois Municipal Retirement Fund from the monthly pension payment otherwise payable to or on behalf of the deputy pursuant to Article 7 of the Illinois Pension Code, and be remitted by such Fund to the insurance company. The portion, if any, of the monthly premium contributed by a municipality for such continued group insurance coverage shall be paid by the directly to the insurance company issuing the group insurance policy, or as directed by the insurance company. Such continued group insurance coverage shall relate back to the beginning of the deputy's retirement or disability period.

The amendment, renewal or extension of any group insurance policy affected by this Section shall be deemed to be the issuance of a new policy of insurance for purposes of this Section.

In the event that a municipality makes a program of accident, health, hospital or medical benefits

available to its deputies through self-insurance, or by participation in a pool or reciprocal insurer, or by contract in a form other than a policy of group insurance with one or more medical service plans, health care service corporations, health maintenance organizations, or any other professional corporations or plans under which health care or reimbursement for the costs thereof is provided, whether the cost of such benefits is borne by the municipality or the deputies or both, such deputies and their surviving spouses shall have the same right to elect continued coverage under such program of benefits as they would have if such benefits were provided by a policy of group accident and health insurance. In such cases, the notice of right to elect continued coverage shall be sent by the municipality; the statement of election shall be sent to the municipality; and references to the required premium shall refer to that portion of the cost of such benefits which is not borne by the municipality, either voluntarily or pursuant to the provisions of a collective bargaining agreement. In the case of a municipality providing such benefits through self-insurance or participation in a pool or reciprocal insurer, the right to elect continued coverage which is provided by this paragraph shall be implemented and made available to the deputies of the municipality and qualifying surviving spouses not later than July 1, 1986.

The amendment, renewal or extension of any such contract in a form other than a policy of group insurance policy shall be deemed the formation of a new contract for the purposes of this Section.

This Section shall not limit the exercise of any conversion privileges available under Section 367e. (Source: P.A. 90-655, eff. 7-30-98.)

(215 ILCS 5/367j) (from Ch. 73, par. 979j)

Sec. 367j. Municipal employee's continuance privilege.

(a) As used in this Section:

(1) The term "creditable service" shall have the meaning ascribed to it by Section 7-113 of the Illinois Pension Code.

(2) The term "municipality" means any municipality, instrumentality, or participating instrumentality (as those terms are defined in Sections 7-105, 7-107 and 7-108, respectively, of the Illinois Pension Code) that participates in the Illinois Municipal Retirement Fund pursuant to Section 7-132 of the Illinois Pension Code.

(3) The term "employee" shall mean an employee as defined in Section 7-109 of the Illinois Pension Code, but does not include any person who is a deputy as defined in Section 367h of this Code.

(4) The "retirement or disability period" of an employee means the period:

(A) which begins on the day the employee is removed from the municipality payroll because of the occurrence of either of the following events: (i) the employee retires from active service as an employee with an attained age and accumulated creditable service which together qualify the employee for immediate receipt of retirement pension benefits under Article 7 of the Illinois Pension Code, or (ii) the employee's disability is established under Article 7 of the Illinois Pension Code; and

(B) which ends on the first to occur of any of the following events: (i) the employee's reinstatement or reentry into active service as provided for under Article 7 of the Illinois Pension Code, (ii) the employee's exercise of any refund option or acceptance of any separation benefit available under Article 7 of the Illinois Pension Code, (iii) the employee's loss pursuant to Section 7-219 of the Illinois Pension Code of any benefits provided for in Article 7 of that Code, or (iv) the employee's death or, if at the time of the employee's death the employee is survived by a spouse who, in that capacity, is entitled to receive a surviving spouse's monthly pension pursuant to Article 7 of the Illinois Pension Code, the death or remarriage of that spouse.

(b) No policy of group accident and health insurance under which employees of a municipality are insured for their individual benefit shall be issued or delivered in this State to a municipality unless such group policy provides for the election of continued group insurance coverage for the retirement or disability period of each employee who is insured under the provisions of the group policy on the day immediately preceding the day on which the retirement or disability period of such employee begins. So long as any required premiums for continued group insurance coverage are paid in accordance with the provisions of the group policy, an election made pursuant to this Section shall provide continued group insurance coverage for an employee throughout the retirement or disability period of the employee and, unless the employee otherwise elects and subject to any other provisions of the group policy which relate either to the provision or to the termination of dependents' coverage and which are not inconsistent with this Section, for any dependents of the employee who are insured under the group policy on the day immediately preceding the day on which the retirement or disability period of the employee begins; provided, however, that when such continued group insurance coverage is in effect with respect to an employee on the date of the employee's death but the retirement or disability period of the employee

does not end with the employee's death, then the deceased employee's surviving spouse upon whose death or remarriage such retirement or disability period will end shall be entitled, without further election and upon payment of any required premiums in accordance with the provisions of the group policy, to maintain such continued group insurance coverage in effect until the end of the retirement or disability period. Continued group insurance coverage shall be provided in accordance with this Section at the same premium rate from time to time charged for equivalent coverage provided under the group policy with respect to covered employees whose retirement or disability period has not begun, and no distinction or discrimination in the amount or rate of premiums or in any waiver of premium or other benefit provision shall be made between continued group insurance coverage elected pursuant to this Section and equivalent coverage provided to employees under the group policy other than pursuant to the provisions of this Section; provided that no municipality shall be required by reason of any provision of this Section to pay any group insurance premium other than one that may be negotiated in a collective bargaining agreement. ~~Continuation is not required for an insured who becomes eligible for medicare. If the group policy provides for a reduction in benefits and premium for insureds who become eligible for medicare, such provision shall apply to persons electing continued coverage under this Section.~~

Within 15 days of the beginning of the retirement or disability period of any employee entitled to elect continued group insurance coverage under any group policy affected by this Section, the municipality last employing such employee shall give written notice of such beginning by certified mail, return receipt requested, to the insurance company issuing such policy. The notice shall include the employee's name and last known place of residence and the beginning date of the employee's retirement or disability period.

Within 15 days of the date of receipt of such notice from the municipality, the insurance company by certified mail, return receipt requested, shall give written notice to the employee at the employee's last known place of residence that coverage under the group policy may be continued for the retirement or disability period of the employee as provided in this Section. Such notice shall set forth: (i) a statement of election to be filed by the employee if the employee wishes to continue such group insurance coverage, (ii) the amount of monthly premium, including a statement of the portion of such monthly premium attributable to any dependents' coverage which the employee may elect, and (iii) instructions as to the return of the election form to the insurance company issuing such policy. Election shall be made, if at all, by returning the statement of election to the insurance company by certified mail, return receipt requested, within 15 days after having received it.

If the employee elects to continue coverage, it shall be the obligation of the employee to pay the monthly premium directly to the municipality which shall forward it to the insurance company issuing the group insurance policy, or as otherwise directed by the insurance company; provided, however, that the employee shall be entitled to designate on the statement of election required to be filed with the insurance company that the total monthly premium, or such portion thereof as is not contributed by a municipality, be deducted by the Illinois Municipal Retirement Fund from the monthly pension payment otherwise payable to or on behalf of the employee pursuant to Article 7 of the Illinois Pension Code, and be remitted by such Fund to the insurance company. The portion, if any, of the monthly premium contributed by a municipality for such continued group insurance coverage shall be paid by the municipality directly to the insurance company issuing the group insurance policy, or as directed by the insurance company. Such continued group insurance coverage shall relate back to the beginning of the employee's retirement or disability period.

The amendment, renewal or extension of any group insurance policy affected by this Section shall be deemed to be the issuance of a new policy of insurance for purposes of this Section.

(c) In the event that a municipality makes a program of accident, health, hospital or medical benefits available to its employees through self-insurance, or by participation in a pool or reciprocal insurer, or by contract in a form other than a policy of group insurance with one or more medical service plans, health care service corporations, health maintenance organizations, or any other professional corporations or plans under which health care or reimbursement for the costs thereof is provided, whether the cost of such benefits is borne by the municipality or the employees or both, such employees and their surviving spouses shall have the same right to elect continued coverage under such program of benefits as they would have if such benefits were provided by a policy of group accident and health insurance. In such cases, the notice of right to elect continued coverage shall be sent by the municipality; the statement of election shall be sent to the municipality; and references to the required premium shall refer to that portion of the cost of such benefits which is not borne by the municipality, either voluntarily or pursuant to the provisions of a collective bargaining agreement. In the case of a municipality providing such benefits through self-insurance or participation in a pool or reciprocal insurer, the right to elect continued coverage which is provided by this paragraph shall be implemented and made available

to the employees of the municipality and qualifying surviving spouses not later than July 1, 1991.

The amendment, renewal or extension of any such contract in a form other than a policy of group insurance policy shall be deemed the formation of a new contract for the purposes of this Section.

(d) This Section shall not limit the exercise of any conversion privileges available under Section 367e. (Source: P.A. 86-1444; 87-435.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2169** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Revenue, adopted and ordered printed:

#### AMENDMENT NO. 1 TO SENATE BILL 2169

AMENDMENT NO. 1. Amend Senate Bill 2169 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Lottery Law is amended by adding Section 21.9 as follows:

(20 ILCS 1605/21.9 new)

Sec. 21.9. Special drawings to benefit Illinois Lottery scratch-off game beneficiary funds.

(a) The Department may, from time to time, designate specific lottery game drawings to benefit the various scratch-off game funds identified in Sections 21.5 through 21.8 of this Act. Each special drawing designation shall be publicly announced by the Department in advance of the drawing date, along with the name of the fund that will benefit from the drawing and any special criteria for the transfer of moneys to the beneficiary fund, such as minimum sales or a net proceeds threshold.

(b) Proceeds from specially designated drawings shall be deposited into the designated beneficiary fund for appropriation by the General Assembly for the same purposes and in accordance with the same requirements as outlined in Sections 21.5 through 21.8 of this Act.

Section 10. The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-380 as follows:

(20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

Sec. 2505-380. Revocation of or refusal to issue a certificate of registration, permit, or license.

(a) The Department has the power to refuse to issue or, after notice and an opportunity for a hearing, to revoke a certificate of registration, permit, or license issued or authorized to be issued by the Department if the applicant for or holder of the certificate of registration, permit, or license fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the tax or fee Act under which the certificate of registration, permit, or license is required or any other tax or fee Act administered by the Department.

(b) The Department may refuse to issue a certificate of registration, permit, or license authorized to be issued by the Department if a person who is named as the owner, a partner, a corporate officer, or, in the case of a limited liability company, a manager or member, of the applicant on the application for the certificate of registration, permit or license, is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the certificate of registration, permit, or license of a person that is in default for moneys due under the tax or fee Act upon which the certificate of registration, permit, or license is required or any other tax or fee Act administered by the Department. For purposes of this Section only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 20 years prior to the date of the Department's notice of refusal to issue the certificate of registration, permit, or license. For purposes of this Section, "person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

(c) When revoking or refusing to issue a certificate of registration, permit, or license issued by the Department, the The procedure for notice and hearing used shall be the procedure prior to revocation shall be as provided under the Act pursuant to which the certificate of registration, permit, or license was

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issued.

(Source: P.A. 91-239, eff. 1-1-00.)

Section 15. The State Finance Act is amended by changing Section 13.3 as follows:

(30 ILCS 105/13.3) (from Ch. 127, par. 149.3)

Sec. 13.3. Petty cash funds; purchasing cards.

(a) Any State agency may establish and maintain petty cash funds for the purpose of making change, purchasing items of small cost, payment of postage due, and for other nominal expenditures which cannot be administered economically and efficiently through customary procurement practices.

Petty cash funds may be established and maintained from moneys which are appropriated to the agency for Contractual Services. In the case of an agency which receives a single appropriation for its ordinary and contingent expenses, the agency may establish a petty cash fund from the appropriated funds.

Before the establishment of any petty cash fund, the agency shall submit to the State Comptroller a survey of the need for the fund. The survey shall also establish that sufficient internal accounting controls exist. The Comptroller shall investigate such need and if he determines that it exists and that adequate accounting controls exist, shall approve the establishment of the fund. The Comptroller shall have the power to revoke any approval previously made under this Section.

Petty cash funds established under this Section shall be operated and maintained on the imprest system and no fund shall exceed \$1,000, except that the Department of Revenue may maintain a fund not exceeding \$2,000 for each Department of Revenue facility and the Secretary of State may maintain a fund of not exceeding \$2,000 for each Chicago Motor Vehicle Facility, each Springfield Public Service Facility, and the Motor Vehicle Facilities in Champaign, Decatur, Marion, Naperville, Peoria, Rockford, Granite City, Quincy, and Carbondale, to be used solely for the purpose of making change. Except for purchases made by procurement card as provided in subsection (b) of this Section, single transactions shall be limited to amounts less than \$50, and all transactions occurring in the fund shall be reported and accounted for as may be provided in the uniform accounting system developed by the State Comptroller and the rules and regulations implementing that accounting system. All amounts in any such fund of less than \$1,000 but over \$100 shall be kept in a checking account in a bank, or savings and loan association or trust company which is insured by the United States government or any agency of the United States government, except that in funds maintained in each Department of Revenue Facility, Chicago Motor Vehicle Facilities, each Springfield Public Service Facility, and the Motor Vehicle Facilities in Champaign, Decatur, Marion, Naperville, Peoria, Rockford, Granite City, Quincy, and Carbondale, all amounts in the fund may be retained on the premises of such facilities.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

An internal audit shall be performed of any petty cash fund which receives reimbursements of more than \$5,000 in a fiscal year.

Upon succession in the custodianship of any petty cash fund, both the former and successor custodians shall sign a statement, in triplicate, showing the exact status of the fund at the time of the transfer. The original copy shall be kept on file in the office wherein the fund exists, and each signer shall be entitled to retain one copy.

(b) The Comptroller may provide by rule for the use of purchasing cards by State agencies to pay for purchases that otherwise may be paid out of the agency's petty cash fund. Any rule adopted hereunder shall impose a single transaction limit, which shall not be greater than \$500.

The rules of the Comptroller may include but shall not be limited to:

- (1) standards for the issuance of purchasing cards to State agencies based upon the best interests of the State;
- (2) procedures for recording purchasing card transactions within the State accounting system, which may provide for summary reporting;
- (3) procedures for auditing purchasing card transactions on a post-payment basis;
- (4) standards for awarding contracts with a purchasing card vendor to acquire purchasing cards for use by State agencies; and
- (5) procedures for the Comptroller to charge against State agency appropriations for payment of purchasing card expenditures without the use of the voucher and warrant system.

(c) As used in this Section, "State agency" means any department, officer, authority, public corporation, quasi-public corporation, commission, board, institution, State college or university, or other public agency created by the State, other than units of local government and school districts.

(Source: P.A. 90-33, eff. 6-27-97; 91-704, eff. 7-1-00.)

Section 20. The Illinois Income Tax Act is amended by changing Sections 303, 304, 701, 710, and 905 as follows:

(35 ILCS 5/303) (from Ch. 120, par. 3-303)

Sec. 303. (a) In general. Any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, and prizes awarded under the Illinois Lottery Law, to the extent such item constitutes nonbusiness income, together with any item of deduction directly allocable thereto, shall be allocated by any person other than a resident as provided in this Section.

(b) Capital gains and losses.

(1) Real property. Capital gains and losses from sales or exchanges of real property are allocable to this State if the property is located in this State.

(2) Tangible personal property. Capital gains and losses from sales or exchanges of tangible personal property are allocable to this State if, at the time of such sale or exchange:

(A) The property had its situs in this State; or

(B) The taxpayer had its commercial domicile in this State and was not taxable in the state in which the property had its situs.

(3) Intangibles. Capital gains and losses from sales or exchanges of intangible personal property are allocable to this State if the taxpayer had its commercial domicile in this State at the time of such sale or exchange.

(c) Rents and royalties.

(1) Real property. Rents and royalties from real property are allocable to this State if the property is located in this State.

(2) Tangible personal property. Rents and royalties from tangible personal property are allocable to this State:

(A) If and to the extent that the property is utilized in this State; or

(B) In their entirety if, at the time such rents or royalties were paid or accrued, the taxpayer had its commercial domicile in this State and was not organized under the laws of or taxable with respect to such rents or royalties in the state in which the property was utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Patent and copyright royalties.

(1) Allocation. Patent and copyright royalties are allocable to this State:

(A) If and to the extent that the patent or copyright is utilized by the payer in this State; or

(B) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable with respect to such royalties and, at the time such royalties were paid or accrued, the taxpayer had its commercial domicile in this State.

(2) Utilization.

(A) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this State if the taxpayer has its commercial domicile in this State.

(B) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this State if the taxpayer has its commercial domicile in this State.

(e) Illinois lottery prizes. Prizes awarded under the Illinois Lottery Law "Illinois Lottery Law", approved December 14, 1973, are allocable to this State. Payments received in taxable years ending on or after December 31, 2013, from the assignment of a prize under Section 13.1 of the Illinois Lottery Law are allocable to this State.

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(e-5) Unemployment benefits. Unemployment benefits paid by the Illinois Department of Employment Security are allocable to this State.

(f) Taxability in other state. For purposes of allocation of income pursuant to this Section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(g) Cross references.

(1) For allocation of interest and dividends by persons other than residents, see Section 301(c)(2).

(2) For allocation of nonbusiness income by residents, see Section 301(a).

(Source: P.A. 97-709, eff. 7-1-12.)

(35 ILCS 5/304) (from Ch. 120, par. 3-304)

Sec. 304. Business income of persons other than residents.

(a) In general. The business income of a person other than a resident shall be allocated to this State if such person's business income is derived solely from this State. If a person other than a resident derives business income from this State and one or more other states, then, for tax years ending on or before December 30, 1998, and except as otherwise provided by this Section, such person's business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the sum of the property factor (if any), the payroll factor (if any) and 200% of the sales factor (if any), and the denominator of which is 4 reduced by the number of factors other than the sales factor which have a denominator of zero and by an additional 2 if the sales factor has a denominator of zero. For tax years ending on or after December 31, 1998, and except as otherwise provided by this Section, persons other than residents who derive business income from this State and one or more other states shall compute their apportionment factor by weighting their property, payroll, and sales factors as provided in subsection (h) of this Section.

(1) Property factor.

(A) The property factor is a fraction, the numerator of which is the average value of the person's real and tangible personal property owned or rented and used in the trade or business in this State during the taxable year and the denominator of which is the average value of all the person's real and tangible personal property owned or rented and used in the trade or business during the taxable year.

(B) Property owned by the person is valued at its original cost. Property rented by the person is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the person less any annual rental rate received by the person from sub-rentals.

(C) The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year but the Director may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the person's property.

(2) Payroll factor.

(A) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the taxable year by the person for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year.

(B) Compensation is paid in this State if:

(i) The individual's service is performed entirely within this State;

(ii) The individual's service is performed both within and without this State, but the service performed without this State is incidental to the individual's service performed within this State; or

(iii) Some of the service is performed within this State and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(iv) Compensation paid to nonresident professional athletes.

(a) General. The Illinois source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner

during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.

(b) Travel days. Travel days that do not involve either a game, practice, team meeting, or other similar team event are not considered duty days spent in this State. However, such travel days are considered in the total duty days spent both within and without this State.

(c) Definitions. For purposes of this subpart (iv):

(1) The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.

(2) The term "member of a professional athletic team" includes those employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.

(3) Except as provided in items (C) and (D) of this subpart (3), the term "duty days" means all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days shall be counted for the year in which they occur, including where a team's official pre-season training period through the last game in which the team competes or is scheduled to compete, occurs during more than one tax year.

(A) Duty days shall also include days on which a member of a professional athletic team performs service for a team on a date that does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional "caravans"). Performing a service for a professional athletic team includes conducting training and rehabilitation activities, when such activities are conducted at team facilities.

(B) Also included in duty days are game days, practice days, days spent at team meetings, promotional caravans, preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete.

(C) Duty days for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, shall begin on the day that person joins the team. Conversely, duty days for any person who leaves a team during this period shall end on the day that person leaves the team. Where a person switches teams during a taxable year, a separate duty-day calculation shall be made for the period the person was with each team.

(D) Days for which a member of a professional athletic team is not compensated and is not performing services for the team in any manner, including days when such member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days.

(E) Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team, and is not otherwise performing services for the team in Illinois, shall not be considered duty days spent in this State. All days on the disabled list, however, are considered to be included in total duty days spent both within and without this State.

(4) The term "total compensation for services performed as a member of a professional athletic team" means the total compensation received during the taxable year for services performed:

(A) from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year; and

(B) during the taxable year on a date which does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional caravans).

This compensation shall include, but is not limited to, salaries, wages, bonuses as described in this subpart, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. This compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services performed for the team.

For purposes of this subparagraph, "bonuses" included in "total compensation for services performed as a member of a professional athletic team" subject to the allocation

described in Section 302(c)(1) are: bonuses earned as a result of play (i.e., performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star league or other honorary positions; and bonuses paid for signing a contract, unless the payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team or even making the team, the signing bonus is payable separately from the salary and any other compensation, and the signing bonus is nonrefundable.

(3) Sales factor.

(A) The sales factor is a fraction, the numerator of which is the total sales of the person in this State during the taxable year, and the denominator of which is the total sales of the person everywhere during the taxable year.

(B) Sales of tangible personal property are in this State if:

(i) The property is delivered or shipped to a purchaser, other than the United

States government, within this State regardless of the f. o. b. point or other conditions of the sale; or

(ii) The property is shipped from an office, store, warehouse, factory or other

place of storage in this State and either the purchaser is the United States government or the person is not taxable in the state of the purchaser; provided, however, that premises owned or leased by a person who has independently contracted with the seller for the printing of newspapers, periodicals or books shall not be deemed to be an office, store, warehouse, factory or other place of storage for purposes of this Section. Sales of tangible personal property are not in this State if the seller and purchaser would be members of the same unitary business group but for the fact that either the seller or purchaser is a person with 80% or more of total business activity outside of the United States and the property is purchased for resale.

(B-1) Patents, copyrights, trademarks, and similar items of intangible personal property.

(i) Gross receipts from the licensing, sale, or other disposition of a patent, copyright, trademark, or similar item of intangible personal property, other than gross receipts governed by paragraph (B-7) of this item (3), are in this State to the extent the item is utilized in this State during the year the gross receipts are included in gross income.

(ii) Place of utilization.

(I) A patent is utilized in a state to the extent that it is employed in

production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If a patent is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts of the licensee or purchaser from sales or leases of items produced, fabricated, manufactured, or processed within that state using the patent and of patented items produced within that state, divided by the total of such gross receipts for all states in which the patent is utilized.

(II) A copyright is utilized in a state to the extent that printing or other

publication originates in the state. If a copyright is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts from sales or licenses of materials printed or published in that state divided by the total of such gross receipts for all states in which the copyright is utilized.

(III) Trademarks and other items of intangible personal property governed by

this paragraph (B-1) are utilized in the state in which the commercial domicile of the licensee or purchaser is located.

(iii) If the state of utilization of an item of property governed by this paragraph

(B-1) cannot be determined from the taxpayer's books and records or from the books and records of any person related to the taxpayer within the meaning of Section 267(b) of the Internal Revenue Code, 26 U.S.C. 267, the gross receipts attributable to that item shall be excluded from both the numerator and the denominator of the sales factor.

(B-2) Gross receipts from the license, sale, or other disposition of patents,

copyrights, trademarks, and similar items of intangible personal property, other than gross receipts governed by paragraph (B-7) of this item (3), may be included in the numerator or denominator of the sales factor only if gross receipts from licenses, sales, or other disposition of such items comprise more than 50% of the taxpayer's total gross receipts included in gross income during the tax year and during each of the 2 immediately preceding tax years; provided that, when a taxpayer is a member of a unitary business group, such determination shall be made on the basis of the gross receipts of the entire unitary business group.

(B-5) For taxable years ending on or after December 31, 2008, except as provided in

subsections (ii) through (vii), receipts from the sale of telecommunications service or mobile telecommunications service are in this State if the customer's service address is in this State.

(i) For purposes of this subparagraph (B-5), the following terms have the following meanings:

"Ancillary services" means services that are associated with or incidental to the provision of "telecommunications services", including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail services".

"Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

"Call-by-call Basis" means any method of charging for telecommunications services where the price is measured by individual calls.

"Communications Channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

"Conference bridging service" means an "ancillary service" that links two or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the "telecommunications services" used to reach the conference bridge.

"Customer Channel Termination Point" means the location where the customer either inputs or receives the communications.

"Detailed telecommunications billing service" means an "ancillary service" of separately stating information pertaining to individual calls on a customer's billing statement.

"Directory assistance" means an "ancillary service" of providing telephone number information, and/or address information.

"Home service provider" means the facilities based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

"Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

"Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

"Post-paid telecommunication service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service.

"Prepaid telecommunication service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Prepaid Mobile telecommunication service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunication services, including but not limited to ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

"Service address" means:

(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(b) If the location in line (a) is not known, service address means the

origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider where the system used to transport such signals is not that of the seller; and

- (c) If the locations in line (a) and line (b) are not known, the service address means the location of the customer's place of primary use.

"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications service" does not include:

- (a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;
- (b) Installation or maintenance of wiring or equipment on a customer's premises;
- (c) Tangible personal property;
- (d) Advertising, including but not limited to directory advertising.
- (e) Billing and collection services provided to third parties;
- (f) Internet access service;
- (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 USC 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;
- (h) "Ancillary services"; or
- (i) Digital products "delivered electronically", including but not limited to software, music, video, reading materials or ring tones.

"Vertical service" means an "ancillary service" that is offered in connection with one or more "telecommunications services", which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including "conference bridging services".

"Voice mail service" means an "ancillary service" that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include any "vertical services" that the customer may be required to have in order to utilize the "voice mail service".

- (ii) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this State if either of the following applies:

- (a) The call both originates and terminates in this State.
- (b) The call either originates or terminates in this State and the service address is located in this State.

(iii) Receipts from the sale of postpaid telecommunications service at retail are in this State if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this State.

(iv) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service at retail are in this State if the purchaser obtains the prepaid card or similar means of conveyance at a location in this State. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this State if the purchaser's billing information indicates a location in this State.

- (v) Receipts from the sale of private communication services are in this State as follows:

- (a) 100% of receipts from charges imposed at each channel termination point in this State.
- (b) 100% of receipts from charges for the total channel mileage between each channel termination point in this State.

(c) 50% of the total receipts from charges for service segments when those segments are between 2 customer channel termination points, 1 of which is located in this State and the other is located outside of this State, which segments are separately charged.

(d) The receipts from charges for service segments with a channel termination point located in this State and in two or more other states, and which segments are not separately billed, are in this State based on a percentage determined by dividing the number of customer channel termination points in this State by the total number of customer channel termination points.

(vi) Receipts from charges for ancillary services for telecommunications service sold to customers at retail are in this State if the customer's primary place of use of telecommunications services associated with those ancillary services is in this State. If the seller of those ancillary services cannot determine where the associated telecommunications are located, then the ancillary services shall be based on the location of the purchaser.

(vii) Receipts to access a carrier's network or from the sale of telecommunication services or ancillary services for resale are in this State as follows:

(a) 100% of the receipts from access fees attributable to intrastate

telecommunications service that both originates and terminates in this State.

(b) 50% of the receipts from access fees attributable to interstate

telecommunications service if the interstate call either originates or terminates in this State.

(c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this State. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunication services or from ancillary services for telecommunications services sold to other telecommunication service providers for resale shall be sourced to this State using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(B-7) For taxable years ending on or after December 31, 2008, receipts from the sale of broadcasting services are in this State if the broadcasting services are received in this State. For purposes of this paragraph (B-7), the following terms have the following meanings:

"Advertising revenue" means consideration received by the taxpayer in exchange for broadcasting services or allowing the broadcasting of commercials or announcements in connection with the broadcasting of film or radio programming, from sponsorships of the programming, or from product placements in the programming.

"Audience factor" means the ratio that the audience or subscribers located in this State of a station, a network, or a cable system bears to the total audience or total subscribers for that station, network, or cable system. The audience factor for film or radio programming shall be determined by reference to the books and records of the taxpayer or by reference to published rating statistics provided the method used by the taxpayer is consistently used from year to year for this purpose and fairly represents the taxpayer's activity in this State.

"Broadcast" or "broadcasting" or "broadcasting services" means the transmission or provision of film or radio programming, whether through the public airwaves, by cable, by direct or indirect satellite transmission, or by any other means of communication, either through a station, a network, or a cable system.

"Film" or "film programming" means the broadcast on television of any and all performances, events, or productions, including but not limited to news, sporting events, plays, stories, or other literary, commercial, educational, or artistic works, either live or through the use of video tape, disc, or any other type of format or medium. Each episode of a series of films produced for television shall constitute separate "film" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

"Radio" or "radio programming" means the broadcast on radio of any and all performances, events, or productions, including but not limited to news, sporting events, plays, stories, or other literary, commercial, educational, or artistic works, either live or through the use of an audio tape, disc, or any other format or medium. Each episode in a series of radio programming produced for radio broadcast shall constitute a separate "radio programming" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

(i) In the case of advertising revenue from broadcasting, the customer is the



advertiser and the service is received in this State if the commercial domicile of the advertiser is in this State.

(ii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration received from the recipient of the broadcast, the portion of the service that is received in this State is measured by the portion of the recipients of the broadcast located in this State. Accordingly, the fee or other remuneration for such service that is included in the Illinois numerator of the sales factor is the total of those fees or other remuneration received from recipients in Illinois. For purposes of this paragraph, a taxpayer may determine the location of the recipients of its broadcast using the address of the recipient shown in its contracts with the recipient or using the billing address of the recipient in the taxpayer's records.

(iii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration from the person providing the programming, the portion of the broadcast service that is received by such station, network, or cable system in this State is measured by the portion of recipients of the broadcast located in this State. Accordingly, the amount of revenue related to such an arrangement that is included in the Illinois numerator of the sales factor is the total fee or other total remuneration from the person providing the programming related to that broadcast multiplied by the Illinois audience factor for that broadcast.

(iv) In the case where film or radio programming is provided by a taxpayer that is a network or station to a customer for broadcast in exchange for a fee or other remuneration from that customer the broadcasting service is received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. Accordingly, in such a case the revenue derived by the taxpayer that is included in the taxpayer's Illinois numerator of the sales factor is the revenue from such customers who receive the broadcasting service in Illinois.

(v) In the case where film or radio programming is provided by a taxpayer that is not a network or station to another person for broadcasting in exchange for a fee or other remuneration from that person, the broadcasting service is received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. Accordingly, in such a case the revenue derived by the taxpayer that is included in the taxpayer's Illinois numerator of the sales factor is the revenue from such customers who receive the broadcasting service in Illinois.

(B-8) Gross receipts from winnings under the Illinois Lottery Law from the assignment of a prize under Section 13-1 of the Illinois Lottery Law are received in this State. This paragraph (B-8) applies only to taxable years ending on or after December 31, 2013.

(C) For taxable years ending before December 31, 2008, sales, other than sales governed by paragraphs (B), (B-1), and (B-2), and (B-8) are in this State if:

(i) The income-producing activity is performed in this State; or

(ii) The income-producing activity is performed both within and without this State and a greater proportion of the income-producing activity is performed within this State than without this State, based on performance costs.

(C-5) For taxable years ending on or after December 31, 2008, sales, other than sales governed by paragraphs (B), (B-1), (B-2), (B-5), and (B-7), are in this State if any of the following criteria are met:

(i) Sales from the sale or lease of real property are in this State if the property is located in this State.

(ii) Sales from the lease or rental of tangible personal property are in this State if the property is located in this State during the rental period. Sales from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are in this State to the extent that the property is used in this State.

(iii) In the case of interest, net gains (but not less than zero) and other items of income from intangible personal property, the sale is in this State if:

(a) in the case of a taxpayer who is a dealer in the item of intangible personal property within the meaning of Section 475 of the Internal Revenue Code, the income or gain is received from a customer in this State. For purposes of this subparagraph, a customer is in this State if the customer is an individual, trust or estate who is a resident of this State and, for all other customers, if the customer's commercial domicile is in this State. Unless the dealer has

actual knowledge of the residence or commercial domicile of a customer during a taxable year, the customer shall be deemed to be a customer in this State if the billing address of the customer, as shown in the records of the dealer, is in this State; or

(b) in all other cases, if the income-producing activity of the taxpayer is performed in this State or, if the income-producing activity of the taxpayer is performed both within and without this State, if a greater proportion of the income-producing activity of the taxpayer is performed within this State than in any other state, based on performance costs.

(iv) Sales of services are in this State if the services are received in this State.

For the purposes of this section, gross receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where that corporation, partnership, or trust has a fixed place of business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed. If the taxpayer is not taxable in the state in which the services are received, the sale must be excluded from both the numerator and the denominator of the sales factor. The Department shall adopt rules prescribing where specific types of service are received, including, but not limited to, publishing, and utility service.

(D) For taxable years ending on or after December 31, 1995, the following items of income shall not be included in the numerator or denominator of the sales factor: dividends; amounts included under Section 78 of the Internal Revenue Code; and Subpart F income as defined in Section 952 of the Internal Revenue Code. No inference shall be drawn from the enactment of this paragraph (D) in construing this Section for taxable years ending before December 31, 1995.

(E) Paragraphs (B-1) and (B-2) shall apply to tax years ending on or after December 31, 1999, provided that a taxpayer may elect to apply the provisions of these paragraphs to prior tax years. Such election shall be made in the form and manner prescribed by the Department, shall be irrevocable, and shall apply to all tax years; provided that, if a taxpayer's Illinois income tax liability for any tax year, as assessed under Section 903 prior to January 1, 1999, was computed in a manner contrary to the provisions of paragraphs (B-1) or (B-2), no refund shall be payable to the taxpayer for that tax year to the extent such refund is the result of applying the provisions of paragraph (B-1) or (B-2) retroactively. In the case of a unitary business group, such election shall apply to all members of such group for every tax year such group is in existence, but shall not apply to any taxpayer for any period during which that taxpayer is not a member of such group.

(b) Insurance companies.

(1) In general. Except as otherwise provided by paragraph (2), business income of an insurance company for a taxable year shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance upon property or risk in this State, and the denominator of which is the direct premiums written for insurance upon property or risk everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Illinois Director of Insurance in the form approved by the National Convention of Insurance Commissioners or such other form as may be prescribed in lieu thereof.

(2) Reinsurance. If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the business income of such company shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the sum of (i) direct premiums written for insurance upon property or risk in this State, plus (ii) premiums written for reinsurance accepted in respect of property or risk in this State, and the denominator of which is the sum of (iii) direct premiums written for insurance upon property or risk everywhere, plus (iv) premiums written for reinsurance accepted in respect of property or risk everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risk in this State, whether or not otherwise determinable, may, at the election of the company, be determined on the basis of the proportion which premiums written for reinsurance accepted from companies commercially domiciled in Illinois bears to premiums written for reinsurance accepted from all sources, or, alternatively, in the proportion which the sum of the direct premiums written for insurance upon property or risk in this State by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year. The

election made by a company under this paragraph for its first taxable year ending on or after December 31, 2011, shall be binding for that company for that taxable year and for all subsequent taxable years, and may be altered only with the written permission of the Department, which shall not be unreasonably withheld.

(c) Financial organizations.

(1) In general. For taxable years ending before December 31, 2008, business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For the purposes of this subsection, the business income of a financial organization from sources within this State is the sum of the amounts referred to in subparagraphs (A) through (E) following, but excluding the adjusted income of an international banking facility as determined in paragraph (2):

(A) Fees, commissions or other compensation for financial services rendered within this State;

(B) Gross profits from trading in stocks, bonds or other securities managed within this State;

(C) Dividends, and interest from Illinois customers, which are received within this State;

(D) Interest charged to customers at places of business maintained within this State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(E) Any other gross income resulting from the operation as a financial organization within this State. In computing the amounts referred to in paragraphs (A) through (E) of this subsection, any amount received by a member of an affiliated group (determined under Section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under Section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

(2) International Banking Facility. For taxable years ending before December 31, 2008:

(A) Adjusted Income. The adjusted income of an international banking facility is its income reduced by the amount of the floor amount.

(B) Floor Amount. The floor amount shall be the amount, if any, determined by multiplying the income of the international banking facility by a fraction, not greater than one, which is determined as follows:

(i) The numerator shall be:

The average aggregate, determined on a quarterly basis, of the financial organization's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, as reported for its branches, agencies and offices within the state on its "Consolidated Report of Condition", Schedule A, Lines 2.c., 5.b., and 7.a., which was filed with the Federal Deposit Insurance Corporation and other regulatory authorities, for the year 1980, minus

The average aggregate, determined on a quarterly basis, of such loans (other than loans of an international banking facility), as reported by the financial institution for its branches, agencies and offices within the state, on the corresponding Schedule and lines of the Consolidated Report of Condition for the current taxable year, provided, however, that in no case shall the amount determined in this clause (the subtrahend) exceed the amount determined in the preceding clause (the minuend); and

(ii) the denominator shall be the average aggregate, determined on a quarterly basis, of the international banking facility's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, which were recorded in its financial accounts for the current taxable year.

(C) Change to Consolidated Report of Condition and in Qualification. In the event the Consolidated Report of Condition which is filed with the Federal Deposit Insurance Corporation and other regulatory authorities is altered so that the information required for determining the floor amount is not found on Schedule A, lines 2.c., 5.b. and 7.a., the financial institution shall notify the Department and the Department may, by regulations or otherwise, prescribe or authorize the use of an alternative source for such information. The financial institution shall also notify the Department

should its international banking facility fail to qualify as such, in whole or in part, or should there be any amendment or change to the Consolidated Report of Condition, as originally filed, to the extent such amendment or change alters the information used in determining the floor amount.

(3) For taxable years ending on or after December 31, 2008, the business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its gross receipts from sources in this State or otherwise attributable to this State's marketplace and the denominator of which is its gross receipts everywhere during the taxable year. "Gross receipts" for purposes of this subparagraph (3) means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the financial organization's trade or business. The following examples are illustrative:

(i) Receipts from the lease or rental of real or tangible personal property are in this State if the property is located in this State during the rental period. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are from sources in this State to the extent that the property is used in this State.

(ii) Interest income, commissions, fees, gains on disposition, and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property are from sources in this State if the security is located in this State.

(iii) Interest income, commissions, fees, gains on disposition, and other receipts from consumer loans that are not secured by real or tangible personal property are from sources in this State if the debtor is a resident of this State.

(iv) Interest income, commissions, fees, gains on disposition, and other receipts from commercial loans and installment obligations that are not secured by real or tangible personal property are from sources in this State if the proceeds of the loan are to be applied in this State. If it cannot be determined where the funds are to be applied, the income and receipts are from sources in this State if the office of the borrower from which the loan was negotiated in the regular course of business is located in this State. If the location of this office cannot be determined, the income and receipts shall be excluded from the numerator and denominator of the sales factor.

(v) Interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in this State if the card charges are regularly billed to a customer in this State.

(vi) Receipts from the performance of services, including, but not limited to, fiduciary, advisory, and brokerage services, are in this State if the services are received in this State within the meaning of subparagraph (a)(3)(C-5)(iv) of this Section.

(vii) Receipts from the issuance of travelers checks and money orders are from sources in this State if the checks and money orders are issued from a location within this State.

(viii) Receipts from investment assets and activities and trading assets and activities are included in the receipts factor as follows:

(1) Interest, dividends, net gains (but not less than zero) and other income from investment assets and activities from trading assets and activities shall be included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in subparagraphs (A) and (B) of this paragraph, the receipts factor shall include the amounts described in such subparagraphs.

(A) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(B) The receipts factor shall include the amount by which interest, dividends, gains and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(2) The numerator of the receipts factor includes interest, dividends, net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in paragraph (1) of this subsection that are attributable to this State.

(A) The amount of interest, dividends, net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this State and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (A) of paragraph (1) of this subsection from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such funds and such securities.

(C) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions (but excluding amounts described in subparagraphs (A) or (B) of this paragraph), attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (B) of paragraph (1) of this subsection by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

(D) Properly assigned, for purposes of this paragraph (2) of this subsection, means the investment or trading asset or activity is assigned to the fixed place of business with which it has a preponderance of substantive contacts. An investment or trading asset or activity assigned by the taxpayer to a fixed place of business without the State shall be presumed to have been properly assigned if:

- (i) the taxpayer has assigned, in the regular course of its business, such asset or activity on its records to a fixed place of business consistent with federal or state regulatory requirements;
- (ii) such assignment on its records is based upon substantive contacts of the asset or activity to such fixed place of business; and
- (iii) the taxpayer uses such records reflecting assignment of such assets or activities for the filing of all state and local tax returns for which an assignment of such assets or activities to a fixed place of business is required.

(E) The presumption of proper assignment of an investment or trading asset or activity provided in subparagraph (D) of paragraph (2) of this subsection may be rebutted upon a showing by the Department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such asset or activity did not occur at the fixed place of business to which it was assigned on the taxpayer's records. If the fixed place of business that has a preponderance of substantive contacts cannot be determined for an investment or trading asset or activity to which the presumption in subparagraph (D) of paragraph (2) of this subsection does not apply or with respect to which that presumption has been rebutted, that asset or activity is properly assigned to the state in which the taxpayer's commercial domicile is located. For purposes of this subparagraph (E), it shall be presumed, subject to rebuttal, that taxpayer's commercial domicile is in the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected with the management of the investment or trading income or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the taxable year.

(4) (Blank).

(5) (Blank).

(c-1) Federally regulated exchanges. For taxable years ending on or after December 31, 2012, business income of a federally regulated exchange shall, at the option of the federally regulated exchange, be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For purposes of this subsection, the business income within this State of a

federally regulated exchange is the sum of the following:

(1) Receipts attributable to transactions executed on a physical trading floor if that physical trading floor is located in this State.

(2) Receipts attributable to all other matching, execution, or clearing transactions, including without limitation receipts from the provision of matching, execution, or clearing services to another entity, multiplied by (i) for taxable years ending on or after December 31, 2012 but before December 31, 2013, 63.77%; and (ii) for taxable years ending on or after December 31, 2013, 27.54%.

(3) All other receipts not governed by subparagraphs (1) or (2) of this subsection (c-1), to the extent the receipts would be characterized as "sales in this State" under item (3) of subsection (a) of this Section.

"Federally regulated exchange" means (i) a "registered entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B), or (C), (ii) an "exchange" or "clearing agency" within the meaning of 15 U.S.C. Section 78c (a)(1) or (23), (iii) any such entities regulated under any successor regulatory structure to the foregoing, and (iv) all taxpayers who are members of the same unitary business group as a federally regulated exchange, determined without regard to the prohibition in Section 1501(a)(27) of this Act against including in a unitary business group taxpayers who are ordinarily required to apportion business income under different subsections of this Section; provided that this subparagraph (iv) shall apply only if 50% or more of the business receipts of the unitary business group determined by application of this subparagraph (iv) for the taxable year are attributable to the matching, execution, or clearing of transactions conducted by an entity described in subparagraph (i), (ii), or (iii) of this paragraph.

In no event shall the Illinois apportionment percentage computed in accordance with this subsection (c-1) for any taxpayer for any tax year be less than the Illinois apportionment percentage computed under this subsection (c-1) for that taxpayer for the first full tax year ending on or after December 31, 2013 for which this subsection (c-1) applied to the taxpayer.

(d) Transportation services. For taxable years ending before December 31, 2008, business income derived from furnishing transportation services shall be apportioned to this State in accordance with paragraphs (1) and (2):

(1) Such business income (other than that derived from transportation by pipeline) shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For purposes of this paragraph, a revenue mile is the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. Where a person is engaged in the transportation of both passengers and freight, the fraction above referred to shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the person's

(A) relative railway operating income from total passenger and total freight service, as reported to the Interstate Commerce Commission, in the case of transportation by railroad, and

(B) relative gross receipts from passenger and freight transportation, in case of transportation other than by railroad.

(2) Such business income derived from transportation by pipeline shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For the purposes of this paragraph, a revenue mile is the transportation by pipeline of 1 barrel of oil, 1,000 cubic feet of gas, or of any specified quantity of any other substance, the distance of 1 mile for a consideration.

(3) For taxable years ending on or after December 31, 2008, business income derived from providing transportation services other than airline services shall be apportioned to this State by using a fraction, (a) the numerator of which shall be (i) all receipts from any movement or shipment of people, goods, mail, oil, gas, or any other substance (other than by airline) that both originates and terminates in this State, plus (ii) that portion of the person's gross receipts from movements or shipments of people, goods, mail, oil, gas, or any other substance (other than by airline) that originates in one state or jurisdiction and terminates in another state or jurisdiction, that is determined by the ratio that the miles traveled in this State bears to total miles everywhere and (b) the denominator of which shall be all revenue derived from the movement or shipment of people, goods, mail, oil, gas, or any other substance (other than by airline). Where a taxpayer is engaged in the transportation of both passengers and freight, the fraction above referred to shall first be determined separately for passenger miles and freight miles. Then an average of the passenger miles fraction and the freight miles fraction

shall be weighted to reflect the taxpayer's:

(A) relative railway operating income from total passenger and total freight service, as reported to the Surface Transportation Board, in the case of transportation by railroad; and

(B) relative gross receipts from passenger and freight transportation, in case of transportation other than by railroad.

(4) For taxable years ending on or after December 31, 2008, business income derived from furnishing airline transportation services shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For purposes of this paragraph, a revenue mile is the transportation of one passenger or one net ton of freight the distance of one mile for a consideration. If a person is engaged in the transportation of both passengers and freight, the fraction above referred to shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the person's relative gross receipts from passenger and freight airline transportation.

(e) Combined apportionment. Where 2 or more persons are engaged in a unitary business as described in subsection (a)(27) of Section 1501, a part of which is conducted in this State by one or more members of the group, the business income attributable to this State by any such member or members shall be apportioned by means of the combined apportionment method.

(f) Alternative allocation. If the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may, without a petition, permit or require, in respect of all or any part of the person's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

(g) Cross reference. For allocation of business income by residents, see Section 301(a).

(h) For tax years ending on or after December 31, 1998, the apportionment factor of persons who apportion their business income to this State under subsection (a) shall be equal to:

- (1) for tax years ending on or after December 31, 1998 and before December 31, 1999, 16 2/3% of the property factor plus 16 2/3% of the payroll factor plus 66 2/3% of the sales factor;
- (2) for tax years ending on or after December 31, 1999 and before December 31, 2000, 8 1/3% of the property factor plus 8 1/3% of the payroll factor plus 83 1/3% of the sales factor;
- (3) for tax years ending on or after December 31, 2000, the sales factor.

If, in any tax year ending on or after December 31, 1998 and before December 31, 2000, the denominator of the payroll, property, or sales factor is zero, the apportionment factor computed in paragraph (1) or (2) of this subsection for that year shall be divided by an amount equal to 100% minus the percentage weight given to each factor whose denominator is equal to zero.

(Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11; 97-636, eff. 6-1-12.)

(35 ILCS 5/701) (from Ch. 120, par. 7-701)

Sec. 701. Requirement and Amount of Withholding.

(a) In General. Every employer maintaining an office or transacting business within this State and required under the provisions of the Internal Revenue Code to withhold a tax on:

(1) compensation paid in this State (as determined under Section 304(a)(2)(B)) to an individual; or

(2) payments described in subsection (b) shall deduct and withhold from such compensation for each payroll period (as defined in Section 3401 of the Internal Revenue Code) an amount equal to the amount by which such individual's compensation exceeds the proportionate part of this withholding exemption (computed as provided in Section 702) attributable to the payroll period for which such compensation is payable multiplied by a percentage equal to the percentage tax rate for individuals provided in subsection (b) of Section 201.

(b) Payment to Residents. Any payment (including compensation, but not including a payment from which withholding is required under Section 710 of this Act) to a resident by a payor maintaining an office or transacting business within this State (including any agency, officer, or employee of this State or of any political subdivision of this State) and on which withholding of tax is required under the provisions of the Internal Revenue Code shall be deemed to be compensation paid in this State by an

employer to an employee for the purposes of Article 7 and Section 601(b)(1) to the extent such payment is included in the recipient's base income and not subjected to withholding by another state. Notwithstanding any other provision to the contrary, no amount shall be withheld from unemployment insurance benefit payments made to an individual pursuant to the Unemployment Insurance Act unless the individual has voluntarily elected the withholding pursuant to rules promulgated by the Director of Employment Security.

(c) Special Definitions. Withholding shall be considered required under the provisions of the Internal Revenue Code to the extent the Internal Revenue Code either requires withholding or allows for voluntary withholding the payor and recipient have entered into such a voluntary withholding agreement. For the purposes of Article 7 and Section 1002(c) the term "employer" includes any payor who is required to withhold tax pursuant to this Section.

(d) Reciprocal Exemption. The Director may enter into an agreement with the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of this State shall be exempt from withholding of such tax; in such case, any compensation paid in this State to residents of such state shall be exempt from withholding. All reciprocal agreements shall be subject to the requirements of Section 2505-575 of the Department of Revenue Law (20 ILCS 2505/2505-575).

(e) Notwithstanding subsection (a)(2) of this Section, no withholding is required on payments for which withholding is required under Section 3405 or 3406 of the Internal Revenue Code.

(Source: P.A. 97-507, eff. 8-23-11.)

(35 ILCS 5/710) (from Ch. 120, par. 7-710)

Sec. 710. Withholding from lottery winnings. (a) In General.

(1) Any person making a payment to a resident or nonresident of winnings under the Illinois Lottery Law and not required to withhold Illinois income tax from such payment under Subsection (b) of Section 701 of this Act because those winnings are not subject to Federal income tax withholding, must withhold Illinois income tax from such payment at a rate equal to the percentage tax rate for individuals provided in subsection (b) of Section 201, provided that withholding is not required if such payment of winnings is less than \$1,000.

(2) In the case of an assignment of a lottery prize under Section 13.1 of the Illinois Lottery Law, any person making a payment of the purchase price after December 31, 2013, shall withhold from the amount of each payment at a rate equal to the percentage tax rate for individuals provided in subsection (b) of Section 201.

(b) Credit for taxes withheld. Any amount withheld under Subsection (a) shall be a credit against the Illinois income tax liability of the person to whom the payment of winnings was made for the taxable year in which that person incurred an Illinois income tax liability with respect to those winnings.

(Source: P.A. 85-731.)

(35 ILCS 5/905) (from Ch. 120, par. 9-905)

Sec. 905. Limitations on Notices of Deficiency.

(a) In general. Except as otherwise provided in this Act:

(1) A notice of deficiency shall be issued not later than 3 years after the date the return was filed, and

(2) No deficiency shall be assessed or collected with respect to the year for which the return was filed unless such notice is issued within such period.

(b) Substantial omission of items.

(1) Omission of more than 25% of income. If the taxpayer omits from base income an amount properly includible therein which is in excess of 25% of the amount of base income stated in the return, a notice of deficiency may be issued not later than 6 years after the return was filed. For purposes of this paragraph, there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Department of the nature and the amount of such item.

(2) Reportable transactions. If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a reportable transaction, as required under Section 501(b) of this Act, a notice of deficiency may be issued not later than 6 years after the return is filed with respect to the taxable year in which the taxpayer participated in the reportable transaction and said deficiency is limited to the non-disclosed item.

(3) Withholding. If an employer omits from a return required under Section 704A of this Act for any period beginning on or after January 1, 2013, an amount required to be withheld and to be reported on that return which is in excess of 25% of the total amount of withholding required to be reported on that return, a notice of deficiency may be issued not later than 6 years after the return was filed.



(c) No return or fraudulent return. If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by this Act, a notice of deficiency may be issued at any time. For purposes of this subsection (c), any taxpayer who is required to join in the filing of a return filed under the provisions of subsection (e) of Section 502 of this Act for a taxable year ending on or after December 31, 2013 and who is not included on that return and does not file its own return for that taxable year shall be deemed to have failed to file a return; provided that the amount of any proposed assessment set forth in a notice of deficiency issued under this subsection (c) shall be limited to the amount of any increase in liability under this Act that should have reported on the return required under the provisions of subsection (e) of Section 502 of this Act for that taxable year resulting from proper inclusion of that taxpayer on that return.

(d) Failure to report federal change. If a taxpayer fails to notify the Department in any case where notification is required by Section 304(c) or 506(b), or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued (i) at any time or (ii) on or after August 13, 1999, at any time for the taxable year for which the notification is required or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is required; provided, however, that the amount of any proposed assessment set forth in the notice shall be limited to the amount of any deficiency resulting under this Act from the recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is required after giving effect to the item or items required to be reported.

(e) Report of federal change.

(1) Before August 13, 1999, in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the reported alteration.

(2) On and after August 13, 1999, in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given for the taxable year for which the notification is given or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is given after giving effect to the item or items reflected in the reported alteration.

(f) Extension by agreement. Where, before the expiration of the time prescribed in this Section for the issuance of a notice of deficiency, both the Department and the taxpayer shall have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a notice of deficiency may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any proposed assessment set forth in the notice, however, shall be limited to the amount of any deficiency resulting under this Act from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(g) Erroneous refunds. In any case in which there has been an erroneous refund of tax payable under this Act, a notice of deficiency may be issued at any time within 2 years from the making of such refund, or within 5 years from the making of such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of such erroneous refund.

Beginning July 1, 1993, in any case in which there has been a refund of tax payable under this Act attributable to a net loss carryback as provided for in Section 207, and that refund is subsequently determined to be an erroneous refund due to a reduction in the amount of the net loss which was originally carried back, a notice of deficiency for the erroneous refund amount may be issued at any time during the same time period in which a notice of deficiency can be issued on the loss year creating the carryback amount and subsequent erroneous refund. The amount of any proposed assessment set forth in

the notice shall be limited to the amount of such erroneous refund.

(h) Time return deemed filed. For purposes of this Section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

(i) Request for prompt determination of liability. For purposes of subsection (a)(1), in the case of a tax return required under this Act in respect of a decedent, or by his estate during the period of administration, or by a corporation, the period referred to in such Subsection shall be 18 months after a written request for prompt determination of liability is filed with the Department (at such time and in such form and manner as the Department shall by regulations prescribe) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by such corporation, but not more than 3 years after the date the return was filed. This subsection shall not apply in the case of a corporation unless:

(1) (A) such written request notifies the Department that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is begun in good faith before the expiration of such 18-month period, and (C) the dissolution is completed;

(2) (A) such written request notifies the Department that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(j) Withholding tax. In the case of returns required under Article 7 of this Act (with respect to any amounts withheld as tax or any amounts required to have been withheld as tax) a notice of deficiency shall be issued not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was required.

(k) Penalties for failure to make information reports. A notice of deficiency for the penalties provided by Subsection 1405.1(c) of this Act may not be issued more than 3 years after the due date of the reports with respect to which the penalties are asserted.

(l) Penalty for failure to file withholding returns. A notice of deficiency for penalties provided by Section 1004 of this Act for taxpayer's failure to file withholding returns may not be issued more than three years after the 15th day of the 4th month following the close of the calendar year in which the withholding giving rise to taxpayer's obligation to file those returns occurred.

(m) Transferee liability. A notice of deficiency may be issued to a transferee relative to a liability asserted under Section 1405 during time periods defined as follows:

1) Initial Transferee. In the case of the liability of an initial transferee, up to 2

years after the expiration of the period of limitation for assessment against the transferor, except that if a court proceeding for review of the assessment against the transferor has begun, then up to 2 years after the return of the certified copy of the judgment in the court proceeding.

2) Transferee of Transferee. In the case of the liability of a transferee, up to 2

years after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor; except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, as the case may be, then the period of limitation for assessment of the liability of the transferee shall expire 2 years after the return of the certified copy of the judgment in the court proceeding.

(n) Notice of decrease in net loss. On and after August 23, 2002, no notice of deficiency shall be issued as the result of a decrease determined by the Department in the net loss incurred by a taxpayer in any taxable year ending prior to December 31, 2002 under Section 207 of this Act unless the Department has notified the taxpayer of the proposed decrease within 3 years after the return reporting the loss was filed or within one year after an amended return reporting an increase in the loss was filed, provided that in the case of an amended return, a decrease proposed by the Department more than 3 years after the original return was filed may not exceed the increase claimed by the taxpayer on the original return.

(Source: P.A. 93-840, eff. 7-30-04; 94-836, eff. 6-6-06.)

Section 25. The Use Tax Act is amended by changing Section 9 as follows:

(35 ILCS 105/9) (from Ch. 120, par. 439.9)

Sec. 9. Except as to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, each retailer required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of such tax (except as otherwise provided) at the time when he is required to file his return for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for expenses incurred in collecting the tax, keeping

records, preparing and filing returns, remitting the tax and supplying data to the Department on request. In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final. A retailer need not remit that part of any tax collected by him to the extent that he is required to remit and does remit the tax imposed by the Retailers' Occupation Tax Act, with respect to the sale of the same property.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the return is filed, the retailer, in collecting the tax (except as to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State), may collect for each tax return period, only the tax applicable to that part of the selling price actually received during such tax return period.

Except as provided in this Section, on or before the twentieth day of each calendar month, such retailer shall file a return for the preceding calendar month. Such return shall be filed on forms prescribed by the Department and shall furnish such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due;
- 5-5. The signature of the taxpayer; and
6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds

transfer and the requirements of this Section.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985, and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987, and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such taxpayer may petition the Department for change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

If any such payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown

by an original monthly return, the Department shall issue to the taxpayer a credit memorandum no later than 30 days after the date of payment, which memorandum may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department, except that if such excess payment is shown on an original monthly return and is made after December 31, 1986, no credit memorandum shall be issued, unless requested by the taxpayer. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted by the taxpayer to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and the taxpayer shall be liable for penalties and interest on such difference.

If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February, and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax liability to the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under this Act with the Department not more than one month after discontinuing such business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 3-55 of this Act, then that seller may report the transfer of all the aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

The transaction reporting return in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5-402 of the Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of the Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft and aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount

allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the tax that is imposed by this Act may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration (if titling or registration is required) upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out the mandate of this paragraph.

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer, and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Where a retailer collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the retailer refunds the selling price thereof to the purchaser, such retailer shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the retailer may deduct the amount of the tax so refunded by him to the purchaser from any other use tax which such retailer may be required to pay or remit to the Department, as shown by such return, if the amount of the tax to be deducted was previously remitted to the Department by such retailer. If the retailer has not previously remitted the amount of such tax to the Department, he is entitled to no deduction under this Act upon refunding such tax to the purchaser.

Any retailer filing a return under this Section shall also include (for the purpose of paying tax thereon) the total tax covered by such return upon the selling price of tangible personal property purchased by him at retail from a retailer, but as to which the tax imposed by this Act was not collected from the retailer filing such return, and such retailer shall remit the amount of such tax to the Department when filing such return.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable retailers, who are required to file returns hereunder and also under the Retailers' Occupation Tax Act, to furnish all the return information required by both Acts on the one form.

Where the retailer has more than one business registered with the Department under separate registration under this Act, such retailer may not file each return that is due as a single return covering all

such registered businesses, but shall file separate returns for each such registered business.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury which is hereby created, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury, 20% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property, other than tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that is now taxed at 6.25%.

Beginning July 1, 2011, each month the Department shall pay into the Clean Air Act (CAA) Permit Fund 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of sorbents used in Illinois in the process of sorbent injection as used to comply with the Environmental Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act (CAA) Permit Fund under this Act and the Retailers' Occupation Tax Act shall not exceed \$2,000,000 in any fiscal year.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the

defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000

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2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000
and	
each fiscal year	
thereafter that bonds	
are outstanding under	
Section 13.2 of the	
Metropolitan Pier and	
Exposition Authority Act,	
but not after fiscal year 2060.	

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, may assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the retailers who are affected do not make written objection to the Department to this arrangement.

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898, eff. 5-27-10; 96-1012, eff. 7-7-10; 97-95, eff. 7-12-11; 97-333, eff. 8-12-11.)

Section 26. The Service Use Tax Act is amended by changing Section 9 as follows:  
(35 ILCS 110/9) (from Ch. 120, par. 439.39)

Sec. 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the Department the amount of such tax (except as otherwise provided) at the time when he is required to file his return for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990 and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in collecting the tax, keeping records,

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preparing and filing returns, remitting the tax and supplying data to the Department on request. The Department may disallow the discount for servicemen whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final. A serviceman need not remit that part of any tax collected by him to the extent that he is required to pay and does pay the tax imposed by the Service Occupation Tax Act with respect to his sale of service involving the incidental transfer by him of the same property.

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable Rules and Regulations to be promulgated by the Department. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in business as a serviceman in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due;
- 5-5. The signature of the taxpayer; and
6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

If the serviceman is otherwise required to file a monthly return and if the serviceman's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the serviceman is otherwise required to file a monthly or quarterly return and if the serviceman's

average monthly tax liability to the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his return, in the case of any serviceman who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such serviceman shall file a final return under this Act with the Department not more than 1 month after discontinuing such business.

Where a serviceman collects the tax with respect to the selling price of property which he sells and the purchaser thereafter returns such property and the serviceman refunds the selling price thereof to the purchaser, such serviceman shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the tax so refunded by him to the purchaser from any other Service Use Tax, Service Occupation Tax, retailers' occupation tax or use tax which such serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

Any serviceman filing a return hereunder shall also include the total tax upon the selling price of tangible personal property purchased for use by him as an incident to a sale of service, and such serviceman shall remit the amount of such tax to the Department when filing such return.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable servicemen, who are required to file returns hereunder and also under the Service Occupation Tax Act, to furnish all the return information required by both Acts on the one form.

Where the serviceman has more than one business registered with the Department under separate registration hereunder, such serviceman shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Tax Reform Fund, a special fund in the State Treasury, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund 20% of the net revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property, other than tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that is now taxed at 6.25%.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build

Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000

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2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000
and	

each fiscal year  
thereafter that bonds  
are outstanding under  
Section 13.2 of the  
Metropolitan Pier and  
Exposition Authority Act,  
but not after fiscal year 2060.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

All remaining moneys received by the Department pursuant to this Act shall be paid into the General Revenue Fund of the State Treasury.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898, eff. 5-27-10.)

Section 27. The Service Occupation Tax Act is amended by changing Section 9 as follows:

(35 ILCS 115/9) (from Ch. 120, par. 439.109)

Sec. 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the

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Department the amount of such tax at the time when he is required to file his return for the period during which such tax was collectible, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The Department may disallow the discount for servicemen whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the return is filed, the serviceman, in collecting the tax may collect, for each tax return period, only the tax applicable to the part of the selling price actually received during such tax return period.

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable rules and regulations to be promulgated by the Department of Revenue. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in business as a serviceman in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due;
- 5-5. The signature of the taxpayer; and
6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Prior to October 1, 2003, and on and after September 1, 2004 a serviceman may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Service Use Tax as provided in Section 3-70 of the Service Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-70 of the Service Use Tax Act. A Manufacturer's Purchase Credit certification, accepted prior to October 1, 2003 or on or after September 1, 2004 by a serviceman as provided in Section 3-70 of the Service Use Tax Act, may be used by that serviceman to satisfy Service Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchase Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

If the serviceman's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the serviceman's average monthly tax liability to the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his return, in the case of any serviceman who ceases to engage in a kind of business which makes

him responsible for filing returns under this Act, such serviceman shall file a final return under this Act with the Department not more than 1 month after discontinuing such business.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Where a serviceman collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the serviceman refunds the selling price thereof to the purchaser, such serviceman shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the tax so refunded by him to the purchaser from any other Service Occupation Tax, Service Use Tax, Retailers' Occupation Tax or Use Tax which such serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable servicemen, who are required to file returns hereunder and also under the Retailers' Occupation Tax Act, the Use Tax Act or the Service Use Tax Act, to furnish all the return information required by all said Acts on the one form.

Where the serviceman has more than one business registered with the Department under separate registrations hereunder, such serviceman shall file separate returns for each registered business.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund the revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the revenue realized for the preceding month from the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property.

Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of

motor fuel and gasohol.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that is now taxed at 6.25%.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000

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1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000
and	

each fiscal year  
thereafter that bonds  
are outstanding under  
Section 13.2 of the  
Metropolitan Pier and  
Exposition Authority Act,  
but not after fiscal year 2060.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net

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revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Remaining moneys received by the Department pursuant to this Act shall be paid into the General Revenue Fund of the State Treasury.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the taxpayer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the taxpayer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The taxpayer's annual return to the Department shall also disclose the cost of goods sold by the taxpayer during the year covered by such return, opening and closing inventories of such goods for such year, cost of goods used from stock or taken from stock and given away by the taxpayer during such year, pay roll information of the taxpayer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such taxpayer as hereinbefore provided for in this Section.

If the annual information return required by this Section is not filed when and as required, the taxpayer shall be liable as follows:

(i) Until January 1, 1994, the taxpayer shall be liable for a penalty equal to 1/6 of 1% of the tax due from such taxpayer under this Act during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer shall be liable for a penalty as described in Section 3-4 of the Uniform Penalty and Interest Act.

The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the Department shall include a warning that the person signing the return may be liable for perjury.

The foregoing portion of this Section concerning the filing of an annual information return shall not apply to a serviceman who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, it shall be permissible for manufacturers, importers and wholesalers whose products are sold by numerous servicemen in Illinois, and who wish to do so, to assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the servicemen who are affected do not make written objection to the Department to this arrangement.

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898, eff. 5-27-10.)

Section 30. The Retailers' Occupation Tax Act is amended by changing Sections 2a and 3 as follows:  
(35 ILCS 120/2a) (from Ch. 120, par. 441a)

Sec. 2a. It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department. Application for a certificate of registration shall be made to the Department upon forms furnished by it. Each such application shall be signed and verified and shall state: (1) the name and social security number of the applicant; (2) the address of his principal place of business; (3) the address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State and the addresses of all other places of business, if any (enumerating such addresses, if any, in a separate list attached to and

made a part of the application), from which he engages in the business of selling tangible personal property at retail in this State; (4) the name and address of the person or persons who will be responsible for filing returns and payment of taxes due under this Act; (5) in the case of a corporation, the name, title, and social security number of each corporate officer; (6) in the case of a limited liability company, the name, social security number, and FEIN number of each manager and member; and (7) such other information as the Department may reasonably require. The application shall contain an acceptance of responsibility signed by the person or persons who will be responsible for filing returns and payment of the taxes due under this Act. If the applicant will sell tangible personal property at retail through vending machines, his application to register shall indicate the number of vending machines to be so operated. If requested by the Department at any time, that person shall verify the total number of vending machines he or she uses in his or her business of selling tangible personal property at retail.

The Department may deny a certificate of registration to any applicant if a person who is named as the owner, a any partner, a any manager or member of a limited liability company, or a corporate officer of the applicant on the application for the certificate of registration, is or has been named as the owner, a partner, a manager or member of a limited liability company, or a corporate officer, on the application for the certificate of registration of another retailer that is in default for moneys due under this Act or any other tax or fee Act administered by the Department. For purposes of this paragraph only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 20 years prior to the date of the Department's notice of denial of a certificate of registration.

The Department may require an applicant for a certificate of registration hereunder to, at the time of filing such application, furnish a bond from a surety company authorized to do business in the State of Illinois, or an irrevocable bank letter of credit or a bond signed by 2 personal sureties who have filed, with the Department, sworn statements disclosing net assets equal to at least 3 times the amount of the bond to be required of such applicant, or a bond secured by an assignment of a bank account or certificate of deposit, stocks or bonds, conditioned upon the applicant paying to the State of Illinois all moneys becoming due under this Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. In making a determination as to whether to require a bond or other security, the Department shall take into consideration whether the owner, any partner, any manager or member of a limited liability company, or a corporate officer of the applicant is or has been the owner, a partner, a manager or member of a limited liability company, or a corporate officer of another retailer that is in default for moneys due under this Act or any other tax or fee Act administered by the Department; and whether the owner, any partner, any manager or member of a limited liability company, or a corporate officer of the applicant is or has been the owner, a partner, a manager or member of a limited liability company, or a corporate officer of another retailer whose certificate of registration has been revoked within the previous 5 years under this Act or any other tax or fee Act administered by the Department. If a bond or other security is required, the Department shall fix the amount of the bond or other security, taking into consideration the amount of money expected to become due from the applicant under this Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance, or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under this Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or \$50,000.00, whichever amount is lower.

No certificate of registration under this Act shall be issued by the Department until the applicant provides the Department with satisfactory security, if required, as herein provided for.

Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, if required, the Department shall issue to such applicant a certificate of registration which shall permit the person to whom it is issued to engage in the business of selling tangible personal property at retail in this State. The certificate of registration shall be conspicuously displayed at the place of business which the person so registered states in his application to be the principal place of business from which he engages in the business of selling tangible personal property at retail in this State.

No certificate of registration issued to a taxpayer who files returns required by this Act on a monthly basis shall be valid after the expiration of 5 years from the date of its issuance or last renewal. The expiration date of a sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates. A certificate of registration shall automatically be renewed, subject to revocation as provided by this Act, for an additional 5 years from the date of its expiration unless otherwise notified by the Department as provided by this paragraph. Where a taxpayer to whom a certificate of registration is issued under this Act is in default to the State of Illinois for delinquent returns or for moneys due under this Act or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 120 days before the expiration date of such certificate of registration, give notice to the taxpayer to whom the certificate was issued of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full. A taxpayer to whom such a notice is issued shall be deemed an applicant for renewal. The Department shall promulgate regulations establishing procedures for taxpayers who file returns on a monthly basis but desire and qualify to change to a quarterly or yearly filing basis and will no longer be subject to renewal under this Section, and for taxpayers who file returns on a yearly or quarterly basis but who desire or are required to change to a monthly filing basis and will be subject to renewal under this Section.

The Department may in its discretion approve renewal by an applicant who is in default if, at the time of application for renewal, the applicant files all of the delinquent returns or pays to the Department such percentage of the defaulted amount as may be determined by the Department and agrees in writing to waive all limitations upon the Department for collection of the remaining defaulted amount to the Department over a period not to exceed 5 years from the date of renewal of the certificate; however, no renewal application submitted by an applicant who is in default shall be approved if the immediately preceding renewal by the applicant was conditioned upon the installment payment agreement described in this Section. The payment agreement herein provided for shall be in addition to and not in lieu of the security that may be required by this Section of a taxpayer who is no longer considered a prior continuous compliance taxpayer. The execution of the payment agreement as provided in this Act shall not toll the accrual of interest at the statutory rate.

The Department may suspend a certificate of registration if the Department finds that the person to whom the certificate of registration has been issued knowingly sold contraband cigarettes.

A certificate of registration issued under this Act more than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the next anniversary of the date of issuance of such certificate which occurs more than 6 months after the effective date of this amendatory Act of 1989. A certificate of registration issued less than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the 5th anniversary of the issuance of the certificate.

If the person so registered states that he operates other places of business from which he engages in the business of selling tangible personal property at retail in this State, the Department shall furnish him with a sub-certificate of registration for each such place of business, and the applicant shall display the appropriate sub-certificate of registration at each such place of business. All sub-certificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which such sub-certificates relate.

If the applicant will sell tangible personal property at retail through vending machines, the Department shall furnish him with a sub-certificate of registration for each such vending machine, and the applicant shall display the appropriate sub-certificate of registration on each such vending machine by attaching the sub-certificate of registration to a conspicuous part of such vending machine. If a person who is registered to sell tangible personal property at retail through vending machines adds an additional vending machine or additional vending machines to the number of vending machines he or she uses in his or her business of selling tangible personal property at retail, he or she shall notify the Department, on a form prescribed by the Department, to request an additional sub-certificate or additional sub-certificates of registration, as applicable. With each such request, the applicant shall report the number of sub-certificates of registration he or she is requesting as well as the total number of vending machines from which he or she makes retail sales.

Where the same person engages in 2 or more businesses of selling tangible personal property at retail in this State, which businesses are substantially different in character or engaged in under different trade names or engaged in under other substantially dissimilar circumstances (so that it is more practicable, from an accounting, auditing or bookkeeping standpoint, for such businesses to be separately registered),

the Department may require or permit such person (subject to the same requirements concerning the furnishing of security as those that are provided for hereinbefore in this Section as to each application for a certificate of registration) to apply for and obtain a separate certificate of registration for each such business or for any of such businesses, under a single certificate of registration supplemented by related sub-certificates of registration.

Any person who is registered under the "Retailers' Occupation Tax Act" as of March 8, 1963, and who, during the 3-year period immediately prior to March 8, 1963, or during a continuous 3-year period part of which passed immediately before and the remainder of which passes immediately after March 8, 1963, has been so registered continuously and who is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under this Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, shall be considered to be a Prior Continuous Compliance taxpayer. Also any taxpayer who has, as verified by the Department, faithfully and continuously complied with the condition of his bond or other security under the provisions of this Act for a period of 3 consecutive years shall be considered to be a Prior Continuous Compliance taxpayer.

Every Prior Continuous Compliance taxpayer shall be exempt from all requirements under this Act concerning the furnishing of a bond or other security as a condition precedent to his being authorized to engage in the business of selling tangible personal property at retail in this State. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax that is not paid to be due) to be delinquent or deficient in the paying of any tax under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under this Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, at which time that taxpayer shall become subject to all the financial responsibility requirements of this Act and, as a condition of being allowed to continue to engage in the business of selling tangible personal property at retail, may be required to post bond or other acceptable security with the Department covering liability which such taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with this Department guaranteeing the payment of such admitted or established liability.

No certificate of registration shall be issued to any person who is in default to the State of Illinois for moneys due under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.

Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

With respect to security other than bonds (upon which the Department may sue in the event of a forfeiture), if the taxpayer fails to pay, when due, any amount whose payment such security guarantees, the Department shall, after such liability is admitted by the taxpayer or established by the Department through the issuance of a final assessment that has become final under the law, convert the security which that taxpayer has furnished into money for the State, after first giving the taxpayer at least 10 days' written notice, by registered or certified mail, to pay the liability or forfeit such security to the Department. If the security consists of stocks or bonds or other securities which are listed on a public exchange, the Department shall sell such securities through such public exchange. If the security consists of an irrevocable bank letter of credit, the Department shall convert the security in the manner provided for in the Uniform Commercial Code. If the security consists of a bank certificate of deposit, the Department shall convert the security into money by demanding and collecting the amount of such bank certificate of deposit from the bank which issued such certificate. If the security consists of a type of stocks or other securities which are not listed on a public exchange, the Department shall sell such security to the highest and best bidder after giving at least 10 days' notice of the date, time and place of

the intended sale by publication in the "State Official Newspaper". If the Department realizes more than the amount of such liability from the security, plus the expenses incurred by the Department in converting the security into money, the Department shall pay such excess to the taxpayer who furnished such security, and the balance shall be paid into the State Treasury.

The Department shall discharge any surety and shall release and return any security deposited, assigned, pledged or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) such taxpayer becomes a Prior Continuous Compliance taxpayer; or

(2) such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability, as determined by the Department, under this Act and under every other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration issued under this Act permits the registrant to engage in business without registering separately under such other law, ordinance or resolution. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed; if the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

(Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)

(35 ILCS 120/3) (from Ch. 120, par. 442)

Sec. 3. Except as provided in this Section, on or before the twentieth day of each calendar month, every person engaged in the business of selling tangible personal property at retail in this State during the preceding calendar month shall file a return with the Department, stating:

1. The name of the seller;
2. His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of selling tangible personal property at retail in this State;
3. Total amount of receipts received by him during the preceding calendar month or quarter, as the case may be, from sales of tangible personal property, and from services furnished, by him during such preceding calendar month or quarter;
4. Total amount received by him during the preceding calendar month or quarter on charge and time sales of tangible personal property, and from services furnished, by him prior to the month or quarter for which the return is filed;
5. Deductions allowed by law;
6. Gross receipts which were received by him during the preceding calendar month or quarter and upon the basis of which the tax is imposed;
7. The amount of credit provided in Section 2d of this Act;
8. The amount of tax due;
9. The signature of the taxpayer; and
10. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Each return shall be accompanied by the statement of prepaid tax issued pursuant to Section 2e for which credit is claimed.

Prior to October 1, 2003, and on and after September 1, 2004 a retailer may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Use Tax as provided in Section 3-85 of the Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit certification, accepted by a retailer prior to October 1, 2003 and on and after September 1, 2004 as provided in Section 3-85 of the Use Tax Act, may be used by that retailer to satisfy Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchaser Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two

months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due; and
6. Such other reasonable information as the Department may require.

Beginning on October 1, 2003, any person who is not a licensed distributor, importing distributor, or manufacturer, as defined in the Liquor Control Act of 1934, but is engaged in the business of selling, at retail, alcoholic liquor shall file a statement with the Department of Revenue, in a format and at a time prescribed by the Department, showing the total amount paid for alcoholic liquor purchased during the preceding month and such other information as is reasonably required by the Department. The Department may adopt rules to require that this statement be filed in an electronic or telephonic format. Such rules may provide for exceptions from the filing requirements of this paragraph. For the purposes of this paragraph, the term "alcoholic liquor" shall have the meaning prescribed in the Liquor Control Act of 1934.

Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor as defined in the Liquor Control Act of 1934, shall file a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred, by electronic means, showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement a report containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which the transaction occurred. The distributor, importing distributor, or manufacturer shall notify the retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the sales information. If the retailer is unable to receive the sales information by electronic means, the distributor, importing distributor, or manufacturer shall furnish the sales information by personal delivery or by mail. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

If a total amount of less than \$1 is payable, refundable or creditable, such amount shall be disregarded if it is less than 50 cents and shall be increased to \$1 if it is 50 cents or more.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner

authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Any amount which is required to be shown or reported on any return or other document under this Act shall, if such amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case where the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount where the fractional part of a dollar is less than 50 cents.

If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax liability with the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under this Act with the Department not more than one month after discontinuing such business.

Where the same person has more than one business registered with the Department under separate registrations under this Act, such person may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle retailer or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 2-5 of this Act, then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

Any retailer who sells only motor vehicles, watercraft, aircraft, or trailers that are required to be registered with an agency of this State, so that all retailers' occupation tax liability is required to be reported, and is reported, on such transaction reporting returns and who is not otherwise required to file monthly or quarterly returns, need not file monthly or quarterly returns. However, those retailers shall be required to file returns on an annual basis.

The transaction reporting return, in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5-402 of The Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of The Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft or aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount



allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the day of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the Illinois use tax may be transmitted to the Department by way of the State agency with which, or State officer with whom the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a use tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration (if titling or registration is required) upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out the mandate of this paragraph.

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of the tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Refunds made by the seller during the preceding return period to purchasers, on account of tangible personal property returned to the seller, shall be allowed as a deduction under subdivision 5 of his monthly or quarterly return, as the case may be, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return filed by him and had paid the tax imposed by this Act with respect to such receipts.

Where the seller is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

Where the seller is a limited liability company, the return filed on behalf of the limited liability company shall be signed by a manager, member, or properly accredited agent of the limited liability company.

Except as provided in this Section, the retailer filing the return under this Section shall, at the time of filing such return, pay to the Department the amount of tax imposed by this Act less a discount of 2.1% prior to January 1, 1990 and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. Any prepayment made pursuant to Section 2d of this Act shall be included in the amount on which such 2.1% or 1.75% discount is computed. In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the

Department's decision to revoke the certificate of registration has become final.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985 and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987 and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$10,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$20,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. 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[April 18, 2013]

Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

The provisions of this paragraph apply before October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to the effective date of this amendatory Act of 1985, each payment shall be in an amount not less than 22.5% of the taxpayer's actual liability under Section 2d. If the month during which such tax liability is incurred begins on or after January 1, 1986, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding calendar year. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

The provisions of this paragraph apply on and after October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of \$20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than \$20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

If a retailer of motor fuel is entitled to a credit under Section 2d of this Act which exceeds the taxpayer's liability to the Department under this Act for the month which the taxpayer is filing a return, the Department shall issue the taxpayer a credit memorandum for the excess.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund, a special fund in the State treasury which is hereby created, the net revenue realized for the

preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund, a special fund in the State treasury which is hereby created, 4% of the net revenue realized for the preceding month from the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that is now taxed at 6.25%.

Beginning July 1, 2011, each month the Department shall pay into the Clean Air Act (CAA) Permit Fund 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of sorbents used in Illinois in the process of sorbent injection as used to comply with the Environmental Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act (CAA) Permit Fund under this Act and the Use Tax Act shall not exceed \$2,000,000 in any fiscal year.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to this Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as hereinafter defined), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; the "Annual Specified Amount" means the amounts specified below for fiscal years 1986 through 1993:

Fiscal Year	Annual Specified Amount
1986	\$54,800,000
1987	\$76,650,000
1988	\$80,480,000
1989	\$88,510,000
1990	\$115,330,000
1991	\$145,470,000
1992	\$182,730,000
1993	\$206,520,000;

and means the Certified Annual Debt Service Requirement (as defined in Section 13 of the Build Illinois Bond Act) or the Tax Act Amount, whichever is greater, for fiscal year 1994 and each fiscal year thereafter; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this

clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year. The amounts payable into the Build Illinois Fund under clause (b) of the first sentence in this paragraph shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the first sentence of this paragraph and shall reduce the amount otherwise payable for such fiscal year pursuant to that clause (b). The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000

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2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000

and  
each fiscal year  
thereafter that bonds  
are outstanding under  
Section 13.2 of the  
Metropolitan Pier and  
Exposition Authority Act,  
but not after fiscal year 2060.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the retailer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose the cost of goods sold by the retailer during the year covered by such return, opening and closing inventories of such goods for such year, costs of goods used from stock or taken from stock and given away by the retailer during such year, payroll information of the retailer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such retailer as provided for in this Section.

If the annual information return required by this Section is not filed when and as required, the taxpayer shall be liable as follows:

- (i) Until January 1, 1994, the taxpayer shall be liable for a penalty equal to 1/6 of 1% of the tax due from such taxpayer under this Act during the period to be covered by the annual return

for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer shall be liable for a penalty as described in Section 3-4 of the Uniform Penalty and Interest Act.

The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the Department shall include a warning that the person signing the return may be liable for perjury.

The provisions of this Section concerning the filing of an annual information return do not apply to a retailer who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, may assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the retailers who are affected do not make written objection to the Department to this arrangement.

Any person who promotes, organizes, provides retail selling space for concessionaires or other types of sellers at the Illinois State Fair, DuQuoin State Fair, county fairs, local fairs, art shows, flea markets and similar exhibitions or events, including any transient merchant as defined by Section 2 of the Transient Merchant Act of 1987, is required to file a report with the Department providing the name of the merchant's business, the name of the person or persons engaged in merchant's business, the permanent address and Illinois Retailers Occupation Tax Registration Number of the merchant, the dates and location of the event and other reasonable information that the Department may require. The report must be filed not later than the 20th day of the month next following the month during which the event with retail sales was held. Any person who fails to file a report required by this Section commits a business offense and is subject to a fine not to exceed \$250.

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898, eff. 5-27-10; 96-1012, eff. 7-7-10; 97-95, eff. 7-12-11; 97-333, eff. 8-12-11.).

#### **AMENDMENT NO. 2 TO SENATE BILL 2169**

AMENDMENT NO. 2. Amend Senate Bill 2169, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, lines 4 and 5, by replacing "The Illinois Lottery Law is amended by adding Section 21.9 as follows:" with "The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-380 as follows:"; and

by deleting everything from line 6 on page 1 through line 9 on page 2; and

on page 2, line 17, by replacing "or holder" with "œ holder".

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

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On motion of Senator Harris, **Senate Bill No. 2178** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 2178**

AMENDMENT NO. 1. Amend Senate Bill 2178 as follows:

on page 1, lines 20 and 21, by deleting "are subject to subsection (d) of this Section and"; and

on page 2, lines 11 and 12, by deleting "are subject to subsection (d) of this Section and"; and

on page 3, by deleting lines 10 through 20; and

on page 3, line 21, by replacing "(e)" with "(d)".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Mulroe, **Senate Bill No. 2184** having been printed, was taken up, read by title a second time.

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

**AMENDMENT NO. 1 TO SENATE BILL 2184**

AMENDMENT NO. 1. Amend Senate Bill 2184 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 5.826 as follows:

(30 ILCS 105/5.826 new)

Sec. 5.826. The Carnival Safety Fund.

Section 10. The Carnival and Amusement Rides Safety Act is amended by changing Sections 2-2, 2-6, 2-8, 2-12, 2-14, and 2-15 and by adding Sections 2-8.1, 2-15.2 and 2-15.3 as follows:

(430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

Sec. 2-2. Definitions. As used in this Act, unless the context otherwise requires:

1. "Director" means the Director of Labor or his or her designee.

2. "Department" means Department of Labor.

3. "Amusement Attraction" means an enclosed building or structure, including electrical equipment which is an integral part of the building or structure, through which people walk without the aid of any moving device, that provides amusement, thrills or excitement at a fair or carnival, except any such enclosed building or structure which is subject to the jurisdiction of a local building code.

4. "Amusement ride" means:

(a) any mechanized device or combination of devices, including electrical equipment which is an integral part of the device or devices, which carries passengers along, around, or over a fixed or restricted course for the primary purpose of giving its passengers amusement, pleasure, thrills, or excitement;

(b) any ski lift, rope tow, or other device used to transport snow skiers;

(c) (blank);

(d) any dry slide over 20 feet in height, alpine slide, or toboggan slide;

(e) any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides; or

(f) any bungee cord or similar elastic device.

5. "Carnival" means an enterprise which offers amusement or entertainment to the public by means of one or more amusement attractions or amusement rides.

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6. "Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated.

7. "Operator" means a person, or the agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or an amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions.

8. "Carnival worker" means a person who is employed (and is therefore not a volunteer) by a carnival or fair to manage, physically operate, or assist in the operation of an amusement ride or amusement attraction when it is open to the public.

9. "Volunteer" means a person who operates or assists in the operation of an amusement ride or amusement attraction for an owner or operator without pay or lodging. An individual shall not be considered a volunteer if the individual is otherwise employed by the same owner or operator to perform the same type of service as those for which the individual proposes to volunteer.

10. "Inflatable attraction" means an amusement ride or attraction that is made of flexible fabric, is kept inflated by continuous air flow by one or more blowers, relies upon air pressure to maintain their shape, and consists of an air-filled structure designed for uses specified by the manufacturer, that may include, but are not limited to, bouncing, climb, sliding, or other interactive playing.

(Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07; 96-151, eff. 8-7-09.)

(430 ILCS 85/2-6) (from Ch. 111 1/2, par. 4056)

Sec. 2-6. (a) The Director, after consultation with the ~~consent~~ of the Board, shall promulgate and formulate definitions, rules and regulations for the safe installation, repair, maintenance, use, operation, training standards for operators, and inspection of all amusement rides and amusement attractions as the Director finds necessary for the protection of the general public using amusement rides and amusement attractions. These rules and standards shall be adopted pursuant to the procedures set forth in the Illinois Administrative Procedure Act. The rules shall be based upon generally accepted engineering standards and shall be concerned with, but not necessarily limited to, engineering force stresses, safety devices, and preventive maintenance. Whenever such standards are available in suitable form they may be incorporated by reference. The rules shall provide for the reporting of accidents and injuries incurred from the operation of amusement rides or amusement attractions. In addition to the permit fee herein provided, the Director may promulgate rules to establish a schedule of fees for inspections.

(b) After consultation with the Board, the Director is authorized to adopt by reference, in whole or in part, any code, standard, or bulletin issued by a nationally recognized organization, such as the Consumer Product Safety Commission, after a finding that the adoption of the code, standard, or bulletin would promote the purposes of this Act. The Director is further authorized to recognize, in whole or in part, any code or standard issued by an internationally recognized organization upon a finding that its provisions are equivalent to codes or standards adopted under this Act.

~~Before adopting, modifying or amending any rule consistent with and necessary for the enforcement of this Act, the Director shall hold a public hearing on the proposed rule, modification or amendment to a rule. Any interested person may appear and be heard at the hearing, in person or by agent or counsel. The Director shall give the news media notice of each hearing at least 30 days in advance of the hearing date and shall make available a copy of the proposed rule, or modification or amendment to a rule to any person requesting same. The provisions of this Section are in addition to all other existing requirements pertaining to the promulgation of administrative rules and regulations.~~

(Source: P.A. 94-801, eff. 5-25-06; 95-397, eff. 8-24-07.)

(430 ILCS 85/2-8) (from Ch. 111 1/2, par. 4058)

Sec. 2-8. The Director, after consultation with the ~~consent~~ of the Board, shall determine a schedule of permit fees for each amusement ride or amusement attraction.

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-8.1 new)

Sec. 2-8.1. Suspension and revocation of permit to operate.

(a) The Department shall have the power to suspend or revoke an owner's permit for any good cause under the meaning and purpose of this Act. If a person whose permit has been suspended or revoked, or whose application for a permit has been denied, believes that the violation or condition justifying suspension, revocation, or denial of the permit does not exist, the person may apply to the Department for reconsideration through a hearing within 10 calendar days after the Department's action. A hearing shall be scheduled, unless otherwise mutually agreed by the parties, within 48 hours after the request for hearing.

(b) Service of notice of a hearing shall be made by personal service or certified mail to the address shown on the application for permit, or to any other address on file with the Department and reasonably believed to be the current address of the permit holder.

(c) The written notice of a hearing shall specify the time, date, and location of the hearing and the reasons for the action proposed by the Department.

(d) At the hearing, the Department shall have the burden of establishing good cause for its action. Good cause exists if the Department establishes that the permit holder has failed to comply with the requirements of a permit under this Act and its rules.

(e) All hearings held under this Section shall comply with Article 10 of the Administrative Procedure Act and the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions shall not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued.

(f) The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing.

(g) Final determinations made under this Section are subject to the Administrative Review Law. (430 ILCS 85/2-12) (from Ch. 111 1/2, par. 4062)

Sec. 2-12. Order for cessation of operation of amusement ride or attraction.

(a) The Director or an inspector hired by the Department of Labor may order, in writing, a temporary and immediate cessation of operation of any amusement ride or amusement attraction if it:

(1) has been determined after inspection to be hazardous or unsafe;

(2) is in operation before the Director has issued a permit to operate such equipment;

or

(3) the owner or operator is not in compliance with the insurance requirements contained in Section 2-14 of this Act and any rules or regulations adopted hereunder.

(b) Operation of the amusement ride or amusement attraction shall not resume until:

(1) the unsafe or hazardous condition is corrected to the satisfaction of the Director or such inspector;

(2) the Director has issued a permit to operate such equipment; or

(3) the owner or operator is in compliance with the insurance requirements contained in Section 2-14 of this Act and any rules or regulations adopted hereunder, respectively.

(c) The Department shall notify the owner or operator in writing of the grounds for the cessation of operation of the amusement ride or attraction and of the conditions in need of correction at the time the order for cessation is issued.

(d) The owner or operator may appeal an order of cessation by filing a request for a hearing. The Department shall afford the owner or operator 10 calendar days after the date of the notice to request a hearing. Upon written request for hearing, the Department shall schedule a formal administrative hearing in compliance with Article 10 of the Administrative Procedure Act and pursuant to the provisions of the Department's rules of procedure in Administrative Hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions will not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued.

(e) The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing.

(f) The provisions of the Administrative Review Law shall apply to and govern all proceedings for the judicial review of a final determination under this Section.

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-14) (from Ch. 111 1/2, par. 4064)

Sec. 2-14. No (1) Except as provided in subsection (2) of this Section no person shall operate an amusement ride or attraction unless there is in force: (a) a liability insurance policy or policies in an aggregate amount of not less than \$1,000,000 \$100,000 for bodily injury to or death of one or more persons, damage to or destruction of property of others, or a combination thereof person in any one accident, and, subject to the per occurrence limit for one person, in an aggregate amount of not less than \$2,000,000 \$1,000,000 for bodily injury to or death of two or more persons, or damage to or destruction of property of others, in any one policy period, accident, and in an amount of not less than \$50,000 for injury to or destruction of property of others in any one accident, insuring the operator against liability for injury, or death, or property damage suffered by a person attending a fair or carnival; or (b) a bond in like amount, the aggregate liability of the surety of which shall not exceed the face amount thereof; or (c) a deposit with the Illinois Department of Labor of cash or other security acceptable to the Director.

(2) With respect to the operation of an amusement ride or attraction under this Act for a carnival located at a permanent site which has 5 or fewer amusement rides, none of which operates at a height exceeding 8 feet, the insurance policy, bond, or cash or security deposit amount required for bodily

~~injury to or death of 2 or more persons in any one accident shall be not less than \$500,000.~~

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

Sec. 2-15. Penalties.

(a) Criminal penalties.

1. Any person who operates an amusement ride or amusement attraction at a carnival or fair without having obtained a permit from the ~~Department~~ Director or who violates any order or rule issued by the ~~Department~~ Director under this Act is guilty of a Class A misdemeanor. Each day shall constitute a separate and distinct offense.

2. Any person who interferes with, impedes, or obstructs in any manner the Director or any authorized representative of the Department in the performance of their duties under this Act is guilty of a Class A misdemeanor.

(b) Civil penalties. Unless otherwise provided in this Act, any person who operates an amusement ride or amusement attraction without having obtained a permit from the Department in violation of this Act is subject to a civil penalty not to exceed \$2,500 per violation for a first violation and not to exceed \$5,000 for a second or subsequent violation.

Prior to any determination, or the imposition of any civil penalty, under this subsection (b), the Department shall notify the operator in writing of the alleged violation. The Department shall afford the operator 10 calendar 15 days after ~~from~~ the date of the notice to request a hearing present any written information that the operator wishes the Department to consider in connection with its determination in the matter. Upon written request of the operator, the Department shall schedule a formal administrative hearing in compliance with Article 10 of the Administrative Procedure Act and the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions shall not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued. The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing. Final determinations made under this Section are subject to the provisions of the Administrative Review Law ~~convene an informal fact-finding conference, provided such request is received by the Department within 15 days of the date of the notice of the alleged violation.~~ In determining the amount of a penalty, the Director may consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violation. The penalties, when finally determined, Penalties may be recovered in a civil action brought by the Director of Labor in any circuit court. In this litigation, the Director of Labor shall be represented by the Attorney General.

(Source: P.A. 96-151, eff. 8-7-09.)

(430 ILCS 85/2-15.2 new)

Sec. 2-15.2. Injunction to compel compliance.

(a) The Department shall have the power to bring injunctive proceedings in any court of competent jurisdiction to compel compliance with any order made by the Department under this Act.

(b) The Department shall also have the power to bring temporary and immediate injunctive relief in any court of competent jurisdiction when necessary for the protection of the health and safety of the general public using amusement rides and amusement attractions.

(430 ILCS 85/2-15.3 new)

Sec. 2-15.3. Carnival Safety Fund. All moneys received by the Department as fees and penalties under this Act shall be deposited into the Carnival Safety Fund and shall be used, subject to appropriation by the General Assembly, by the Department for administration, investigation, and other expenses incurred in carrying out its powers and duties under this Act. The Department shall hire as many inspectors and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available to the Department for the next fiscal year for any of the Department's duties and may be transferred from the Carnival Safety Fund to the various accounts available to the Department, as needed.

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Frerichs, **Senate Bill No. 2218** having been printed, was taken up, read by title a second time.

[April 18, 2013]

Senator Frerichs offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 2218**

AMENDMENT NO. 1. Amend Senate Bill 2218 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Optometric Practice Act of 1987 is amended by changing Sections 3 and 9 as follows:

(225 ILCS 80/3) (from Ch. 111, par. 3903)

(Section scheduled to be repealed on January 1, 2017)

Sec. 3. Practice of optometry defined; referrals; manufacture of lenses and prisms.

(a) The practice of optometry is defined as the employment of any and all means for the examination, diagnosis, and treatment of the human visual system, the human eye, and its appendages without the use of surgery, including but not limited to: the appropriate use of ocular pharmaceutical agents; refraction and other determinants of visual function; prescribing corrective lenses or prisms; prescribing, dispensing, or management of contact lenses; vision therapy; visual rehabilitation; or any other procedures taught in schools and colleges of optometry approved by the Department, and not specifically restricted in this Act, subject to demonstrated competency and training as required by the Board, and pursuant to rule or regulation approved by the Board and adopted by the Department.

A person shall be deemed to be practicing optometry within the meaning of this Act who:

- (1) In any way presents himself or herself to be qualified to practice optometry.
- (2) Performs refractions or employs any other determinants of visual function.
- (3) Employs any means for the adaptation of lenses or prisms.
- (4) Prescribes corrective lenses, prisms, vision therapy, visual rehabilitation, or ocular pharmaceutical agents.
- (5) Prescribes or manages contact lenses for refractive, cosmetic, or therapeutic purposes.
- (6) Evaluates the need for, or prescribes, low vision aids to partially sighted persons.
- (7) Diagnoses or treats any ocular abnormality, disease, or visual or muscular anomaly of the human eye or visual system.
- (8) Practices, or offers or attempts to practice, optometry as defined in this Act

either on his or her own behalf or as an employee of a person, firm, or corporation, whether under the supervision of his or her employer or not.

Nothing in this Section shall be interpreted (i) to prevent a person from functioning as an assistant under the direct supervision of a person licensed by the State of Illinois to practice optometry or medicine in all of its branches or (ii) to prohibit visual screening programs that are conducted without a fee (other than voluntary donations), by charitable organizations acting in the public welfare under the supervision of a committee composed of persons licensed by the State of Illinois to practice optometry or persons licensed by the State of Illinois to practice medicine in all of its branches.

(b) When, in the course of providing optometric services to any person, an optometrist licensed under this Act finds an indication of a disease or condition of the eye which in his or her professional judgment requires professional service outside the scope of practice as defined in this Act, he or she shall refer such person to a physician licensed to practice medicine in all of its branches, or other appropriate health care practitioner. Nothing in this Act shall preclude an optometrist from rendering appropriate nonsurgical emergency care.

(c) Nothing contained in this Section shall prohibit a person from manufacturing ophthalmic lenses and prisms or the fabrication of contact lenses according to the specifications prescribed by an optometrist or a physician licensed to practice medicine in all of its branches, but shall specifically prohibit (1) the sale or delivery of ophthalmic lenses, prisms, and contact lenses without a prescription signed by an optometrist or a physician licensed to practice medicine in all of its branches and (2) the dispensing of contact lenses by anyone other than a licensed optometrist, licensed pharmacist, or a physician licensed to practice medicine in all of its branches. For the purposes of this Act, "contact lenses" include, but are not limited to, contact lenses with prescriptive power and decorative and plano power contact lenses. Nothing in this Section shall prohibit the sale of contact lenses by an optical firm or corporation primarily engaged in manufacturing or dealing in eyeglasses or contact lenses with an affiliated optometrist who practices and is licensed or has an ancillary registration for the location where the sale occurs.

(d) Nothing in this Act shall restrict the filling of a prescription by a pharmacist licensed under the Pharmacy Practice Act.

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(e) Nothing in this Act shall be construed to restrict the dispensing and sale by an optometrist of ocular devices, such as contact lenses, that contain and deliver ocular pharmaceutical agents permitted for use or prescription under this Act.

(Source: P.A. 95-689, eff. 10-29-07; 96-461, eff. 1-1-10.)

(225 ILCS 80/9) (from Ch. 111, par. 3909)

(Section scheduled to be repealed on January 1, 2017)

Sec. 9. Definitions. In this Act:

(1) "Department" means the Department of Financial and Professional Regulation.

(2) "Secretary" means the Secretary of Financial and Professional Regulation.

(3) "Board" means the Illinois Optometric Licensing and Disciplinary Board appointed by the Secretary.

(4) "License" means the document issued by the Department authorizing the person named thereon to practice optometry.

(5) (Blank).

(6) "Direct supervision" means supervision of any person assisting an optometrist, requiring that the optometrist authorize the procedure, remain in the facility while the procedure is performed, approve the work performed by the person assisting before dismissal of the patient, but does not mean that the optometrist must be present with the patient, during the procedure. For the dispensing of contact lenses, "direct supervision" means that the optometrist is responsible for training the person assisting the optometrist in the dispensing or sale of contact lenses, but does not mean that the optometrist must be present in the facility where he or she practices under a license or ancillary registration at the time the contacts are dispensed or sold.

(Source: P.A. 94-787, eff. 5-19-06.)".

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2226** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

#### **AMENDMENT NO. 1 TO SENATE BILL 2226**

AMENDMENT NO. 1. Amend Senate Bill 2226 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by adding Section 22.54a as follows:

(415 ILCS 5/22.54a new)

Sec. 22.54a. Disposal of asphalt roofing shingles. Sanitary landfills located within a 25-mile radius of an asphalt shingle recycling facility approved for recycling by the Agency pursuant to Section 22.54 shall not accept loads of asphalt shingles for disposal. No approved asphalt shingle recycling facility may charge as a tipping fee of more than 50% of the average gate tipping fee for all materials accepted at the sanitary landfills within a 25-mile radius of the facility. On or before March 1 of each calendar year, each asphalt shingle recycling facility shall obtain a list of the gate tipping fees charged by the sanitary landfills located within a 25-mile radius and adjust its maximum tipping fee accordingly. Each asphalt shingle recycling facility must maintain, for a period of not less than 3 years, documentation which demonstrates its compliance with this Section."

Senate Floor Amendment Nos. 2 and 3 were postponed in the Committee on State Government and Veterans Affairs.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 2231** having been printed, was taken up, read by title a second time.

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Senate Committee Amendment No. 1 was postponed in the Committee on Criminal Law.

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

**AMENDMENT NO. 2 TO SENATE BILL 2231**

AMENDMENT NO. 2. Amend Senate Bill 2231 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 2012 is amended by changing Sections 21-1 and 21-1.3 as follows: (720 ILCS 5/21-1) (from Ch. 38, par. 21-1)

Sec. 21-1. Criminal damage to property.

(a) A person commits criminal damage to property when he or she:

- (1) knowingly damages any property of another;
- (2) recklessly by means of fire or explosive damages property of another;
- (3) knowingly starts a fire on the land of another;
- (4) knowingly injures a domestic animal of another without his or her consent;
- (5) knowingly deposits on the land or in the building of another any stink bomb or any

offensive smelling compound and thereby intends to interfere with the use by another of the land or building;

(6) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;

(7) knowingly shoots a firearm at any portion of a railroad train;

(8) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire fighting equipment, or any apparatus pertaining to fire fighting equipment; or

(9) intentionally, without proper authorization, opens any fire hydrant.

(b) When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value.

(c) It is an affirmative defense to a violation of paragraph (1), (3), or (5) of subsection (a) of this Section that the owner of the property or land damaged consented to the damage.

(d) Sentence.

(1) A violation of subsection (a) shall have the following penalties:

(A) A violation of paragraph (8) or (9) is a Class B misdemeanor.

(B) A violation of paragraph (1), (2), (3), (5), or (6) is a Class A misdemeanor when the damage to property does not exceed \$300.

(C) A violation of paragraph (1), (2), (3), (5), or (6) is a Class 4 felony when the damage to property does not exceed \$300 and the damage occurs to property of a school or place of worship or to farm equipment or immovable items of agricultural production, including but not limited to grain elevators, grain bins, and barns or property which memorializes or honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans.

(D) A violation of paragraph (4) is a Class 4 felony when the damage to property does not exceed \$10,000.

(E) A violation of paragraph (7) is a Class 4 felony.

(F) A violation of paragraph (1), (2), (3), (5) or (6) is a Class 4 felony when the damage to property exceeds \$300 but does not exceed \$10,000.

(G) A violation of paragraphs (1) through (6) is a Class 3 felony when the damage to property exceeds \$300 but does not exceed \$10,000 and the damage occurs to property of a school or place of worship or to farm equipment or immovable items of agricultural production, including but not limited to grain elevators, grain bins, and barns or property which memorializes or honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans.

(H) A violation of paragraphs (1) through (6) is a Class 3 felony when the damage to property exceeds \$10,000 but does not exceed \$100,000.

(I) A violation of paragraphs (1) through (6) is a Class 2 felony when the damage to property exceeds \$10,000 but does not exceed \$100,000 and the damage occurs to property of a school or place of worship or to farm equipment or immovable items of agricultural production, including but not limited to grain elevators, grain bins, and barns or property which memorializes or

honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans.

(J) A violation of paragraphs (1) through (6) is a Class 2 felony when the damage to property exceeds \$100,000. A violation of paragraphs (1) through (6) is a Class 1 felony when the damage to property exceeds \$100,000 and the damage occurs to property of a school or place of worship or to farm equipment or immovable items of agricultural production, including but not limited to grain elevators, grain bins, and barns or property which memorializes or honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans.

(2) When the damage to property exceeds \$10,000, the court shall impose upon the offender a fine equal to the value of the damages to the property.

(3) In addition to any other sentence that may be imposed, a court shall order any person convicted of criminal damage to property to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

The community service requirement does not apply when the court imposes a sentence of incarceration.

(4) In addition to any criminal penalties imposed for a violation of this Section, if a person is convicted of or placed on supervision for knowingly damaging or destroying crops of another, including crops intended for personal, commercial, research, or developmental purposes, the person is liable in a civil action to the owner of any crops damaged or destroyed for money damages up to twice the market value of the crops damaged or destroyed.

(5) For the purposes of this subsection (d), "farm equipment" means machinery or other equipment used in farming.

(Source: P.A. 96-529, eff. 8-14-09; 97-1108, eff. 1-1-13.)

(720 ILCS 5/21-1.3)

Sec. 21-1.3. Criminal defacement of property.

(a) A person commits criminal defacement of property when the person knowingly damages the property of another by defacing, deforming, or otherwise damaging the property by the use of paint or any other similar substance, or by the use of a writing instrument, etching tool, or any other similar device. It is an affirmative defense to a violation of this Section that the owner of the property damaged consented to such damage.

(b) Sentence.

(1) Criminal defacement of property is a Class A misdemeanor for a first offense when the aggregate value of the damage to the property does not exceed \$300. Criminal defacement of property is a Class 4 felony when the aggregate value of the damage to property does not exceed \$300 and the property damaged is a school building or place of worship or property which memorializes or honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans. Criminal defacement of property is a Class 4 felony for a second or subsequent conviction or when the aggregate value of the damage to the property exceeds \$300. Criminal defacement of property is a Class 3 felony when the aggregate value of the damage to property exceeds \$300 and the property damaged is a school building or place of worship or property which memorializes or honors an individual or group of police officers, fire fighters, members of the United States Armed Forces, National Guard, or veterans.

(2) In addition to any other sentence that may be imposed for a violation of this Section that is chargeable as a Class 3 or Class 4 felony, a person convicted of criminal defacement of property shall be subject to a mandatory minimum fine of \$500 plus the actual costs incurred by the property owner or the unit of government to abate, remediate, repair, or remove the effect of the damage to the property. To the extent permitted by law, reimbursement for the costs of abatement, remediation, repair, or removal shall be payable to the person who incurred the costs.

(3) In addition to any other sentence that may be imposed, a court shall order any person convicted of criminal defacement of property to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage to property that was caused by the offense, or similar damage to property located in the municipality or county in which the offense occurred. When the property damaged is a school building, the community service may include cleanup, removal, or painting over the defacement. In addition, whenever any person is placed on supervision for an alleged

offense under this Section, the supervision shall be conditioned upon the performance of the community service.

(4) For the purposes of this subsection (b), aggregate value shall be determined by adding the value of the damage to one or more properties if the offenses were committed as part of a single course of conduct.

(Source: P.A. 96-499, eff. 8-14-09; 97-1108, eff. 1-1-13.)".

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Holmes, **Senate Bill No. 2243** having been printed, was taken up, read by title a second time.

Senator Holmes offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 2243

AMENDMENT NO. 1. Amend Senate Bill 2243 on page 2, by replacing lines 1 through 4 with the following:

"this Act; (5) in the case of a publicly-traded corporation, the name and title of each corporate officer, along with a copy of the corporation's most recently filed form 10-K required by the United States Securities and Exchange Commission, and in the case of all other corporations a corporation, the name, title, and social security number of each corporate officer; (6) in the case of a limited liability company, the name, social security number, and FEIN number of each manager and".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 2244** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Assignments.

Senator Radogno offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO SENATE BILL 2244

AMENDMENT NO. 2. Amend Senate Bill 2244 by replacing everything after the enacting clause with the following:

"Section 5. The Tanning Facility Permit Act is amended by changing Section 25 as follows:

(210 ILCS 145/25) (from Ch. 111 1/2, par. 8351-25)

Sec. 25. Operating requirements.

(1) Each tanning facility shall have on hand at all times an operator adequately trained in the correct operation of the facility so as to be able to inform and assist the public in its proper use. Each operator shall perform the following functions as a precondition to the public having access to the tanning facility being made to the public:

(a) The operator shall require each person desiring to use the facility to fill out a form specifying any and all prescription medicines and over-the-counter medications they are presently taking. The form shall be kept as a permanent record of the individual's attendance and progress.

(b) The operator shall require each person desiring to use a tanning facility to use protective eyewear.

(c) The operator shall instruct the user in the proper position to maintain in relation to the tanning lamps within the facility; the position of the safety railing, if applicable; the manual switching device to terminate the radiation in case of emergency; and a recommended time of exposure.

(d) The operator shall monitor the use of the facility to ensure that the interior temperature does not exceed 100 degrees fahrenheit or 34 degrees centigrade.

(e) The operator shall inspect the facility to ensure that the floors are dry. The floors are to be made dry prior to each individual's use.

(f) The operator shall give each person using the facility a written copy of the warning

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required under subsection (h) of Section 20 of this Act prior to each person's use of the facility. The operator shall post signs warning consumers of the potential effects of radiation on persons taking medication and the relationship of radiation to skin cancer.

(g) The operator shall be responsible for proper sanitizing procedures for all sunlamp equipment and protective eyewear between every user.

(2) A tanning facility may not permit any person less than 18 years of age, regardless of whether the person has the permission of a parent or guardian, to use tanning equipment or a device defined as equipment that emits ultraviolet (UV) radiation used for tanning of the skin, such as a sunlamp, tanning booth, or tanning bed that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers. For the purposes of this Section, "tanning equipment" includes any accompanying equipment, such as protective eyewear, timers, and handrails. "Tanning equipment" does not include any of the following:

(a) Phototherapy devices utilized by appropriate health care professionals under the direct supervision of a physician who is trained in the use of phototherapy devices.

(b) Devices used for personal use in a private residence.

(c) Devices intended for purposes other than the irradiation of human skin.

(d) Devices used to apply chemicals to the skin to achieve a bronze color, commonly referred to as spray-on, mist-on, or sunless tans.

(Source: P.A. 87-636.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 2306** having been printed, was taken up, read by title a second time.

Senator Radogno offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 2306**

AMENDMENT NO. 1. Amend Senate Bill 2306 by replacing everything after the enacting clause with the following:

"Section 5. The Right to Privacy in the Workplace Act is amended by changing Section 10 as follows:  
(820 ILCS 55/10) (from Ch. 48, par. 2860)

Sec. 10. Prohibited inquiries.

(a) It shall be unlawful for any employer to inquire, in a written application or in any other manner, of any prospective employee or of the prospective employee's previous employers, whether that prospective employee has ever filed a claim for benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act or received benefits under these Acts.

(b)(1) Except as provided in this subsection, it ~~it~~ shall be unlawful for any employer to request or require any employee or prospective employee to provide any password or other related account information in order to gain access to the employee's or prospective employee's account or profile on a social networking website or to demand access in any manner to an employee's or prospective employee's account or profile on a social networking website.

(2) Nothing in this subsection shall limit an employer's right to:

(A) promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and

(B) monitor usage of the employer's electronic equipment and the employer's electronic mail without requesting or requiring any employee or prospective employee to provide any password or other related account information in order to gain access to the employee's or prospective employee's account or profile on a social networking website.

(3) Nothing in this subsection shall prohibit an employer from obtaining about a prospective employee or an employee information that is in the public domain or that is otherwise obtained in compliance with this amendatory Act of the 97th General Assembly.

(3.5) Provided that the password, account information, or access sought by the employer relates to a professional account, and not a personal account, nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring or to monitor or

retain employee communications as required under Illinois insurance laws or federal law or by a self-regulatory organization as defined in Section 3(A)(26) of the Securities Exchange Act of 1934, 15 U.S.C. 78(A)(26).

(4) For the purposes of this subsection, "social networking website" means an Internet-based service that allows individuals to:

- (A) construct a public or semi-public profile within a bounded system, created by the service;
- (B) create a list of other users with whom they share a connection within the system; and
- (C) view and navigate their list of connections and those made by others within the system.

"Social networking website" shall not include electronic mail.

For the purposes of paragraph (3.5) of this subsection, "professional account" means an account, service, or profile created, maintained, used, or accessed by a current or prospective employee for business purposes of the employer.

For the purposes of paragraph (3.5) of this subsection, "personal account" means an account, service, or profile on a social networking website that is used by a current or prospective employee exclusively for personal communications unrelated to any business purposes of the employer.

(Source: P.A. 97-875, eff. 1-1-13.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Hunter, **Senate Bill No. 2314** having been printed, was taken up, read by title a second time.

Senator Hunter offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 2314**

AMENDMENT NO. 1. Amend Senate Bill 2314 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-345 as follows:

(20 ILCS 2310/2310-345) (was 20 ILCS 2310/55.49)

Sec. 2310-345. Breast cancer; written summary regarding early detection and treatment.

(a) From funds made available for this purpose, the Department shall publish, in layman's language, a standardized written summary outlining methods for the early detection and diagnosis of breast cancer. The summary shall include recommended guidelines for screening and detection of breast cancer through the use of techniques that shall include but not be limited to self-examination, clinical breast exams, and diagnostic radiology.

(b) The summary shall also suggest that women seek mammography services from facilities that are certified to perform mammography as required by the federal Mammography Quality Standards Act of 1992.

(c) The summary shall also include the medically viable alternative methods for the treatment of breast cancer, including, but not limited to, hormonal, radiological, chemotherapeutic, or surgical treatments or combinations thereof. The summary shall contain information on breast reconstructive surgery, including, but not limited to, the use of breast implants and their side effects. The summary shall inform the patient of the advantages, disadvantages, risks, and dangers of the various procedures. The summary shall include (i) a statement that mammography is the most accurate method for making an early detection of breast cancer, however, no diagnostic tool is 100% effective, (ii) the benefits of clinical breast exams, and (iii) instructions for performing breast self-examination and a statement that it is important to perform a breast self-examination monthly.

(c-5) The summary shall specifically address the benefits of early detection and review the clinical standard recommendations by the Centers for Disease Control and Prevention and the American Cancer Society for mammography, clinical breast exams, and breast self-exams.

(c-10) The summary shall also inform individuals that public and private insurance providers shall pay for clinical breast exams as part of an exam, as indicated by guidelines of practice.

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(c-15) The summary shall also inform individuals, in layman's terms, of the meaning and consequences of "dense breast tissue" under the guidelines of the Breast Imaging Reporting and Data System of the American College of Radiology.

(d) In developing the summary, the Department shall consult with the Advisory Board of Cancer Control, the Illinois State Medical Society and consumer groups. The summary shall be updated by the Department every 2 years.

(e) The summaries shall additionally be translated into Spanish, and the Department shall conduct a public information campaign to distribute the summaries to the Hispanic women of this State in order to inform them of the importance of early detection and mammograms.

(f) The Department shall distribute the summary to hospitals, public health centers, and physicians who are likely to perform or order diagnostic tests for breast disease or treat breast cancer by surgical or other medical methods. Those hospitals, public health centers, and physicians shall make the summaries available to the public. The Department shall also distribute the summaries to any person, organization, or other interested parties upon request. The summaries may be duplicated by any person, provided the copies are identical to the current summary prepared by the Department.

(g) The summary shall display, on the inside of its cover, printed in capital letters, in bold face type, the following paragraph:

"The information contained in this brochure regarding recommendations for early detection and diagnosis of breast disease and alternative breast disease treatments is only for the purpose of assisting you, the patient, in understanding the medical information and advice offered by your physician. This brochure cannot serve as a substitute for the sound professional advice of your physician. The availability of this brochure or the information contained within is not intended to alter, in any way, the existing physician-patient relationship, nor the existing professional obligations of your physician in the delivery of medical services to you, the patient."

(h) The summary shall be updated when necessary.  
(Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2352** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Executive.

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

#### **AMENDMENT NO. 2 TO SENATE BILL 2352**

AMENDMENT NO. 2. Amend Senate Bill 2352 by replacing everything after the enacting clause with the following:

"Section 5. The Fiscal Note Act is amended by changing Section 2 as follows:

(25 ILCS 50/2) (from Ch. 63, par. 42.32)

Sec. 2. The sponsor of each bill, referred to in Section 1, shall present a copy of the bill, with his request for a fiscal note, to the board, commission, department, agency, or other entity of the State which is to receive or expend the appropriation proposed or which is responsible for collection of the revenue proposed to be increased or decreased, or to be levied or provided for. The sponsor of a bill that amends the Mental Health and Developmental Disabilities Code or the Developmental Disability and Mental Disability Services Act shall present a copy of the bill, with his or her request for a fiscal note, to the Department of Human Services. The fiscal note shall be prepared by such board, commission, department, agency, or other entity and furnished to the sponsor of the bill within 5 calendar days thereafter; except that whenever, because of the complexity of the measure, additional time is required for preparation of the fiscal note, the board, commission, department, agency, or other entity may so inform the sponsor of the bill and he may approve an extension of the time within which the note is to be furnished, not to extend, however, beyond June 15, following the date of the request. Whenever any measure for which a fiscal note is required affects more than one State board, commission, department, agency, or other entity, the board, commission, department, agency, or other entity most affected by its provisions according to the sponsor shall be responsible for preparation of the fiscal note. Whenever any

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measure for which a fiscal note is required does not affect a specific board, commission, department, agency or other such entity, or does not amend the Mental Health and Developmental Disabilities Code or the Developmental Disability and Mental Disability Services Act, the sponsor of the measure shall be responsible for preparation of the fiscal note.

Whenever any measure has the effect of rebalancing long term care services from residential settings to community or home-based services or from home and community-based services to residential services, the affected agencies shall work in concert to extrapolate the estimated costs or savings of such an initiative. The ensuing note shall include all financial aspects of the measure including federal resources and the impact of any provider assessments in place to ascertain the true costs or savings of the measure.

In the case of bills having a potential fiscal impact on units of local government, the fiscal note shall be prepared by the Department of Commerce and Economic Opportunity. In the case of bills having a potential fiscal impact on school districts, the fiscal note shall be prepared by the State Superintendent of Education. In the case of bills having a potential fiscal impact on community college districts, the fiscal note shall be prepared by the Illinois Community College Board.  
(Source: P.A. 94-793, eff. 5-19-06.)

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

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Sullivan, **Senate Bill No. 2221** having been printed, was taken up, read by title a second time.

Senator Sullivan offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 2221**

AMENDMENT NO. 1. Amend Senate Bill 2221 by replacing everything after the enacting clause with the following:

"Section 5. The Clerks of Courts Act is amended by changing Section 27.3 as follows:  
(705 ILCS 105/27.3) (from Ch. 25, par. 27.3)

Sec. 27.3. Compensation.

(a) The county board shall provide the compensation of Clerks of the Circuit Court, and the amount necessary for clerk hire, stationery, fuel and other expenses. Beginning December 1, 1989, the compensation per annum for Clerks of the Circuit Court shall be as follows:

In counties where the population is:

Less than 14,000.....	at least \$13,500
14,001-30,000.....	at least \$14,500
30,001-60,000.....	at least \$15,000
60,001-100,000.....	at least \$15,000
100,001-200,000.....	at least \$16,500
200,001-300,000.....	at least \$18,000
300,001- 3,000,000.....	at least \$20,000
Over 3,000,000.....	at least \$55,000

(b) In counties in which the population is 3,000,000 or less, "base salary" is the compensation paid for each Clerk of the Circuit Court, respectively, before July 1, 1989.

(c) The Clerks of the Circuit Court, in counties in which the population is 3,000,000 or less, shall be compensated as follows:

- (1) Beginning December 1, 1989, base salary plus at least 3% of base salary.
- (2) Beginning December 1, 1990, base salary plus at least 6% of base salary.
- (3) Beginning December 1, 1991, base salary plus at least 9% of base salary.
- (4) Beginning December 1, 1992, base salary plus at least 12% of base salary.

(d) In addition to the compensation provided by the county board, each Clerk of the Circuit Court shall receive an award from the State for the additional duties imposed by Sections 5-9-1 and 5-9-1.2 of the Unified Code of Corrections, Section 10 of the Violent Crime Victims Assistance Act, Section 16-104a of the Illinois Vehicle Code, and other laws, in the following amount:

- (1) \$3,500 per year before January 1, 1997.
- (2) \$4,500 per year beginning January 1, 1997.

(3) \$5,500 per year beginning January 1, 1998.

(4) \$6,500 per year beginning January 1, 1999.

The total amount required for such awards shall be appropriated each year by the General Assembly to the Supreme Court, which shall distribute such awards in annual lump sum payments to the Clerks of the Circuit Court in all counties. This annual award, and any other award or stipend paid out of State funds to the Clerks of the Circuit Court, shall not affect any other compensation provided by law to be paid to Clerks of the Circuit Court.

(e) Also in addition to the compensation provided by the county board, Clerks of the Circuit Court in counties in which one or more State correctional institutions are located shall receive a minimum reimbursement in the amount of \$2,500 per year for administrative assistance to perform services in connection with the State correctional institution. The total amount required for the awards shall be distributed by the Department of Corrections in annual lump sum payments to the Clerks of the Circuit Court in , payable monthly from the State Treasury to the treasurer of the counties county in which the State correctional institutions are located additional staff is employed. Counties whose State correctional institution inmate population exceeds 250 shall receive reimbursement in the amount of \$2,500 per 250 inmates , but the total reimbursement for any county may not exceed \$5,000 per year. Reimbursement under this subsection (e) shall be paid for all types of administrative assistance provided by the Clerk of the Circuit Court in connection with the State correctional institution and nothing in this subsection (e) may be construed as limiting the reimbursement provided in this subsection to only certain types of cases in which administrative assistance is rendered in connection with the State correctional institution. This subsection (e) shall not apply to staff added before November 29, 1990.

For purposes of this subsection (e), "State correctional institution" means any facility of the Department of Corrections, including without limitation adult facilities, juvenile facilities, pre-release centers, community correction centers, and work camps.

(e-3) Also in addition to the compensation provided by the county board, Clerks of the Circuit Court in counties in which one or more facilities administered by the Department of Juvenile Justice are located shall receive a minimum reimbursement in the amount of \$2,500 per year for administrative assistance to perform services in connection with the facility. The total amount required for the awards shall be distributed by the Department of Juvenile Justice in annual lump sum payments to the Clerks of the Circuit Court in the counties in which the facilities are located. Counties whose Department of Juvenile Justice facility resident population exceeds 250 shall receive reimbursement in the amount of \$2,500 per 250 residents, but the total reimbursement for any county may not exceed \$5,000 per year. Reimbursement under this subsection (e-3) shall be paid for all types of administrative assistance provided by the Clerk of the Circuit Court in connection with the Department of Juvenile Justice facility and nothing in this subsection (e-3) may be construed as limiting the reimbursement provided in this subsection to only certain types of cases in which administrative assistance is rendered in connection with the Department of Juvenile Justice facility.

(e-5) Also in addition to the compensation provided by the county board, Clerks of the Circuit Court in counties in which one or more treatment and detention facilities established under the Sexually Violent Persons Commitment Act are located shall receive a minimum reimbursement in the amount of \$2,500 per year for administrative assistance to perform services in connection with the treatment and detention facility. The total amount required for the awards shall be distributed by the Department of Human Services in annual lump sum payments to the Clerks of the Circuit Court in the counties in which the treatment and detention facilities are located. Counties whose treatment and detention facility resident population exceeds 250 shall receive reimbursement in the amount of \$2,500 per 250 residents, but the total reimbursement for any county may not exceed \$5,000 per year. Reimbursement under this subsection (e-5) shall be paid for all types of administrative assistance provided by the Clerk of the Circuit Court in connection with the treatment and detention facility and nothing in this subsection (e-5) may be construed as limiting the reimbursement provided in this subsection to only certain types of cases in which administrative assistance is rendered in connection with the treatment and detention facility.

(f) No county board may reduce or otherwise impair the compensation payable from county funds to a Clerk of the Circuit Court if the reduction or impairment is the result of the Clerk of the Circuit Court receiving an award or stipend payable from State funds.

(Source: P.A. 92-114, eff. 1-1-02.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

[April 18, 2013]

On motion of Senator Oberweis, **Senate Bill No. 2356** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Transportation.

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

**AMENDMENT NO. 2 TO SENATE BILL 2356**

AMENDMENT NO. 2. Amend Senate Bill 2356 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 1-187.001, 11-601, 11-601.5, 11-602, and 11-603 as follows:

(625 ILCS 5/1-187.001)

Sec. 1-187.001. Serious traffic violation.

(a) A conviction when operating a motor vehicle for:

- (1) a violation of subsection (a) of Section 11-402, relating to a motor vehicle accident involving damage to a vehicle;
- (2) a violation of Section 11-403, relating to failure to stop and exchange information after a motor vehicle collision, property damage only;
- (3) a violation of subsection (a) of Section 11-502, relating to illegal transportation, possession, or carrying of alcoholic liquor within the passenger area of any vehicle;
- (4) a violation of Section 6-101 relating to operating a motor vehicle without a valid license or permit;
- (5) a violation of Section 11-403, relating to failure to stop and exchange information or give aid after a motor vehicle collision involving personal injury or death;
- (6) a violation relating to excessive speeding, involving a single speeding charge of 26 ~~30~~ miles per hour or more above the legal speed limit;
- (7) a violation relating to reckless driving;
- (8) a violation of subsection (d) of Section 11-707, relating to passing in a no-passing zone;
- (9) a violation of subsection (b) of Section 11-1402, relating to limitations on backing upon a controlled access highway;
- (10) a violation of subsection (b) of Section 11-707, relating to driving on the left side of a roadway in a no-passing zone;
- (11) a violation of subsection (e) of Section 11-1002, relating to failure to yield the right-of-way to a pedestrian at an intersection;
- (12) a violation of Section 11-1008, relating to failure to yield to a pedestrian on a sidewalk; or
- (13) a violation of Section 11-1201, relating to failure to stop for an approaching railroad train or railroad track equipment or signals; or

(b) Any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation.

(c) A violation of any of these defined serious traffic offenses shall not preclude the defendant from being eligible to receive an order of court supervision under Section 5-6-1 of the Unified Code of Corrections.

(Source: P.A. 96-1244, eff. 1-1-11.)

(625 ILCS 5/11-601) (from Ch. 95 1/2, par. 11-601)

Sec. 11-601. General speed restrictions.

(a) No vehicle may be driven upon any highway of this State at a speed which is greater than is reasonable and proper with regard to traffic conditions and the use of the highway, or endangers the safety of any person or property. The fact that the speed of a vehicle does not exceed the applicable maximum speed limit does not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) No person may drive a vehicle upon any highway of this State at a speed which is greater than the

applicable statutory maximum speed limit established by paragraphs (c), (d), (e), (f) or (g) of this Section, by Section 11-605 or by a regulation or ordinance made under this Chapter.

(c) Unless some other speed restriction is established under this Chapter, the maximum speed limit in an urban district for all vehicles is:

1. 30 miles per hour; and
2. 15 miles per hour in an alley.

(d) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for any vehicle is (1) 65 miles per hour (i) for all highways under the jurisdiction of the Illinois State Toll Highway Authority, unless some other speed limit is designated, and (ii) for all or part of highways that are designated by the Department, have at least 4 lanes of traffic, and have a separation between the roadways moving in opposite directions and (2) 55 miles per hour for all other highways, roads, and streets.

(d-1) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for any vehicle is (1) 70 miles per hour on any interstate highway as defined by Section 1-133.1 of this Code; (2) 65 miles per hour for all or part of highways that are designated by the Department, have at least 4 lanes of traffic, and have a separation between the roadways moving in opposite directions; and (3) 55 miles per hour for all other highways, roads, and streets. The counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will may adopt ordinances setting a maximum speed limit on highways, roads, and streets that is lower than the limits established by this Section.

(e) In the counties of Cook, DuPage, Kane, Lake, McHenry, and Will, unless some lesser speed restriction is established under this Chapter, the maximum speed limit outside an urban district for a second division vehicle designed or used for the carrying of a gross weight of 8,001 pounds or more (including the weight of the vehicle and maximum load) is 55 miles per hour.

(e-1) (Blank).

(f) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for a bus is:

1. 65 miles per hour upon any highway which has at least 4 lanes of traffic and of which the roadways for traffic moving in opposite directions are separated by a strip of ground which is not surfaced or suitable for vehicular traffic, except that the maximum speed limit for a bus on all highways, roads, or streets not under the jurisdiction of the Department or the Illinois State Toll Highway Authority is 55 miles per hour; and

1.5. 70 miles per hour, upon any interstate highway as defined by Section 1-133.1 of this Code outside the counties of Cook, DuPage, Kane, Lake, McHenry, and Will; and

2. 55 miles per hour on any other highway.

(g) (Blank).

(Source: P.A. 96-524, eff. 1-1-10; 97-202, eff. 1-1-12.)

(625 ILCS 5/11-601.5)

Sec. 11-601.5. Driving ~~26~~ <sup>34</sup> miles per hour or more in excess of applicable limit.

(a) A person who drives a vehicle upon any highway of this State at a speed that is ~~26~~ <sup>34</sup> miles per hour or more but less than ~~35~~ <sup>40</sup> miles per hour in excess of the applicable maximum speed limit established under this Chapter or a local ordinance commits a Class B misdemeanor.

(b) A person who drives a vehicle upon any highway of this State at a speed that is ~~35~~ <sup>40</sup> miles per hour or more in excess of the applicable maximum speed limit established under this Chapter or a local ordinance commits a Class A misdemeanor.

(Source: P.A. 96-1002, eff. 1-1-11; 96-1507, eff. 1-27-11.)

(625 ILCS 5/11-602) (from Ch. 95 1/2, par. 11-602)

Sec. 11-602. Alteration of limits by Department. Whenever the Department determines, upon the basis of an engineering and traffic investigation concerning any highway for which the Department has maintenance responsibility, that a maximum speed limit prescribed in Section 11-601 of this Chapter is greater or less than is reasonable or safe with respect to the conditions found to exist at any intersection or other place on such highway or along any part or zone thereof, the Department shall determine and declare a reasonable and safe absolute maximum speed limit applicable to such intersection or place, or along such part or zone. However, such limit shall conform with the maximum speed limit restrictions provided for in Section 11-601 of this Code not exceed 65 miles per hour on a highway or street which is especially designed for through traffic and to, from, or over which owners of or persons having an interest in abutting property or other persons have no right or easement, or only a limited right or easement, of access, crossing, light, air, or view, and shall not exceed 55 miles per hour on any other highway. Where a highway under the Department's jurisdiction is contiguous to school property, the

Department may, at the school district's request, set a reduced maximum speed limit for student safety purposes in the portion of the highway that faces the school property and in the portions of the highway that extend one-quarter mile in each direction from the opposite ends of the school property. A limit determined and declared as provided in this Section becomes effective, and suspends the applicability of the limit prescribed in Section 11-601 of this Chapter, when appropriate signs giving notice of the limit are erected at such intersection or other place, or along such part or zone of the highway. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation hereof, evidence obtained thereby shall be inadmissible in any prosecution for speeding. However, nothing in this Section prohibits the use of such electronic speed-detecting devices within 500 feet of a sign within a special school speed zone indicating such zone, conforming to the requirements of Section 11-605 of this Act, nor shall evidence obtained thereby be inadmissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone.

(Source: P.A. 96-524, eff. 1-1-10.)

(625 ILCS 5/11-603) (from Ch. 95 1/2, par. 11-603)

Sec. 11-603. Alteration of limits by Toll Highway Authority. Whenever the Illinois State Toll Highway Authority determines, upon the basis of an engineering and traffic investigation concerning a toll highway under its jurisdiction, that a maximum speed limit prescribed in Section 11-601 of this Chapter is greater or less than is reasonable or safe with respect to conditions found to exist at any place or along any part or zone of such highway, the Authority shall determine and declare by regulation a reasonable and safe absolute maximum speed limit at such place or along such part or zone, and the speed limit shall conform with the maximum speed limit restrictions provided for in Section 11-601 of this Code not exceeding 65 miles per hour. A limit so determined and declared becomes effective, and suspends the application of the limit prescribed in Section 11-601 of this Chapter, when (a) the Department concurs in writing with the Authority's regulation, and (b) appropriate signs giving notice of the limit are erected at such place or along such part or zone of the highway. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation hereof, evidence obtained thereby shall be inadmissible in any prosecution for speeding.

(Source: P.A. 89-444, eff. 1-25-96.)".

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 2380** having been printed, was taken up, read by title a second time and ordered to a third reading.

## ANNOUNCEMENT

President Cullerton announced that Session scheduled for Friday, April 19, 2013, has been cancelled due to the inclement weather.

## LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to Senate Bill 625  
 Senate Floor Amendment No. 3 to Senate Bill 1572  
 Senate Floor Amendment No. 2 to Senate Bill 1657  
 Senate Floor Amendment No. 3 to Senate Bill 1900  
 Senate Floor Amendment No. 2 to Senate Bill 2178

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 No. 1 to House Bill 2370

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### SENATE BILLS RECALLED

On motion of Senator Haine, **Senate Bill No. 1207** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment Nos. 3 and 4 was postponed in the Committee on Judiciary.

Senate Floor Amendment No. 5 was held in the Committee on Judiciary.

Senator Haine offered the following amendment and moved its adoption:

#### AMENDMENT NO. 6 TO SENATE BILL 1207

AMENDMENT NO. 6. Amend Senate Bill 1207 by replacing everything after the enacting clause with the following:

"Section 5. The Abused and Neglected Child Reporting Act is amended by changing Section 7.16 as follows:

(325 ILCS 5/7.16) (from Ch. 23, par. 2057.16)

Sec. 7.16. For any investigation or appeal initiated on or after, or pending on July 1, 1998, the following time frames shall apply. Within 60 days after the notification of the completion of the Child Protective Service Unit investigation, determined by the date of the notification sent by the Department, the perpetrator named in the notification a subject of a report may request the Department to amend the record or remove the record of the report from the register, except that the 60-day deadline for filing a request to amend the record or remove the record of the report from the State Central Register shall be tolled until after the conclusion of any criminal court action in the circuit court or after adjudication in any juvenile court action concerning the circumstances that give rise to an indicated report. Such request shall be in writing and directed to such person as the Department designates in the notification letter notifying the perpetrator of the indicated finding. The perpetrator ~~If the Department disregards any request to do so or does not act within 10 days,~~ the subject shall have the right to a timely hearing within the Department to determine whether the record of the report should be amended or removed on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this Act, except that there shall be no such right to a hearing on the ground of the report's inaccuracy if there has been a court finding of child abuse or neglect or a criminal finding of guilt as to the perpetrator. ~~the report's accuracy being conclusively presumed on such finding.~~ Such hearing shall be held within a reasonable time after the perpetrator's ~~subject's~~ request and at a reasonable place and hour. The appropriate Child Protective Service Unit shall be given notice of the hearing. If the minor, who is the victim named in the report sought to be amended or removed from the State Central Register, is the subject of a pending action under Article II of the Juvenile Court Act of 1987, and the report was made while a guardian ad litem was appointed for the minor under Section 2-17 of the Juvenile Court Act, then the minor shall, through the minor's attorney or guardian ad litem appointed under Section 2-17 of the Juvenile Court Act of 1987, have the right to participate and be heard in such hearing as defined under the Department's rules. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the Department and the appropriate Child Protective Service Unit. The hearing shall be conducted by the Director or his designee, who is hereby authorized and empowered to order the amendment or removal of the record to make it accurate and consistent with this Act. The decision shall be made, in writing, at the close of the hearing, or within 60 ~~45~~ days thereof, and shall state the reasons upon which it is based. Decisions of the Department under this Section are administrative decisions subject to judicial review under the Administrative Review Law.

Should the Department grant the request of the perpetrator ~~subject of the report~~ pursuant to this Section either on administrative review or after an administrative hearing to amend an indicated report to an unfounded report, the report shall be released and expunged in accordance with the standards set forth in Section 7.14 of this Act.

(Source: P.A. 90-15, eff. 6-13-97; 90-608, eff. 6-30-98.)

Section 99. Effective date. This Act takes effect January 1, 2014."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 6 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

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On motion of Senator Haine, **Senate Bill No. 1775** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1775**

AMENDMENT NO. 1. Amend Senate Bill 1775 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by adding Section 143.33 as follows:

(215 ILCS 5/143.33 new)

Sec. 143.33. Electronic posting of policies.

(a) Policies and endorsements used by a company for transacting insurance as classified in Class 2 and Class 3 of Section 4 of this Code that do not contain personally identifiable information may be mailed, issued, delivered, or posted on the insurer's Internet website. If the insurer elects to post the insurance policies and endorsements on its Internet website in lieu of mailing, issuing, or delivering them to the insured, then the insurer must comply with all of the following conditions:

(1) The policy and endorsements must be easily accessible to the insured and the producer of record and remain that way for as long as the policy is in force;

(2) After the expiration of the policy, the insurer must archive its expired policies and endorsements for the longer of 5 years or other period required by law, and make them available upon request;

(3) The policies and endorsements must be posted in a manner that enables the insured and the producer of record to print and save the policy and endorsements using programs or applications that are widely available on the Internet and free to use;

(4) At the time of issuance of the original policy and any renewals of that policy, the insurer provides to the insured in the manner it customarily provides declarations pages to the insured, and to the producer of record, the following information clearly displayed in or simultaneously with a declarations page:

(A) a description of the exact policy and endorsement forms purchased by the insured;

(B) a method by which the insured may obtain from the insurer, upon request and without charge, a paper copy of their policy and endorsements; and

(C) the Internet address where their policy and endorsements are posted.

(5) The insurer provides to the insured in the manner it customarily provides declarations pages to the insured, and to the producer of record, notice of any changes to the forms or endorsements; the insured's right to obtain from the insurer, upon request and without charge, a paper copy of these forms or endorsements; and the Internet address where these forms or endorsements are posted.

(b) Nothing in this Section shall prevent an insurer that posts its policies and endorsements electronically in accordance with this Section from offering a discount to an insured who elects to receive notices and documents electronically in accordance with the provisions of the federal Electronic Signatures in Global and National Commerce Act.

(c) Nothing in this Section affects the timing or content of any disclosure or other document required to be provided or made available to any insured under any statute, rule, regulation, or rule of law.

Section 10. The Illinois Vehicle Code is amended by changing Section 7-602 as follows:

(625 ILCS 5/7-602) (from Ch. 95 1/2, par. 7-602)

Sec. 7-602. Insurance card. Every operator of a motor vehicle subject to Section 7-601 of this Code shall carry within the vehicle evidence of insurance. The evidence shall be legible and sufficient to demonstrate that the motor vehicle currently is covered by a liability insurance policy as required under Section 7-601 of this Code and may include, but is not limited to, the following:

(a) an insurance card provided by the insurer under this Section;

(b) the combination of proof of purchase of the motor vehicle within the previous 60 days and a current insurance card issued for the motor vehicle replaced by such purchase;

(c) the current declarations page of a liability insurance policy;

(d) a liability insurance binder, certificate of liability insurance or receipt for payment to an insurer or its authorized representative for a liability insurance premium, provided such document contains all information the Secretary of State by rule and regulation may require;

(e) a current rental agreement;

(f) registration plates, registration sticker or other evidence of registration issued by the Secretary only upon submission of proof of liability insurance pursuant to this Code;

(g) a certificate, decal, or other document or device issued by a governmental agency

for a motor vehicle indicating the vehicle is insured for liability pursuant to law;

(h) the display of electronic images on a cellular phone or other type of portable electronic device. The use of a cellular phone or other type of portable electronic device to display proof of insurance does not constitute consent for a law enforcement officer, court, or other officer of the court to access other contents of the electronic device.

An insurance card shall be provided for each motor vehicle insured by the insurer issuing the liability insurance policy and may be issued in either paper or electronic format. Acceptable electronic formats shall permit display on a cellular phone or other portable electronic device.

The form, contents and manner of issuance of the insurance card shall be prescribed by rules and regulations of the Secretary of State. The Secretary shall adopt rules requiring that reasonable measures be taken to prevent the fraudulent production of insurance cards. The insurance card shall display an effective date and an expiration date covering a period of time not to exceed 12 months. The insurance card shall contain the following disclaimer: "Examine policy exclusions carefully. This form does not constitute any part of your insurance policy." If the insurance policy represented by the insurance card does not cover any driver operating the motor vehicle with the owner's permission, or the owner when operating a motor vehicle other than the vehicle for which the policy is issued, the insurance card shall contain a warning of such limitations in the coverage provided by the policy.

No insurer shall issue a card, similar in appearance, form and content to the insurance card required under this Section, in connection with an insurance policy that does not provide the liability insurance coverage required under Section 7-601 of this Code.

The evidence of insurance shall be displayed upon request made by any law enforcement officer wearing a uniform or displaying a badge or other sign of authority. Any person who fails or refuses to comply with such request is in violation of Section 3-707 of this Code. Any person who displays evidence of insurance, knowing there is no valid liability insurance in effect on the motor vehicle as required under Section 7-601 of this Code or knowing the evidence of insurance is illegally altered, counterfeit or otherwise invalid, is in violation of Section 3-710 of this Code.

"Display" means the manual surrender of the evidence of insurance into the hands of the law enforcement officer, court, or officer of the court making the request for the officer's, court's, or officer of the court's inspection thereof.

(Source: P.A. 93-719, eff. 1-1-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Muñoz, **Senate Bill No. 205** was recalled from the order of third reading to the order of second reading.

Senator Muñoz offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 205**

AMENDMENT NO. 1. Amend Senate Bill 205 by replacing everything after the enacting clause with the following:

"Section 5. The State Comptroller Act is amended by changing Section 10.05d as follows:  
(15 ILCS 405/10.05d)

Sec. 10.05d. Deductions for delinquent obligations owed to units of local government, school districts, public institutions of higher education, and clerks of the circuit courts. Pursuant to Section 10.05 and this Section, the Comptroller may enter into intergovernmental agreements with a unit of local government, a school district, a public institution of higher education, or the clerk of a circuit court, in order to provide for (i) the use of the Comptroller's offset system to collect delinquent obligations owed to that entity and (ii) the payment to the Comptroller of a processing charge of up to \$15 per transaction for ~~such~~ offsets processed without the assistance of a third-party vendor and a processing charge of up to \$20 per transaction for offsets processed with the assistance of a third-party vendor. A third-party vendor may be selected by the Comptroller, pursuant to lawful procurement practices, in order to provide enhanced identification services to the State. The Comptroller shall deduct, from a warrant or other payment described in Section 10.05, in accordance with the procedures provided therein, its processing charge

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and the amount certified as necessary to satisfy, in whole or in part, the delinquent obligation owed to the unit of local government, school district, public institution of higher education, or clerk of the circuit court, as applicable. The Comptroller shall provide the unit of local government, school district, public institution of higher education, or clerk of the circuit court, as applicable, with the address to which the warrant or other payment was to be mailed and any other information pertaining to each person from whom a deduction is made pursuant to this Section. All deductions ordered under this Section and processing charges imposed under this Section shall be deposited into the Comptroller Debt Recovery Trust Fund, a special fund that the Comptroller shall use for the collection of deductions and processing charges, as provided by law, and the payment of deductions and administrative expenses, as provided by law.

Upon processing a deduction, the Comptroller shall give written notice to the person subject to the offset. The notice shall inform the person that he or she may make a written protest to the Comptroller within 60 days after the Comptroller has given notice. The protest shall include the reason for contesting the deduction and any other information that will enable the Comptroller to determine the amount due and payable. The intergovernmental agreement entered into under Section 10.05 and this Section shall establish procedures through which the Comptroller shall determine the validity of the protest and shall make a final disposition concerning the deduction. If the person subject to the offset has not made a written protest within 60 days after the Comptroller has given notice or if a final disposition is made concerning the deduction, the Comptroller shall pay the deduction to the unit of local government, school district, public institution of higher education, or clerk of the circuit court, as applicable, from the Comptroller Debt Recovery Trust Fund.

For the purposes of this Section, "clerk of a circuit court" means a clerk of the circuit court in any county in the State.

For purposes of this Section, "third-party vendor" means the vendor selected by the Comptroller to provide enhanced identification services to the State.

(Source: P.A. 97-632, eff. 12-16-11; 97-970, eff. 8-16-12.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Muñoz, **Senate Bill No. 723** was recalled from the order of third reading to the order of second reading.

Senator Muñoz offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 723**

AMENDMENT NO. 1. Amend Senate Bill 723 by replacing everything after the enacting clause with the following:

"Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-11 as follows:  
(235 ILCS 5/6-11)

Sec. 6-11. Sale near churches, schools, and hospitals.

(a) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if the place of business so exempted is not located in a municipality of more than 500,000 persons, unless required by local ordinance; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where the church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(b) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor to a restaurant, the primary business of which is the sale of goods baked on the premises if (i) the restaurant is newly constructed and located on a lot of not less than 10,000 square feet, (ii) the

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restaurant costs at least \$1,000,000 to construct, (iii) the licensee is the titleholder to the premises and resides on the premises, and (iv) the construction of the restaurant is completed within 18 months of the effective date of this amendatory Act of 1998.

(c) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor incidental to a restaurant if (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid retail license authorizing the sale of alcoholic liquor at the restaurant for at least part of the 24 months before the change of ownership, and (3) the restaurant is located 75 or more feet from a school.

(d) In the interest of further developing Illinois' economy in the area of commerce, tourism, convention, and banquet business, nothing in this Section shall prohibit issuance of a retail license authorizing the sale of alcoholic beverages to a restaurant, banquet facility, grocery store, or hotel having not fewer than 150 guest room accommodations located in a municipality of more than 500,000 persons, notwithstanding the proximity of such hotel, restaurant, banquet facility, or grocery store to any church or school, if the licensed premises described on the license are located within an enclosed mall or building of a height of at least 6 stories, or 60 feet in the case of a building that has been registered as a national landmark, or in a grocery store having a minimum of 56,010 square feet of floor space in a single story building in an open mall of at least 3.96 acres that is adjacent to a public school that opened as a boys technical high school in 1934, or in a grocery store having a minimum of 31,000 square feet of floor space in a single story building located a distance of more than 90 feet but less than 100 feet from a high school that opened in 1928 as a junior high school and became a senior high school in 1933, and in each of these cases if the sale of alcoholic liquors is not the principal business carried on by the licensee.

For purposes of this Section, a "banquet facility" is any part of a building that caters to private parties and where the sale of alcoholic liquors is not the principal business.

(e) Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(f) Nothing in this Section shall prohibit a church or church affiliated school located in a home rule municipality or in a municipality with 75,000 or more inhabitants from locating within 100 feet of a property for which there is a preexisting license to sell alcoholic liquor at retail. In these instances, the local zoning authority may, by ordinance adopted simultaneously with the granting of an initial special use zoning permit for the church or church affiliated school, provide that the 100-foot restriction in this Section shall not apply to that church or church affiliated school and future retail liquor licenses.

(g) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at premises within 100 feet, but not less than 90 feet, of a public school if (1) the premises have been continuously licensed to sell alcoholic liquor for a period of at least 50 years, (2) the premises are located in a municipality having a population of over 500,000 inhabitants, (3) the licensee is an individual who is a member of a family that has held the previous 3 licenses for that location for more than 25 years, (4) the principal of the school and the alderman of the ward in which the school is located have delivered a written statement to the local liquor control commissioner stating that they do not object to the issuance of a license under this subsection (g), and (5) the local liquor control commissioner has received the written consent of a majority of the registered voters who live within 200 feet of the premises.

(h) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within premises and at an outdoor patio area attached to premises that are located in a municipality with a population in excess of 300,000 inhabitants and that are within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food,
- (2) the sale of liquor is not the principal business carried on by the licensee at the premises,
- (3) the premises are less than 1,000 square feet,
- (4) the premises are owned by the University of Illinois,
- (5) the premises are immediately adjacent to property owned by a church and are not less than 20 nor more than 40 feet from the church space used for worship services, and
- (6) the principal religious leader at the place of worship has indicated his or her support for the issuance of the license in writing.

(i) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit

the issuance or renewal of a license to sell alcoholic liquor at a premises that is located within a municipality with a population in excess of 300,000 inhabitants and is within 100 feet of a church, synagogue, or other place of worship if:

(1) the primary entrance of the premises and the primary entrance of the church, synagogue, or other place of worship are at least 100 feet apart, on parallel streets, and separated by an alley; and

(2) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(j) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at a theater that is within 100 feet of a church if (1) the church owns the theater, (2) the church leases the theater to one or more entities, and (3) the theater is used by at least 5 different not-for-profit theater groups.

(k) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

(1) the primary entrance of the premises and the primary entrance of the school are parallel, on different streets, and separated by an alley;

(2) the southeast corner of the premises are at least 350 feet from the southwest corner of the school;

(3) the school was built in 1978;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(6) the applicant is the owner of the restaurant and has held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises at a different location for more than 7 years; and

(7) the premises is at least 2,300 square feet and sits on a lot that is between 6,100 and 6,150 square feet.

(l) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church or school if:

(1) the primary entrance of the premises and the closest entrance of the church or school is at least 90 feet apart and no greater than 95 feet apart;

(2) the shortest distance between the premises and the church or school is at least 80 feet apart and no greater than 85 feet apart;

(3) the applicant is the owner of the restaurant and on November 15, 2006 held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises for at least 14 different locations;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(6) the premises is at least 3,200 square feet and sits on a lot that is between 7,150 and 7,200 square feet; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(m) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church if:

(1) the premises and the church are perpendicular, and the primary entrance of the premises faces South while the primary entrance of the church faces West and the distance between the two entrances is more than 100 feet;

(2) the shortest distance between the premises lot line and the exterior wall of the church is at least 80 feet;

(3) the church was established at the current location in 1916 and the present structure was erected in 1925;

(4) the premises is a single story, single use building with at least 1,750 square feet

and no more than 2,000 square feet;

(5) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(6) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(n) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

(1) the school is a City of Chicago School District 299 school;

(2) the school is located within subarea E of City of Chicago Residential Business Planned Development Number 70;

(3) the sale of alcoholic liquor is not the principal business carried on by the licensee on the premises;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food; and

(5) the administration of City of Chicago School District 299 has expressed, in writing, its support for the issuance of the license.

(o) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a retail license authorizing the sale of alcoholic liquor at a premises that is located within a municipality in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(2) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(3) the premises is located on a street that runs perpendicular to the street on which the church is located;

(4) the primary entrance of the premises is at least 100 feet from the primary entrance of the church;

(5) the shortest distance between any part of the premises and any part of the church is at least 60 feet;

(6) the premises is between 3,600 and 4,000 square feet and sits on a lot that is between 3,600 and 4,000 square feet; and

(7) the premises was built in the year 1909.

For purposes of this subsection (o), "premises" means a place of business together with a privately owned outdoor location that is adjacent to the place of business.

(p) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the shortest distance between the backdoor of the premises, which is used as an emergency exit, and the church is at least 80 feet;

(2) the church was established at the current location in 1889; and

(3) liquor has been sold on the premises since at least 1985.

(q) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church-owned property if:

(1) the premises is located within a larger building operated as a grocery store;

(2) the area of the premises does not exceed 720 square feet and the area of the larger building exceeds 18,000 square feet;

(3) the larger building containing the premises is within 100 feet of the nearest property line of a church-owned property on which a church-affiliated school is located;

(4) the sale of liquor is not the principal business carried on within the larger building;

(5) the primary entrance of the larger building and the premises and the primary entrance of the church-affiliated school are on different, parallel streets, and the distance between the 2 primary entrances is more than 100 feet;

(6) the larger building is separated from the church-owned property and church-affiliated school by an alley;

(7) the larger building containing the premises and the church building front are on perpendicular streets and are separated by a street; and

(8) (Blank).

(r) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance, renewal, or maintenance of a license authorizing the sale of alcoholic liquor incidental to the sale of food within a restaurant established in a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the primary entrance of the church and the primary entrance of the restaurant are at least 100 feet apart;

(2) the restaurant has operated on the ground floor and lower level of a multi-story, multi-use building for more than 40 years;

(3) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food;

(4) the sale of alcoholic liquor is conducted primarily in the below-grade level of the restaurant to which the only public access is by a staircase located inside the restaurant; and

(5) the restaurant has held a license authorizing the sale of alcoholic liquor on the premises for more than 40 years.

(s) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population more than 5,000 and less than 10,000 and is within 100 feet of a church if:

(1) the church was established at the location within 100 feet of the premises after a license for the sale of alcoholic liquor at the premises was first issued;

(2) a license for sale of alcoholic liquor at the premises was first issued before January 1, 2007; and

(3) a license for the sale of alcoholic liquor on the premises has been continuously in effect since January 1, 2007, except for interruptions between licenses of no more than 90 days.

(t) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor incidental to the sale of food within a restaurant that is established in a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a school and a church if:

(1) the restaurant is located inside a five-story building with over 16,800 square feet of commercial space;

(2) the area of the premises does not exceed 31,050 square feet;

(3) the area of the restaurant does not exceed 5,800 square feet;

(4) the building has no less than 78 condominium units;

(5) the construction of the building in which the restaurant is located was completed in 2006;

(6) the building has 10 storefront properties, 3 of which are used for the restaurant;

(7) the restaurant will open for business in 2010;

(8) the building is north of the school and separated by an alley; and

(9) the principal religious leader of the church and either the alderman of the ward in which the school is located or the principal of the school have delivered a written statement to the local liquor control commissioner stating that he or she does not object to the issuance of a license under this subsection (t).

(u) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license to sell alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a school if:

(1) the premises operates as a restaurant and has been in operation since February 2008;

(2) the applicant is the owner of the premises;

(3) the sale of alcoholic liquor is incidental to the sale of food;

(4) the sale of alcoholic liquor is not the principal business carried on by the licensee on the premises;

(5) the premises occupy the first floor of a 3-story building that is at least 90 years old;

(6) the rear lot of the school and the rear corner of the building that the premises occupy are separated by an alley;

(7) the distance from the southwest corner of the property line of the school and the northeast corner of the building that the premises occupy is at least 16 feet, 5 inches;



- (8) the distance from the rear door of the premises to the southwest corner of the property line of the school is at least 93 feet;
- (9) the school is a City of Chicago School District 299 school;
- (10) the school's main structure was erected in 1902 and an addition was built to the main structure in 1959; and
- (11) the principal of the school and the alderman in whose district the premises are located have expressed, in writing, their support for the issuance of the license.

(v) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the total land area of the premises for which the license or renewal is sought is more than 600,000 square feet;
- (2) the premises for which the license or renewal is sought has more than 600 parking stalls;
- (3) the total area of all buildings on the premises for which the license or renewal is sought exceeds 140,000 square feet;
- (4) the property line of the premises for which the license or renewal is sought is separated from the property line of the school by a street;
- (5) the distance from the school's property line to the property line of the premises for which the license or renewal is sought is at least 60 feet;
- (6) as of the effective date of this amendatory Act of the 97th General Assembly, the premises for which the license or renewal is sought is located in the Illinois Medical District.

(w) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license to sell alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food;
- (2) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (3) the premises occupy the first floor and basement of a 2-story building that is 106 years old;
- (4) the premises is at least 7,000 square feet and located on a lot that is at least 11,000 square feet;
- (5) the premises is located directly west of the church, on perpendicular streets, and separated by an alley;
- (6) the distance between the property line of the premises and the property line of the church is at least 20 feet;
- (7) the distance between the primary entrance of the premises and the primary entrance of the church is at least 130 feet; and
- (8) the church has been at its location for at least 40 years.

(x) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the church has been operating in its current location since 1973;
- (3) the premises has been operating in its current location since 1988;
- (4) the church and the premises are owned by the same parish;
- (5) the premises is used for cultural and educational purposes;
- (6) the primary entrance to the premises and the primary entrance to the church are located on the same street;
- (7) the principal religious leader of the church has indicated his support of the issuance of the license;
- (8) the premises is a 2-story building of approximately 23,000 square feet; and
- (9) the premises houses a ballroom on its ground floor of approximately 5,000 square feet.

(y) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located

within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a school if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the sale of alcoholic liquor at the premises is incidental to the sale of food;
- (3) according to the municipality, the distance between the east property line of the premises and the west property line of the school is 97.8 feet;
- (4) the school is a City of Chicago School District 299 school;
- (5) the school has been operating since 1959;
- (6) the primary entrance to the premises and the primary entrance to the school are located on the same street;
- (7) the street on which the entrances of the premises and the school are located is a major diagonal thoroughfare;
- (8) the premises is a single-story building of approximately 2,900 square feet; and
- (9) the premises is used for commercial purposes only.

(z) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a mosque if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the licensee shall only sell packaged liquors at the premises;
- (3) the licensee is a national retail chain having over 100 locations within the municipality;
- (4) the licensee has over 8,000 locations nationwide;
- (5) the licensee has locations in all 50 states;
- (6) the premises is located in the North-East quadrant of the municipality;
- (7) the premises is a free-standing building that has "drive-through" pharmacy service;
- (8) the premises has approximately 14,490 square feet of retail space;
- (9) the premises has approximately 799 square feet of pharmacy space;
- (10) the premises is located on a major arterial street that runs east-west and accepts truck traffic; and
- (11) the alderman of the ward in which the premises is located has expressed, in writing, his or her support for the issuance of the license.

(aa) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the licensee shall only sell packaged liquors at the premises;
- (3) the licensee is a national retail chain having over 100 locations within the municipality;
- (4) the licensee has over 8,000 locations nationwide;
- (5) the licensee has locations in all 50 states;
- (6) the premises is located in the North-East quadrant of the municipality;
- (7) the premises is located across the street from a national grocery chain outlet;
- (8) the premises has approximately 16,148 square feet of retail space;
- (9) the premises has approximately 992 square feet of pharmacy space;
- (10) the premises is located on a major arterial street that runs north-south and accepts truck traffic; and
- (11) the alderman of the ward in which the premises is located has expressed, in writing, his or her support for the issuance of the license.

(bb) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

- (2) the sale of alcoholic liquor at the premises is incidental to the sale of food;
- (3) the primary entrance to the premises and the primary entrance to the church are located on the same street;
- (4) the premises is across the street from the church;
- (5) the street on which the premises and the church are located is a major arterial street that runs east-west;
- (6) the church is an elder-led and Bible-based Assyrian church;
- (7) the premises and the church are both single-story buildings;
- (8) the storefront directly west of the church is being used as a restaurant; and
- (9) the distance between the northern-most property line of the premises and the southern-most property line of the church is 65 feet.

(cc) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a school if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the licensee shall only sell packaged liquors at the premises;
- (3) the licensee is a national retail chain;
- (4) as of October 25, 2011, the licensee has 1,767 stores operating nationwide, 87 stores operating in the State, and 10 stores operating within the municipality;
- (5) the licensee shall occupy approximately 124,000 square feet of space in the basement and first and second floors of a building located across the street from a school;
- (6) the school opened in August of 2009 and occupies approximately 67,000 square feet of space; and
- (7) the building in which the premises shall be located has been listed on the National Register of Historic Places since April 17, 1970.

(dd) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a full-service grocery store at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the premises is constructed on land that was purchased from the municipality at a fair market price;
- (2) the premises is constructed on land that was previously used as a parking facility for public safety employees;
- (3) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (4) the main entrance to the store is more than 100 feet from the main entrance to the school;
- (5) the premises is to be new construction;
- (6) the school is a private school;
- (7) the principal of the school has given written approval for the license;
- (8) the alderman of the ward where the premises is located has given written approval of the issuance of the license;
- (9) the grocery store level of the premises is between 60,000 and 70,000 square feet; and
- (10) the owner and operator of the grocery store operates 2 other grocery stores that have alcoholic liquor licenses within the same municipality.

(ee) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a full-service grocery store at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the premises is constructed on land that once contained an industrial steel facility;
- (2) the premises is located on land that has undergone environmental remediation;
- (3) the premises is located within a retail complex containing retail stores where some of the stores sell alcoholic beverages;
- (4) the principal activity of any restaurant in the retail complex is the sale of food, and the sale of alcoholic liquor is incidental to the sale of food;
- (5) the sale of alcoholic liquor is not the principal business carried on by the grocery

store;

- (6) the entrance to any business that sells alcoholic liquor is more than 100 feet from the entrance to the school;
- (7) the alderman of the ward where the premises is located has given written approval of the issuance of the license; and
- (8) the principal of the school has given written consent to the issuance of the license.

(ff) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a school if:

- (1) the sale of alcoholic liquor is not the principal business carried on at the premises;
- (2) the sale of alcoholic liquor at the premises is incidental to the operation of a theater;
- (3) the premises is a one and one-half-story building of approximately 10,000 square feet;
- (4) the school is a City of Chicago School District 299 school;
- (5) the primary entrance of the premises and the primary entrance of the school are at least 300 feet apart and no more than 400 feet apart;
- (6) the alderman of the ward in which the premises is located has expressed, in writing, his support for the issuance of the license; and
- (7) the principal of the school has expressed, in writing, that there is no objection to the issuance of a license under this subsection (ff).

(gg) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor incidental to the sale of food within a restaurant or banquet facility established in a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (2) the property on which the church is located and the property on which the premises are located are both within a district originally listed on the National Register of Historic Places on February 14, 1979;
- (3) the property on which the premises are located contains one or more multi-story buildings that are at least 95 years old and have no more than three stories;
- (4) the building in which the church is located is at least 120 years old;
- (5) the property on which the church is located is immediately adjacent to and west of the property on which the premises are located;
- (6) the western boundary of the property on which the premises are located is no less than 118 feet in length and no more than 122 feet in length;
- (7) as of December 31, 2012, both the church property and the property on which the premises are located are within 250 feet of City of Chicago Business-Residential Planned Development Number 38;
- (8) the principal religious leader at the place of worship has indicated his or her support for the issuance of the license in writing; and
- (9) the alderman in whose district the premises are located has expressed his or her support for the issuance of the license in writing.

For the purposes of this subsection, "banquet facility" means the part of the building that is located on the floor above a restaurant and caters to private parties and where the sale of alcoholic liquors is not the principal business.

(hh) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a hotel and at an outdoor patio area attached to the hotel that are located in a municipality with a population in excess of 1,000,000 inhabitants and that are within 100 feet of a hospital if:

- (1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the hotel;
- (2) the hotel is located within the City of Chicago Business Planned Development Number 468; and
- (3) the hospital is located within the City of Chicago Institutional Planned Development Number 3.

(ii) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a restaurant and at an outdoor patio area attached to the restaurant that are located in a municipality with a population in excess of 1,000,000 inhabitants and that are within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is not the principal business carried on by the licensee and is incidental to the sale of food;
- (2) the restaurant has been operated on the street level of a 2-story building located on a corner lot since 2008;
- (3) the restaurant is between 3,700 and 4,000 square feet and sits on a lot that is no more than 6,200 square feet;
- (4) the primary entrance to the restaurant and the primary entrance to the church are located on the same street;
- (5) the street on which the restaurant and the church are located is a major east-west street;
- (6) the restaurant and the church are separated by a one-way northbound street;
- (7) the church is located to the west of and no more than 65 feet from the restaurant; and
- (8) the principal religious leader at the place of worship has indicated his or her consent to the issuance of the license in writing.

(jj) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at premises located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(2) the sale of alcoholic liquor is incidental to the sale of food;

(3) the premises are located east of the church, on perpendicular streets, and separated by an alley;

(4) the distance between the primary entrance of the premises and the primary entrance of the church is at least 175 feet;

(5) the distance between the property line of the premises and the property line of the church is at least 40 feet;

(6) the licensee has been operating at the premises since 2012;

(7) the church was constructed in 1904;

(8) the alderman of the ward in which the premises is located has expressed, in writing, his or her support for the issuance of the license; and

(9) the principal religious leader of the church has delivered a written statement that he or she does not object to the issuance of a license under this subsection (jj).

(Source: P.A. 96-283, eff. 8-11-09; 96-744, eff. 8-25-09; 96-851, eff. 12-23-09; 96-871, eff. 1-21-10; 96-1051, eff. 7-14-10; 97-9, eff. 6-14-11; 97-12, eff. 6-14-11; 97-634, eff. 12-16-11; 97-774, eff. 7-13-12; 97-780, eff. 7-13-12; 97-806, eff. 7-13-12; 97-1166, eff. 3-1-13.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Delgado, **Senate Bill No. 1192** having been printed, was taken up, read by title a second time.

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

#### AMENDMENT NO. 1 TO SENATE BILL 1192

AMENDMENT NO. 1. Amend Senate Bill 1192 by replacing everything after the enacting clause with the following:

[April 18, 2013]

"Section 5. The Illinois Identification Card Act is amended by changing Section 4 as follows:  
(15 ILCS 335/4) (from Ch. 124, par. 24)

Sec. 4. Identification Card.

(a) The Secretary of State shall issue a standard Illinois Identification Card to any natural person who is a resident of the State of Illinois who applies for such card, or renewal thereof, or who applies for a standard Illinois Identification Card upon release as a committed person on parole, mandatory supervised release, aftercare release, final discharge, or pardon from the Department of Corrections or Department of Juvenile Justice by submitting an identification card issued by the Department of Corrections or Department of Juvenile Justice under Section 3-14-1 or Section 3-2.5-70 of the Unified Code of Corrections, together with the prescribed fees. No identification card shall be issued to any person who holds a valid foreign state identification card, license, or permit unless the person first surrenders to the Secretary of State the valid foreign state identification card, license, or permit. The card shall be prepared and supplied by the Secretary of State and shall include a photograph and signature or mark of the applicant. However, the Secretary of State may provide by rule for the issuance of Illinois Identification Cards without photographs if the applicant has a bona fide religious objection to being photographed or to the display of his or her photograph. The Illinois Identification Card may be used for identification purposes in any lawful situation only by the person to whom it was issued. As used in this Act, "photograph" means any color photograph or digitally produced and captured image of an applicant for an identification card. As used in this Act, "signature" means the name of a person as written by that person and captured in a manner acceptable to the Secretary of State.

(a-5) If an applicant for an identification card has a current driver's license or instruction permit issued by the Secretary of State, the Secretary may require the applicant to utilize the same residence address and name on the identification card, driver's license, and instruction permit records maintained by the Secretary. The Secretary may promulgate rules to implement this provision.

(a-10) If the applicant is a judicial officer as defined in Section 1-10 of the Judicial Privacy Act, the applicant may elect to have his or her office or work address listed on the card instead of the applicant's residence or mailing address. The Secretary may promulgate rules to implement this provision.

(b) The Secretary of State shall issue a special Illinois Identification Card, which shall be known as an Illinois Person with a Disability Identification Card, to any natural person who is a resident of the State of Illinois, who is a person with a disability as defined in Section 4A of this Act, who applies for such card, or renewal thereof. No Illinois Person with a Disability Identification Card shall be issued to any person who holds a valid foreign state identification card, license, or permit unless the person first surrenders to the Secretary of State the valid foreign state identification card, license, or permit. The Secretary of State shall charge no fee to issue such card. The card shall be prepared and supplied by the Secretary of State, and shall include a photograph and signature or mark of the applicant, a designation indicating that the card is an Illinois Person with a Disability Identification Card, and shall include a comprehensible designation of the type and classification of the applicant's disability as set out in Section 4A of this Act. However, the Secretary of State may provide by rule for the issuance of Illinois ~~Disabled Person with a Disability Identification Cards~~ without photographs if the applicant has a bona fide religious objection to being photographed or to the display of his or her photograph. If the applicant so requests, the card shall include a description of the applicant's disability and any information about the applicant's disability or medical history which the Secretary determines would be helpful to the applicant in securing emergency medical care. If a mark is used in lieu of a signature, such mark shall be affixed to the card in the presence of two witnesses who attest to the authenticity of the mark. The Illinois Person with a Disability Identification Card may be used for identification purposes in any lawful situation by the person to whom it was issued.

The Illinois Person with a Disability Identification Card may be used as adequate documentation of disability in lieu of a physician's determination of disability, a determination of disability from a physician assistant who has been delegated the authority to make this determination by his or her supervising physician, a determination of disability from an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make this determination, or any other documentation of disability whenever any State law requires that a disabled person provide such documentation of disability, however an Illinois Person with a Disability Identification Card shall not qualify the cardholder to participate in any program or to receive any benefit which is not available to all persons with like disabilities. Notwithstanding any other provisions of law, an Illinois Person with a Disability Identification Card, or evidence that the Secretary of State has issued an Illinois Person with a Disability Identification Card, shall not be used by any person other than the person named on such card to prove that the person named on such card is a disabled person or for any other purpose unless the card is used for the benefit of the person named on such card, and the

person named on such card consents to such use at the time the card is so used.

An optometrist's determination of a visual disability under Section 4A of this Act is acceptable as documentation for the purpose of issuing an Illinois Person with a Disability Identification Card.

When medical information is contained on an Illinois Person with a Disability Identification Card, the Office of the Secretary of State shall not be liable for any actions taken based upon that medical information.

(c) The Secretary of State shall provide that each original or renewal Illinois Identification Card or Illinois Person with a Disability Identification Card issued to a person under the age of 21, shall be of a distinct nature from those Illinois Identification Cards or Illinois Person with a Disability Identification Cards issued to individuals 21 years of age or older. The color designated for Illinois Identification Cards or Illinois Person with a Disability Identification Cards for persons under the age of 21 shall be at the discretion of the Secretary of State.

(c-1) Each original or renewal Illinois Identification Card or Illinois Person with a Disability Identification Card issued to a person under the age of 21 shall display the date upon which the person becomes 18 years of age and the date upon which the person becomes 21 years of age.

(c-3) The General Assembly recognizes the need to identify military veterans living in this State for the purpose of ensuring that they receive all of the services and benefits to which they are legally entitled, including healthcare, education assistance, and job placement. To assist the State in identifying these veterans and delivering these vital services and benefits, the Secretary of State is authorized to issue Illinois Identification Cards and Illinois ~~Disabled Person with a Disability~~ Identification Cards with the word "veteran" appearing on the face of the cards. This authorization is predicated on the unique status of veterans. The Secretary may not issue any other identification card which identifies an occupation, status, affiliation, hobby, or other unique characteristics of the identification card holder which is unrelated to the purpose of the identification card.

(c-5) Beginning on or before July 1, 2015, the Secretary of State shall designate a space on each original or renewal identification card where, at the request of the applicant, the word "veteran" shall be placed. The veteran designation shall be available to a person identified as a veteran under subsection (b) of Section 5 of this Act who was discharged or separated under honorable conditions.

(d) The Secretary of State may issue a Senior Citizen discount card, to any natural person who is a resident of the State of Illinois who is 60 years of age or older and who applies for such a card or renewal thereof. The Secretary of State shall charge no fee to issue such card. The card shall be issued in every county and applications shall be made available at, but not limited to, nutrition sites, senior citizen centers and Area Agencies on Aging. The applicant, upon receipt of such card and prior to its use for any purpose, shall have affixed thereon in the space provided therefor his signature or mark.

(e) The Secretary of State, in his or her discretion, may designate on each Illinois Identification Card or Illinois Person with a Disability Identification Card a space where the card holder may place a sticker or decal, issued by the Secretary of State, of uniform size as the Secretary may specify, that shall indicate in appropriate language that the card holder has renewed his or her Illinois Identification Card or Illinois Person with a Disability Identification Card.

(Source: P.A. 96-146, eff. 1-1-10; 96-328, eff. 8-11-09; 96-1231, eff. 7-23-10; 97-371, eff. 1-1-12; 97-739, eff. 1-1-13; 97-847, eff. 1-1-13; 97-1064, eff. 1-1-13; revised 9-5-12.)

Section 10. The Alcoholism and Other Drug Abuse and Dependency Act is amended by changing Section 40-15 as follows:

(20 ILCS 301/40-15)

Sec. 40-15. Acceptance for treatment as a parole or aftercare release condition. Acceptance for treatment for drug addiction or alcoholism under the supervision of a designated program may be made a condition of parole or aftercare release, and failure to comply with such treatment may be treated as a violation of parole or aftercare release. A designated program shall establish the conditions under which a parolee or releasee is accepted for treatment. No parolee or releasee may be placed under the supervision of a designated program for treatment unless the designated program accepts him or her for treatment. The designated program shall make periodic progress reports regarding each such parolee or releasee to the appropriate parole authority and shall report failures to comply with the prescribed treatment program.

(Source: P.A. 88-80.)

Section 15. The Children and Family Services Act is amended by changing Section 34.2 as follows:

(20 ILCS 505/34.2) (from Ch. 23, par. 5034.2)

Sec. 34.2. To conduct meetings in each service region between local youth service, police, probation

and aftercare parole workers to develop inter-agency plans to combat gang crime. The Department shall develop a model policy for local interagency cooperation in dealing with gangs.  
(Source: P.A. 84-660.)

Section 20. The Child Death Review Team Act is amended by changing Section 25 as follows:  
(20 ILCS 515/25)

Sec. 25. Team access to information.

(a) The Department shall provide to a child death review team, on the request of the team chairperson, all records and information in the Department's possession that are relevant to the team's review of a child death, including records and information concerning previous reports or investigations of suspected child abuse or neglect.

(b) A child death review team shall have access to all records and information that are relevant to its review of a child death and in the possession of a State or local governmental agency, including, but not limited to, information gained through the Child Advocacy Center protocol for cases of serious or fatal injury to a child. These records and information include, without limitation, birth certificates, all relevant medical and mental health records, records of law enforcement agency investigations, records of coroner or medical examiner investigations, records of the Department of Corrections and Department of Juvenile Justice concerning a person's parole, aftercare release, records of a probation and court services department, and records of a social services agency that provided services to the child or the child's family.

(Source: P.A. 95-527, eff. 6-1-08.)

Section 25. The Illinois Criminal Justice Information Act is amended by changing Section 3 as follows:

(20 ILCS 3930/3) (from Ch. 38, par. 210-3)

Sec. 3. Definitions. Whenever used in this Act, and for the purposes of this Act unless the context clearly denotes otherwise:

(a) The term "criminal justice system" includes all activities by public agencies pertaining to the prevention or reduction of crime or enforcement of the criminal law, and particularly, but without limitation, the prevention, detection, and investigation of crime; the apprehension of offenders; the protection of victims and witnesses; the administration of juvenile justice; the prosecution and defense of criminal cases; the trial, conviction, and sentencing of offenders; as well as the correction and rehabilitation of offenders, which includes imprisonment, probation, parole, aftercare release, and treatment.

(b) The term "Authority" means the Illinois Criminal Justice Information Authority created by this Act.

(c) The term "criminal justice information" means any and every type of information that is collected, transmitted, or maintained by the criminal justice system.

(d) The term "criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation, and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) The term "unit of general local government" means any county, municipality or other general purpose political subdivision of this State.

(Source: P.A. 85-653.)

Section 30. The Sex Offender Management Board Act is amended by changing Section 17 as follows:  
(20 ILCS 4026/17)

Sec. 17. Sentencing of sex offenders; treatment based upon evaluation required.

(a) Each felony sex offender sentenced by the court for a sex offense shall be required as a part of any sentence to probation, conditional release, or periodic imprisonment to undergo treatment based upon the recommendations of the evaluation made pursuant to Section 16 or based upon any subsequent recommendations by the Administrative Office of the Illinois Courts or the county probation department, whichever is appropriate. Beginning on January 1, 2014, the treatment shall be with a sex offender treatment provider or associate sex offender provider as defined in Section 10 of this Act and at the

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offender's own expense based upon the offender's ability to pay for such treatment.

(b) Beginning on January 1, 2004, each sex offender placed on parole, aftercare release, or mandatory supervised release by the Prisoner Review Board shall be required as a condition of parole or aftercare release to undergo treatment based upon any evaluation or subsequent reevaluation regarding such offender during the offender's incarceration or any period of parole or aftercare release. Beginning on January 1, 2014, the treatment shall be by a sex offender treatment provider or associate sex offender provider as defined in Section 10 of this Act and at the offender's expense based upon the offender's ability to pay for such treatment.

(Source: P.A. 97-1098, eff. 1-1-13.)

Section 35. The Abuse Prevention Review Team Act is amended by changing Section 25 as follows:  
(210 ILCS 28/25)

Sec. 25. Review team access to information.

(a) The Department shall provide to a review team, on the request of the review team chairperson, all records and information in the Department's possession that are relevant to the review team's review of a sexual assault or death described in subsection (b) of Section 20, including records and information concerning previous reports or investigations of suspected abuse or neglect.

(b) A review team shall have access to all records and information that are relevant to its review of a sexual assault or death and in the possession of a State or local governmental agency. These records and information include, without limitation, death certificates, all relevant medical and mental health records, records of law enforcement agency investigations, records of coroner or medical examiner investigations, records of the Department of Corrections and Department of Juvenile Justice concerning a person's parole, aftercare release, records of a probation and court services department, and records of a social services agency that provided services to the resident.

(Source: P.A. 93-577, eff. 8-21-03; 94-931, eff. 6-26-06.)

Section 40. The Nursing Home Care Act is amended by changing Section 2-110 as follows:  
(210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

Sec. 2-110. (a) Any employee or agent of a public agency, any representative of a community legal services program or any other member of the general public shall be permitted access at reasonable hours to any individual resident of any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

(1) Visit, talk with and make personal, social and legal services available to all residents;

(2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

(a-5) If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and this amendatory Act of the 94th General Assembly, or to verify compliance with applicable terms of probation, parole, aftercare release, or mandatory supervised release.

(b) All persons entering a facility under this Section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this Section.

(c) This Section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

(d) Notwithstanding paragraph (a) of this Section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the

person seeks access to the facility for commercial purposes. Any person refused access to a facility may within 10 days request a hearing under Section 3-703. In that proceeding, the burden of proof as to the right of the facility to refuse access under this Section shall be on the facility.  
(Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

Section 45. The ID/DD Community Care Act is amended by changing Section 2-110 as follows:  
(210 ILCS 47/2-110)

Sec. 2-110. Access to residents.

(a) Any employee or agent of a public agency, any representative of a community legal services program or any other member of the general public shall be permitted access at reasonable hours to any individual resident of any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

(1) Visit, talk with and make personal, social and legal services available to all residents;

(2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

(a-5) If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, aftercare release, or mandatory supervised release.

(b) All persons entering a facility under this Section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself or herself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this Section.

(c) This Section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

(d) Notwithstanding paragraph (a) of this Section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for commercial purposes. Any person refused access to a facility may within 10 days request a hearing under Section 3-703. In that proceeding, the burden of proof as to the right of the facility to refuse access under this Section shall be on the facility.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 50. The Specialized Mental Health Rehabilitation Act is amended by changing Section 2-110 as follows:

(210 ILCS 48/2-110)

Sec. 2-110. Access to residents.

(a) Any employee or agent of a public agency, any representative of a community legal services program or any other member of the general public shall be permitted access at reasonable hours to any individual resident of any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

(1) Visit, talk with and make personal, social and legal services available to all residents;

(2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

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(4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

(a-5) If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, aftercare release, or mandatory supervised release.

(b) All persons entering a facility under this Section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself or herself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this Section.

(c) This Section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

(d) Notwithstanding paragraph (a) of this Section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for commercial purposes. Any person refused access to a facility may within 10 days request a hearing under Section 3-703. In that proceeding, the burden of proof as to the right of the facility to refuse access under this Section shall be on the facility.

(Source: P.A. 97-38, eff. 6-28-11.)

Section 55. The Illinois Public Aid Code is amended by changing Section 12-10.4 as follows:  
(405 ILCS 5/12-10.4)

Sec. 12-10.4. Juvenile Rehabilitation Services Medicaid Matching Fund. There is created in the State Treasury the Juvenile Rehabilitation Services Medicaid Matching Fund. Deposits to this Fund shall consist of all moneys received from the federal government for behavioral health services secured by counties pursuant to an agreement with the Department of Healthcare and Family Services with respect to Title XIX of the Social Security Act or under the Children's Health Insurance Program pursuant to the Children's Health Insurance Program Act and Title XXI of the Social Security Act for minors who are committed to mental health facilities by the Illinois court system and for residential placements secured by the Department of Juvenile Justice for minors as a condition of their aftercare release ~~parole~~.

Disbursements from the Fund shall be made, subject to appropriation, by the Department of Healthcare and Family Services for grants to the Department of Juvenile Justice and those counties which secure behavioral health services ordered by the courts and which have an interagency agreement with the Department and submit detailed bills according to standards determined by the Department.  
(Source: P.A. 95-331, eff. 8-21-07; 96-1100, eff. 1-1-11.)

Section 60. The Developmental Disability and Mental Health Safety Act is amended by changing Section 20 as follows:

(405 ILCS 82/20)

Sec. 20. Independent team of experts' access to information.

(a) The Secretary of Human Services shall provide to the independent team of experts, on the request of the team Chairperson, all records and information in the Department's possession that are relevant to the team's examination of a death of the sort described in subsection (c) of Section 10, including records and information concerning previous reports or investigations of any matter, as determined by the team.

(b) The independent team shall have access to all records and information that are relevant to its review of a death and in the possession of a State or local governmental agency or other entity. These records and information shall include, without limitation, death certificates, all relevant medical and mental health records, records of law enforcement agency investigations, records of coroner or medical examiner investigations, records of the Department of Corrections and Department of Juvenile Justice concerning a person's parole, aftercare release, records of a probation and court services department, and records of a social services agency that provided services to the person who died.

(Source: P.A. 96-1235, eff. 1-1-11.)

Section 65. The Juvenile Court Act of 1987 is amended by changing Sections 5-105, 5-750, 5-815, and 5-820 as follows:

(705 ILCS 405/5-105)

Sec. 5-105. Definitions. As used in this Article:

(1) "Aftercare release" means the conditional and revocable release of an adjudicated delinquent juvenile under the supervision of the Department of Juvenile Justice.

(1.5) (4) "Court" means the circuit court in a session or division assigned to hear proceedings under this Act, and includes the term Juvenile Court.

(2) "Community service" means uncompensated labor for a community service agency as hereinafter defined.

(2.5) "Community service agency" means a not-for-profit organization, community organization, church, charitable organization, individual, public office, or other public body whose purpose is to enhance the physical or mental health of a delinquent minor or to rehabilitate the minor, or to improve the environmental quality or social welfare of the community which agrees to accept community service from juvenile delinquents and to report on the progress of the community service to the State's Attorney pursuant to an agreement or to the court or to any agency designated by the court or to the authorized diversion program that has referred the delinquent minor for community service.

(3) "Delinquent minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law, county or municipal ordinance, and any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance classified as a misdemeanor offense.

(4) "Department" means the Department of Human Services unless specifically referenced as another department.

(5) "Detention" means the temporary care of a minor who is alleged to be or has been adjudicated delinquent and who requires secure custody for the minor's own protection or the community's protection in a facility designed to physically restrict the minor's movements, pending disposition by the court or execution of an order of the court for placement or commitment. Design features that physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object. In addition, "detention" includes the court ordered care of an alleged or adjudicated delinquent minor who requires secure custody pursuant to Section 5-125 of this Act.

(6) "Diversion" means the referral of a juvenile, without court intervention, into a program that provides services designed to educate the juvenile and develop a productive and responsible approach to living in the community.

(7) "Juvenile detention home" means a public facility with specially trained staff that conforms to the county juvenile detention standards promulgated by the Department of Corrections.

(8) "Juvenile justice continuum" means a set of delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, as well as intervention, rehabilitation, and prevention services targeted at minors who have committed delinquent acts, and minors who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; community service programs; community service work programs; and alternative-dispute resolution programs serving youth-at-risk of delinquency and their families, whether offered or delivered by State or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations. This term would also encompass any program or service consistent with the purpose of those programs and services enumerated in this subsection.

(9) "Juvenile police officer" means a sworn police officer who has completed a Basic Recruit Training Course, has been assigned to the position of juvenile police officer by his or her chief law enforcement officer and has completed the necessary juvenile officers training as prescribed by the Illinois Law Enforcement Training Standards Board, or in the case of a State police officer, juvenile officer training approved by the Director of State Police.

(10) "Minor" means a person under the age of 21 years subject to this Act.

(11) "Non-secure custody" means confinement where the minor is not physically restricted by being placed in a locked cell or room, by being handcuffed to a rail or other stationary object, or by other means. Non-secure custody may include, but is not limited to, electronic monitoring, foster home placement, home confinement, group home placement, or physical restriction of movement or activity solely through facility staff.

(12) "Public or community service" means uncompensated labor for a not-for-profit organization or public body whose purpose is to enhance physical or mental stability of the offender, environmental quality or the social welfare and which agrees to accept public or community service from offenders and to report on the progress of the offender and the public or community service to the court or to the

authorized diversion program that has referred the offender for public or community service.

(13) "Sentencing hearing" means a hearing to determine whether a minor should be adjudged a ward of the court, and to determine what sentence should be imposed on the minor. It is the intent of the General Assembly that the term "sentencing hearing" replace the term "dispositional hearing" and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

(14) "Shelter" means the temporary care of a minor in physically unrestricting facilities pending court disposition or execution of court order for placement.

(15) "Site" means a not-for-profit organization, public body, church, charitable organization, or individual agreeing to accept community service from offenders and to report on the progress of ordered or required public or community service to the court or to the authorized diversion program that has referred the offender for public or community service.

(16) "Station adjustment" means the informal or formal handling of an alleged offender by a juvenile police officer.

(17) "Trial" means a hearing to determine whether the allegations of a petition under Section 5-520 that a minor is delinquent are proved beyond a reasonable doubt. It is the intent of the General Assembly that the term "trial" replace the term "adjudicatory hearing" and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

(Source: P.A. 95-1031, eff. 1-1-10.)

(705 ILCS 405/5-750)

Sec. 5-750. Commitment to the Department of Juvenile Justice.

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of Juvenile Justice, if it finds that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740, or it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent; and (b) commitment to the Department of Juvenile Justice is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement. Before the court commits a minor to the Department of Juvenile Justice, it shall make a finding that secure confinement is necessary, following a review of the following individualized factors:

(A) Age of the minor.

(B) Criminal background of the minor.

(C) Review of results of any assessments of the minor, including child centered assessments such as the CANS.

(D) Educational background of the minor, indicating whether the minor has ever been assessed for a learning disability, and if so what services were provided as well as any disciplinary incidents at school.

(E) Physical, mental and emotional health of the minor, indicating whether the minor has ever been diagnosed with a health issue and if so what services were provided and whether the minor was compliant with services.

(F) Community based services that have been provided to the minor, and whether the minor was compliant with the services, and the reason the services were unsuccessful.

(G) Services within the Department of Juvenile Justice that will meet the individualized needs of the minor.

(1.5) Before the court commits a minor to the Department of Juvenile Justice, the court must find reasonable efforts have been made to prevent or eliminate the need for the minor to be removed from the home, or reasonable efforts cannot, at this time, for good cause, prevent or eliminate the need for removal, and removal from home is in the best interests of the minor, the minor's family, and the public.

(2) When a minor of the age of at least 13 years is adjudged delinquent for the offense of first degree murder, the court shall declare the minor a ward of the court and order the minor committed to the Department of Juvenile Justice until the minor's 21st birthday, without the possibility of aftercare release parole, furlough, or non-emergency authorized absence for a period of 5 years from the date the minor was committed to the Department of Juvenile Justice, except that the time that a minor spent in custody for the instant offense before being committed to the Department of Juvenile Justice shall be considered as time credited towards that 5 year period. Nothing in this subsection (2) shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to proceeding under this Act.

(3) Except as provided in subsection (2), the commitment of a delinquent to the Department of

Juvenile Justice shall be for an indeterminate term which shall automatically terminate upon the delinquent attaining the age of 21 years unless the delinquent is sooner discharged from aftercare release parole or custodianship is otherwise terminated in accordance with this Act or as otherwise provided for by law.

(3.5) Every delinquent minor committed to the Department of Juvenile Justice under this Act shall be eligible for aftercare release without regard to the length of time the minor has been confined or whether the minor has served any minimum term imposed. Post-release aftercare supervision shall be administered by the Department of Juvenile Justice, under the direction of the Director.

(4) When the court commits a minor to the Department of Juvenile Justice, it shall order him or her conveyed forthwith to the appropriate reception station or other place designated by the Department of Juvenile Justice, and shall appoint the Director of Juvenile Justice legal custodian of the minor. The clerk of the court shall issue to the Director of Juvenile Justice a certified copy of the order, which constitutes proof of the Director's authority. No other process need issue to warrant the keeping of the minor.

(5) If a minor is committed to the Department of Juvenile Justice, the clerk of the court shall forward to the Department:

- (a) the disposition ordered;
- (b) all reports;
- (c) the court's statement of the basis for ordering the disposition; and
- (d) all additional matters which the court directs the clerk to transmit.

(6) Whenever the Department of Juvenile Justice lawfully discharges from its custody and control a minor committed to it, the Director of Juvenile Justice shall petition the court for an order terminating his or her custodianship. The custodianship shall terminate automatically 30 days after receipt of the petition unless the court orders otherwise.

(Source: P.A. 97-362, eff. 1-1-12.)

(705 ILCS 405/5-815)

Sec. 5-815. Habitual Juvenile Offender.

(a) Definition. Any minor having been twice adjudicated a delinquent minor for offenses which, had he been prosecuted as an adult, would have been felonies under the laws of this State, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender where:

1. the third adjudication is for an offense occurring after adjudication on the second;  
and
2. the second adjudication was for an offense occurring after adjudication on the first;  
and
3. the third offense occurred after January 1, 1980; and

4. the third offense was based upon the commission of or attempted commission of the following offenses: first degree murder, second degree murder or involuntary manslaughter; criminal sexual assault or aggravated criminal sexual assault; aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm to the victim; burglary of a home or other residence intended for use as a temporary or permanent dwelling place for human beings; home invasion; robbery or armed robbery; or aggravated arson.

Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to prosecution as an habitual juvenile offender.

A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of any delinquency petition, adjudication upon which would mandate the minor's disposition as an Habitual Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as an Habitual Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which such Habitual Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on such petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without jury.

Except as otherwise provided herein, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Habitual Juvenile Offender proceedings.

(e) Proof of prior adjudications. No evidence or other disclosure of prior adjudications shall be

presented to the court or jury during any adjudicatory hearing provided for under this Section unless otherwise permitted by the issues properly raised in such hearing. In the event the minor who is the subject of these proceedings elects to testify on his own behalf, it shall be competent to introduce evidence, for purposes of impeachment, that he has previously been adjudicated a delinquent minor upon facts which, had he been tried as an adult, would have resulted in his conviction of a felony or of any offense that involved dishonesty or false statement. Introduction of such evidence shall be according to the rules and procedures applicable to the impeachment of an adult defendant by prior conviction.

After an admission of the facts in the petition or adjudication of delinquency, the State's Attorney may file with the court a verified written statement signed by the State's Attorney concerning any prior adjudication of an offense set forth in subsection (a) of this Section which offense would have been a felony or of any offense that involved dishonesty or false statement had the minor been tried as an adult.

The court shall then cause the minor to be brought before it; shall inform him of the allegations of the statement so filed, and of his right to a hearing before the court on the issue of such prior adjudication and of his right to counsel at such hearing; and unless the minor admits such adjudication, the court shall hear and determine such issue, and shall make a written finding thereon.

A duly authenticated copy of the record of any such alleged prior adjudication shall be prima facie evidence of such prior adjudication or of any offense that involved dishonesty or false statement.

Any claim that a previous adjudication offered by the State's Attorney is not a former adjudication of an offense which, had the minor been prosecuted as an adult, would have resulted in his conviction of a felony or of any offense that involved dishonesty or false statement, is waived unless duly raised at the hearing on such adjudication, or unless the State's Attorney's proof shows that such prior adjudication was not based upon proof of what would have been a felony.

(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor an Habitual Juvenile Offender and commit him to the Department of Juvenile Justice until his 21st birthday, without possibility of ~~aftercare release parole~~, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his confinement. Such good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

For purposes of determining good conduct credit, commitment as an Habitual Juvenile Offender shall be considered a determinate commitment, and the difference between the date of the commitment and the minor's 21st birthday shall be considered the determinate period of his confinement.

(Source: P.A. 94-696, eff. 6-1-06.)

(705 ILCS 405/5-820)

Sec. 5-820. Violent Juvenile Offender.

(a) Definition. A minor having been previously adjudicated a delinquent minor for an offense which, had he or she been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violence against an individual or a Class 2 or greater felony for which an element of the offense is possession or use of a firearm, and who is thereafter adjudicated a delinquent minor for a second time for any of those offenses shall be adjudicated a Violent Juvenile Offender if:

(1) The second adjudication is for an offense occurring after adjudication on the first;

and

(2) The second offense occurred on or after January 1, 1995.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of a delinquency petition, adjudication upon which would mandate the minor's disposition as a Violent Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as a Violent Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which the Violent Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on the petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without a jury.

Except as otherwise provided in this Section, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Violent Juvenile Offender proceedings.

(e) Proof of prior adjudications. No evidence or other disclosure of prior adjudications shall be presented to the court or jury during an adjudicatory hearing provided for under this Section unless otherwise permitted by the issues properly raised in that hearing. In the event the minor who is the

subject of these proceedings elects to testify on his or her own behalf, it shall be competent to introduce evidence, for purposes of impeachment, that he or she has previously been adjudicated a delinquent minor upon facts which, had the minor been tried as an adult, would have resulted in the minor's conviction of a felony or of any offense that involved dishonesty or false statement. Introduction of such evidence shall be according to the rules and procedures applicable to the impeachment of an adult defendant by prior conviction.

After an admission of the facts in the petition or adjudication of delinquency, the State's Attorney may file with the court a verified written statement signed by the State's Attorney concerning any prior adjudication of an offense set forth in subsection (a) of this Section that would have been a felony or of any offense that involved dishonesty or false statement had the minor been tried as an adult.

The court shall then cause the minor to be brought before it; shall inform the minor of the allegations of the statement so filed, of his or her right to a hearing before the court on the issue of the prior adjudication and of his or her right to counsel at the hearing; and unless the minor admits the adjudication, the court shall hear and determine the issue, and shall make a written finding of the issue.

A duly authenticated copy of the record of any alleged prior adjudication shall be prima facie evidence of the prior adjudication or of any offense that involved dishonesty or false statement.

Any claim that a previous adjudication offered by the State's Attorney is not a former adjudication of an offense which, had the minor been prosecuted as an adult, would have resulted in his or her conviction of a Class 2 or greater felony involving the use or threat of force or violence, or a firearm, a felony or of any offense that involved dishonesty or false statement is waived unless duly raised at the hearing on the adjudication, or unless the State's Attorney's proof shows that the prior adjudication was not based upon proof of what would have been a felony.

(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor a Violent Juvenile Offender and commit the minor to the Department of Juvenile Justice until his or her 21st birthday, without possibility of aftercare release parole, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his or her confinement. The good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

For purposes of determining good conduct credit, commitment as a Violent Juvenile Offender shall be considered a determinate commitment, and the difference between the date of the commitment and the minor's 21st birthday shall be considered the determinate period of his or her confinement.

(g) Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as a habitual juvenile offender or as an adult as an alternative to prosecution as a Violent Juvenile Offender.

(h) A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

(Source: P.A. 94-696, eff. 6-1-06.)

Section 70. The Criminal Code of 2012 is amended by changing Sections 11-9.2, 31-1, 31-6, 31-7, and 31A-0.1 as follows:

(720 ILCS 5/11-9.2)

Sec. 11-9.2. Custodial sexual misconduct.

(a) A person commits custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system or (2) he or she is an employee of a treatment and detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility.

(b) A probation or supervising officer or surveillance agent or aftercare specialist commits custodial sexual misconduct when the probation or supervising officer or surveillance agent or aftercare specialist engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent or worker so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention facility, or conditional release program.

(e) For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or



inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act.

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, or surveillance agent or aftercare specialist who is

lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, or surveillance agent or aftercare specialist who has no

knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(0.5) "Aftercare specialist" means any person employed by the Department of Juvenile Justice to supervise and facilitate services for persons placed on aftercare release.

(1) "Custody" means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;

(iii) parole, aftercare release, or mandatory supervised release;

(iv) electronic home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under the Sexually Violent Persons Commitment Act.

(2) "Penal system" means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act.

(2.1) "Treatment and detention facility" means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) "Conditional release" means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) "Employee" means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g)(2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a "treatment and detention facility" as defined in paragraph (g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code.

(4) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(5) "Probation officer" means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.

(6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.

(7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act. (Source: P.A. 96-1551, eff. 7-1-11.)

(720 ILCS 5/31-1) (from Ch. 38, par. 31-1)

Sec. 31-1. Resisting or obstructing a peace officer, firefighter, or correctional institution employee.

(a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A misdemeanor.

(a-5) In addition to any other sentence that may be imposed, a court shall order any person convicted of resisting or obstructing a peace officer, firefighter, or correctional institution employee to be

sentenced to a minimum of 48 consecutive hours of imprisonment or ordered to perform community service for not less than 100 hours as may be determined by the court. The person shall not be eligible for probation in order to reduce the sentence of imprisonment or community service.

(a-7) A person convicted for a violation of this Section whose violation was the proximate cause of an injury to a peace officer, firefighter, or correctional institution employee is guilty of a Class 4 felony.

(b) For purposes of this Section, "correctional institution employee" means any person employed to supervise and control inmates incarcerated in a penitentiary, State farm, reformatory, prison, jail, house of correction, police detention area, half-way house, or other institution or place for the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for offenses, under arrest for an offense, a violation of probation, a violation of parole, a violation of aftercare release, or a violation of mandatory supervised release, or awaiting a bail setting hearing or preliminary hearing, or who are sexually dangerous persons or who are sexually violent persons; and "firefighter" means any individual, either as an employee or volunteer, of a regularly constituted fire department of a municipality or fire protection district who performs fire fighting duties, including, but not limited to, the fire chief, assistant fire chief, captain, engineer, driver, ladder person, hose person, pipe person, and any other member of a regularly constituted fire department. "Firefighter" also means a person employed by the Office of the State Fire Marshal to conduct arson investigations.

(c) It is an affirmative defense to a violation of this Section if a person resists or obstructs the performance of one known by the person to be a firefighter by returning to or remaining in a dwelling, residence, building, or other structure to rescue or to attempt to rescue any person.

(Source: P.A. 95-801, eff. 1-1-09.)

(720 ILCS 5/31-6) (from Ch. 38, par. 31-6)

Sec. 31-6. Escape; failure to report to a penal institution or to report for periodic imprisonment.

(a) A person convicted of a felony or charged with the commission of a felony, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a felony, who intentionally escapes from any penal institution or from the custody of an employee of that institution commits a Class 2 felony; however, a person convicted of a felony, or adjudicated delinquent for an act which, if committed by an adult, would constitute a felony, who knowingly fails to report to a penal institution or to report for periodic imprisonment at any time or knowingly fails to return from furlough or from work and day release or who knowingly fails to abide by the terms of home confinement is guilty of a Class 3 felony.

(b) A person convicted of a misdemeanor or charged with the commission of a misdemeanor, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a misdemeanor, who intentionally escapes from any penal institution or from the custody of an employee of that institution commits a Class A misdemeanor; however, a person convicted of a misdemeanor, or adjudicated delinquent for an act which, if committed by an adult, would constitute a misdemeanor, who knowingly fails to report to a penal institution or to report for periodic imprisonment at any time or knowingly fails to return from furlough or from work and day release or who knowingly fails to abide by the terms of home confinement is guilty of a Class B misdemeanor.

(b-1) A person committed to the Department of Human Services under the provisions of the Sexually Violent Persons Commitment Act or in detention with the Department of Human Services awaiting such a commitment who intentionally escapes from any secure residential facility or from the custody of an employee of that facility commits a Class 2 felony.

(c) A person in the lawful custody of a peace officer for the alleged commission of a felony offense or an act which, if committed by an adult, would constitute a felony, and who intentionally escapes from custody commits a Class 2 felony; however, a person in the lawful custody of a peace officer for the alleged commission of a misdemeanor offense or an act which, if committed by an adult, would constitute a misdemeanor, who intentionally escapes from custody commits a Class A misdemeanor.

(c-5) A person in the lawful custody of a peace officer for an alleged violation of a term or condition of probation, conditional discharge, parole, aftercare release, or mandatory supervised release for a felony or an act which, if committed by an adult, would constitute a felony, who intentionally escapes from custody is guilty of a Class 2 felony.

(c-6) A person in the lawful custody of a peace officer for an alleged violation of a term or condition of supervision, probation, or conditional discharge for a misdemeanor or an act which, if committed by an adult, would constitute a misdemeanor, who intentionally escapes from custody is guilty of a Class A misdemeanor.

(d) A person who violates this Section while armed with a dangerous weapon commits a Class 1 felony.

(Source: P.A. 95-839, eff. 8-15-08; 95-921, eff. 1-1-09; 96-328, eff. 8-11-09.)

(720 ILCS 5/31-7) (from Ch. 38, par. 31-7)

Sec. 31-7. Aiding escape.

(a) Whoever, with intent to aid any prisoner in escaping from any penal institution, conveys into the institution or transfers to the prisoner anything for use in escaping commits a Class A misdemeanor.

(b) Whoever knowingly aids a person convicted of a felony or charged with the commission of a felony, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a felony, in escaping from any penal institution or from the custody of any employee of that institution commits a Class 2 felony; however, whoever knowingly aids a person convicted of a felony or charged with the commission of a felony, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a felony, in failing to return from furlough or from work and day release is guilty of a Class 3 felony.

(c) Whoever knowingly aids a person convicted of a misdemeanor or charged with the commission of a misdemeanor, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a misdemeanor, in escaping from any penal institution or from the custody of an employee of that institution commits a Class A misdemeanor; however, whoever knowingly aids a person convicted of a misdemeanor or charged with the commission of a misdemeanor, or charged with or adjudicated delinquent for an act which, if committed by an adult, would constitute a misdemeanor, in failing to return from furlough or from work and day release is guilty of a Class B misdemeanor.

(d) Whoever knowingly aids a person in escaping from any public institution, other than a penal institution, in which he is lawfully detained, or from the custody of an employee of that institution, commits a Class A misdemeanor.

(e) Whoever knowingly aids a person in the lawful custody of a peace officer for the alleged commission of a felony offense or an act which, if committed by an adult, would constitute a felony, in escaping from custody commits a Class 2 felony; however, whoever knowingly aids a person in the lawful custody of a peace officer for the alleged commission of a misdemeanor offense or an act which, if committed by an adult, would constitute a misdemeanor, in escaping from custody commits a Class A misdemeanor.

(f) An officer or employee of any penal institution who recklessly permits any prisoner in his custody to escape commits a Class A misdemeanor.

(f-5) With respect to a person in the lawful custody of a peace officer for an alleged violation of a term or condition of probation, conditional discharge, parole, aftercare release, or mandatory supervised release for a felony, whoever intentionally aids that person to escape from that custody is guilty of a Class 2 felony.

(f-6) With respect to a person who is in the lawful custody of a peace officer for an alleged violation of a term or condition of supervision, probation, or conditional discharge for a misdemeanor, whoever intentionally aids that person to escape from that custody is guilty of a Class A misdemeanor.

(g) A person who violates this Section while armed with a dangerous weapon commits a Class 2 felony.

(Source: P.A. 95-839, eff. 8-15-08; 95-921, eff. 1-1-09; 96-328, eff. 8-11-09.)

(720 ILCS 5/31A-0.1)

Sec. 31A-0.1. Definitions. For the purposes of this Article:

"Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of an item of contraband, with or without consideration, whether or not there is an agency relationship.

"Employee" means any elected or appointed officer, trustee or employee of a penal institution or of the governing authority of the penal institution, or any person who performs services for the penal institution pursuant to contract with the penal institution or its governing authority.

"Item of contraband" means any of the following:

(i) "Alcoholic liquor" as that term is defined in Section 1-3.05 of the Liquor Control Act of 1934.

(ii) "Cannabis" as that term is defined in subsection (a) of Section 3 of the Cannabis Control Act.

(iii) "Controlled substance" as that term is defined in the Illinois Controlled Substances Act.

(iii-a) "Methamphetamine" as that term is defined in the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act.

(iv) "Hypodermic syringe" or hypodermic needle, or any instrument adapted for use of controlled substances or cannabis by subcutaneous injection.

(v) "Weapon" means any knife, dagger, dirk, billy, razor, stiletto, broken bottle, or other piece of glass which could be used as a dangerous weapon. This term includes any of the

devices or implements designated in subsections (a)(1), (a)(3) and (a)(6) of Section 24-1 of this Code, or any other dangerous weapon or instrument of like character.

(vi) "Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas, including but not limited to:

(A) any pneumatic gun, spring gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter; or

(B) any device used exclusively for signaling or safety and required as recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(C) any device used exclusively for the firing of stud cartridges, explosive rivets or industrial ammunition; or

(D) any device which is powered by electrical charging units, such as batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him or her incapable of normal functioning, commonly referred to as a stun gun or taser.

(vii) "Firearm ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm, including but not limited to:

(A) any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(B) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

(viii) "Explosive" means, but is not limited to, bomb, bombshell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes such as black powder bombs and Molotov cocktails or artillery projectiles.

(ix) "Tool to defeat security mechanisms" means, but is not limited to, handcuff or security restraint key, tool designed to pick locks, popper, or any device or instrument used to or capable of unlocking or preventing from locking any handcuff or security restraints, doors to cells, rooms, gates or other areas of the penal institution.

(x) "Cutting tool" means, but is not limited to, hacksaw blade, wirecutter, or device, instrument or file capable of cutting through metal.

(xi) "Electronic contraband" for the purposes of Section 31A-1.1 of this Article means, but is not limited to, any electronic, video recording device, computer, or cellular communications equipment, including, but not limited to, cellular telephones, cellular telephone batteries, videotape recorders, pagers, computers, and computer peripheral equipment brought into or possessed in a penal institution without the written authorization of the Chief Administrative Officer. "Electronic contraband" for the purposes of Section 31A-1.2 of this Article, means, but is not limited to, any electronic, video recording device, computer, or cellular communications equipment, including, but not limited to, cellular telephones, cellular telephone batteries, videotape recorders, pagers, computers, and computer peripheral equipment.

"Penal institution" means any penitentiary, State farm, reformatory, prison, jail, house of correction, police detention area, half-way house or other institution or place for the incarceration or custody of persons under sentence for offenses awaiting trial or sentence for offenses, under arrest for an offense, a violation of probation, a violation of parole, a violation of aftercare release, or a violation of mandatory supervised release, or awaiting a bail setting hearing or preliminary hearing; provided that where the place for incarceration or custody is housed within another public building this Article shall not apply to that part of the building unrelated to the incarceration or custody of persons.

(Source: P.A. 97-1108, eff. 1-1-13.)

Section 75. The Illinois Controlled Substances Act is amended by changing Section 509 as follows:  
(720 ILCS 570/509) (from Ch. 56 1/2, par. 1509)  
Sec. 509.

Whenever any court in this State grants probation to any person that the court has reason to believe is or has been an addict or unlawful possessor of controlled substances, the court shall require, as a condition of probation, that the probationer submit to periodic tests by the Department of Corrections to determine by means of appropriate chemical detection tests whether the probationer is using controlled substances. The court may require as a condition of probation that the probationer enter an approved treatment program, if the court determines that the probationer is addicted to a controlled substance.

[April 18, 2013]

Whenever the Parole and Pardon Board grants parole or aftercare release to a person whom the Board has reason to believe has been an unlawful possessor or addict of controlled substances, the Board shall require as a condition of parole that the parolee or aftercare releasee submit to appropriate periodic chemical tests by the Department of Corrections or the Department of Juvenile Justice to determine whether the parolee or aftercare releasee is using controlled substances.  
(Source: P.A. 77-757.)

Section 80. The Code of Criminal Procedure of 1963 is amended by changing Sections 102-16, 103-5, 110-5, 110-6.1, 110-6.3, 112A-2, 112A-20, 112A-22, and 112A-22.10 and by adding Section 102-3.5 as follows:

(725 ILCS 5/102-3.5 new)

Sec. 102-3.5. "Aftercare release".

"Aftercare release" means the conditional and revocable release of a person committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987, under the supervision of the Department of Juvenile Justice.

(725 ILCS 5/102-16) (from Ch. 38, par. 102-16)

Sec. 102-16. "Parole".

"Parole" means the conditional and revocable release of a person committed to the Department of Corrections person under the supervision of a paroling authority.

(Source: P.A. 77-2476.)

(725 ILCS 5/103-5) (from Ch. 38, par. 103-5)

Sec. 103-5. Speedy trial.

(a) Every person in custody in this State for an alleged offense shall be tried by the court having jurisdiction within 120 days from the date he or she was taken into custody unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. Delay shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record. The provisions of this subsection (a) do not apply to a person on bail or recognizance for an offense but who is in custody for a violation of his or her parole, aftercare release, or mandatory supervised release for another offense.

The 120-day term must be one continuous period of incarceration. In computing the 120-day term, separate periods of incarceration may not be combined. If a defendant is taken into custody a second (or subsequent) time for the same offense, the term will begin again at day zero.

(b) Every person on bail or recognizance shall be tried by the court having jurisdiction within 160 days from the date defendant demands trial unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. The defendant's failure to appear for any court date set by the court operates to waive the defendant's demand for trial made under this subsection.

For purposes of computing the 160 day period under this subsection (b), every person who was in custody for an alleged offense and demanded trial and is subsequently released on bail or recognizance and demands trial, shall be given credit for time spent in custody following the making of the demand while in custody. Any demand for trial made under this subsection (b) shall be in writing; and in the case of a defendant not in custody, the demand for trial shall include the date of any prior demand made under this provision while the defendant was in custody.

(c) If the court determines that the State has exercised without success due diligence to obtain evidence material to the case and that there are reasonable grounds to believe that such evidence may be obtained at a later day the court may continue the cause on application of the State for not more than an additional 60 days. If the court determines that the State has exercised without success due diligence to obtain results of DNA testing that is material to the case and that there are reasonable grounds to believe that such results may be obtained at a later day, the court may continue the cause on application of the State for not more than an additional 120 days.

(d) Every person not tried in accordance with subsections (a), (b) and (c) of this Section shall be discharged from custody or released from the obligations of his bail or recognizance.

(e) If a person is simultaneously in custody upon more than one charge pending against him in the same county, or simultaneously demands trial upon more than one charge pending against him in the

same county, he shall be tried, or adjudged guilty after waiver of trial, upon at least one such charge before expiration relative to any of such pending charges of the period prescribed by subsections (a) and (b) of this Section. Such person shall be tried upon all of the remaining charges thus pending within 160 days from the date on which judgment relative to the first charge thus prosecuted is rendered pursuant to the Unified Code of Corrections or, if such trial upon such first charge is terminated without judgment and there is no subsequent trial of, or adjudication of guilt after waiver of trial of, such first charge within a reasonable time, the person shall be tried upon all of the remaining charges thus pending within 160 days from the date on which such trial is terminated; if either such period of 160 days expires without the commencement of trial of, or adjudication of guilt after waiver of trial of, any of such remaining charges thus pending, such charge or charges shall be dismissed and barred for want of prosecution unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of unfitness for trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal; provided, however, that if the court determines that the State has exercised without success due diligence to obtain evidence material to the case and that there are reasonable grounds to believe that such evidence may be obtained at a later day the court may continue the cause on application of the State for not more than an additional 60 days.

(f) Delay occasioned by the defendant shall temporarily suspend for the time of the delay the period within which a person shall be tried as prescribed by subsections (a), (b), or (e) of this Section and on the day of expiration of the delay the said period shall continue at the point at which it was suspended. Where such delay occurs within 21 days of the end of the period within which a person shall be tried as prescribed by subsections (a), (b), or (e) of this Section, the court may continue the cause on application of the State for not more than an additional 21 days beyond the period prescribed by subsections (a), (b), or (e). This subsection (f) shall become effective on, and apply to persons charged with alleged offenses committed on or after, March 1, 1977.

(Source: P.A. 94-1094, eff. 1-26-07.)

(725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

Sec. 110-5. Determining the amount of bail and conditions of release.

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, whether the evidence shows that the offense committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the

defendant from flight, whether the evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he or she was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole, aftercare release, or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself or herself, or whether there was a refusal by the defendant to be fingerprinted as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. If the State presents evidence that the offense committed by the defendant was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, and if the court determines that the evidence may be substantiated, the court shall prohibit the defendant from associating with other members of the organized gang as a condition of bail or release. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(b) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond, which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 regarding any change in his or her address. The defendant's address shall at all times remain a matter of public record with the clerk of the court.

(2) Not oppressive.

(3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of the drug seized.

(b-5) Upon the filing of a written request demonstrating reasonable cause, the State's Attorney may request a source of bail hearing either before or after the posting of any funds. If the hearing is granted, before the posting of any bail, the accused must file a written notice requesting that the court conduct a source of bail hearing. The notice must be accompanied by justifying affidavits stating the legitimate and lawful source of funds for bail. At the hearing, the court shall inquire into any matters stated in any justifying affidavits, and may also inquire into matters appropriate to the determination which shall include, but are not limited to, the following:

(1) the background, character, reputation, and relationship to the accused of any surety; and

(2) the source of any money or property deposited by any surety, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and

(3) the source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct; and

(4) the background, character, reputation, and relationship to the accused of the person posting cash bail.

Upon setting the hearing, the court shall examine, under oath, any persons who may possess material information.

The State's Attorney has a right to attend the hearing, to call witnesses and to examine any witness in the proceeding. The court shall, upon request of the State's Attorney, continue the proceedings for a reasonable period to allow the State's Attorney to investigate the matter raised in any testimony or affidavit. If the hearing is granted after the accused has posted bail, the court shall conduct a hearing consistent with this subsection (b-5). At the conclusion of the hearing, the court must issue an order either approving or disapproving the bail.

(c) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

(e) The State may appeal any order granting bail or setting a given amount for bail.

(f) When a person is charged with a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012,

(1) whether the alleged incident involved harassment or abuse, as defined in the Illinois Domestic Violence Act of 1986;

(2) whether the person has a history of domestic violence, as defined in the Illinois Domestic Violence Act, or a history of other criminal acts;

(3) based on the mental health of the person;

(4) whether the person has a history of violating the orders of any court or governmental entity;

(5) whether the person has been, or is, potentially a threat to any other person;

(6) whether the person has access to deadly weapons or a history of using deadly weapons;

(7) whether the person has a history of abusing alcohol or any controlled substance;

(8) based on the severity of the alleged incident that is the basis of the alleged offense, including, but not limited to, the duration of the current incident, and whether the alleged incident involved physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;

(9) whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;

(10) whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including, but not limited to, stalking, surveillance, or isolation of the alleged victim or victim's family member or members;

(11) whether the person has expressed suicidal or homicidal ideations;

(12) based on any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint,

the court may, in its discretion, order the respondent to undergo a risk assessment evaluation conducted by an Illinois Department of Human Services approved partner abuse intervention program provider, pretrial service, probation, or parole agency. These agencies shall have access to summaries of the defendant's criminal history, which shall not include victim interviews or information, for the risk evaluation. Based on the information collected from the 12 points to be considered at a bail hearing for a violation of an order of protection, the results of any risk evaluation conducted and the other circumstances of the violation, the court may order that the person, as a condition of bail, be placed under electronic surveillance as provided in Section 5-8A-7 of the Unified Code of Corrections.

(Source: P.A. 96-688, eff. 8-25-09; 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

(725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

Sec. 110-6.1. Denial of bail in non-probationable felony offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with a felony offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of any person or persons.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on



motion of the defendant may not exceed 5 calendar days, and a continuance on the motion of the State may not exceed 3 calendar days. The defendant may be held in custody during such continuance.

(b) The court may deny bail to the defendant where, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed an offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, must be imposed by law as a consequence of conviction, and

(2) the defendant poses a real and present threat to the physical safety of any person or persons, by conduct which may include, but is not limited to, a forcible felony, the obstruction of justice, intimidation, injury, physical harm, an offense under the Illinois Controlled Substances Act which is a Class X felony, or an offense under the Methamphetamine Control and Community Protection Act which is a Class X felony, and

(3) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article, can reasonably assure the physical safety of any other person or persons.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and dangerousness shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at such hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pre-trial detention hearing is not to be used for purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State in its petition. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that the defendant poses a real and present threat to the physical safety of any person or persons shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of dangerousness. The court may, in determining whether the defendant poses a real and present threat to the physical safety of any person or persons, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of any offense charged, including whether the offense is a crime of violence, involving a weapon.

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of such behavior. Such evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings.

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history which tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat;

- (4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;
- (5) The age and physical condition of any person assaulted by the defendant;
- (6) Whether the defendant is known to possess or have access to any weapon or weapons;
- (7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, aftercare release, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;
- (8) Any other factors, including those listed in Section 110-5 of this Article deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of such behavior.
- (e) Detention order. The court shall, in any order for detention:
- (1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;
  - (2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;
  - (3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his choice by visitation, mail and telephone; and
  - (4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.
- (f) If the court enters an order for the detention of the defendant pursuant to subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by the preceding sentence, he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant.
- (g) Rights of the defendant. Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.
- (h) The State may appeal any order entered under this Section denying any motion for denial of bail.
- (i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.
- (Source: P.A. 94-556, eff. 9-11-05.)
- (725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)
- Sec. 110-6.3. Denial of bail in stalking and aggravated stalking offenses.
- (a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with stalking or aggravated stalking, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of the alleged victim of the offense, and denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based.
- (1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while the petition is pending before the court, the defendant if previously released shall not be detained.
  - (2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and the defendant may be held in custody during the continuance. A continuance on the motion of the State may not exceed 3 calendar days; however, the defendant may be held in custody during the continuance under this provision if the defendant has been previously found to have violated an order of protection or has been previously convicted of, or granted court supervision for, any of the offenses set forth in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-2, 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, against the same person as the alleged victim of the stalking or aggravated stalking offense.
- (b) The court may deny bail to the defendant when, after the hearing, it is determined that:
- (1) the proof is evident or the presumption great that the defendant has committed the offense of stalking or aggravated stalking; and
  - (2) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and
  - (3) the denial of release on bail or personal recognizance is necessary to prevent

fulfillment of the threat upon which the charge is based; and

(4) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Code, including mental health treatment at a community mental health center, hospital, or facility of the Department of Human Services, can reasonably assure the physical safety of the alleged victim of the offense.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and threat to the alleged victim of the offense shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at the hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pretrial detention hearing is not to be used for the purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that:

(A) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(B) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based;

shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of the threat to the alleged victim of the offense. The court may, in determining whether the defendant poses, at the time of the hearing, a real and present threat to the physical safety of the alleged victim of the offense, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of the offense charged;

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior. The evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings;

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The nature of the threat which is the basis of the charge against the defendant;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, aftercare release, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal

or state law;

(8) Any other factors, including those listed in Section 110-5 of this Code, deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of that behavior.

(e) The court shall, in any order denying bail to a person charged with stalking or aggravated stalking:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

(2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;

(3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his choice by visitation, mail and telephone; and

(4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.

(f) If the court enters an order for the detention of the defendant under subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by this subsection (f), he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant. The court shall immediately notify the alleged victim of the offense that the defendant has been admitted to bail under this subsection.

(g) Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 96-1551, Article 1, Section 965, eff. 7-1-11; 96-1551, Article 2, Section 1040, eff. 7-1-11; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(725 ILCS 5/112A-2) (from Ch. 38, par. 112A-2)

Sec. 112A-2. Commencement of Actions.

(a) Actions for orders of protection are commenced in conjunction with a delinquency petition or a criminal prosecution by filing a petition for an order of protection, under the same case number as the delinquency petition or the criminal prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987, or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that:

(i) the violation is alleged in an information, complaint, indictment or delinquency

petition on file, and the alleged offender and victim are family or household members; and

(ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Withdrawal or dismissal of any petition for an order of protection prior to adjudication where the petitioner is represented by the state shall operate as a dismissal without prejudice.

(c) Voluntary dismissal or withdrawal of any delinquency petition or criminal prosecution or a finding of not guilty shall not require dismissal of the action for the order of protection; instead, in the discretion of the State's Attorney, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division. Dismissal of any delinquency petition or criminal prosecution shall not affect the validity of any previously issued order of protection, and thereafter subsection (b) of Section 112A-20 shall be inapplicable to that order.

(Source: P.A. 90-590, eff. 1-1-99.)

(725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

Sec. 112A-20. Duration and extension of orders.

(a) Duration of emergency and interim orders. Unless re-opened or extended or voided by entry of an order of greater duration:

(1) Emergency orders issued under Section 112A-17 shall be effective for not less than 14 nor more than 21 days;

(2) Interim orders shall be effective for up to 30 days.

(b) Duration of plenary orders. Except as otherwise provided in this Section, a plenary order of protection shall be valid for a fixed period of time not to exceed 2 years. A plenary order of protection entered in conjunction with a criminal prosecution shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if, however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no order of protection, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) until expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years; or

(4) until the date set by the court for expiration of any sentence of imprisonment and subsequent parole, aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years.

(c) Computation of time. The duration of an order of protection shall not be reduced by the duration of any prior order of protection.

(d) Law enforcement records. When a plenary order of protection expires upon the occurrence of a specified event, rather than upon a specified date as provided in subsection (b), no expiration date shall be entered in Department of State Police records. To remove the plenary order from those records, either party shall request the clerk of the court to file a certified copy of an order stating that the specified event has occurred or that the plenary order has been vacated or modified with the sheriff, and the sheriff shall direct that law enforcement records shall be promptly corrected in accordance with the filed order.

(e) Extension of Orders. Any emergency, interim or plenary order of protection may be extended one or more times, as required, provided that the requirements of Section 112A-17, 112A-18 or 112A-19, as appropriate, are satisfied. If the motion for extension is uncontested and petitioner seeks no modification of the order, the order may be extended on the basis of petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. An extension of a plenary order of protection may be granted, upon good cause shown, to remain in effect until the order of protection is vacated or modified. Extensions may be granted only in open court and not under the provisions of Section 112A-17(c), which applies only when the court is unavailable at the close of business or on a court holiday.

(f) Termination date. Any order of protection which would expire on a court holiday shall instead expire at the close of the next court business day.

(g) Statement of purpose. The practice of dismissing or suspending a criminal prosecution in exchange for issuing an order of protection undermines the purposes of this Article. This Section shall not be construed as encouraging that practice.

(Source: P.A. 95-886, eff. 1-1-09.)

(725 ILCS 5/112A-22) (from Ch. 38, par. 112A-22)

Sec. 112A-22. Notice of orders.

(a) Entry and issuance. Upon issuance of any order of protection, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 112A-17, (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to respondent, if present, and to petitioner.

(b) Filing with sheriff. The clerk of the issuing judge shall, or the petitioner may, on the same day that an order of protection is issued, file a copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon respondent. If the order was issued in accordance with subsection (c) of Section 112A-17, the clerk shall on the next court day, file a certified copy of the order with the Sheriff or other law enforcement officials charged with maintaining Department of State Police records. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Department of Juvenile Justice or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Department of State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the order of protection from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC or IDJJ inmate number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Service by sheriff. Unless respondent was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon respondent and file proof of such service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 112A-22.10 may serve the respondent with a short

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form notification as provided in Section 112A-22.10. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server.

(c-5) If the person against whom the order of protection is issued is arrested and the written order is issued in accordance with subsection (c) of Section 112A-17 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for order of protection or receipt of the order issued under Section 112A-17 of this Code.

(d) Extensions, modifications and revocations. Any order extending, modifying or revoking any order of protection shall be promptly recorded, issued and served as provided in this Section.

(e) Notice to health care facilities and health care practitioners. Upon the request of the petitioner, the clerk of the circuit court shall send a certified copy of the order of protection to any specified health care facility or health care practitioner requested by the petitioner at the mailing address provided by the petitioner.

(f) Disclosure by health care facilities and health care practitioners. After receiving a certified copy of an order of protection that prohibits a respondent's access to records, no health care facility or health care practitioner shall allow a respondent access to the records of any child who is a protected person under the order of protection, or release information in those records to the respondent, unless the order has expired or the respondent shows a certified copy of the court order vacating the corresponding order of protection that was sent to the health care facility or practitioner. Nothing in this Section shall be construed to require health care facilities or health care practitioners to alter procedures related to billing and payment. The health care facility or health care practitioner may file the copy of the order of protection in the records of a child who is a protected person under the order of protection, or may employ any other method to identify the records to which a respondent is prohibited access. No health care facility or health care practitioner shall be civilly or professionally liable for reliance on a copy of an order of protection, except for willful and wanton misconduct.

(g) Notice to schools. Upon the request of the petitioner, within 24 hours of the issuance of an order of protection, the clerk of the issuing judge shall send a certified copy of the order of protection to the day-care facility, pre-school or pre-kindergarten, or private school or the principal office of the public school district or any college or university in which any child who is a protected person under the order of protection or any child of the petitioner is enrolled as requested by the petitioner at the mailing address provided by the petitioner. If the child transfers enrollment to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the petitioner may, within 24 hours of the transfer, send to the clerk written notice of the transfer, including the name and address of the institution to which the child is transferring. Within 24 hours of receipt of notice from the petitioner that a child is transferring to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the clerk shall send a certified copy of the order to the institution to which the child is transferring.

(h) Disclosure by schools. After receiving a certified copy of an order of protection that prohibits a respondent's access to records, neither a day-care facility, pre-school, pre-kindergarten, public or private school, college, or university nor its employees shall allow a respondent access to a protected child's records or release information in those records to the respondent. The school shall file the copy of the order of protection in the records of a child who is a protected person under the order of protection. When a child who is a protected person under the order of protection transfers to another day-care facility, pre-school, pre-kindergarten, public or private school, college, or university, the institution from which the child is transferring may, at the request of the petitioner, provide, within 24 hours of the transfer, written notice of the order of protection, along with a certified copy of the order, to the institution to which the child is transferring.

(Source: P.A. 96-651, eff. 1-1-10; 97-50, eff. 6-28-11; 97-904, eff. 1-1-13.)

(725 ILCS 5/112A-22.10)

Sec. 112A-22.10. Short form notification.

(a) Instead of personal service of an order of protection under Section 112A-22, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised release may serve a respondent with a short form notification. The short form notification must include the following items:

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- (1) The respondent's name.
- (2) The respondent's date of birth, if known.
- (3) The petitioner's name.
- (4) The names of other protected parties.
- (5) The date and county in which the order of protection was filed.
- (6) The court file number.
- (7) The hearing date and time, if known.
- (8) The conditions that apply to the respondent, either in checklist form or handwritten.
- (9) The name of the judge who signed the order.

(b) The short form notification must contain the following notice in bold print:

**"The order of protection is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order of protection. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order of protection."**

(c) Upon verification of the identity of the respondent and the existence of an unserved order of protection against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall provide adequate copies of the short form notification form to law enforcement agencies in this State.

(Source: P.A. 97-50, eff. 6-28-11.)

Section 85. The Rights of Crime Victims and Witnesses Act is amended by changing Sections 3, 4.5, and 5 as follows:

(725 ILCS 120/3) (from Ch. 38, par. 1403)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" and "victim" mean (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 or (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the

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release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings, aftercare release, or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(Source: P.A. 96-292, eff. 1-1-10; 96-875, eff. 1-22-10; 96-1551, eff. 7-1-11; 97-572, eff. 1-1-12; 97-1150, eff. 1-25-13.)

(725 ILCS 120/4.5)

Sec. 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(a-5) When law enforcement authorities re-open a closed case to resume investigating, they shall provide notice of the re-opening of the case, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(3.5) or victim advocate personnel shall provide information about available victim services, including referrals to programs, counselors, and agencies that assist a victim to deal with trauma, loss, and grief;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings and, in compliance with the federal Americans with Disabilities Act of 1990, the right to communications access through a sign language interpreter or by other means;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case;

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section;

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law; and

(12) shall, upon the court entering a verdict of not guilty by reason of insanity, inform the victim of the notification services available from the Department of Human Services, including the statewide telephone number, under subparagraph (d)(2) of this Section.



(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings: preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, aftercare release, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority.

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the approval by the court of an on-grounds pass, a supervised off-grounds pass, an unsupervised off-grounds pass, or conditional release; the release on an off-grounds pass; the return from an off-grounds pass; transfer to another facility; conditional release; escape; death; or final discharge from State custody. The Department of Human Services shall establish and maintain a statewide telephone number to be used by victims to make notification requests under these provisions and shall publicize this telephone number on its website and to the State's Attorney of each county.

(3) In the event of an escape from State custody, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 30 days prior to the parole or aftercare release hearing interview and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole or aftercare release hearing interview or if a victim of a violent crime, by calling the toll-free number established in subsection (f) of this Section, information for consideration by the Prisoner

Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole or aftercare release and shall be informed of the right to inspect the registry of parole or aftercare release decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced or the State's Attorney of the county where the person seeking parole or aftercare release was prosecuted, the Prisoner Review Board shall notify the victim and the State's Attorney of the county where the person seeking parole or aftercare release was prosecuted of the death of the prisoner if the prisoner died while on parole or aftercare release or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections, the Department of Juvenile Justice, or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge, conditional release, death, or escape from State custody, the releasing authority shall provide to the Department of Human Services such information that would allow the Department of Human Services to contact the victim.

(8) When a defendant has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act and has been sentenced to the Department of Corrections or the Department of Juvenile Justice, the Prisoner Review Board shall notify the victim of the sex offense of the prisoner's eligibility for release on parole, aftercare release, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a sex offense from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The notification shall be made to the victim at least 30 days, whenever possible, before release of the sex offender.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(f) To permit a victim of a violent crime to provide information to the Prisoner Review Board for consideration by the Board at a parole or aftercare release hearing of a person who committed the crime against the victim in accordance with clause (d)(4) of this Section or at a proceeding to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on revocation of mandatory supervised release of a person sentenced to a determinate sentence, the Board shall establish a toll-free number that may be accessed by the victim of a violent crime to present that information to the Board.

(Source: P.A. 96-328, eff. 8-11-09; 96-875, eff. 1-22-10; 97-457, eff. 1-1-12; 97-572, eff. 1-1-12; 97-813, eff. 7-13-12; 97-815, eff. 1-1-13.)

(725 ILCS 120/5) (from Ch. 38, par. 1405)  
Sec. 5. Rights of Witnesses.

(a) Witnesses as defined in subsection (b) of Section 3 of this Act shall have the following rights:

(1) to be notified by the Office of the State's Attorney of all court proceedings at which the witness' presence is required in a reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court, where possible;

(2) to be provided with appropriate employer intercession services by the Office of the State's Attorney or the victim advocate personnel to ensure that employers of witnesses will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(3) to be provided, whenever possible, a secure waiting area during court proceedings that does not require witnesses to be in close proximity to defendants and their families and friends;

(4) to be provided with notice by the Office of the State's Attorney, where necessary, of the right to have a translator present whenever the witness' presence is required and, in compliance with the federal Americans with Disabilities Act of 1990, to be provided with notice of the right to communications access through a sign language interpreter or by other means.

(b) At the written request of the witness, the witness shall:

(1) receive notice from the office of the State's Attorney of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time, and place of any hearing concerning the petition for post-conviction

review; whenever possible, notice of the hearing on the petition shall be given in advance;

(2) receive notice by the releasing authority of the defendant's discharge from State custody if the defendant was committed to the Department of Human Services under Section 5-2-4 or any other provision of the Unified Code of Corrections;

(3) receive notice from the Prisoner Review Board of the prisoner's escape from State custody, after the Board has been notified of the escape by the Department of Corrections or the Department of Juvenile Justice; when the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice shall immediately notify the Prisoner Review Board and the Board shall notify the witness;

(4) receive notice from the Prisoner Review Board of the prisoner's release on parole, aftercare release,

electronic detention, work release or mandatory supervised release and of the prisoner's final discharge from parole, aftercare release, electronic detention, work release, or mandatory supervised release.

(Source: P.A. 94-696, eff. 6-1-06; 95-897, eff. 1-1-09.)

Section 90. The Privacy of Child Victims of Criminal Sexual Offenses Act is amended by changing Section 3 as follows:

(725 ILCS 190/3) (from Ch. 38, par. 1453)

Sec. 3. Confidentiality of Law Enforcement and Court Records. Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or circuit court records maintained by any circuit clerk relating to any investigation or proceeding pertaining to a criminal sexual offense, by any person, except a judge, state's attorney, assistant state's attorney, psychologist, psychiatrist, social worker, doctor, parent, parole agent, aftercare specialist, probation officer, defendant or defendant's attorney in any criminal proceeding or investigation related thereto, shall be restricted to exclude the identity of any child who is a victim of such criminal sexual offense or alleged criminal sexual offense. A court may for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

When a criminal sexual offense is committed or alleged to have been committed by a school district employee or any individual contractually employed by a school district, a copy of the criminal history record information relating to the investigation of the offense or alleged offense shall be transmitted to the superintendent of schools of the district immediately upon request or if the law enforcement agency knows that a school district employee or any individual contractually employed by a school district has committed or is alleged to have committed a criminal sexual offense, the superintendent of schools of the district shall be immediately provided a copy of the criminal history record information. The superintendent shall be restricted from specifically revealing the name of the victim without written consent of the victim or victim's parent or guardian.

A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the minor's identity the court shall consider:

- (a) the best interest of the child; and
- (b) whether such nondisclosure would further a compelling State interest.

For the purposes of this Act, "criminal history record information" means:

- (i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
- (ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
- (iii) court records that are public;
- (iv) records that are otherwise available under State or local law; or
- (v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of Section 7 of the Freedom of Information Act.

(Source: P.A. 95-69, eff. 1-1-08; 95-599, eff. 6-1-08; 95-876, eff. 8-21-08.)

Section 95. The Sexually Violent Persons Commitment Act is amended by changing Sections 15, 30, and 40 as follows:

(725 ILCS 207/15)

Sec. 15. Sexually violent person petition; contents; filing.

(a) A petition alleging that a person is a sexually violent person must be filed before the release or discharge of the person or within 30 days of placement onto parole, aftercare release, or mandatory

supervised release for an offense enumerated in paragraph (e) of Section 5 of this Act. A petition may be filed by the following:

- (1) The Attorney General on his or her own motion, after consulting with and advising the State's Attorney of the county in which the person was convicted of a sexually violent offense, adjudicated delinquent for a sexually violent offense or found not guilty of or not responsible for a sexually violent offense by reason of insanity, mental disease, or mental defect; or
- (2) The State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section, on his or her own motion; or
- (3) The Attorney General and the State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section may jointly file a petition on their own motion; or
- (4) A petition may be filed at the request of the agency with jurisdiction over the person, as defined in subsection (a) of Section 10 of this Act, by:
  - (a) the Attorney General;
  - (b) the State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section; or
  - (c) the Attorney General and the State's Attorney jointly.
- (b) A petition filed under this Section shall allege that all of the following apply to the person alleged to be a sexually violent person:
  - (1) The person satisfies any of the following criteria:
    - (A) The person has been convicted of a sexually violent offense;
    - (B) The person has been found delinquent for a sexually violent offense; or
    - (C) The person has been found not guilty of a sexually violent offense by reason of insanity, mental disease, or mental defect.
  - (2) (Blank).
  - (3) (Blank).
  - (4) The person has a mental disorder.
  - (5) The person is dangerous to others because the person's mental disorder creates a substantial probability that he or she will engage in acts of sexual violence.
- (b-5) The petition must be filed no more than 90 days before discharge or entry into mandatory supervised release from a Department of Corrections or the Department of Juvenile Justice correctional facility for a sentence that was imposed upon a conviction for a sexually violent offense. For inmates sentenced under the law in effect prior to February 1, 1978, the petition shall be filed no more than 90 days after the Prisoner Review Board's order granting parole pursuant to Section 3-3-5 of the Unified Code of Corrections.
- (b-6) The petition must be filed no more than 90 days before discharge or release:
  - (1) from a Department of Juvenile Justice juvenile correctional facility if the person was placed in the facility for being adjudicated delinquent under Section 5-20 of the Juvenile Court Act of 1987 or found guilty under Section 5-620 of that Act on the basis of a sexually violent offense; or
  - (2) from a commitment order that was entered as a result of a sexually violent offense.
- (b-7) A person convicted of a sexually violent offense remains eligible for commitment as a sexually violent person pursuant to this Act under the following circumstances: (1) the person is in custody for a sentence that is being served concurrently or consecutively with a sexually violent offense; (2) the person returns to the custody of the Illinois Department of Corrections or the Department of Juvenile Justice for any reason during the term of parole, aftercare release, or mandatory supervised release being served for a sexually violent offense; or (3) the person is convicted or adjudicated delinquent for any offense committed during the term of parole, aftercare release, or mandatory supervised release being served for a sexually violent offense, regardless of whether that conviction or adjudication was for a sexually violent offense.
- (c) A petition filed under this Section shall state with particularity essential facts to establish probable cause to believe the person is a sexually violent person. If the petition alleges that a sexually violent offense or act that is a basis for the allegation under paragraph (b)(1) of this Section was an act that was sexually motivated as provided under paragraph (e)(2) of Section 5 of this Act, the petition shall state the grounds on which the offense or act is alleged to be sexually motivated.
- (d) A petition under this Section shall be filed in either of the following:
  - (1) The circuit court for the county in which the person was convicted of a sexually violent offense, adjudicated delinquent for a sexually violent offense or found not guilty of a sexually violent offense by reason of insanity, mental disease or mental defect.
  - (2) The circuit court for the county in which the person is in custody under a sentence,

a placement to a Department of Corrections correctional facility or a Department of Juvenile Justice juvenile correctional facility, or a commitment order.

(e) The filing of a petition under this Act shall toll the running of the term of parole or mandatory supervised release until:

- (1) dismissal of the petition filed under this Act;
- (2) a finding by a judge or jury that the respondent is not a sexually violent person; or
- (3) the sexually violent person is discharged under Section 65 of this Act.

(f) The State has the right to have the person evaluated by experts chosen by the State. The agency with jurisdiction as defined in Section 10 of this Act shall allow the expert reasonable access to the person for purposes of examination, to the person's records, and to past and present treatment providers and any other staff members relevant to the examination.

(Source: P.A. 96-1128, eff. 1-1-11.)

(725 ILCS 207/30)

Sec. 30. Detention; probable cause hearing; transfer for examination.

(a) Upon the filing of a petition under Section 15 of this Act, the court shall review the petition to determine whether to issue an order for detention of the person who is the subject of the petition. The person shall be detained only if there is cause to believe that the person is eligible for commitment under subsection (f) of Section 35 of this Act. A person detained under this Section shall be held in a facility approved by the Department. If the person is serving a sentence of imprisonment, is in a Department of Corrections correctional facility or juvenile correctional facility or is committed to institutional care, and the court orders detention under this Section, the court shall order that the person be transferred to a detention facility approved by the Department. A detention order under this Section remains in effect until the person is discharged after a trial under Section 35 of this Act or until the effective date of a commitment order under Section 40 of this Act, whichever is applicable.

(b) Whenever a petition is filed under Section 15 of this Act, the court shall hold a hearing to determine whether there is probable cause to believe that the person named in the petition is a sexually violent person. If the person named in the petition is in custody, the court shall hold the probable cause hearing within 72 hours after the petition is filed, excluding Saturdays, Sundays and legal holidays. The court may grant a continuance of the probable cause hearing for no more than 7 additional days upon the motion of the respondent, for good cause. If the person named in the petition has been released, is on parole, is on aftercare release, is on mandatory supervised release, or otherwise is not in custody, the court shall hold the probable cause hearing within a reasonable time after the filing of the petition. At the probable cause hearing, the court shall admit and consider all relevant hearsay evidence.

(c) If the court determines after a hearing that there is probable cause to believe that the person named in the petition is a sexually violent person, the court shall order that the person be taken into custody if he or she is not in custody and shall order the person to be transferred within a reasonable time to an appropriate facility for an evaluation as to whether the person is a sexually violent person. If the person who is named in the petition refuses to speak to, communicate with, or otherwise fails to cooperate with the examining evaluator from the Department of Human Services or the Department of Corrections, that person may only introduce evidence and testimony from any expert or professional person who is retained or court-appointed to conduct an examination of the person that results from a review of the records and may not introduce evidence resulting from an examination of the person. Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted pursuant to this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held pursuant to this Act, including the probable cause hearing and the trial.

If the court determines that probable cause does not exist to believe that the person is a sexually violent person, the court shall dismiss the petition.

(d) The Department shall promulgate rules that provide the qualifications for persons conducting evaluations under subsection (c) of this Section.

(e) If the person named in the petition claims or appears to be indigent, the court shall, prior to the probable cause hearing under subsection (b) of this Section, appoint counsel.

(Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04; 93-970, eff. 8-20-04.)

(725 ILCS 207/40)

(Text of Section before amendment by P.A. 97-1098)

Sec. 40. Commitment.

(a) If a court or jury determines that the person who is the subject of a petition under Section 15 of this Act is a sexually violent person, the court shall order the person to be committed to the custody of the Department for control, care and treatment until such time as the person is no longer a sexually violent

person.

(b)(1) The court shall enter an initial commitment order under this Section pursuant to a hearing held as soon as practicable after the judgment is entered that the person who is the subject of a petition under Section 15 is a sexually violent person. If the court lacks sufficient information to make the determination required by paragraph (b)(2) of this Section immediately after trial, it may adjourn the hearing and order the Department to conduct a predisposition investigation or a supplementary mental examination, or both, to assist the court in framing the commitment order. If the Department's examining evaluator previously rendered an opinion that the person who is the subject of a petition under Section 15 does not meet the criteria to be found a sexually violent person, then another evaluator shall conduct the predisposition investigation and/or supplementary mental examination. A supplementary mental examination under this Section shall be conducted in accordance with Section 3-804 of the Mental Health and Developmental Disabilities Code. The State has the right to have the person evaluated by experts chosen by the State.

(2) An order for commitment under this Section shall specify either institutional care in a secure facility, as provided under Section 50 of this Act, or conditional release. In determining whether commitment shall be for institutional care in a secure facility or for conditional release, the court shall consider the nature and circumstances of the behavior that was the basis of the allegation in the petition under paragraph (b)(1) of Section 15, the person's mental history and present mental condition, and what arrangements are available to ensure that the person has access to and will participate in necessary treatment. All treatment, whether in institutional care, in a secure facility, or while on conditional release, shall be conducted in conformance with the standards developed under the Sex Offender Management Board Act and conducted by a treatment provider approved by the Board. The Department shall arrange for control, care and treatment of the person in the least restrictive manner consistent with the requirements of the person and in accordance with the court's commitment order.

(3) If the court finds that the person is appropriate for conditional release, the court shall notify the Department. The Department shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. The Department may contract with a county health department, with another public agency or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The plan shall be presented to the court for its approval within 60 days after the court finding that the person is appropriate for conditional release, unless the Department and the person to be released request additional time to develop the plan. The conditional release program operated under this Section is not subject to the provisions of the Mental Health and Developmental Disabilities Confidentiality Act.

(4) An order for conditional release places the person in the custody and control of the Department. A person on conditional release is subject to the conditions set by the court and to the rules of the Department. Before a person is placed on conditional release by the court under this Section, the court shall so notify the municipal police department and county sheriff for the municipality and county in which the person will be residing. The notification requirement under this Section does not apply if a municipal police department or county sheriff submits to the court a written statement waiving the right to be notified. Notwithstanding any other provision in the Act, the person being supervised on conditional release shall not reside at the same street address as another sex offender being supervised on conditional release under this Act, mandatory supervised release, parole, aftercare release, probation, or any other manner of supervision. If the Department alleges that a released person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, he or she may be taken into custody under the rules of the Department.

At any time during which the person is on conditional release, if the Department determines that the person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, the Department may request the Attorney General or State's Attorney to request the court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and transport the person to the county jail. The Department may request, or the Attorney General or State's Attorney may request independently of the Department, that a petition to revoke conditional release be filed. When a petition is filed, the court may order the Department to issue a notice to the person to be present at the Department or other agency designated by the court, order a summons to the person to be present, or order a body attachment for all law enforcement officers to take the person into custody and transport him or her to the county jail, hospital, or treatment facility. The Department shall submit a statement showing probable cause of the detention and a petition to revoke the order for

conditional release to the committing court within 48 hours after the detention. The court shall hear the petition within 30 days, unless the hearing or time deadline is waived by the detained person. Pending the revocation hearing, the Department may detain the person in a jail, in a hospital or treatment facility. The State has the burden of proving by clear and convincing evidence that any rule or condition of release has been violated, or that the safety of others requires that the conditional release be revoked. If the court determines after hearing that any rule or condition of release has been violated, or that the safety of others requires that conditional release be revoked, it may revoke the order for conditional release and order that the released person be placed in an appropriate institution until the person is discharged from the commitment under Section 65 of this Act or until again placed on conditional release under Section 60 of this Act.

(5) An order for conditional release places the person in the custody, care, and control of the Department. The court shall order the person be subject to the following rules of conditional release, in addition to any other conditions ordered, and the person shall be given a certificate setting forth the conditions of conditional release. These conditions shall be that the person:

(A) not violate any criminal statute of any jurisdiction;

(B) report to or appear in person before such person or agency as directed by the court and the Department;

(C) refrain from possession of a firearm or other dangerous weapon;

(D) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature, that prior consent by the court is not possible without the prior notification and approval of the Department;

(E) at the direction of the Department, notify third parties of the risks that may be occasioned by his or her criminal record or sexual offending history or characteristics, and permit the supervising officer or agent to make the notification requirement;

(F) attend and fully participate in assessment, treatment, and behavior monitoring including, but not limited to, medical, psychological or psychiatric treatment specific to sexual offending, drug addiction, or alcoholism, to the extent appropriate to the person based upon the recommendation and findings made in the Department evaluation or based upon any subsequent recommendations by the Department;

(G) waive confidentiality allowing the court and Department access to assessment or treatment results or both;

(H) work regularly at a Department approved occupation or pursue a course of study or vocational training and notify the Department within 72 hours of any change in employment, study, or training;

(I) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by the Department officer;

(J) submit to the search of his or her person, residence, vehicle, or any personal or real property under his or her control at any time by the Department;

(K) financially support his or her dependents and provide the Department access to any requested financial information;

(L) serve a term of home confinement, the conditions of which shall be that the person:

(i) remain within the interior premises of the place designated for his or her confinement during the hours designated by the Department;

(ii) admit any person or agent designated by the Department into the offender's place of confinement at any time for purposes of verifying the person's compliance with the condition of his or her confinement;

(iii) if deemed necessary by the Department, be placed on an electronic monitoring device;

(M) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986. A copy of the order of protection shall be transmitted to the Department by the clerk of the court;

(N) refrain from entering into a designated geographic area except upon terms the Department finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, others accompanying the person, and advance approval by the Department;

(O) refrain from having any contact, including written or oral communications, directly or indirectly, with certain specified persons including, but not limited to, the victim or the victim's family, and report any incidental contact with the victim or the victim's family to the Department within 72 hours; refrain from entering onto the premises of, traveling past, or loitering near the victim's residence, place of employment, or other places frequented by the victim;

(P) refrain from having any contact, including written or oral communications, directly or indirectly, with particular types of persons, including but not limited to members of street gangs, drug users, drug dealers, or prostitutes;

(Q) refrain from all contact, direct or indirect, personally, by telephone, letter, or through another person, with minor children without prior identification and approval of the Department;

(R) refrain from having in his or her body the presence of alcohol or any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her breath, saliva, blood, or urine for tests to determine the presence of alcohol or any illicit drug;

(S) not establish a dating, intimate, or sexual relationship with a person without prior written notification to the Department;

(T) neither possess or have under his or her control any material that is pornographic, sexually oriented, or sexually stimulating, or that depicts or alludes to sexual activity or depicts minors under the age of 18, including but not limited to visual, auditory, telephonic, electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(U) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers or any other sex-related telephone numbers;

(V) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of the Department and report any incidental contact with minor children to the Department within 72 hours;

(W) not establish any living arrangement or residence without prior approval of the Department;

(X) not publish any materials or print any advertisements without providing a copy of the proposed publications to the Department officer and obtaining permission prior to publication;

(Y) not leave the county except with prior permission of the Department and provide the Department officer or agent with written travel routes to and from work and any other designated destinations;

(Z) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending items including video or still camera items or children's toys;

(AA) provide a written daily log of activities as directed by the Department;

(BB) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access or potential victims.

(6) A person placed on conditional release and who during the term undergoes mandatory drug or alcohol testing or is assigned to be placed on an approved electronic monitoring device may be ordered to pay all costs incidental to the mandatory drug or alcohol testing and all costs incidental to the approved electronic monitoring in accordance with the person's ability to pay those costs. The Department may establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing and all costs incidental to approved electronic monitoring.

(Source: P.A. 96-1128, eff. 1-1-11.)

(Text of Section after amendment by P.A. 97-1098)

Sec. 40. Commitment.

(a) If a court or jury determines that the person who is the subject of a petition under Section 15 of this Act is a sexually violent person, the court shall order the person to be committed to the custody of the Department for control, care and treatment until such time as the person is no longer a sexually violent person.

(b)(1) The court shall enter an initial commitment order under this Section pursuant to a hearing held as soon as practicable after the judgment is entered that the person who is the subject of a petition under Section 15 is a sexually violent person. If the court lacks sufficient information to make the determination required by paragraph (b)(2) of this Section immediately after trial, it may adjourn the hearing and order the Department to conduct a predisposition investigation or a supplementary mental examination, or both, to assist the court in framing the commitment order. If the Department's examining evaluator previously rendered an opinion that the person who is the subject of a petition under Section

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15 does not meet the criteria to be found a sexually violent person, then another evaluator shall conduct the predisposition investigation and/or supplementary mental examination. A supplementary mental examination under this Section shall be conducted in accordance with Section 3-804 of the Mental Health and Developmental Disabilities Code. The State has the right to have the person evaluated by experts chosen by the State.

(2) An order for commitment under this Section shall specify either institutional care in a secure facility, as provided under Section 50 of this Act, or conditional release. In determining whether commitment shall be for institutional care in a secure facility or for conditional release, the court shall consider the nature and circumstances of the behavior that was the basis of the allegation in the petition under paragraph (b)(1) of Section 15, the person's mental history and present mental condition, and what arrangements are available to ensure that the person has access to and will participate in necessary treatment. All treatment, whether in institutional care, in a secure facility, or while on conditional release, shall be conducted in conformance with the standards developed under the Sex Offender Management Board Act and conducted by a treatment provider licensed under the Sex Offender Evaluation and Treatment Provider Act. The Department shall arrange for control, care and treatment of the person in the least restrictive manner consistent with the requirements of the person and in accordance with the court's commitment order.

(3) If the court finds that the person is appropriate for conditional release, the court shall notify the Department. The Department shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. The Department may contract with a county health department, with another public agency or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The plan shall be presented to the court for its approval within 60 days after the court finding that the person is appropriate for conditional release, unless the Department and the person to be released request additional time to develop the plan. The conditional release program operated under this Section is not subject to the provisions of the Mental Health and Developmental Disabilities Confidentiality Act.

(4) An order for conditional release places the person in the custody and control of the Department. A person on conditional release is subject to the conditions set by the court and to the rules of the Department. Before a person is placed on conditional release by the court under this Section, the court shall so notify the municipal police department and county sheriff for the municipality and county in which the person will be residing. The notification requirement under this Section does not apply if a municipal police department or county sheriff submits to the court a written statement waiving the right to be notified. Notwithstanding any other provision in the Act, the person being supervised on conditional release shall not reside at the same street address as another sex offender being supervised on conditional release under this Act, mandatory supervised release, parole, aftercare release, probation, or any other manner of supervision. If the Department alleges that a released person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, he or she may be taken into custody under the rules of the Department.

At any time during which the person is on conditional release, if the Department determines that the person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, the Department may request the Attorney General or State's Attorney to request the court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and transport the person to the county jail. The Department may request, or the Attorney General or State's Attorney may request independently of the Department, that a petition to revoke conditional release be filed. When a petition is filed, the court may order the Department to issue a notice to the person to be present at the Department or other agency designated by the court, order a summons to the person to be present, or order a body attachment for all law enforcement officers to take the person into custody and transport him or her to the county jail, hospital, or treatment facility. The Department shall submit a statement showing probable cause of the detention and a petition to revoke the order for conditional release to the committing court within 48 hours after the detention. The court shall hear the petition within 30 days, unless the hearing or time deadline is waived by the detained person. Pending the revocation hearing, the Department may detain the person in a jail, in a hospital or treatment facility. The State has the burden of proving by clear and convincing evidence that any rule or condition of release has been violated, or that the safety of others requires that the conditional release be revoked. If the court determines after hearing that any rule or condition of release has been violated, or that the safety of others requires that conditional release be revoked, it may revoke the order for conditional

release and order that the released person be placed in an appropriate institution until the person is discharged from the commitment under Section 65 of this Act or until again placed on conditional release under Section 60 of this Act.

(5) An order for conditional release places the person in the custody, care, and control of the Department. The court shall order the person be subject to the following rules of conditional release, in addition to any other conditions ordered, and the person shall be given a certificate setting forth the conditions of conditional release. These conditions shall be that the person:

- (A) not violate any criminal statute of any jurisdiction;
- (B) report to or appear in person before such person or agency as directed by the court and the Department;
- (C) refrain from possession of a firearm or other dangerous weapon;
- (D) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature, that prior consent by the court is not possible without the prior notification and approval of the Department;
- (E) at the direction of the Department, notify third parties of the risks that may be occasioned by his or her criminal record or sexual offending history or characteristics, and permit the supervising officer or agent to make the notification requirement;
- (F) attend and fully participate in assessment, treatment, and behavior monitoring including, but not limited to, medical, psychological or psychiatric treatment specific to sexual offending, drug addiction, or alcoholism, to the extent appropriate to the person based upon the recommendation and findings made in the Department evaluation or based upon any subsequent recommendations by the Department;
- (G) waive confidentiality allowing the court and Department access to assessment or treatment results or both;
- (H) work regularly at a Department approved occupation or pursue a course of study or vocational training and notify the Department within 72 hours of any change in employment, study, or training;
- (I) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by the Department officer;
- (J) submit to the search of his or her person, residence, vehicle, or any personal or real property under his or her control at any time by the Department;
- (K) financially support his or her dependents and provide the Department access to any requested financial information;
- (L) serve a term of home confinement, the conditions of which shall be that the person:
  - (i) remain within the interior premises of the place designated for his or her confinement during the hours designated by the Department;
  - (ii) admit any person or agent designated by the Department into the offender's place of confinement at any time for purposes of verifying the person's compliance with the condition of his or her confinement;
  - (iii) if deemed necessary by the Department, be placed on an electronic monitoring device;
- (M) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986. A copy of the order of protection shall be transmitted to the Department by the clerk of the court;
- (N) refrain from entering into a designated geographic area except upon terms the Department finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, others accompanying the person, and advance approval by the Department;
- (O) refrain from having any contact, including written or oral communications, directly or indirectly, with certain specified persons including, but not limited to, the victim or the victim's family, and report any incidental contact with the victim or the victim's family to the Department within 72 hours; refrain from entering onto the premises of, traveling past, or loitering near the victim's residence, place of employment, or other places frequented by the victim;
- (P) refrain from having any contact, including written or oral communications, directly or indirectly, with particular types of persons, including but not limited to members of street gangs, drug users, drug dealers, or prostitutes;
- (Q) refrain from all contact, direct or indirect, personally, by telephone, letter, or through another person, with minor children without prior identification and approval of the Department;
- (R) refrain from having in his or her body the presence of alcohol or any illicit drug

prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her breath, saliva, blood, or urine for tests to determine the presence of alcohol or any illicit drug;

(S) not establish a dating, intimate, or sexual relationship with a person without prior written notification to the Department;

(T) neither possess or have under his or her control any material that is pornographic, sexually oriented, or sexually stimulating, or that depicts or alludes to sexual activity or depicts minors under the age of 18, including but not limited to visual, auditory, telephonic, electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(U) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers or any other sex-related telephone numbers;

(V) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of the Department and report any incidental contact with minor children to the Department within 72 hours;

(W) not establish any living arrangement or residence without prior approval of the Department;

(X) not publish any materials or print any advertisements without providing a copy of the proposed publications to the Department officer and obtaining permission prior to publication;

(Y) not leave the county except with prior permission of the Department and provide the Department officer or agent with written travel routes to and from work and any other designated destinations;

(Z) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending items including video or still camera items or children's toys;

(AA) provide a written daily log of activities as directed by the Department;

(BB) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access or potential victims.

(6) A person placed on conditional release and who during the term undergoes mandatory drug or alcohol testing or is assigned to be placed on an approved electronic monitoring device may be ordered to pay all costs incidental to the mandatory drug or alcohol testing and all costs incidental to the approved electronic monitoring in accordance with the person's ability to pay those costs. The Department may establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing and all costs incidental to approved electronic monitoring.

(Source: P.A. 96-1128, eff. 1-1-11; 97-1098, eff. 1-1-14.)

Section 100. The Uniform Criminal Extradition Act is amended by changing Section 22 as follows:

(725 ILCS 225/22) (from Ch. 60, par. 39)

Sec. 22. Fugitives from this state; duty of Governors.

Whenever the Governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his or her bail, probation, aftercare release, or parole in this State, from the Executive Authority of any other state, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he or she shall issue a warrant under the seal of this State, to some agent, commanding him or her to receive the person so charged if delivered to him or her and convey him or her to the proper officer of the county in this State in which the offense was committed.

(Source: Laws 1955, p. 1982.)

Section 105. The Unified Code of Corrections is amended by changing Sections 3-1-2, 3-2-2, 3-2.5-20, 3-2.5-65, 3-3-1, 3-3-2, 3-3-3, 3-3-4, 3-3-5, 3-3-7, 3-3-8, 3-3-9, 3-3-10, 3-4-3, 3-5-1, 3-10-6, 5-1-16, 5-4-3, 5-8A-3, 5-8A-5, and 5-8A-7 and by adding Sections 3-2.5-70, 3-2.5-75, 3-2.5-80, and 5-1-1.1 as follows:

(730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

Sec. 3-1-2. Definitions.

(a) "Chief Administrative Officer" means the person designated by the Director to exercise the powers and duties of the Department of Corrections in regard to committed persons within a correctional

institution or facility, and includes the superintendent of any juvenile institution or facility.

(a-3) "Aftercare release" means the conditional and revocable release of a person committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987, under the supervision of the Department of Juvenile Justice.

(a-5) "Sex offense" for the purposes of paragraph (16) of subsection (a) of Section 3-3-7, paragraph (10) of subsection (a) of Section 5-6-3, and paragraph (18) of subsection (c) of Section 5-6-3.1 only means:

(i) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012: 10-7 (aiding or abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.4 (promoting juvenile prostitution), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.1B or 11-20.3 (aggravated child pornography), 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012: 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), 11-1.60 or 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 11-1.50 or subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this subsection (a-5).

An offense violating federal law or the law of another state that is substantially equivalent to any offense listed in this subsection (a-5) shall constitute a sex offense for the purpose of this subsection (a-5). A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for a sex offense for the purposes of this subsection (a-5).

(b) "Commitment" means a judicially determined placement in the custody of the Department of Corrections on the basis of delinquency or conviction.

(c) "Committed Person" is a person committed to the Department, however a committed person shall not be considered to be an employee of the Department of Corrections for any purpose, including eligibility for a pension, benefits, or any other compensation or rights or privileges which may be provided to employees of the Department.

(c-5) "Computer scrub software" means any third-party added software, designed to delete information from the computer unit, the hard drive, or other software, which would eliminate and prevent discovery of browser activity, including but not limited to Internet history, address bar or bars, cache or caches, and/or cookies, and which would over-write files in a way so as to make previous computer activity, including but not limited to website access, more difficult to discover.

(d) "Correctional Institution or Facility" means any building or part of a building where committed persons are kept in a secured manner.

(e) In the case of functions performed before the effective date of this amendatory Act of the 94th General Assembly, "Department" means the Department of Corrections of this State. In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, "Department" has the meaning ascribed to it in subsection (f-5).

(f) In the case of functions performed before the effective date of this amendatory Act of the 94th General Assembly, "Director" means the Director of the Department of Corrections. In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, "Director" has the meaning ascribed to it in subsection (f-5).

(f-5) In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, references to "Department" or "Director" refer to either the Department of Corrections or the Director of Corrections or to the Department of Juvenile Justice or the Director of Juvenile Justice unless the context is specific to the Department of Juvenile Justice or the Director of

## Juvenile Justice.

(g) "Discharge" means the final termination of a commitment to the Department of Corrections.

(h) "Discipline" means the rules and regulations for the maintenance of order and the protection of persons and property within the institutions and facilities of the Department and their enforcement.

(i) "Escape" means the intentional and unauthorized absence of a committed person from the custody of the Department.

(j) "Furlough" means an authorized leave of absence from the Department of Corrections for a designated purpose and period of time.

(k) "Parole" means the conditional and revocable release of a person committed to the Department of Corrections ~~person~~ under the supervision of a parole officer.

(l) "Prisoner Review Board" means the Board established in Section 3-3-1(a), independent of the Department, to review rules and regulations with respect to good time credits, to hear charges brought by the Department against certain prisoners alleged to have violated Department rules with respect to good time credits, to set release dates for certain prisoners sentenced under the law in effect prior to the effective date of this Amendatory Act of 1977, to hear and decide the time of aftercare release for persons committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987 to hear requests and make recommendations to the Governor with respect to pardon, reprieve or commutation, to set conditions for parole and mandatory supervised release and determine whether violations of those conditions justify revocation of parole or release, and to assume all other functions previously exercised by the Illinois Parole and Pardon Board.

(m) Whenever medical treatment, service, counseling, or care is referred to in this Unified Code of Corrections, such term may be construed by the Department or Court, within its discretion, to include treatment, service or counseling by a Christian Science practitioner or nursing care appropriate therewith whenever request therefor is made by a person subject to the provisions of this Act.

(n) "Victim" shall have the meaning ascribed to it in subsection (a) of Section 3 of the Bill of Rights for Victims and Witnesses of Violent Crime Act.

(o) "Wrongfully imprisoned person" means a person who has been discharged from a prison of this State and has received:

(1) a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned; or

(2) a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure.

(Source: P.A. 96-362, eff. 1-1-10; 96-710, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1550, eff. 7-1-11; 96-1551, eff. 7-1-11; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

Sec. 3-2-2. Powers and Duties of the Department.

(1) In addition to the powers, duties and responsibilities which are otherwise provided by law, the Department shall have the following powers:

(a) To accept persons committed to it by the courts of this State for care, custody, treatment and rehabilitation, and to accept federal prisoners and aliens over whom the Office of the Federal Detention Trustee is authorized to exercise the federal detention function for limited purposes and periods of time.

(b) To develop and maintain reception and evaluation units for purposes of analyzing the custody and rehabilitation needs of persons committed to it and to assign such persons to institutions and programs under its control or transfer them to other appropriate agencies. In consultation with the Department of Alcoholism and Substance Abuse (now the Department of Human Services), the Department of Corrections shall develop a master plan for the screening and evaluation of persons committed to its custody who have alcohol or drug abuse problems, and for making appropriate treatment available to such persons; the Department shall report to the General Assembly on such plan not later than April 1, 1987. The maintenance and implementation of such plan shall be contingent upon the availability of funds.

(b-1) To create and implement, on January 1, 2002, a pilot program to establish the effectiveness of pupillometer technology (the measurement of the pupil's reaction to light) as an alternative to a urine test for purposes of screening and evaluating persons committed to its custody who have alcohol or drug problems. The pilot program shall require the pupillometer technology to be used in at least one Department of Corrections facility. The Director may expand the pilot program to include an additional facility or facilities as he or she deems appropriate. A minimum of 4,000 tests shall be included in the pilot program. The Department must report to the General Assembly on the effectiveness of the program by January 1, 2003.

(b-5) To develop, in consultation with the Department of State Police, a program for tracking and evaluating each inmate from commitment through release for recording his or her gang affiliations, activities, or ranks.

(c) To maintain and administer all State correctional institutions and facilities under its control and to establish new ones as needed. Pursuant to its power to establish new institutions and facilities, the Department may, with the written approval of the Governor, authorize the Department of Central Management Services to enter into an agreement of the type described in subsection (d) of Section 405-300 of the Department of Central Management Services Law (20 ILCS 405/405-300). The Department shall designate those institutions which shall constitute the State Penitentiary System.

Pursuant to its power to establish new institutions and facilities, the Department may authorize the Department of Central Management Services to accept bids from counties and municipalities for the construction, remodeling or conversion of a structure to be leased to the Department of Corrections for the purposes of its serving as a correctional institution or facility. Such construction, remodeling or conversion may be financed with revenue bonds issued pursuant to the Industrial Building Revenue Bond Act by the municipality or county. The lease specified in a bid shall be for a term of not less than the time needed to retire any revenue bonds used to finance the project, but not to exceed 40 years. The lease may grant to the State the option to purchase the structure outright.

Upon receipt of the bids, the Department may certify one or more of the bids and shall submit any such bids to the General Assembly for approval. Upon approval of a bid by a constitutional majority of both houses of the General Assembly, pursuant to joint resolution, the Department of Central Management Services may enter into an agreement with the county or municipality pursuant to such bid.

(c-5) To build and maintain regional juvenile detention centers and to charge a per diem to the counties as established by the Department to defray the costs of housing each minor in a center. In this subsection (c-5), "juvenile detention center" means a facility to house minors during pendency of trial who have been transferred from proceedings under the Juvenile Court Act of 1987 to prosecutions under the criminal laws of this State in accordance with Section 5-805 of the Juvenile Court Act of 1987, whether the transfer was by operation of law or permissive under that Section. The Department shall designate the counties to be served by each regional juvenile detention center.

(d) To develop and maintain programs of control, rehabilitation and employment of committed persons within its institutions.

(d-5) To provide a pre-release job preparation program for inmates at Illinois adult correctional centers.

(e) To establish a system of supervision and guidance of committed persons in the community.

(f) To establish in cooperation with the Department of Transportation to supply a sufficient number of prisoners for use by the Department of Transportation to clean up the trash and garbage along State, county, township, or municipal highways as designated by the Department of Transportation. The Department of Corrections, at the request of the Department of Transportation, shall furnish such prisoners at least annually for a period to be agreed upon between the Director of Corrections and the Director of Transportation. The prisoners used on this program shall be selected by the Director of Corrections on whatever basis he deems proper in consideration of their term, behavior and earned eligibility to participate in such program - where they will be outside of the prison facility but still in the custody of the Department of Corrections. Prisoners convicted of first degree murder, or a Class X felony, or armed violence, or aggravated kidnapping, or criminal sexual assault, aggravated criminal sexual abuse or a subsequent conviction for criminal sexual abuse, or forcible detention, or arson, or a prisoner adjudged a Habitual Criminal shall not be eligible for selection to participate in such program. The prisoners shall remain as prisoners in the custody of the Department of Corrections and such Department shall furnish whatever security is necessary. The Department of Transportation shall furnish trucks and equipment for the highway cleanup program and personnel to supervise and direct the program. Neither the Department of Corrections nor the Department of Transportation shall replace any regular employee with a prisoner.

(g) To maintain records of persons committed to it and to establish programs of research, statistics and planning.

(h) To investigate the grievances of any person committed to the Department, to inquire into any alleged misconduct by employees or committed persons, and to investigate the assets of committed persons to implement Section 3-7-6 of this Code; and for these purposes it may issue subpoenas and compel the attendance of witnesses and the production of writings and papers, and may

examine under oath any witnesses who may appear before it; to also investigate alleged violations of a parolee's or releasee's conditions of parole or release; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of documents only if there is reason to believe that such procedures would provide evidence that such violations have occurred.

If any person fails to obey a subpoena issued under this subsection, the Director may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punishable as contempt of court.

(i) To appoint and remove the chief administrative officers, and administer programs of training and development of personnel of the Department. Personnel assigned by the Department to be responsible for the custody and control of committed persons or to investigate the alleged misconduct of committed persons or employees or alleged violations of a parolee's or releasee's conditions of parole shall be conservators of the peace for those purposes, and shall have the full power of peace officers outside of the facilities of the Department in the protection, arrest, retaking and reconfining of committed persons or where the exercise of such power is necessary to the investigation of such misconduct or violations. This subsection shall not apply to persons committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987 on aftercare release.

(j) To cooperate with other departments and agencies and with local communities for the development of standards and programs for better correctional services in this State.

(k) To administer all moneys and properties of the Department.

(l) To report annually to the Governor on the committed persons, institutions and programs of the Department.

(l-5) (Blank).

(m) To make all rules and regulations and exercise all powers and duties vested by law in the Department.

(n) To establish rules and regulations for administering a system of sentence credits, established in accordance with Section 3-6-3, subject to review by the Prisoner Review Board.

(o) To administer the distribution of funds from the State Treasury to reimburse counties where State penal institutions are located for the payment of assistant state's attorneys' salaries under Section 4-2001 of the Counties Code.

(p) To exchange information with the Department of Human Services and the Department of Healthcare and Family Services for the purpose of verifying living arrangements and for other purposes directly connected with the administration of this Code and the Illinois Public Aid Code.

(q) To establish a diversion program.

The program shall provide a structured environment for selected technical parole or mandatory supervised release violators and committed persons who have violated the rules governing their conduct while in work release. This program shall not apply to those persons who have committed a new offense while serving on parole or mandatory supervised release or while committed to work release.

Elements of the program shall include, but shall not be limited to, the following:

- (1) The staff of a diversion facility shall provide supervision in accordance with required objectives set by the facility.
- (2) Participants shall be required to maintain employment.
- (3) Each participant shall pay for room and board at the facility on a sliding-scale basis according to the participant's income.
- (4) Each participant shall:
  - (A) provide restitution to victims in accordance with any court order;
  - (B) provide financial support to his dependents; and
  - (C) make appropriate payments toward any other court-ordered obligations.
- (5) Each participant shall complete community service in addition to employment.
- (6) Participants shall take part in such counseling, educational and other programs as the Department may deem appropriate.
- (7) Participants shall submit to drug and alcohol screening.
- (8) The Department shall promulgate rules governing the administration of the program.

(r) To enter into intergovernmental cooperation agreements under which persons in the custody of the Department may participate in a county impact incarceration program established under Section 3-6038 or 3-15003.5 of the Counties Code.

(r-5) (Blank).

(r-10) To systematically and routinely identify with respect to each streetgang active

within the correctional system: (1) each active gang; (2) every existing inter-gang affiliation or alliance; and (3) the current leaders in each gang. The Department shall promptly segregate leaders from inmates who belong to their gangs and allied gangs. "Segregate" means no physical contact and, to the extent possible under the conditions and space available at the correctional facility, prohibition of visual and sound communication. For the purposes of this paragraph (r-10), "leaders" means persons who:

- (i) are members of a criminal streetgang;
- (ii) with respect to other individuals within the streetgang, occupy a position of organizer, supervisor, or other position of management or leadership; and
- (iii) are actively and personally engaged in directing, ordering, authorizing, or requesting commission of criminal acts by others, which are punishable as a felony, in furtherance of streetgang related activity both within and outside of the Department of Corrections.

"Streetgang", "gang", and "streetgang related" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(s) To operate a super-maximum security institution, in order to manage and supervise inmates who are disruptive or dangerous and provide for the safety and security of the staff and the other inmates.

(t) To monitor any unprivileged conversation or any unprivileged communication, whether in person or by mail, telephone, or other means, between an inmate who, before commitment to the Department, was a member of an organized gang and any other person without the need to show cause or satisfy any other requirement of law before beginning the monitoring, except as constitutionally required. The monitoring may be by video, voice, or other method of recording or by any other means. As used in this subdivision (1)(t), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

As used in this subdivision (1)(t), "unprivileged conversation" or "unprivileged communication" means a conversation or communication that is not protected by any privilege recognized by law or by decision, rule, or order of the Illinois Supreme Court.

(u) To establish a Women's and Children's Pre-release Community Supervision Program for the purpose of providing housing and services to eligible female inmates, as determined by the Department, and their newborn and young children.

(u-5) To issue an order, whenever a person committed to the Department absconds or absents himself or herself, without authority to do so, from any facility or program to which he or she is assigned. The order shall be certified by the Director, the Supervisor of the Apprehension Unit, or any person duly designated by the Director, with the seal of the Department affixed. The order shall be directed to all sheriffs, coroners, and police officers, or to any particular person named in the order. Any order issued pursuant to this subdivision (1) (u-5) shall be sufficient warrant for the officer or person named in the order to arrest and deliver the committed person to the proper correctional officials and shall be executed the same as criminal process.

(v) To do all other acts necessary to carry out the provisions of this Chapter.

(2) The Department of Corrections shall by January 1, 1998, consider building and operating a correctional facility within 100 miles of a county of over 2,000,000 inhabitants, especially a facility designed to house juvenile participants in the impact incarceration program.

(3) When the Department lets bids for contracts for medical services to be provided to persons committed to Department facilities by a health maintenance organization, medical service corporation, or other health care provider, the bid may only be let to a health care provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds have an investment grade or higher rating by a bond rating organization.

(4) When the Department lets bids for contracts for food or commissary services to be provided to Department facilities, the bid may only be let to a food or commissary services provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds have an investment grade or higher rating by a bond rating organization.

(Source: P.A. 96-1265, eff. 7-26-10; 97-697, eff. 6-22-12; 97-800, eff. 7-13-12; 97-802, eff. 7-13-12; revised 7-23-12.)

(730 ILCS 5/3-2.5-20)

Sec. 3-2.5-20. General powers and duties.

(a) In addition to the powers, duties, and responsibilities which are otherwise provided by law or transferred to the Department as a result of this Article, the Department, as determined by the Director, shall have, but are not limited to, the following rights, powers, functions and duties:

- (1) To accept juveniles committed to it by the courts of this State for care, custody,



treatment, and rehabilitation.

(2) To maintain and administer all State juvenile correctional institutions previously under the control of the Juvenile and Women's & Children Divisions of the Department of Corrections, and to establish and maintain institutions as needed to meet the needs of the youth committed to its care.

(3) To identify the need for and recommend the funding and implementation of an appropriate mix of programs and services within the juvenile justice continuum, including but not limited to prevention, nonresidential and residential commitment programs, day treatment, and conditional release programs and services, with the support of educational, vocational, alcohol, drug abuse, and mental health services where appropriate.

(3.5) To assist youth committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987 with successful reintegration into society, the Department shall retain custody and control of all adjudicated delinquent juveniles released under Section 3-3-10 of this Code, shall provide a continuum of post-release treatment and services to those youth, and shall supervise those youth during their release period in accordance with the conditions set by the Prisoner Review Board.

(4) To establish and provide transitional and post-release treatment programs for juveniles committed to the Department. Services shall include but are not limited to:

- (i) family and individual counseling and treatment placement;
- (ii) referral services to any other State or local agencies;
- (iii) mental health services;
- (iv) educational services;
- (v) family counseling services; and
- (vi) substance abuse services.

(5) To access vital records of juveniles for the purposes of providing necessary documentation for transitional services such as obtaining identification, educational enrollment, employment, and housing.

(6) To develop staffing and workload standards and coordinate staff development and training appropriate for juvenile populations.

(7) To develop, with the approval of the Office of the Governor and the Governor's Office of Management and Budget, annual budget requests.

(8) To administer the Interstate Compact for Juveniles, with respect to all juveniles under its jurisdiction, and to cooperate with the Department of Human Services with regard to all non-offender juveniles subject to the Interstate Compact for Juveniles.

(b) The Department may employ personnel in accordance with the Personnel Code and Section 3-2.5-15 of this Code, provide facilities, contract for goods and services, and adopt rules as necessary to carry out its functions and purposes, all in accordance with applicable State and federal law.

(Source: P.A. 94-696, eff. 6-1-06; 95-937, eff. 8-26-08.)

(730 ILCS 5/3-2.5-65)

Sec. 3-2.5-65. Juvenile Advisory Board.

(a) There is created a Juvenile Advisory Board composed of 11 persons, appointed by the Governor to advise the Director on matters pertaining to juvenile offenders. The members of the Board shall be qualified for their positions by demonstrated interest in and knowledge of juvenile correctional work consistent with the definition of purpose and mission of the Department in Section 3-2.5-5 and shall not be officials of the State in any other capacity. The members under this amendatory Act of the 94th General Assembly shall be appointed as soon as possible after the effective date of this amendatory Act of the 94th General Assembly and be appointed to staggered terms 3 each expiring in 2007, 2008, and 2009 and 2 of the members' terms expiring in 2010. Thereafter all members will serve for a term of 6 years, except that members shall continue to serve until their replacements are appointed. Any vacancy occurring shall be filled in the same manner for the remainder of the term. The Director of Juvenile Justice shall be an ex officio member of the Board. The Board shall elect a chair from among its appointed members. The Director shall serve as secretary of the Board. Members of the Board shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The Board shall meet quarterly and at other times at the call of the chair.

(b) The Board shall:

(1) Advise the Director concerning policy matters and programs of the Department with regard to the custody, care, study, discipline, training, and treatment of juveniles in the State juvenile correctional institutions and for the care and supervision of juveniles on aftercare release ~~released on parole~~.

(2) Establish, with the Director and in conjunction with the Office of the Governor,

outcome measures for the Department in order to ascertain that it is successfully fulfilling the mission mandated in Section 3-2.5-5 of this Code. The annual results of the Department's work as defined by those measures shall be approved by the Board and shall be included in an annual report transmitted to the Governor and General Assembly jointly by the Director and the Board.

(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/3-2.5-70 new)

Sec. 3-2.5-70. Aftercare.

(a) The Department shall implement an aftercare program that includes, at a minimum, the following program elements:

(1) A process of case management plan for timely and successful reentry into the community beginning upon commitment.

(2) A process for reviewing committed youth for recommendation for aftercare release.

(3) An aftercare release program that includes supervision in accordance with the conditions set by the Prisoner Review Board and referral to and facilitation of community-based services as indicated including education, social and mental health services, substance abuse treatment, employment and vocational training, individual and family counseling, financial counseling, and other services as appropriate; and assistance in locating appropriate residential placement and obtaining suitable employment. The Department may purchase necessary services for a releasee if they are otherwise unavailable and the releasee is unable to pay for the services. It may assess all or part of the costs of these services to a releasee in accordance with his or her ability to pay for the services.

(4) Procedures for sanctions for violations of conditions of aftercare release that ensure that juvenile offenders face uniform and consistent consequences that hold them accountable taking into account aggravating and mitigating factors and prioritizing public safety.

(5) A process for reviewing youth on aftercare release for discharge.

(b) The Department of Juvenile Justice shall have the following rights, powers, functions, and duties:

(1) To investigate alleged violations of an aftercare releasee's conditions of release; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of documents only if there is reason to believe that the procedures would provide evidence that the violations have occurred. If any person fails to obey a subpoena issued under this subsection, the Director may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punishable as contempt of court.

(2) To issue a violation warrant for the apprehension of an aftercare releasee for violations of the conditions of aftercare release. Aftercare Specialists and Supervisors have the full power of peace officers in the retaking of any youth alleged to have violated the conditions of aftercare release.

(c) The Department of Juvenile Justice shall designate Aftercare Specialists qualified in juvenile matters to perform case management and post-release programming functions under this Section.

(730 ILCS 5/3-2.5-75 new)

Sec. 3-2.5-75. Release from Department of Juvenile Justice.

(a) Upon release of a youth on aftercare, the Department shall return all property held for the youth, provide the youth with suitable clothing, and procure necessary transportation for the youth to his or her designated place of residence and employment. It may provide the youth with a grant of money for travel and expenses which may be paid in installments. The amount of the money grant shall be determined by the Department.

(b) Before a wrongfully imprisoned person, as defined in Section 3-1-2 of this Code, is discharged from the Department, the Department shall provide him or her with any documents necessary after discharge, including an identification card under subsection (e) of this Section.

(c) The Department of Juvenile Justice may establish and maintain, in any institution it administers, revolving funds to be known as "Travel and Allowances Revolving Funds". These revolving funds shall be used for advancing travel and expense allowances to committed, released, and discharged youth. The moneys paid into these revolving funds shall be from appropriations to the Department for committed, released, and discharged prisoners.

(d) Upon the release of a youth on aftercare, the Department shall provide that youth with information concerning programs and services of the Illinois Department of Public Health to ascertain whether that youth has been exposed to the human immunodeficiency virus (HIV) or any identified causative agent of Acquired Immunodeficiency Syndrome (AIDS).

(e) Upon the release of a youth on aftercare or who has been wrongfully imprisoned, the Department shall provide the youth with an identification card identifying the youth as being on aftercare or wrongfully imprisoned, as the case may be. The Department, in consultation with the Office of the Secretary of State, shall prescribe the form of the identification card, which may be similar to the form of

the standard Illinois Identification Card. The Department shall inform the youth that he or she may present the identification card to the Office of the Secretary of State upon application for a standard Illinois Identification Card in accordance with the Illinois Identification Card Act. The Department shall require the youth to pay a \$1 fee for the identification card. The Department shall adopt rules governing the issuance of identification cards to youth being released on aftercare or pardon.

(730 ILCS 5/3-2.5-80 new)

Sec. 3-2.5-80. Supervision on Aftercare Release. Supervision on Aftercare Release.

(a) The Department shall retain custody of all youth placed on aftercare release or released under Section 3-3-10 of this Code. The Department shall supervise those youth during their aftercare release period in accordance with the conditions set by the Prisoner Review Board.

(b) A copy of youth's conditions of aftercare release shall be signed by the youth and given to the youth and to his or her Aftercare Specialist who shall report on the youth's progress under the rules of the Prisoner Review Board. Aftercare Specialists and Supervisors shall have the full power of peace officers in the retaking of any releasees who has allegedly violated his or her aftercare release conditions. The Aftercare Specialist may request the Department of Juvenile Justice to issue a warrant for the arrest of any releasee who has allegedly violated his or her aftercare release conditions.

(c) The Aftercare Supervisor shall request the Department of Juvenile Justice to issue an aftercare release violation warrant, and the Department of Juvenile Justice shall issue an aftercare release violation warrant, under the following circumstances:

(1) if the releasee commits an act that constitutes a felony using a firearm or knife;

(2) if applicable, the releasee fails to comply with the requirements of the Sex Offender Registration Act;

(3) if the releasee is charged with:

(A) a felony offense of domestic battery under Section 12-3.2 of the Criminal Code of 2012;

(B) aggravated domestic battery under Section 12-3.3 of the Criminal Code of 2012;

(C) stalking under Section 12-7.3 of the Criminal Code of 2012;

(D) aggravated stalking under Section 12-7.4 of the Criminal Code of 2012;

(E) violation of an order of protection under Section 12-3.4 of the Criminal Code of 2012; or

(F) any offense that would require registration as a sex offender under the Sex Offender Registration Act; or

(4) if the releasee is on aftercare release for a murder, a Class X felony or a Class 1 felony violation of the Criminal Code of 2012, or any felony that requires registration as a sex offender under the Sex Offender Registration Act and commits an act that constitutes first degree murder, a Class X felony, a Class 1 felony, a Class 2 felony, or a Class 3 felony.

Personnel designated by the Department of Juvenile Justice or another peace officer may detain an alleged aftercare release violator until a warrant for his or her return to the Department of Juvenile Justice can be issued. The releasee may be delivered to any secure place until he or she can be transported to the Department of Juvenile Justice. The Aftercare Specialist or the Department of Juvenile Justice shall file a violation report with notice of charges with the Prisoner Review Board.

(d) The Aftercare Specialist shall regularly advise and consult with the releasee and assist the youth in adjusting to community life in accord with this Section.

(e) If the aftercare releasee has been convicted of a sex offense as defined in the Sex Offender Management Board Act, the Aftercare Specialist shall periodically, but not less than once a month, verify that the releasee is in compliance with paragraph (7.6) of subsection (a) of Section 3-3-7.

(f) The Aftercare Specialist shall keep those records as the Prisoner Review Board or Department may require. All records shall be entered in the master file of the youth.

(730 ILCS 5/3-3-1) (from Ch. 38, par. 1003-3-1)

Sec. 3-3-1. Establishment and Appointment of Prisoner Review Board.

(a) There shall be a Prisoner Review Board independent of the Department of Corrections which shall be:

(1) the paroling authority for persons sentenced under the law in effect prior to the effective date of this amendatory Act of 1977;

(1.5) the authority for hearing and deciding the time of aftercare release for persons adjudicated delinquent under the Juvenile Court Act of 1987;

(2) the board of review for cases involving the revocation of sentence credits or a suspension or reduction in the rate of accumulating the credit;

(3) the board of review and recommendation for the exercise of executive clemency by the Governor;

(4) the authority for establishing release dates for certain prisoners sentenced under

the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(5) the authority for setting conditions for parole, mandatory supervised release under Section 5-8-1(a) of this Code, and aftercare release, and determining whether a violation of those conditions warrant revocation of parole, aftercare release, or mandatory supervised release or the imposition of other sanctions.

(b) The Board shall consist of 15 persons appointed by the Governor by and with the advice and consent of the Senate. One member of the Board shall be designated by the Governor to be Chairman and shall serve as Chairman at the pleasure of the Governor. The members of the Board shall have had at least 5 years of actual experience in the fields of penology, corrections work, law enforcement, sociology, law, education, social work, medicine, psychology, other behavioral sciences, or a combination thereof. At least 6 members so appointed must have had at least 3 years experience in the field of juvenile matters. No more than 8 Board members may be members of the same political party.

Each member of the Board shall serve on a full-time basis and shall not hold any other salaried public office, whether elective or appointive, nor any other office or position of profit, nor engage in any other business, employment, or vocation. The Chairman of the Board shall receive \$35,000 a year, or an amount set by the Compensation Review Board, whichever is greater, and each other member \$30,000, or an amount set by the Compensation Review Board, whichever is greater.

(c) Notwithstanding any other provision of this Section, the term of each member of the Board who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the successor members to be appointed pursuant to this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint persons to fill the vacancies created by this amendatory Act.

Of the initial members appointed under this amendatory Act of the 93rd General Assembly, the Governor shall appoint 5 members whose terms shall expire on the third Monday in January 2005, 5 members whose terms shall expire on the third Monday in January 2007, and 5 members whose terms shall expire on the third Monday in January 2009. Their respective successors shall be appointed for terms of 6 years from the third Monday in January of the year of appointment. Each member shall serve until his or her successor is appointed and qualified.

Any member may be removed by the Governor for incompetence, neglect of duty, malfeasance or inability to serve.

(d) The Chairman of the Board shall be its chief executive and administrative officer. The Board may have an Executive Director; if so, the Executive Director shall be appointed by the Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Board.

(Source: P.A. 97-697, eff. 6-22-12.)

(730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

Sec. 3-3-2. Powers and Duties.

(a) The Parole and Pardon Board is abolished and the term "Parole and Pardon Board" as used in any law of Illinois, shall read "Prisoner Review Board." After the effective date of this amendatory Act of 1977, the Prisoner Review Board shall provide by rule for the orderly transition of all files, records, and documents of the Parole and Pardon Board and for such other steps as may be necessary to effect an orderly transition and shall:

(1) hear by at least one member and through a panel of at least 3 members decide, cases of prisoners who were sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, and who are eligible for parole;

(2) hear by at least one member and through a panel of at least 3 members decide, the conditions of parole and the time of discharge from parole, impose sanctions for violations of parole, and revoke parole for those sentenced under the law in effect prior to this amendatory Act of 1977; provided that the decision to parole and the conditions of parole for all prisoners who were sentenced for first degree murder or who received a minimum sentence of 20 years or more under the law in effect prior to February 1, 1978 shall be determined by a majority vote of the Prisoner Review Board. One representative supporting parole and one representative opposing parole will be allowed to speak. Their comments shall be limited to making corrections and filling in omissions to the Board's presentation and discussion;

(3) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for those sentenced under the law in effect after the effective date of this

amendatory Act of 1977;

(3.5) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, to impose sanctions for violations of mandatory supervised release and revoke mandatory supervised release for those serving extended supervised release terms pursuant to paragraph (4) of subsection (d) of Section 5-8-1;

(3.6) hear by at least one member and through a panel of at least 3 members decide, the time of aftercare release, the conditions of aftercare release and the time of discharge from aftercare release, impose sanctions for violations of aftercare release, and revoke aftercare release for those adjudicated delinquent under the Juvenile Court Act of 1987;

(4) hear by at least one member and through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for alleged violation of Department rules with respect to sentence credits under Section 3-6-3 of this Code in which the Department seeks to revoke sentence credits, if the amount of time at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In such cases, the Department of Corrections may revoke up to 30 days of sentence credit. The Board may subsequently approve the revocation of additional sentence credit, if the Department seeks to revoke sentence credit in excess of thirty days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of sentence credit for any prisoner or to increase any penalty beyond the length requested by the Department;

(5) hear by at least one member and through a panel of at least 3 members decide, the release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(6) hear by at least one member and through a panel of at least 3 members decide, all requests for pardon, reprieve or commutation, and make confidential recommendations to the Governor;

(7) comply with the requirements of the Open Parole Hearings Act;

(8) hear by at least one member and, through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for court dismissal of a frivolous lawsuit pursuant to Section 3-6-3(d) of this Code in which the Department seeks to revoke up to 180 days of sentence credit, and if the prisoner has not accumulated 180 days of sentence credit at the time of the dismissal, then all sentence credit accumulated by the prisoner shall be revoked;

(9) hear by at least 3 members, and, through a panel of at least 3 members, decide whether to grant certificates of relief from disabilities or certificates of good conduct as provided in Article 5.5 of Chapter V; and

(10) upon a petition by a person who has been convicted of a Class 3 or Class 4 felony and who meets the requirements of this paragraph, hear by at least 3 members and, with the unanimous vote of a panel of 3 members, issue a certificate of eligibility for sealing recommending that the court order the sealing of all official records of the arresting authority, the circuit court clerk, and the Department of State Police concerning the arrest and conviction for the Class 3 or 4 felony. A person may not apply to the Board for a certificate of eligibility for sealing:

(A) until 5 years have elapsed since the expiration of his or her sentence;

(B) until 5 years have elapsed since any arrests or detentions by a law enforcement officer for an alleged violation of law, other than a petty offense, traffic offense, conservation offense, or local ordinance offense;

(C) if convicted of a violation of the Cannabis Control Act, Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, the Methamphetamine Precursor Control Act, or the Methamphetamine Precursor Tracking Act unless the petitioner has completed a drug abuse program for the offense on which sealing is sought and provides proof that he or she has completed the program successfully;

(D) if convicted of:

(i) a sex offense described in Article 11 or Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012;

(ii) aggravated assault;

(iii) aggravated battery;

(iv) domestic battery;

(v) aggravated domestic battery;

- (vi) violation of an order of protection;
- (vii) an offense under the Criminal Code of 1961 or the Criminal Code of 2012 involving a firearm;
- (viii) driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof;
- (ix) aggravated driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof; or
- (x) any crime defined as a crime of violence under Section 2 of the Crime Victims Compensation Act.

If a person has applied to the Board for a certificate of eligibility for sealing and the Board denies the certificate, the person must wait at least 4 years before filing again or filing for pardon from the Governor unless the Chairman of the Prisoner Review Board grants a waiver.

The decision to issue or refrain from issuing a certificate of eligibility for sealing shall be at the Board's sole discretion, and shall not give rise to any cause of action against either the Board or its members.

The Board may only authorize the sealing of Class 3 and 4 felony convictions of the petitioner from one information or indictment under this paragraph (10). A petitioner may only receive one certificate of eligibility for sealing under this provision for life.

(a-5) The Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall implement a pilot project in 3 correctional institutions providing for the conduct of hearings under paragraphs (1) and (4) of subsection (a) of this Section through interactive video conferences. The project shall be implemented within 6 months after the effective date of this amendatory Act of 1996. Within 6 months after the implementation of the pilot project, the Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall report to the Governor and the General Assembly regarding the use, costs, effectiveness, and future viability of interactive video conferences for Prisoner Review Board hearings.

(b) Upon recommendation of the Department the Board may restore sentence credit previously revoked.

(c) The Board shall cooperate with the Department in promoting an effective system of parole, aftercare release, and mandatory supervised release.

(d) The Board shall promulgate rules for the conduct of its work, and the Chairman shall file a copy of such rules and any amendments thereto with the Director and with the Secretary of State.

(e) The Board shall keep records of all of its official actions and shall make them accessible in accordance with law and the rules of the Board.

(f) The Board or one who has allegedly violated the conditions of his or her parole, aftercare release, or mandatory supervised release may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or hearing. The Chairman of the Board may sign subpoenas which shall be served by any agent or public official authorized by the Chairman of the Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the State to a hearing location in the State before the Chairman of the Board or his or her designated agent or agents or any duly constituted Committee or Subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the State. Fees and mileage shall be vouchered for payment when the witness is discharged from further attendance.

In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the filing of such a petition, may order the person refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of that investigation or hearing.

Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

Each member of the Board and any hearing officer designated by the Board shall have the power to administer oaths and to take the testimony of persons under oath.

(g) Except under subsection (a) of this Section, a majority of the members then appointed to the Prisoner Review Board shall constitute a quorum for the transaction of all business of the Board.

(h) The Prisoner Review Board shall annually transmit to the Director a detailed report of its work for the preceding calendar year. The annual report shall also be transmitted to the Governor for submission to the Legislature.

(Source: P.A. 96-875, eff. 1-22-10; 97-697, eff. 6-22-12; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

Sec. 3-3-3. Eligibility for Parole or Release.

(a) Except for those offenders who accept the fixed release date established by the Prisoner Review Board under Section 3-3-2.1, every person serving a term of imprisonment under the law in effect prior to the effective date of this amendatory Act of 1977 shall be eligible for parole when he or she has served:

- (1) the minimum term of an indeterminate sentence less time credit for good behavior, or 20 years less time credit for good behavior, whichever is less; or
- (2) 20 years of a life sentence less time credit for good behavior; or
- (3) 20 years or one-third of a determinate sentence, whichever is less, less time credit for good behavior.

(b) No person sentenced under this amendatory Act of 1977 or who accepts a release date under Section 3-3-2.1 shall be eligible for parole.

(c) Except for those sentenced to a term of natural life imprisonment, every person sentenced to imprisonment under this amendatory Act of 1977 or given a release date under Section 3-3-2.1 of this Act shall serve the full term of a determinate sentence less time credit for good behavior and shall then be released under the mandatory supervised release provisions of paragraph (d) of Section 5-8-1 of this Code.

(d) No person serving a term of natural life imprisonment may be paroled or released except through executive clemency.

(e) Every person committed to the Department of Juvenile Justice under Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987 or Section 5-8-6 of this Code and confined in the State correctional institutions or facilities if such juvenile has not been tried as an adult shall be eligible for aftercare release parole without regard to the length of time the person has been confined or whether the person has served any minimum term imposed. However, if a juvenile has been tried as an adult he or she shall only be eligible for parole or mandatory supervised release as an adult under this Section.

(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

Sec. 3-3-4. Preparation for Parole Hearing.

(a) The Prisoner Review Board shall consider the parole of each eligible person committed to the Department of Corrections at least 30 days prior to the date he or she shall first become eligible for parole, and shall consider the aftercare release parole of each person committed to the Department of Juvenile Justice as a delinquent at least 30 days prior to the expiration of the first year of confinement.

(b) A person eligible for parole or aftercare release shall, no less than 15 days in advance of his or her parole interview, prepare a parole or aftercare release plan in accordance with the rules of the Prisoner Review Board. The person shall be assisted in preparing his or her parole or aftercare release plan by personnel of the Department of Corrections, or the Department of Juvenile Justice in the case of a person committed to that Department, and may, for this purpose, be released on furlough under Article 11 or on authorized absence under Section 3-9-4. The appropriate Department shall also provide assistance in obtaining information and records helpful to the individual for his or her parole hearing. If the person eligible for parole or aftercare release has a petition or any written submissions prepared on his or her behalf by an attorney or other representative, the attorney or representative for the person eligible for parole or aftercare release must serve by certified mail the State's Attorney of the county where he or she was prosecuted with the petition or any written submissions 15 days after his or her parole interview. The State's Attorney shall provide the attorney for the person eligible for parole or aftercare release with a copy of his or her letter in opposition to parole or aftercare release via certified mail within 5 business days of the en banc hearing.

(c) Any member of the Board shall have access at all reasonable times to any committed person and to his or her master record file within the Department, and the Department shall furnish such a report to the

Board concerning the conduct and character of any such person prior to his or her parole interview.

(d) In making its determination of parole or aftercare release, the Board shall consider:

(1) material transmitted to the Department of Juvenile Justice by the clerk of the committing court under Section 5-4-1 or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987;

(2) the report under Section 3-8-2 or 3-10-2;

(3) a report by the Department and any report by the chief administrative officer of the institution or facility;

(4) a parole or aftercare release progress report;

(5) a medical and psychological report, if requested by the Board;

(6) material in writing, or on film, video tape or other electronic means in the form of a recording submitted by the person whose parole or aftercare release is being considered;

(7) material in writing, or on film, video tape or other electronic means in the form of a recording or testimony submitted by the State's Attorney and the victim or a concerned citizen pursuant to the Rights of Crime Victims and Witnesses Act; and

(8) the person's eligibility for commitment under the Sexually Violent Persons Commitment Act.

(e) The prosecuting State's Attorney's office shall receive from the Board reasonable written notice not less than 30 days prior to the parole or aftercare release interview and may submit relevant information by oral argument or testimony of victims and concerned citizens, or both, in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. Upon written request of the State's Attorney's office, the Prisoner Review Board shall hear protests to parole, or aftercare release, except in counties of 1,500,000 or more inhabitants where there shall be standing objections to all such petitions. If a State's Attorney who represents a county of less than 1,500,000 inhabitants requests a protest hearing, the inmate's counsel or other representative shall also receive notice of such request. This hearing shall take place the month following the inmate's parole or aftercare release interview. If the inmate's parole or aftercare release interview is rescheduled then the Prisoner Review Board shall promptly notify the State's Attorney of the new date. The person eligible for parole or aftercare release shall be heard at the next scheduled en banc hearing date. If the case is to be continued, the State's Attorney's office and the attorney or representative for the person eligible for parole or aftercare release will be notified of any continuance within 5 business days. The State's Attorney may waive the written notice.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole or aftercare release hearing as provided in paragraph (4) of subsection (d) of Section 4.5 of the Rights of Crime Victims and Witnesses Act.

(g) Any recording considered under the provisions of subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be both visual and aural. Every voice on the recording and person present shall be identified and the recording shall contain either a visual or aural statement of the person submitting such recording, the date of the recording and the name of the person whose parole or aftercare release eligibility is being considered. Such recordings shall be retained by the Board and shall be deemed to be submitted at any subsequent parole or aftercare release hearing if the victim or State's Attorney submits in writing a declaration clearly identifying such recording as representing the present position of the victim or State's Attorney regarding the issues to be considered at the parole or aftercare release hearing.

(h) The Board shall not release any material to the inmate, the inmate's attorney, any third party, or any other person containing any information from the victim or from a person related to the victim by blood, adoption, or marriage who has written objections, testified at any hearing, or submitted audio or visual objections to the inmate's parole, or aftercare release, unless provided with a waiver from that objecting party.

(Source: P.A. 96-875, eff. 1-22-10; 97-523, eff. 1-1-12; 97-1075, eff. 8-24-12; 97-1083, eff. 8-24-12; revised 9-20-12.)

(730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

Sec. 3-3-5. Hearing and Determination.

(a) The Prisoner Review Board shall meet as often as need requires to consider the cases of persons eligible for parole and aftercare release. Except as otherwise provided in paragraph (2) of subsection (a) of Section 3-3-2 of this Act, the Prisoner Review Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the panel shall have at least a majority of members experienced in juvenile matters.



(b) If the person under consideration for parole or aftercare release is in the custody of the Department, at least one member of the Board shall interview him or her, and a report of that interview shall be available for the Board's consideration. However, in the discretion of the Board, the interview need not be conducted if a psychiatric examination determines that the person could not meaningfully contribute to the Board's consideration. The Board may in its discretion parole or release on aftercare a person who is then outside the jurisdiction on his or her record without an interview. The Board need not hold a hearing or interview a person who is paroled or released on aftercare under paragraphs (d) or (e) of this Section or released on Mandatory release under Section 3-3-10.

(c) The Board shall not parole or release a person eligible for parole or aftercare release if it determines that:

(1) there is a substantial risk that he or she will not conform to reasonable conditions of parole or aftercare release; or

(2) his or her release at that time would deprecate the seriousness of his or her offense or promote disrespect for the law; or

(3) his or her release would have a substantially adverse effect on institutional discipline.

(d) A person committed under the Juvenile Court Act or the Juvenile Court Act of 1987 who has not been sooner released shall be released on aftercare ~~paroled~~ on or before his or her 20th birthday to begin serving a period of aftercare release ~~parole~~ under Section 3-3-8.

(e) A person who has served the maximum term of imprisonment imposed at the time of sentencing less time credit for good behavior shall be released on parole to serve a period of parole under Section 5-8-1.

(f) The Board shall render its decision within a reasonable time after hearing and shall state the basis therefor both in the records of the Board and in written notice to the person on whose application it has acted. In its decision, the Board shall set the person's time for parole or aftercare release, or if it denies parole or aftercare release it shall provide for a rehearing not less frequently than once every year, except that the Board may, after denying parole, schedule a rehearing no later than 5 years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. If the Board shall parole or release a person, and, if he or she is not released within 90 days from the effective date of the order granting parole, or aftercare release, the matter shall be returned to the Board for review.

(f-1) If the Board paroles or releases a person who is eligible for commitment as a sexually violent person, the effective date of the Board's order shall be stayed for 90 days for the purpose of evaluation and proceedings under the Sexually Violent Persons Commitment Act.

(g) The Board shall maintain a registry of decisions in which parole has been granted, which shall include the name and case number of the prisoner, the highest charge for which the prisoner was sentenced, the length of sentence imposed, the date of the sentence, the date of the parole, and the basis for the decision of the Board to grant parole and the vote of the Board on any such decisions. The registry shall be made available for public inspection and copying during business hours and shall be a public record pursuant to the provisions of the Freedom of Information Act.

(h) The Board shall promulgate rules regarding the exercise of its discretion under this Section.

(Source: P.A. 96-875, eff. 1-22-10; 97-522, eff. 1-1-12; 97-1075, eff. 8-24-12.)

(730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

Sec. 3-3-7. Conditions of Parole or Mandatory Supervised Release.

(a) The conditions of parole, aftercare release, or mandatory supervised release shall be such as the Prisoner Review Board deems necessary to assist the subject in leading a law-abiding life. The conditions of every parole, aftercare release, and mandatory supervised release are that the subject:

(1) not violate any criminal statute of any jurisdiction during the parole, aftercare release, or release term;

(2) refrain from possessing a firearm or other dangerous weapon;

(3) report to an agent of the Department of Corrections or, in the case of aftercare releasees, to the Department of Juvenile Justice;

(4) permit the agent or aftercare specialist to visit him or her at his or her home, employment, or elsewhere

to the extent necessary for the agent or aftercare specialist to discharge his or her duties;

(5) attend or reside in a facility established for the instruction or residence of

persons on parole, aftercare release, or mandatory supervised release;

(6) secure permission before visiting or writing a committed person in an Illinois

Department of Corrections facility;

(7) report all arrests to an agent of the Department of Corrections or, in the case of aftercare

releasees, to the Department of Juvenile Justice as soon as

permitted by the arresting authority but in no event later than 24 hours after release from custody and immediately report service or notification of an order of protection, a civil no contact order, or a stalking no contact order to an agent of the Department of Corrections;

(7.5) if convicted of a sex offense as defined in the Sex Offender Management Board Act, the individual shall undergo and successfully complete sex offender treatment conducted in conformance with the standards developed by the Sex Offender Management Board Act by a treatment provider approved by the Board;

(7.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders, or is in any facility operated or licensed by the Department of Children and Family Services or by the Department of Human Services, or is in any licensed medical facility;

(7.7) if convicted for an offense that would qualify the accused as a sexual predator under the Sex Offender Registration Act on or after January 1, 2007 (the effective date of Public Act 94-988), wear an approved electronic monitoring device as defined in Section 5-8A-2 for the duration of the person's parole, aftercare release, mandatory supervised release term, or extended mandatory supervised release term and if convicted for an offense of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, or ritualized abuse of a child committed on or after August 11, 2009 (the effective date of Public Act 96-236) when the victim was under 18 years of age at the time of the commission of the offense and the defendant used force or the threat of force in the commission of the offense wear an approved electronic monitoring device as defined in Section 5-8A-2 that has Global Positioning System (GPS) capability for the duration of the person's parole, aftercare release, mandatory supervised release term, or extended mandatory supervised release term;

(7.8) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.8), "Internet" has the meaning ascribed to it in Section 16-0.1 of the Criminal Code of 2012; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(7.9) if convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, consent to search of computers, PDAs, cellular phones, and other devices under his or her control that are capable of accessing the Internet or storing electronic files, in order to confirm Internet protocol addresses reported in accordance with the Sex Offender Registration Act and compliance with conditions in this Act;

(7.10) if convicted for an offense that would qualify the accused as a sex offender or sexual predator under the Sex Offender Registration Act on or after June 1, 2008 (the effective date of Public Act 95-640), not possess prescription drugs for erectile dysfunction;

(7.11) if convicted for an offense under Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983):

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the Department;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's supervising agent, aftercare specialist, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the

Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the Board, the Department or the offender's supervising agent or aftercare specialist;

(7.12) if convicted of a sex offense as defined in the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-262), refrain from accessing or using a social networking website as defined in Section 17-0.5 of the Criminal Code of 2012;

(7.13) if convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-362) that requires the person to register as a sex offender under that Act, may not knowingly use any computer scrub software on any computer that the sex offender uses;

(8) obtain permission of an agent of the Department of Corrections or, in the case of aftercare releasees, the Department of Juvenile Justice before leaving the

State of Illinois;

(9) obtain permission of an agent of the Department of Corrections or, in the case of aftercare releasees, the Department of Juvenile Justice before changing his

or her residence or employment;

(10) consent to a search of his or her person, property, or residence under his or her control;

(11) refrain from the use or possession of narcotics or other controlled substances in any form, or both, or any paraphernalia related to those substances and submit to a urinalysis test as instructed by a parole agent of the Department of Corrections or an aftercare specialist of the Department of Juvenile Justice;

(12) not frequent places where controlled substances are illegally sold, used, distributed, or administered;

(13) not knowingly associate with other persons on parole, aftercare release, or mandatory supervised

release without prior written permission of his or her parole agent or aftercare specialist and not associate with persons who are members of an organized gang as that term is defined in the Illinois Streetgang Terrorism Omnibus Prevention Act;

(14) provide true and accurate information, as it relates to his or her adjustment in the community while on parole, aftercare release, or mandatory supervised release or to his or her conduct while incarcerated, in response to inquiries by his or her parole agent or of the Department of Corrections, or in the case of an aftercare releasee, by his or her aftercare specialist or of the Department of Juvenile Justice;

(15) follow any specific instructions provided by the parole agent or aftercare specialist that are consistent

with furthering conditions set and approved by the Prisoner Review Board or by law, exclusive of placement on electronic detention, to achieve the goals and objectives of his or her parole, aftercare release, or mandatory supervised release or to protect the public. These instructions by the parole agent or aftercare specialist may be modified at any time, as the agent or aftercare specialist deems appropriate;

(16) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter;

(17) if convicted of a violation of an order of protection under Section 12-3.4 or Section 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code;

(18) comply with the terms and conditions of an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986; an order of protection issued by the court of another state, tribe, or United States territory; a no contact order issued pursuant to the Civil No Contact Order Act; or a no contact order issued pursuant to the Stalking No Contact Order Act; and

(19) if convicted of a violation of the Methamphetamine Control and Community Protection Act, the Methamphetamine Precursor Control Act, or a methamphetamine related offense, be:

(A) prohibited from purchasing, possessing, or having under his or her control any product containing pseudoephedrine unless prescribed by a physician; and

(B) prohibited from purchasing, possessing, or having under his or her control any product containing ammonium nitrate.

(b) The Board may in addition to other conditions require that the subject:

(1) work or pursue a course of study or vocational training;

(2) undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;

(3) attend or reside in a facility established for the instruction or residence of persons on probation or parole;

(4) support his or her dependents;

(5) (blank);

(6) (blank);

(7) (blank);

(7.5) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.5), "Internet" has the meaning ascribed to it in Section 16-0.1 of the Criminal Code of 2012; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(7.6) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) that would qualify as a sex offense as defined in the Sex Offender Registration Act:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the Department;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's supervising agent or aftercare specialist, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the Board, the Department or the offender's supervising agent or aftercare specialist; and

(8) in addition, if a minor:

(i) reside with his or her parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth; or

(iv) contribute to his or her own support at home or in a foster home.

(b-1) In addition to the conditions set forth in subsections (a) and (b), persons required to register as sex offenders pursuant to the Sex Offender Registration Act, upon release from the custody of the Illinois Department of Corrections or Department of Juvenile Justice, may be required by the Board to comply with the following specific conditions of release:

(1) reside only at a Department approved location;

(2) comply with all requirements of the Sex Offender Registration Act;

(3) notify third parties of the risks that may be occasioned by his or her criminal record;

(4) obtain the approval of an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice prior to accepting employment or pursuing a course of study or vocational training and notify the Department prior to any change in employment, study, or training;

(5) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by an agent of

the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice;

(6) be electronically monitored for a minimum of 12 months from the date of release as determined by the Board;

(7) refrain from entering into a designated geographic area except upon terms approved in advance by an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice. The terms may include consideration of the purpose of the entry, the time of day, and others accompanying the person;

(8) refrain from having any contact, including written or oral communications, directly or indirectly, personally or by telephone, letter, or through a third party with certain specified persons including, but not limited to, the victim or the victim's family without the prior written approval of an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice;

(9) refrain from all contact, directly or indirectly, personally, by telephone, letter, or through a third party, with minor children without prior identification and approval of an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice;

(10) neither possess or have under his or her control any material that is sexually oriented, sexually stimulating, or that shows male or female sex organs or any pictures depicting children under 18 years of age nude or any written or audio material describing sexual intercourse or that depicts or alludes to sexual activity, including but not limited to visual, auditory, telephonic, or electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(11) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers;

(12) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice and immediately report any incidental contact with minor children to the Department;

(13) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending as determined by an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice;

(14) may be required to provide a written daily log of activities if directed by an agent of the Department of Corrections or, in the case of an aftercare releasee, the Department of Juvenile Justice;

(15) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access to potential victims;

(16) take an annual polygraph exam;

(17) maintain a log of his or her travel; or

(18) obtain prior approval of his or her parole officer or aftercare specialist before driving alone in a motor vehicle.

(c) The conditions under which the parole, aftercare release, or mandatory supervised release is to be served shall be communicated to the person in writing prior to his or her release, and he or she shall sign the same before release. A signed copy of these conditions, including a copy of an order of protection where one had been issued by the criminal court, shall be retained by the person and another copy forwarded to the officer or, in the case of an aftercare releasee, aftercare specialist in charge of his or her supervision.

(d) After a hearing under Section 3-3-9, the Prisoner Review Board may modify or enlarge the conditions of parole, aftercare release, or mandatory supervised release.

(e) The Department shall inform all offenders committed to the Department of the optional services available to them upon release and shall assist inmates in availing themselves of such optional services upon their release on a voluntary basis.

(f) (Blank).

(Source: P.A. 96-236, eff. 8-11-09; 96-262, eff. 1-1-10; 96-328, eff. 8-11-09; 96-362, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1539, eff. 3-4-11; 96-1551, Article 2, Section 1065, eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11; 97-50, eff. 6-28-11; 97-531, eff. 1-1-12; 97-560, eff. 1-1-12; 97-597, eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(730 ILCS 5/3-3-8) (from Ch. 38, par. 1003-3-8)

Sec. 3-3-8. Length of parole, aftercare release, and mandatory supervised release; discharge.)

(a) The length of parole for a person sentenced under the law in effect prior to the effective date of this amendatory Act of 1977 and the length of mandatory supervised release for those sentenced under the law in effect on and after such effective date shall be as set out in Section 5-8-1 unless sooner terminated under paragraph (b) of this Section. The aftercare release parole period of a juvenile committed to the Department under the Juvenile Court Act or the Juvenile Court Act of 1987 shall extend until he or she is 21 years of age unless sooner terminated under paragraph (b) of this Section.

(b) The Prisoner Review Board may enter an order releasing and discharging one from parole, aftercare release, or mandatory supervised release, and his or her commitment to the Department, when it determines that he or she is likely to remain at liberty without committing another offense.

(b-1) Provided that the subject is in compliance with the terms and conditions of his or her parole, aftercare release, or mandatory supervised release, the Prisoner Review Board may reduce the period of a parolee or releasee's parole, aftercare release, or mandatory supervised release by 90 days upon the parolee or releasee receiving a high school diploma or upon passage of the high school level Test of General Educational Development during the period of his or her parole, aftercare release, or mandatory supervised release. This reduction in the period of a subject's term of parole, aftercare release, or mandatory supervised release shall be available only to subjects who have not previously earned a high school diploma or who have not previously passed the high school level Test of General Educational Development.

(c) The order of discharge shall become effective upon entry of the order of the Board. The Board shall notify the clerk of the committing court of the order. Upon receipt of such copy, the clerk shall make an entry on the record judgment that the sentence or commitment has been satisfied pursuant to the order.

(d) Rights of the person discharged under this Section shall be restored under Section 5-5-5. This Section is subject to Section 5-750 of the Juvenile Court Act of 1987.

(Source: P.A. 97-531, eff. 1-1-12.)

(730 ILCS 5/3-3-9) (from Ch. 38, par. 1003-3-9)

Sec. 3-3-9. Violations; changes of conditions; preliminary hearing; revocation of parole, aftercare release, or mandatory supervised release; revocation hearing.

(a) If prior to expiration or termination of the term of parole, aftercare release, or mandatory supervised release, a person violates a condition set by the Prisoner Review Board or a condition of parole, aftercare release, or mandatory supervised release under Section 3-3-7 of this Code to govern that term, the Board may:

(1) continue the existing term, with or without modifying or enlarging the conditions;

or

(2) parole or release the person to a half-way house; or

(3) revoke the parole, aftercare release, or mandatory supervised release and reconfine the person

for a

term computed in the following manner:

(i) (A) For those sentenced under the law in effect prior to this amendatory Act of 1977, the recommitment shall be for any portion of the imposed maximum term of imprisonment or confinement which had not been served at the time of parole and the parole term, less the time elapsed between the parole of the person and the commission of the violation for which parole was revoked;

(B) Except as set forth in paragraph (C), for those subject to mandatory supervised release under paragraph (d) of Section 5-8-1 of this Code, the recommitment shall be for the total mandatory supervised release term, less the time elapsed between the release of the person and the commission of the violation for which mandatory supervised release is revoked. The Board may also order that a prisoner serve up to one year of the sentence imposed by the court which was not served due to the accumulation of sentence credit;

(C) For those subject to sex offender supervision under clause (d)(4) of Section 5-8-1 of this Code, the recommitment period for violations of clauses (a)(3) through (b-1)(15) of Section 3-3-7 shall not exceed 2 years from the date of recommitment; -

(ii) the person shall be given credit against the term of reimprisonment or recommitment for time spent in custody since he or she was paroled or released which has not been credited against another sentence or period of confinement;

(iii) persons committed under the Juvenile Court Act or the Juvenile Court Act of 1987 may be continued under the existing term of aftercare release parole with or without modifying the conditions of aftercare release parole, ~~paroled~~ or released on aftercare release to a

group home or other residential facility, or recommitted until the age of 21 unless sooner terminated;

(iv) this Section is subject to the release under supervision and the reparole and rerelease provisions of Section 3-3-10.

(b) The Board may revoke parole, aftercare release, or mandatory supervised release for violation of a condition for the duration of the term and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration. The issuance of a warrant of arrest for an alleged violation of the conditions of parole, aftercare release, or mandatory supervised release shall toll the running of the term until the final determination of the charge. When parole, aftercare release, or mandatory supervised release is not revoked that period shall be credited to the term, unless a community-based sanction is imposed as an alternative to revocation and reincarceration, including a diversion established by the Illinois Department of Corrections Parole Services Unit prior to the holding of a preliminary parole revocation hearing. Parolees who are diverted to a community-based sanction shall serve the entire term of parole or mandatory supervised release, if otherwise appropriate.

(b-5) The Board shall revoke parole, aftercare release, or mandatory supervised release for violation of the conditions prescribed in paragraph (7.6) of subsection (a) of Section 3-3-7.

(c) A person charged with violating a condition of parole, aftercare release, or mandatory supervised release shall have a preliminary hearing before a hearing officer designated by the Board to determine if there is cause to hold the person for a revocation hearing. However, no preliminary hearing need be held when revocation is based upon new criminal charges and a court finds probable cause on the new criminal charges or when the revocation is based upon a new criminal conviction and a certified copy of that conviction is available.

(d) Parole, aftercare release, or mandatory supervised release shall not be revoked without written notice to the offender setting forth the violation of parole, aftercare release, or mandatory supervised release charged against him or her.

(e) A hearing on revocation shall be conducted before at least one member of the Prisoner Review Board. The Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the member hearing the matter and at least a majority of the panel shall be experienced in juvenile matters. A record of the hearing shall be made. At the hearing the offender shall be permitted to:

- (1) appear and answer the charge; and
- (2) bring witnesses on his or her behalf.

(f) The Board shall either revoke parole, aftercare release, or mandatory supervised release or order the person's term continued with or without modification or enlargement of the conditions.

(g) Parole, aftercare release, or mandatory supervised release shall not be revoked for failure to make payments under the conditions of parole or release unless the Board determines that such failure is due to the offender's willful refusal to pay.

(Source: P.A. 96-1271, eff. 1-1-11; 97-697, eff. 6-22-12; revised 8-3-12.)

(730 ILCS 5/3-3-10) (from Ch. 38, par. 1003-3-10)

Sec. 3-3-10. Eligibility after Revocation; Release under Supervision.

(a) A person whose parole, aftercare release, or mandatory supervised release has been revoked may be repared or rereleased by the Board at any time to the full parole, aftercare release, or mandatory supervised release term under Section 3-3-8, except that the time which the person shall remain subject to the Board shall not exceed (1) the imposed maximum term of imprisonment or confinement and the parole term for those sentenced under the law in effect prior to the effective date of this amendatory Act of 1977 or (2) the term of imprisonment imposed by the court and the mandatory supervised release term for those sentenced under the law in effect on and after such effective date.

(b) If the Board sets no earlier release date:

(1) A person sentenced for any violation of law which occurred before January 1, 1973, shall be released under supervision 6 months prior to the expiration of his or her maximum sentence of imprisonment less good time credit under Section 3-6-3.

(2) Any person who has violated the conditions of his or her parole or aftercare release and been reconfinned under

Section 3-3-9 shall be released under supervision 6 months prior to the expiration of the term of his or her reconfinement under paragraph (a) of Section 3-3-9 less good time credit under Section 3-6-3. This paragraph shall not apply to persons serving terms of mandatory supervised release.

(3) Nothing herein shall require the release of a person who has violated his or her parole within 6 months of the date when his or her release under this Section would otherwise be mandatory.

(c) Persons released under this Section shall be subject to Sections 3-3-6, 3-3-7, 3-3-9, 3-14-1, 3-14-2, 3-14-2.5, 3-14-3, and 3-14-4.

(Source: P.A. 94-165, eff. 7-11-05; 95-331, eff. 8-21-07.)

(730 ILCS 5/3-4-3) (from Ch. 38, par. 1003-4-3)

Sec. 3-4-3. Funds and Property of Persons Committed.

(a) The Department of Corrections and the Department of Juvenile Justice shall establish accounting records with accounts for each person who has or receives money while in an institution or facility of that Department and it shall allow the withdrawal and disbursement of money by the person under rules and regulations of that Department. Any interest or other income from moneys deposited with the Department by a resident of the Department of Juvenile Justice in excess of \$200 shall accrue to the individual's account, or in balances up to \$200 shall accrue to the Residents' Benefit Fund. For an individual in an institution or facility of the Department of Corrections the interest shall accrue to the Residents' Benefit Fund. The Department shall disburse all moneys so held no later than the person's final discharge from the Department. Moneys in the account of a committed person who files a lawsuit determined frivolous under Article XXII of the Code of Civil Procedure shall be deducted to pay for the filing fees and cost of the suit as provided in that Article. The Department shall under rules and regulations record and receipt all personal property not allowed to committed persons. The Department shall return such property to the individual no later than the person's release on parole or aftercare.

(b) Any money held in accounts of committed persons separated from the Department by death, discharge, or unauthorized absence and unclaimed for a period of 1 year thereafter by the person or his legal representative shall be transmitted to the State Treasurer who shall deposit it into the General Revenue Fund. Articles of personal property of persons so separated may be sold or used by the Department if unclaimed for a period of 1 year for the same purpose. Clothing, if unclaimed within 30 days, may be used or disposed of as determined by the Department.

(c) Forty percent of the profits on sales from commissary stores shall be expended by the Department for the special benefit of committed persons which shall include but not be limited to the advancement of inmate payrolls, for the special benefit of employees, and for the advancement or reimbursement of employee travel, provided that amounts expended for employees shall not exceed the amount of profits derived from sales made to employees by such commissaries, as determined by the Department. The remainder of the profits from sales from commissary stores must be used first to pay for wages and benefits of employees covered under a collective bargaining agreement who are employed at commissary facilities of the Department and then to pay the costs of dietary staff.

(d) The Department shall confiscate any unauthorized currency found in the possession of a committed person. The Department shall transmit the confiscated currency to the State Treasurer who shall deposit it into the General Revenue Fund.

(Source: P.A. 97-1083, eff. 8-24-12.)

(730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

Sec. 3-5-1. Master Record File.

(a) The Department of Corrections and the Department of Juvenile Justice shall maintain a master record file on each person committed to it, which shall contain the following information:

- (1) all information from the committing court;
- (2) reception summary;
- (3) evaluation and assignment reports and recommendations;
- (4) reports as to program assignment and progress;
- (5) reports of disciplinary infractions and disposition, including tickets and Administrative Review Board action;
- (6) any parole or aftercare release plan;
- (7) any parole or aftercare release reports;
- (8) the date and circumstances of final discharge;
- (9) criminal history;
- (10) current and past gang affiliations and ranks;
- (11) information regarding associations and family relationships;
- (12) any grievances filed and responses to those grievances; and
- (13) other information that the respective Department determines is relevant to the secure confinement and rehabilitation of the committed person.

(b) All files shall be confidential and access shall be limited to authorized personnel of the respective Department. Personnel of other correctional, welfare or law enforcement agencies may have access to files under rules and regulations of the respective Department. The respective Department shall keep a record of all outside personnel who have access to files, the files reviewed, any file material copied, and



the purpose of access. If the respective Department or the Prisoner Review Board makes a determination under this Code which affects the length of the period of confinement or commitment, the committed person and his counsel shall be advised of factual information relied upon by the respective Department or Board to make the determination, provided that the Department or Board shall not be required to advise a person committed to the Department of Juvenile Justice any such information which in the opinion of the Department of Juvenile Justice or Board would be detrimental to his treatment or rehabilitation.

(c) The master file shall be maintained at a place convenient to its use by personnel of the respective Department in charge of the person. When custody of a person is transferred from the Department to another department or agency, a summary of the file shall be forwarded to the receiving agency with such other information required by law or requested by the agency under rules and regulations of the respective Department.

(d) The master file of a person no longer in the custody of the respective Department shall be placed on inactive status and its use shall be restricted subject to rules and regulations of the Department.

(e) All public agencies may make available to the respective Department on request any factual data not otherwise privileged as a matter of law in their possession in respect to individuals committed to the respective Department.

(Source: P.A. 97-696, eff. 6-22-12.)

(730 ILCS 5/3-10-6) (from Ch. 38, par. 1003-10-6)

Sec. 3-10-6. Return and Release from Department of Human Services.

(a) The Department of Human Services shall return to the Department of Juvenile Justice any person committed to a facility of the Department under paragraph (a) of Section 3-10-5 when the person no longer meets the standard for admission of a minor to a mental health facility, or is suitable for administrative admission to a developmental disability facility.

(b) If a person returned to the Department of Juvenile Justice under paragraph (a) of this Section has not had an aftercare release ~~a parole~~ hearing within the preceding 6 months, he or she shall have an aftercare release ~~a parole~~ hearing within 45 days after his or her return.

(c) The Department of Juvenile Justice shall notify the Secretary of Human Services of the expiration of the commitment or sentence of any person transferred to the Department of Human Services under Section 3-10-5. If the Department of Human Services determines that such person transferred to it under paragraph (a) of Section 3-10-5 requires further hospitalization, it shall file a petition for commitment of such person under the Mental Health and Developmental Disabilities Code.

(d) The Department of Human Services shall release under the Mental Health and Developmental Disabilities Code, any person transferred to it pursuant to paragraph (c) of Section 3-10-5, whose sentence has expired and whom it deems no longer meets the standard for admission of a minor to a mental health facility, or is suitable for administrative admission to a developmental disability facility. A person committed to the Department of Juvenile Justice under the Juvenile Court Act or the Juvenile Court Act of 1987 and transferred to the Department of Human Services under paragraph (c) of Section 3-10-5 shall be released to the committing juvenile court when the Department of Human Services determines that he or she no longer requires hospitalization for treatment.

(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/5-1-1.1 new)

Sec. 5-1-1.1. Aftercare release. "Aftercare release". "Aftercare release" means the conditional and revocable release of a person committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987, under the Department of Juvenile Justice.

(730 ILCS 5/5-1-16) (from Ch. 38, par. 1005-1-16)

Sec. 5-1-16. Parole.

"Parole" means the conditional and revocable release of a person committed to the Department of Corrections ~~person~~ under the supervision of a parole officer.

(Source: P.A. 78-939.)

(730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

Sec. 5-4-3. Specimens; genetic marker groups.

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, or institutionalized as a sexually dangerous person under the Sexually Dangerous

Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section, provided such person is:

(1) convicted of a qualifying offense or attempt of a qualifying offense on or after July 1, 1990 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997;

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990;

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002;

(4) presently institutionalized as a sexually dangerous person or presently institutionalized as a person found guilty but mentally ill of a sexual offense or attempt to commit a sexual offense; or

(4.5) ordered committed as a sexually violent person on or after the effective date of the Sexually Violent Persons Commitment Act.

(a-1) Any person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years, natural life, or a sentence of death, who has not yet submitted a specimen of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. A person incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) shall be required to submit a specimen within 45 days of incarceration, or prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

(a-2) Any person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after the effective date of this amendatory Act of the 94th General Assembly or sentenced to death after the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on the effective date of this amendatory Act of the 94th General Assembly or any person who is under a sentence of death on the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois Department of State Police.

(a-3) Any person seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of this Code, the Interstate Compact for Adult Offender Supervision, or the Interstate Agreements on Sexually Dangerous Persons Act shall be required to provide a specimen of blood, saliva, or tissue within 45 days after transfer to or residency in Illinois at a collection site designated by the Illinois Department of State Police.

(a-3.1) Any person required by an order of the court to submit a DNA specimen shall be required to provide a specimen of blood, saliva, or tissue within 45 days after the court order at a collection site designated by the Illinois Department of State Police.

(a-3.2) On or after January 1, 2012 (the effective date of Public Act 97-383), any person arrested for any of the following offenses, after an indictment has been returned by a grand jury, or following a hearing pursuant to Section 109-3 of the Code of Criminal Procedure of 1963 and a judge finds there is probable cause to believe the arrestee has committed one of the designated offenses, or an arrestee has waived a preliminary hearing shall be required to provide a specimen of blood, saliva, or tissue within 14 days after such indictment or hearing at a collection site designated by the Illinois Department of State

## Police:

- (A) first degree murder;
- (B) home invasion;
- (C) predatory criminal sexual assault of a child;
- (D) aggravated criminal sexual assault; or
- (E) criminal sexual assault.

(a-3.3) Any person required to register as a sex offender under the Sex Offender Registration Act, regardless of the date of conviction as set forth in subsection (c-5.2) shall be required to provide a specimen of blood, saliva, or tissue within the time period prescribed in subsection (c-5.2) at a collection site designated by the Illinois Department of State Police.

(a-5) Any person who was otherwise convicted of or received a disposition of court supervision for any other offense under the Criminal Code of 1961 or the Criminal Code of 2012 or who was found guilty or given supervision for such a violation under the Juvenile Court Act of 1987, may, regardless of the sentence imposed, be required by an order of the court to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section.

(b) Any person required by paragraphs (a)(1), (a)(1.5), (a)(2), (a)(3.5), and (a-5) to provide specimens of blood, saliva, or tissue shall provide specimens of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police.

(c) Any person required by paragraphs (a)(3), (a)(4), and (a)(4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such specimens prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

(c-5) Any person required by paragraph (a-3) to provide specimens of blood, saliva, or tissue shall, where feasible, be required to provide the specimens before being accepted for conditioned residency in Illinois under the interstate compact or agreement, but no later than 45 days after arrival in this State.

(c-5.2) Unless it is determined that a registered sex offender has previously submitted a specimen of blood, saliva, or tissue that has been placed into the State DNA database, a person registering as a sex offender shall be required to submit a specimen at the time of his or her initial registration pursuant to the Sex Offender Registration Act or, for a person registered as a sex offender on or prior to January 1, 2012 (the effective date of Public Act 97-383), within one year of January 1, 2012 (the effective date of Public Act 97-383) or at the time of his or her next required registration.

(c-6) The Illinois Department of State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis. The Illinois Department of State Police may require the submission of fingerprints from anyone required to give a specimen under this Act.

(d) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of blood specimens. The collection of specimens shall be performed in a medically approved manner. Only a physician authorized to practice medicine, a registered nurse or other qualified person trained in venipuncture may withdraw blood for the purposes of this Act. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-1) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of saliva specimens. The collection of saliva specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting saliva may collect saliva for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-2) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of tissue specimens. The collection of tissue specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting tissue may collect tissue for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-5) To the extent that funds are available, the Illinois Department of State Police shall contract with qualified personnel and certified laboratories for the collection, analysis, and categorization of known specimens, except as provided in subsection (n) of this Section.

(d-6) Agencies designated by the Illinois Department of State Police and the Illinois Department of State Police may contract with third parties to provide for the collection or analysis of DNA, or both, of

an offender's blood, saliva, and tissue specimens, except as provided in subsection (n) of this Section.

(e) The genetic marker groupings shall be maintained by the Illinois Department of State Police, Division of Forensic Services.

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois Department of State Police, the DNA record shall be expunged from the DNA identification index, and the Department shall by rule prescribe procedures to ensure that the record and any specimens, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed. For specimens required to be collected prior to conviction, unless the individual has other charges or convictions that require submission of a specimen, the DNA record for an individual shall be expunged from the DNA identification databases and the specimen destroyed upon receipt of a certified copy of a final court order for each charge against an individual in which the charge has been dismissed, resulted in acquittal, or that the charge was not filed within the applicable time period. The Department shall by rule prescribe procedures to ensure that the record and any specimens in the possession or control of the Department are destroyed and a letter is sent to the court verifying the expungement is completed.

(f-5) Any person who intentionally uses genetic marker grouping analysis information, or any other information derived from a DNA specimen, beyond the authorized uses as provided under this Section, or any other Illinois law, is guilty of a Class 4 felony, and shall be subject to a fine of not less than \$5,000.

(f-6) The Illinois Department of State Police may contract with third parties for the purposes of implementing this amendatory Act of the 93rd General Assembly, except as provided in subsection (n) of this Section. Any other party contracting to carry out the functions of this Section shall be subject to the same restrictions and requirements of this Section insofar as applicable, as the Illinois Department of State Police, and to any additional restrictions imposed by the Illinois Department of State Police.

(g) For the purposes of this Section, "qualifying offense" means any of the following:

(1) any violation or inchoate violation of Section 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012;

(1.1) any violation or inchoate violation of Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3, 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of 1961 or the Criminal Code of 2012 for which persons are convicted on or after July 1, 2001;

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

(4) any inchoate violation of Section 9-3.1, 9-3.4, 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or the Criminal Code of 2012; or

(5) any violation or inchoate violation of Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012.

(g-5) (Blank).

(h) The Illinois Department of State Police shall be the State central repository for all genetic marker grouping analysis information obtained pursuant to this Act. The Illinois Department of State Police may

promulgate rules for the form and manner of the collection of blood, saliva, or tissue specimens and other procedures for the operation of this Act. The provisions of the Administrative Review Law shall apply to all actions taken under the rules so promulgated.

(i) (1) A person required to provide a blood, saliva, or tissue specimen shall cooperate with the collection of the specimen and any deliberate act by that person intended to impede, delay or stop the collection of the blood, saliva, or tissue specimen is a Class 4 felony.

(2) In the event that a person's DNA specimen is not adequate for any reason, the person shall provide another DNA specimen for analysis. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases in which an individual refuses to provide a DNA specimen required under this Act.

(j) Any person required by subsection (a), or any person who was previously required by subsection (a-3.2), to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police for analysis and categorization into genetic marker grouping, in addition to any other disposition, penalty, or fine imposed, shall pay an analysis fee of \$250. If the analysis fee is not paid at the time of sentencing, the court shall establish a fee schedule by which the entire amount of the analysis fee shall be paid in full, such schedule not to exceed 24 months from the time of conviction. The inability to pay this analysis fee shall not be the sole ground to incarcerate the person.

(k) All analysis and categorization fees provided for by subsection (j) shall be regulated as follows:

(1) The State Offender DNA Identification System Fund is hereby created as a special fund in the State Treasury.

(2) All fees shall be collected by the clerk of the court and forwarded to the State Offender DNA Identification System Fund for deposit. The clerk of the circuit court may retain the amount of \$10 from each collected analysis fee to offset administrative costs incurred in carrying out the clerk's responsibilities under this Section.

(3) Fees deposited into the State Offender DNA Identification System Fund shall be used by Illinois State Police crime laboratories as designated by the Director of State Police. These funds shall be in addition to any allocations made pursuant to existing laws and shall be designated for the exclusive use of State crime laboratories. These uses may include, but are not limited to, the following:

(A) Costs incurred in providing analysis and genetic marker categorization as required by subsection (d).

(B) Costs incurred in maintaining genetic marker groupings as required by subsection (e).

(C) Costs incurred in the purchase and maintenance of equipment for use in performing analyses.

(D) Costs incurred in continuing research and development of new techniques for analysis and genetic marker categorization.

(E) Costs incurred in continuing education, training, and professional development of forensic scientists regularly employed by these laboratories.

(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois Department of State Police or persons designated by the Department to collect the specimen, or the authority of the Illinois Department of State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

(m) If any provision of this amendatory Act of the 93rd General Assembly is held unconstitutional or otherwise invalid, the remainder of this amendatory Act of the 93rd General Assembly is not affected.

(n) Neither the Department of State Police, the Division of Forensic Services, nor any laboratory of the Division of Forensic Services may contract out forensic testing for the purpose of an active investigation or a matter pending before a court of competent jurisdiction without the written consent of the prosecuting agency. For the purposes of this subsection (n), "forensic testing" includes the analysis of physical evidence in an investigation or other proceeding for the prosecution of a violation of the Criminal Code of 1961 or the Criminal Code of 2012 or for matters adjudicated under the Juvenile Court Act of 1987, and includes the use of forensic databases and databanks, including DNA, firearm, and fingerprint databases, and expert testimony.

(o) Mistake does not invalidate a database match. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the specimen was obtained or placed in the database by mistake.

(p) This Section may be referred to as the Illinois DNA Database Law of 2011.

(Source: P.A. 96-426, eff. 8-13-09; 96-642, eff. 8-24-09; 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-383, eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(730 ILCS 5/5-8A-3) (from Ch. 38, par. 1005-8A-3)

Sec. 5-8A-3. Application.

(a) Except as provided in subsection (d), a person charged with or convicted of an excluded offense may not be placed in an electronic home detention program, except for bond pending trial or appeal or while on parole, aftercare release, or mandatory supervised release.

(b) A person serving a sentence for a conviction of a Class 1 felony, other than an excluded offense, may be placed in an electronic home detention program for a period not to exceed the last 90 days of incarceration.

(c) A person serving a sentence for a conviction of a Class X felony, other than an excluded offense, may be placed in an electronic home detention program for a period not to exceed the last 90 days of incarceration, provided that the person was sentenced on or after the effective date of this amendatory Act of 1993 and provided that the court has not prohibited the program for the person in the sentencing order.

(d) A person serving a sentence for conviction of an offense other than for predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or felony criminal sexual abuse, may be placed in an electronic home detention program for a period not to exceed the last 12 months of incarceration, provided that (i) the person is 55 years of age or older; (ii) the person is serving a determinate sentence; (iii) the person has served at least 25% of the sentenced prison term; and (iv) placement in an electronic home detention program is approved by the Prisoner Review Board.

(e) A person serving a sentence for conviction of a Class 2, 3 or 4 felony offense which is not an excluded offense may be placed in an electronic home detention program pursuant to Department administrative directives.

(f) Applications for electronic home detention may include the following:

- (1) pretrial or pre-adjudicatory detention;
- (2) probation;
- (3) conditional discharge;
- (4) periodic imprisonment;
- (5) parole, aftercare release, or mandatory supervised release;
- (6) work release;
- (7) furlough or
- (8) post-trial incarceration.

(g) A person convicted of an offense described in clause (4) or (5) of subsection (d) of Section 5-8-1 of this Code shall be placed in an electronic home detention program for at least the first 2 years of the person's mandatory supervised release term.

(Source: P.A. 91-279, eff. 1-1-00.)

(730 ILCS 5/5-8A-5) (from Ch. 38, par. 1005-8A-5)

Sec. 5-8A-5. Consent of the participant. Before entering an order for commitment for electronic home detention, the supervising authority shall inform the participant and other persons residing in the home of the nature and extent of the approved electronic monitoring devices by doing the following:

(A) Securing the written consent of the participant in the program to comply with the rules and regulations of the program as stipulated in subsections (A) through (I) of Section 5-8A-4.

(B) Where possible, securing the written consent of other persons residing in the home of the participant, including the person in whose name the telephone is registered, at the time of the order or commitment for electronic home detention is entered and acknowledge the nature and extent of approved electronic monitoring devices.

(C) Insure that the approved electronic devices be minimally intrusive upon the privacy of the participant and other persons residing in the home while remaining in compliance with subsections (B) through (D) of Section 5-8A-4.

(D) This Section does not apply to persons subject to Electronic Home Monitoring as a term or condition of parole, aftercare release, or mandatory supervised release under subsection (d) of Section 5-8-1 of this Code.

(Source: P.A. 90-399, eff. 1-1-98; 91-279, eff. 1-1-00.)

(730 ILCS 5/5-8A-7)

Sec. 5-8A-7. Domestic violence surveillance program. If the Prisoner Review Board, Department of Corrections, or court (the supervising authority) orders electronic surveillance as a condition of parole, aftercare release, mandatory supervised release, early release, probation, or conditional discharge for a

violation of an order of protection or as a condition of bail for a person charged with a violation of an order of protection, the supervising authority shall use the best available global positioning technology to track domestic violence offenders. Best available technology must have real-time and interactive capabilities that facilitate the following objectives: (1) immediate notification to the supervising authority of a breach of a court ordered exclusion zone; (2) notification of the breach to the offender; and (3) communication between the supervising authority, law enforcement, and the victim, regarding the breach.

(Source: P.A. 95-773, eff. 1-1-09; 96-688, eff. 8-25-09.)

Section 110. The Open Parole Hearings Act is amended by changing Sections 5, 10, 15, 20, 25, and 35 as follows:

(730 ILCS 105/5) (from Ch. 38, par. 1655)

Sec. 5. Definitions. As used in this Act:

(a) "Applicant" means an inmate who is being considered for parole or aftercare release by the Prisoner Review Board.

(a-1) "Aftercare releasee" means a person released from the Department of Juvenile Justice on aftercare release subject to aftercare revocation proceedings.

(b) "Board" means the Prisoner Review Board as established in Section 3-3-1 of the Unified Code of Corrections.

(c) "Parolee" means a person subject to parole revocation proceedings.

(d) "Parole or aftercare release hearing" means the formal hearing and determination of an inmate being considered for release from incarceration on community supervision.

(e) "Parole, aftercare release, or mandatory supervised release revocation hearing" means the formal hearing and determination of allegations that a parolee, aftercare releasee, or mandatory supervised releasee has violated the conditions of his or her release agreement.

(f) "Victim" means a victim or witness of a violent crime as defined in subsection (a) of Section 3 of the Bill of Rights for Victims and Witnesses of Violent Crime Act, or any person legally related to the victim by blood, marriage, adoption, or guardianship, or any friend of the victim, or any concerned citizen.

(g) "Violent crime" means a crime defined in subsection (c) of Section 3 of the Bill of Rights for Victims and Witnesses of Violent Crime Act.

(Source: P.A. 97-299, eff. 8-11-11.)

(730 ILCS 105/10) (from Ch. 38, par. 1660)

Sec. 10. Victim's statements.

(a) Upon request of the victim, the State's Attorney shall forward a copy of any statement presented at the time of trial to the Prisoner Review Board to be considered at the time of a parole or aftercare release hearing.

(b) The victim may enter a statement either oral, written, on video tape, or other electronic means in the form and manner described by the Prisoner Review Board to be considered at the time of a parole or aftercare release consideration hearing.

(Source: P.A. 87-224.)

(730 ILCS 105/15) (from Ch. 38, par. 1665)

Sec. 15. Open hearings.

(a) The Board may restrict the number of individuals allowed to attend parole or aftercare release or parole or aftercare release revocation hearings in accordance with confidentiality concerns of the juvenile or his or her representative, physical limitations, security requirements of the hearing facilities or those giving repetitive or cumulative testimony.

(b) The Board may deny admission or continued attendance at parole or aftercare release or parole or aftercare release revocation hearings to individuals who:

- (1) threaten or present danger to the security of the institution in which the hearing is being held;
- (2) threaten or present a danger to other attendees or participants; or
- (3) disrupt the hearing.

(c) Upon formal action of a majority of the Board members present, the Board may close parole or aftercare release and parole or aftercare release revocation hearings in order to:

- (1) deliberate upon the oral testimony and any other relevant information received from applicants, parolees, releases, victims, or others; or
- (2) provide applicants, releasees, and parolees the opportunity to challenge information other than that which if the person's identity were to be exposed would possibly subject them to bodily harm or

death, which they believe detrimental to their parole or aftercare release determination hearing or revocation proceedings.

(Source: P.A. 87-224.)

(730 ILCS 105/20) (from Ch. 38, par. 1670)

Sec. 20. Finality of Board decisions. A Board decision concerning parole or aftercare release or parole or aftercare release revocation shall be final at the time the decision is delivered to the inmate, subject to any rehearing granted under Board rules.

(Source: P.A. 87-224.)

(730 ILCS 105/25) (from Ch. 38, par. 1675)

Sec. 25. Notification of future parole or aftercare release hearings.

(a) The Board shall notify the State's Attorney of the committing county of the pending hearing and the victim of all forthcoming parole or aftercare release hearings at least 15 days in advance. Written notification shall contain:

- (1) notification of the place of the hearing;
- (2) the date and approximate time of the hearing;
- (3) their right to enter a statement, to appear in person, and to submit other

information by video tape, tape recording, or other electronic means in the form and manner described by the Board or if a victim of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act, by calling the toll-free number established in subsection (f) of that Section.

Notification to the victims shall be at the last known address of the victim. It shall be the responsibility of the victim to notify the board of any changes in address and name.

(b) However, at any time the victim may request by a written certified statement that the Prisoner Review Board stop sending notice under this Section.

(c) (Blank).

(d) No later than 7 days after a parole hearing the Board shall send notice of its decision to the State's Attorney and victim. If parole or aftercare release is denied, the Board shall within a reasonable period of time notify the victim of the month and year of the next scheduled hearing.

(Source: P.A. 93-235, eff. 7-22-03.)

(730 ILCS 105/35) (from Ch. 38, par. 1685)

Sec. 35. Victim impact statements.

(a) The Board shall receive and consider victim impact statements.

(b) Victim impact statements either oral, written, video-taped, tape recorded or made by other electronic means shall not be considered public documents under provisions of the Freedom of Information Act.

(c) The inmate or his or her attorney shall be informed of the existence of a victim impact statement and its contents under provisions of Board rules. This shall not be construed to permit disclosure to an inmate of any information which might result in the risk of threats or physical harm to a victim or complaining witness.

(d) The inmate shall be given the opportunity to answer a victim impact statement, either orally or in writing.

(e) All written victim impact statements shall be part of the applicant's, releasee's, or parolee's parole file.

(Source: P.A. 97-299, eff. 8-11-11.)

Section 115. The Sex Offender Registration Act is amended by changing Sections 3, 4, and 8-5 as follows:

(730 ILCS 150/3)

Sec. 3. Duty to register.

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the sex offender's or sexual predator's telephone number, including cellular telephone number, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was



granted and the date the sex offender was notified of the extension. The information shall also include a copy of the terms and conditions of parole or release signed by the sex offender and given to the sex offender by his or her supervising officer or aftercare specialist, in the case of an aftercare releasee, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, the sex offender shall report to the registering agency whether he or she is living in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 3 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 3 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall also register:

(i) with:

(A) the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(B) the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists; and

(ii) with the public safety or security director of the institution of higher education which he or she is employed at or attends.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 3 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

A sex offender or sexual predator who is temporarily absent from his or her current address of registration for 3 or more days shall notify the law enforcement agency having jurisdiction of his or her current registration, including the itinerary for travel, in the manner provided in Section 6 of this Act for notification to the law enforcement agency having jurisdiction of change of address.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment, school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with:

(A) the chief of police in the municipality in which he or she attends school or is

employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(B) the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists; and

(2) with the public safety or security director of the institution of higher education he or she is employed at or attends for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during a calendar year.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(2.1) or (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.1) A sex offender or sexual predator, who has never previously been required to register under this Act, has a duty to register if the person has been convicted of any felony offense after July 1, 2011. A person who previously was required to register under this Act for a period of 10 years and successfully completed that registration period has a duty to register if: (i) the person has been convicted of any felony offense after July 1, 2011, and (ii) the offense for which the 10 year registration was served currently requires a registration period of more than 10 years. Notification of an offender's duty to register under this subsection shall be pursuant to Section 5-7 of this Act.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. Except as provided in subsection (c)(2.1), if notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a \$100 initial registration fee and a \$100 annual renewal fee. The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Thirty-five dollars for the initial registration fee and \$35 of the annual renewal fee shall be used by the registering agency for official purposes. Five dollars of the initial registration fee

and \$5 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used by the Board to comply with the provisions of the Sex Offender Management Board Act. Thirty dollars of the initial registration fee and \$30 of the annual renewal fee shall be deposited into the Sex Offender Registration Fund and shall be used by the Department of State Police to maintain and update the Illinois State Police Sex Offender Registry. Thirty dollars of the initial registration fee and \$30 of the annual renewal fee shall be deposited into the Attorney General Sex Offender Awareness, Training, and Education Fund. Moneys deposited into the Fund shall be used by the Attorney General to administer the I-SORT program and to alert and educate the public, victims, and witnesses of their rights under various victim notification laws and for training law enforcement agencies, State's Attorneys, and medical providers of their legal duties concerning the prosecution and investigation of sex offenses.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

(Source: P.A. 96-1094, eff. 1-1-11; 96-1096, eff. 1-1-11; 96-1097, eff. 1-1-11; 96-1102, eff. 1-1-11; 96-1104, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-155, eff. 1-1-12; 97-333, eff. 8-12-11; 97-578, eff. 1-1-12; 97-1098, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(730 ILCS 150/4) (from Ch. 38, par. 224)

Sec. 4. Discharge of sex offender, as defined in Section 2 of this Act, or sexual predator from Department of Corrections facility or other penal institution; duties of official in charge. Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is discharged, paroled or released from a Department of Corrections facility, a facility where such person was placed by the Department of Corrections or another penal institution, and whose liability for registration has not terminated under Section 7 shall, prior to discharge, parole or release from the facility or institution, be informed of his or her duty to register in person within 3 days of release by the facility or institution in which he or she was confined. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall further advise the person in writing that the failure to register or other violation of this Article shall result in revocation of parole, ~~aftercare release~~, mandatory supervised release or conditional release. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole or release and shall report the information to the Department of State Police. The facility shall give one copy of the form to the person and shall send one copy to each of the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her discharge, parole or release and retain one copy for the files. Electronic data files which includes all notification form information and photographs of sex offenders being released from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility will be shared on a regular basis as determined between the Department of State Police, ~~and~~ the Department of Corrections and Department of Juvenile Justice.

(Source: P.A. 94-168, eff. 1-1-06; 95-640, eff. 6-1-08.)

(730 ILCS 150/8-5)

Sec. 8-5. Verification requirements.

(a) Address verification. The agency having jurisdiction shall verify the address of sex offenders, as defined in Section 2 of this Act, or sexual predators required to register with their agency at least once per year. The verification must be documented in LEADS in the form and manner required by the Department of State Police.

(a-5) Internet Protocol address verification. The agency having jurisdiction may verify the Internet protocol (IP) address of sex offenders, as defined in Section 2 of this Act, who are required to register with their agency under Section 3 of this Act. A copy of any such verification must be sent to the Attorney General for entrance in the Illinois Cyber-crimes Location Database pursuant to Section 5-4-

### 3.2 of the Unified Code of Corrections.

(b) Registration verification. The supervising officer or aftercare specialist, in the case of an aftercare releasee shall, within 15 days of sentencing to probation or release from an Illinois Department of Corrections facility or other penal institution, contact the law enforcement agency in the jurisdiction in which the sex offender or sexual predator designated as his or her intended residence and verify compliance with the requirements of this Act. Revocation proceedings shall be immediately commenced against a sex offender or sexual predator on probation, parole, aftercare release, or mandatory supervised release who fails to comply with the requirements of this Act.

(c) In an effort to ensure that sexual predators and sex offenders who fail to respond to address-verification attempts or who otherwise abscond from registration are located in a timely manner, the Department of State Police shall share information with local law enforcement agencies. The Department shall use analytical resources to assist local law enforcement agencies to determine the potential whereabouts of any sexual predator or sex offender who fails to respond to address-verification attempts or who otherwise absconds from registration. The Department shall review and analyze all available information concerning any such predator or offender who fails to respond to address-verification attempts or who otherwise absconds from registration and provide the information to local law enforcement agencies in order to assist the agencies in locating and apprehending the sexual predator or sex offender.

(Source: P.A. 94-988, eff. 1-1-07; 95-579, eff. 6-1-08.)

Section 120. The Murderer and Violent Offender Against Youth Registration Act is amended by changing Sections 15 and 50 as follows:

(730 ILCS 154/15)

Sec. 15. Discharge of violent offender against youth. Discharge of violent offender against youth from Department of Corrections facility or other penal institution; duties of official in charge. Any violent offender against youth who is discharged, paroled, or released from a Department of Corrections facility, a facility where such person was placed by the Department of Corrections or another penal institution, and whose liability for registration has not terminated under Section 40 shall, prior to discharge, parole or release from the facility or institution, be informed of his or her duty to register in person within 5 days of release by the facility or institution in which he or she was confined. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 5 days after establishing the residence, beginning employment, or beginning school.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall further advise the person in writing that the failure to register or other violation of this Act shall result in revocation of parole, aftercare release, mandatory supervised release or conditional release. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole or release and shall report the information to the Department of State Police. The facility shall give one copy of the form to the person and shall send one copy to each of the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her discharge, parole or release and retain one copy for the files. Electronic data files which includes all notification form information and photographs of violent offenders against youth being released from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility will be shared on a regular basis as determined between the Department of State Police, and the Department of Corrections and Department of Juvenile Justice.

(Source: P.A. 94-945, eff. 6-27-06.)

(730 ILCS 154/50)

Sec. 50. Verification requirements.

(a) The agency having jurisdiction shall verify the address of violent offenders against youth required to register with their agency at least once per year. The verification must be documented in LEADS in the form and manner required by the Department of State Police.

(b) The supervising officer or aftercare specialist, in the case of an aftercare releasee shall, within 15 days of sentencing to probation or release from an Illinois Department of Corrections facility or other penal institution, contact the law enforcement agency in the jurisdiction which the violent offender against youth designated as his or her intended residence and verify compliance with the requirements of this Act. Revocation proceedings shall be immediately commenced against a violent offender against

youth on probation, parole, aftercare release, or mandatory supervised release who fails to comply with the requirements of this Act.

(Source: P.A. 94-945, eff. 6-27-06.)

Section 125. The Stalking No Contact Order Act is amended by changing Sections 20, 115, and 117 as follows:

(740 ILCS 21/20)

Sec. 20. Commencement of action; filing fees.

(a) An action for a stalking no contact order is commenced:

(1) independently, by filing a petition for a stalking no contact order in any civil court, unless specific courts are designated by local rule or order; or

(2) in conjunction with a delinquency petition or a criminal prosecution, by filing a petition for a stalking no contact order under the same case number as the delinquency petition or criminal prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the violation is alleged in an information, complaint, indictment, or delinquency petition on file and the alleged victim is a person protected by this Act, and (ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Withdrawal or dismissal of any petition for a stalking no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a stalking no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a stalking no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

(Source: P.A. 96-246, eff. 1-1-10.)

(740 ILCS 21/115)

Sec. 115. Notice of orders.

(a) Upon issuance of any stalking no contact order, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 95:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a stalking no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon the respondent. If the order was issued in accordance with subsection (c) of Section 95, the clerk shall, on the next court day, file a certified copy of the order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Illinois Department of Juvenile Justice or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Department of State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the stalking no contact order from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC or IDJJ inmate number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such service in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 117 may serve the respondent with a short form

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notification as provided in Section 117. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server.

(d) If the person against whom the stalking no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 95 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for stalking no contact order or receipt of the order issued under Section 95 of this Act.

(e) Any order extending, modifying, or revoking any stalking no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a stalking no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, daycare, college, or university at which the petitioner is enrolled.

(Source: P.A. 96-246, eff. 1-1-10; 97-904, eff. 1-1-13; 97-1017, eff. 1-1-13; revised 8-23-12.)

(740 ILCS 21/117)

Sec. 117. Short form notification.

(a) Instead of personal service of a stalking no contact order under Section 115, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised release may serve a respondent with a short form notification. The short form notification must include the following items:

- (1) The respondent's name.
- (2) The respondent's date of birth, if known.
- (3) The petitioner's name.
- (4) The names of other protected parties.
- (5) The date and county in which the stalking no contact order was filed.
- (6) The court file number.
- (7) The hearing date and time, if known.
- (8) The conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification must contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement agencies in this State.

(f) A single short form notification form may be used for orders of protection under the Illinois Domestic Violence Act of 1986, stalking no contact orders under this Act, and civil no contact orders under the Civil No Contact Order Act.

(Source: P.A. 97-1017, eff. 1-1-13.)

Section 130. The Civil No Contact Order Act is amended by changing Sections 202, 216, 218, and 218.1 as follows:

(740 ILCS 22/202)

Sec. 202. Commencement of action; filing fees.

(a) An action for a civil no contact order is commenced:

- (1) independently, by filing a petition for a civil no contact order in any civil court, unless specific courts are designated by local rule or order; or
- (2) in conjunction with a delinquency petition or a criminal prosecution, by filing a petition for a civil no contact order under the same case number as the delinquency petition or criminal prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory

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supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the violation is alleged in an information, complaint, indictment, or delinquency petition on file and the alleged victim is a person protected by this Act, and (ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Withdrawal or dismissal of any petition for a civil no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a civil no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a civil no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

(Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05.)

(740 ILCS 22/216)

Sec. 216. Duration and extension of orders.

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary civil no contact order shall be effective for a fixed period of time, not to exceed 2 years. A plenary civil no contact order entered in conjunction with a criminal prosecution shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no civil no contact order, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) until expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years; or

(4) until the date set by the court for expiration of any sentence of imprisonment and subsequent parole aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 214 or 215, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 214, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any civil no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(d-5) An extension of a plenary civil no contact order may be granted, upon good cause shown, to remain in effect until the civil no contact order is vacated or modified.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a civil no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

(Source: P.A. 96-311, eff. 1-1-10.)

(740 ILCS 22/218)

Sec. 218. Notice of orders.

(a) Upon issuance of any civil no contact order, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 214:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a civil no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon the respondent. If the order was issued in accordance with subsection (c) of Section 214, the clerk shall, on the next court day, file a certified copy of the order with the Sheriff or other law enforcement officials charged with maintaining Department of State Police records. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Illinois Department of Juvenile Justice or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Department of State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the civil no contact order from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC or IDJJ inmate number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such service in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 218.1 may serve the respondent with a short form notification as provided in Section 218.1. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server.

(d) If the person against whom the civil no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 214 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for civil no contact order or receipt of the order issued under Section 214 of this Act.

(e) Any order extending, modifying, or revoking any civil no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a civil no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, college, or university at which the petitioner is enrolled.

(Source: P.A. 97-904, eff. 1-1-13; 97-1017, eff. 1-1-13; revised 8-23-12.)

(740 ILCS 22/218.1)

Sec. 218.1. Short form notification.

(a) Instead of personal service of a civil no contact order under Section 218, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised release may serve a respondent with a short form notification. The short form notification must include the following items:

- (1) The respondent's name.
- (2) The respondent's date of birth, if known.
- (3) The petitioner's name.
- (4) The names of other protected parties.
- (5) The date and county in which the civil no contact order was filed.
- (6) The court file number.
- (7) The hearing date and time, if known.
- (8) The conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification must contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement



agencies in this State.

(f) A single short form notification form may be used for orders of protection under the Illinois Domestic Violence Act of 1986, stalking no contact orders under the Stalking No Contact Order Act, and civil no contact orders under this Act.

(Source: P.A. 97-1017, eff. 1-1-13.)

Section 135. The Illinois Streetgang Terrorism Omnibus Prevention Act is amended by changing Section 30 as follows:

(740 ILCS 147/30)

Sec. 30. Service of process.

(a) All streetgangs and streetgang members engaged in a course or pattern of gang-related criminal activity within this State impliedly consent to service of process upon them as set forth in this Section, or as may be otherwise authorized by the Code of Civil Procedure.

(b) Service of process upon a streetgang may be had by leaving a copy of the complaint and summons directed to any officer of such gang, commanding the gang to appear and answer the complaint or otherwise plead at a time and place certain:

(1) with any gang officer; or

(2) with any individual member of the gang simultaneously named therein; or

(3) in the manner provided for service upon a voluntary unincorporated association in a civil action; or

(4) in the manner provided for service by publication in a civil action; or

(5) with any parent, legal guardian, or legal custodian of any persons charged with a gang-related offense when any person sued civilly under this Act is under 18 years of age and is also charged criminally or as a delinquent minor; or

(6) with the director of any agency or department of this State who is the legal guardian, guardianship administrator, or custodian of any person sued under this Act; or

(7) with the probation or parole officer or aftercare specialist of any person sued under this Act; or

(8) with such other person or agent as the court may, upon petition of the State's

Attorney or his or her designee, authorize as appropriate and reasonable under all of the circumstances.

(c) If after being summoned a streetgang does not appear, the court shall enter an answer for the streetgang neither affirming nor denying the allegations of the complaint but demanding strict proof thereof, and proceed to trial and judgment without further process.

(d) When any person is named as a defendant streetgang member in any complaint, or subsequently becomes known and is added or joined as a named defendant, service of process may be had as authorized or provided for in the Code of Civil Procedure for service of process in a civil case.

(e) Unknown gang members may be sued as a class and designated as such in the caption of any complaint filed under this Act. Service of process upon unknown members may be made in the manner prescribed for provision of notice to members of a class in a class action, or as the court may direct for providing the best service and notice practicable under the circumstances which shall include individual, personal, or other service upon all members who can be identified and located through reasonable effort.

(Source: P.A. 87-932.)

Section 140. The Local Governmental and Governmental Employees Tort Immunity Act is amended by changing Section 4-106 as follows:

(745 ILCS 10/4-106) (from Ch. 85, par. 4-106)

Sec. 4-106. Neither a local public entity nor a public employee is liable for:

(a) Any injury resulting from determining to parole or release a prisoner, to revoke his or her parole or release, or the terms and conditions of his or her parole or release.

(b) Any injury inflicted by an escaped or escaping prisoner.

(Source: Laws 1965, p. 2983.)

Section 145. The Illinois Domestic Violence Act of 1986 is amended by changing Sections 202, 220, 222, and 222.10 as follows:

(750 ILCS 60/202) (from Ch. 40, par. 2312-2)

Sec. 202. Commencement of action; filing fees; dismissal.

(a) How to commence action. Actions for orders of protection are commenced:

(1) Independently: By filing a petition for an order of protection in any civil court, unless specific courts are designated by local rule or order.

(2) In conjunction with another civil proceeding: By filing a petition for an order of protection under the same case number as another civil proceeding involving the parties, including but not limited to: (i) any proceeding under the Illinois Marriage and Dissolution of Marriage Act, Illinois Parentage Act of 1984, Nonsupport of Spouse and Children Act, Revised Uniform Reciprocal Enforcement of Support Act or an action for nonsupport brought under Article 10 of the Illinois Public Aid Code, provided that a petitioner and the respondent are a party to or the subject of that proceeding or (ii) a guardianship proceeding under the Probate Act of 1975, or a proceeding for involuntary commitment under the Mental Health and Developmental Disabilities Code, or any proceeding, other than a delinquency petition, under the Juvenile Court Act of 1987, provided that a petitioner or the respondent is a party to or the subject of such proceeding.

(3) In conjunction with a delinquency petition or a criminal prosecution: By filing a petition for an order of protection, under the same case number as the delinquency petition or criminal prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant; provided that:

(i) the violation is alleged in an information, complaint, indictment or delinquency petition on file, and the alleged offender and victim are family or household members or persons protected by this Act; and

(ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Filing, certification, and service fees. No fee shall be charged by the clerk for filing, amending, vacating, certifying, or photocopying petitions or orders; or for issuing alias summons; or for any related filing service. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(c) Dismissal and consolidation. Withdrawal or dismissal of any petition for an order of protection prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for an order of protection shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. An independent action may be consolidated with another civil proceeding, as provided by paragraph (2) of subsection (a) of this Section. For any action commenced under paragraph (2) or (3) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for the order of protection; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division. Dismissal of any conjoined case shall not affect the validity of any previously issued order of protection, and thereafter subsections (b)(1) and (b)(2) of Section 220 shall be inapplicable to such order.

(d) Pro se petitions. The court shall provide, through the office of the clerk of the court, simplified forms and clerical assistance to help with the writing and filing of a petition under this Section by any person not represented by counsel. In addition, that assistance may be provided by the state's attorney.

(Source: P.A. 93-458, eff. 1-1-04.)

(750 ILCS 60/220) (from Ch. 40, par. 2312-20)

Sec. 220. Duration and extension of orders.

(a) Duration of emergency and interim orders. Unless re-opened or extended or voided by entry of an order of greater duration:

(1) Emergency orders issued under Section 217 shall be effective for not less than 14 nor more than 21 days;

(2) Interim orders shall be effective for up to 30 days.

(b) Duration of plenary orders. Except as otherwise provided in this Section, a plenary order of protection shall be valid for a fixed period of time, not to exceed two years.

(1) A plenary order of protection entered in conjunction with another civil proceeding shall remain in effect as follows:

(i) if entered as preliminary relief in that other proceeding, until entry of final judgment in that other proceeding;

(ii) if incorporated into the final judgment in that other proceeding, until the order of protection is vacated or modified; or

(iii) if incorporated in an order for involuntary commitment, until termination of both the involuntary commitment and any voluntary commitment, or for a fixed period of time not exceeding 2 years.

(2) A plenary order of protection entered in conjunction with a criminal prosecution shall remain in effect as follows:

(i) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if, however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(ii) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no order of protection, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(iii) until expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years; or

(iv) until the date set by the court for expiration of any sentence of imprisonment and subsequent parole, aftercare release, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years.

(c) Computation of time. The duration of an order of protection shall not be reduced by the duration of any prior order of protection.

(d) Law enforcement records. When a plenary order of protection expires upon the occurrence of a specified event, rather than upon a specified date as provided in subsection (b), no expiration date shall be entered in Department of State Police records. To remove the plenary order from those records, either party shall request the clerk of the court to file a certified copy of an order stating that the specified event has occurred or that the plenary order has been vacated or modified with the Sheriff, and the Sheriff shall direct that law enforcement records shall be promptly corrected in accordance with the filed order.

(e) Extension of orders. Any emergency, interim or plenary order may be extended one or more times, as required, provided that the requirements of Section 217, 218 or 219, as appropriate, are satisfied. If the motion for extension is uncontested and petitioner seeks no modification of the order, the order may be extended on the basis of petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. An extension of a plenary order of protection may be granted, upon good cause shown, to remain in effect until the order of protection is vacated or modified. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 217, which applies only when the court is unavailable at the close of business or on a court holiday.

(f) Termination date. Any order of protection which would expire on a court holiday shall instead expire at the close of the next court business day.

(g) Statement of purpose. The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of an order of protection undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

(Source: P.A. 95-886, eff. 1-1-09.)

(750 ILCS 60/222) (from Ch. 40, par. 2312-22)

Sec. 222. Notice of orders.

(a) Entry and issuance. Upon issuance of any order of protection, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 217, (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to respondent, if present, and to petitioner.

(b) Filing with sheriff. The clerk of the issuing judge shall, or the petitioner may, on the same day that an order of protection is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon respondent. If the order was issued in accordance with subsection (c) of Section 217, the clerk shall on the next court day, file a certified copy of the order with the Sheriff or other law enforcement officials charged with maintaining Department of State Police records. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Illinois Department of Juvenile Justice or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Department of State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the order of protection from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC inmate number or IDJJ youth identification number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Service by sheriff. Unless respondent was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon respondent and file proof of such service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special

process server, or other persons defined in Section 222.10 may serve the respondent with a short form notification as provided in Section 222.10. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server. A single fee may be charged for service of an order obtained in civil court, or for service of such an order together with process, unless waived or deferred under Section 210.

(c-5) If the person against whom the order of protection is issued is arrested and the written order is issued in accordance with subsection (c) of Section 217 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for order of protection or receipt of the order issued under Section 217 of this Act.

(d) Extensions, modifications and revocations. Any order extending, modifying or revoking any order of protection shall be promptly recorded, issued and served as provided in this Section.

(e) Notice to schools. Upon the request of the petitioner, within 24 hours of the issuance of an order of protection, the clerk of the issuing judge shall send a certified copy of the order of protection to the day-care facility, pre-school or pre-kindergarten, or private school or the principal office of the public school district or any college or university in which any child who is a protected person under the order of protection or any child of the petitioner is enrolled as requested by the petitioner at the mailing address provided by the petitioner. If the child transfers enrollment to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the petitioner may, within 24 hours of the transfer, send to the clerk written notice of the transfer, including the name and address of the institution to which the child is transferring. Within 24 hours of receipt of notice from the petitioner that a child is transferring to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the clerk shall send a certified copy of the order to the institution to which the child is transferring.

(f) Disclosure by schools. After receiving a certified copy of an order of protection that prohibits a respondent's access to records, neither a day-care facility, pre-school, pre-kindergarten, public or private school, college, or university nor its employees shall allow a respondent access to a protected child's records or release information in those records to the respondent. The school shall file the copy of the order of protection in the records of a child who is a protected person under the order of protection. When a child who is a protected person under the order of protection transfers to another day-care facility, pre-school, pre-kindergarten, public or private school, college, or university, the institution from which the child is transferring may, at the request of the petitioner, provide, within 24 hours of the transfer, written notice of the order of protection, along with a certified copy of the order, to the institution to which the child is transferring.

(g) Notice to health care facilities and health care practitioners. Upon the request of the petitioner, the clerk of the circuit court shall send a certified copy of the order of protection to any specified health care facility or health care practitioner requested by the petitioner at the mailing address provided by the petitioner.

(h) Disclosure by health care facilities and health care practitioners. After receiving a certified copy of an order of protection that prohibits a respondent's access to records, no health care facility or health care practitioner shall allow a respondent access to the records of any child who is a protected person under the order of protection, or release information in those records to the respondent, unless the order has expired or the respondent shows a certified copy of the court order vacating the corresponding order of protection that was sent to the health care facility or practitioner. Nothing in this Section shall be construed to require health care facilities or health care practitioners to alter procedures related to billing and payment. The health care facility or health care practitioner may file the copy of the order of protection in the records of a child who is a protected person under the order of protection, or may employ any other method to identify the records to which a respondent is prohibited access. No health care facility or health care practitioner shall be civilly or professionally liable for reliance on a copy of an order of protection, except for willful and wanton misconduct.

(Source: P.A. 96-651, eff. 1-1-10; 97-50, eff. 6-28-11; 97-904, eff. 1-1-13.)

(750 ILCS 60/222.10)

Sec. 222.10. Short form notification.

(a) Instead of personal service of an order of protection under Section 222, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised

release may serve a respondent with a short form notification. The short form notification must include the following items:

- (1) The respondent's name.
- (2) The respondent's date of birth, if known.
- (3) The petitioner's name.
- (4) The names of other protected parties.
- (5) The date and county in which the order of protection was filed.
- (6) The court file number.
- (7) The hearing date and time, if known.
- (8) The conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification must contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement agencies in this State.

(f) A single short form notification form may be used for orders of protection under this Act, stalking no contact orders under the Stalking No Contact Order Act, and civil no contact orders under the Civil No Contact Order Act.

(Source: P.A. 97-50, eff. 6-28-11; 97-1017, eff. 1-1-13.)

Section 150. The Line of Duty Compensation Act is amended by changing Section 2 as follows:

(820 ILCS 315/2) (from Ch. 48, par. 282)

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) "Law enforcement officer" or "officer" means any person employed by the State or a local governmental entity as a policeman, peace officer, auxiliary policeman or in some like position involving the enforcement of the law and protection of the public interest at the risk of that person's life. This includes supervisors, wardens, superintendents and their assistants, guards and keepers, correctional officers, youth supervisors, parole agents, aftercare specialists, school teachers and correctional counsellors in all facilities of both the Department of Corrections and the Department of Juvenile Justice, while within the facilities under the control of the Department of Corrections or the Department of Juvenile Justice or in the act of transporting inmates or wards from one location to another or while performing their official duties, and all other Department of Correction or Department of Juvenile Justice employees who have daily contact with inmates.

The death of the foregoing employees of the Department of Corrections or the Department of Juvenile Justice in order to be included herein must be by the direct or indirect willful act of an inmate, ward, work-releasee, parolee, aftercare releasee, parole violator, aftercare release violator, person under conditional release, or any person sentenced or committed, or otherwise subject to confinement in or to the Department of Corrections or the Department of Juvenile Justice.

(b) "Fireman" means any person employed by the State or a local governmental entity as, or otherwise serving as, a member or officer of a fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims, including volunteer firemen.

(c) "Local governmental entity" includes counties, municipalities and municipal corporations.

(d) "State" means the State of Illinois and its departments, divisions, boards, bureaus, commissions, authorities and colleges and universities.

(e) "Killed in the line of duty" means losing one's life as a result of injury received in the active performance of duties as a law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, or chaplain if the death occurs within one year from the date the injury was received and if that injury arose from violence or other accidental cause. In the case of a State employee, "killed in the line of duty" means losing one's life as a result of injury received in the active performance of one's duties as a State employee, if the death occurs within one year from the date the injury was received and if that injury arose from a willful act of violence by another State employee committed during such other employee's course of employment and after January 1, 1988. The term excludes death

resulting from the willful misconduct or intoxication of the officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee. However, the burden of proof of such willful misconduct or intoxication of the officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee is on the Attorney General. Subject to the conditions set forth in subsection (a) with respect to inclusion under this Act of Department of Corrections and Department of Juvenile Justice employees described in that subsection, for the purposes of this Act, instances in which a law enforcement officer receives an injury in the active performance of duties as a law enforcement officer include but are not limited to instances when:

- (1) the injury is received as a result of a willful act of violence committed other than by the officer and a relationship exists between the commission of such act and the officer's performance of his duties as a law enforcement officer, whether or not the injury is received while the officer is on duty as a law enforcement officer;
- (2) the injury is received by the officer while the officer is attempting to prevent the commission of a criminal act by another or attempting to apprehend an individual the officer suspects has committed a crime, whether or not the injury is received while the officer is on duty as a law enforcement officer;
- (3) the injury is received by the officer while the officer is travelling to or from his employment as a law enforcement officer or during any meal break, or other break, which takes place during the period in which the officer is on duty as a law enforcement officer.

In the case of an Armed Forces member, "killed in the line of duty" means losing one's life while on active duty in connection with the September 11, 2001 terrorist attacks on the United States, Operation Enduring Freedom, or Operation Iraqi Freedom.

(f) "Volunteer fireman" means a person having principal employment other than as a fireman, but who is carried on the rolls of a regularly constituted fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims, the members of which are under the jurisdiction of the corporate authorities of a city, village, incorporated town, or fire protection district, and includes a volunteer member of a fire department organized under the "General Not for Profit Corporation Act", approved July 17, 1943, as now or hereafter amended, which is under contract with any city, village, incorporated town, fire protection district, or persons residing therein, for fire fighting services. "Volunteer fireman" does not mean an individual who volunteers assistance without being regularly enrolled as a fireman.

(g) "Civil defense worker" means any person employed by the State or a local governmental entity as, or otherwise serving as, a member of a civil defense work force, including volunteer civil defense workers engaged in serving the public interest during periods of disaster, whether natural or man-made.

(h) "Civil air patrol member" means any person employed by the State or a local governmental entity as, or otherwise serving as, a member of the organization commonly known as the "Civil Air Patrol", including volunteer members of the organization commonly known as the "Civil Air Patrol".

(i) "Paramedic" means an Emergency Medical Technician-Paramedic certified by the Illinois Department of Public Health under the Emergency Medical Services (EMS) Systems Act, and all other emergency medical personnel certified by the Illinois Department of Public Health who are members of an organized body or not-for-profit corporation under the jurisdiction of a city, village, incorporated town, fire protection district or county, that provides emergency medical treatment to persons of a defined geographical area.

(j) "State employee" means any employee as defined in Section 14-103.05 of the Illinois Pension Code, as now or hereafter amended.

(k) "Chaplain" means an individual who:

- (1) is a chaplain of (i) a fire department or (ii) a police department or other agency consisting of law enforcement officers; and

- (2) has been designated a chaplain by (i) the fire department, police department, or other agency or an officer or body having jurisdiction over the department or agency or (ii) a labor organization representing the firemen or law enforcement officers.

(l) "Armed Forces member" means an Illinois resident who is: a member of the Armed Forces of the United States; a member of the Illinois National Guard while on active military service pursuant to an order of the President of the United States; or a member of any reserve component of the Armed Forces of the United States while on active military service pursuant to an order of the President of the United States.

(Source: P.A. 93-1047, eff. 10-18-04; 93-1073, eff. 1-18-05; 94-696, eff. 6-1-06.)

Section 995. No acceleration or delay. Where this Act makes changes in a statute that is represented in

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this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.”.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 1454** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Human Services.

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

**AMENDMENT NO. 2 TO SENATE BILL 1454**

AMENDMENT NO. 2. Amend Senate Bill 1454 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by changing Sections 102, 206, 208, 311.5, 314.5, 316, 319, and 320 and by adding Sections 314.6, 317.5, and 320.5 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his or her addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane Euthanasia in Animal Shelters Act) by:

(1) a practitioner (or, in his or her presence, by his or her authorized agent),

(2) the patient or research subject pursuant to an order, or

(3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, dispenser, prescriber, or practitioner. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes:

(i) 3[beta],17-dihydroxy-5a-androstane,

(ii) 3[alpha],17[beta]-dihydroxy-5a-androstane,

(iii) 5[alpha]-androstan-3,17-dione,

(iv) 1-androstenediol (3[beta],

17[beta]-dihydroxy-5[alpha]-androst-1-ene),

(v) 1-androstenediol (3[alpha],

17[beta]-dihydroxy-5[alpha]-androst-1-ene),

(vi) 4-androstenediol

(3[beta],17[beta]-dihydroxy-androst-4-ene),

(vii) 5-androstenediol

(3[beta],17[beta]-dihydroxy-androst-5-ene),

(viii) 1-androstenedione

([5alpha]-androst-1-en-3,17-dione),

(ix) 4-androstenedione

(androst-4-en-3,17-dione),

(x) 5-androstenedione

(androst-5-en-3,17-dione),

(xi) bolasterone (7[alpha],17a-dimethyl-17[beta]-

hydroxyandrost-4-en-3-one),

(xii) boldenone (17[beta]-hydroxyandrost-

1,4,-diene-3-one),

(xiii) boldione (androsta-1,4-

- diene-3,17-dione),  
 (xiv) calusterone (7[beta],17[alpha]-dimethyl-17  
 [beta]-hydroxyandrost-4-en-3-one),  
 (xv) clostebol (4-chloro-17[beta]-  
 hydroxyandrost-4-en-3-one),  
 (xvi) dehydrochloromethyltestosterone (4-chloro-  
 17[beta]-hydroxy-17[alpha]-methyl-  
 androst-1,4-dien-3-one),  
 (xvii) desoxymethyltestosterone (17[alpha]-methyl-5[alpha]  
 -androst-2-en-17[beta]-ol)(a.k.a., madol),  
 (xviii) [delta]1-dihydrotestosterone (a.k.a.  
 '1-testosterone') (17[beta]-hydroxy-  
 5[alpha]-androst-1-en-3-one),  
 (xix) 4-dihydrotestosterone (17[beta]-hydroxy-  
 androstan-3-one),  
 (xx) drostanolone (17[beta]-hydroxy-2[alpha]-methyl-  
 5[alpha]-androstan-3-one),  
 (xxi) ethylestrenol (17[alpha]-ethyl-17[beta]-  
 hydroxyestr-4-ene),  
 (xxii) fluoxymesterone (9-fluoro-17[alpha]-methyl-  
 1[beta],17[beta]-dihydroxyandrost-4-en-3-one),  
 (xxiii) formebolone (2-formyl-17[alpha]-methyl-11[alpha],  
 17[beta]-dihydroxyandrost-1,4-dien-3-one),  
 (xxiv) furazabol (17[alpha]-methyl-17[beta]-  
 hydroxyandrostan[2,3-c]-furazan),  
 (xxv) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one)  
 (xxvi) 4-hydroxytestosterone (4,17[beta]-dihydroxy-  
 androst-4-en-3-one),  
 (xxvii) 4-hydroxy-19-nortestosterone (4,17[beta]-  
 dihydroxy-estr-4-en-3-one),  
 (xxviii) mestanolone (17[alpha]-methyl-17[beta]-  
 hydroxy-5-androstan-3-one),  
 (xxix) mesterolone (1-methyl-17[beta]-hydroxy-  
 [5a]-androstan-3-one),  
 (xxx) methandienone (17[alpha]-methyl-17[beta]-  
 hydroxyandrost-1,4-dien-3-one),  
 (xxxi) methandriol (17[alpha]-methyl-3[beta],17[beta]-  
 dihydroxyandrost-5-ene),  
 (xxxii) methenolone (1-methyl-17[beta]-hydroxy-  
 5[alpha]-androst-1-en-3-one),  
 (xxxiii) 17[alpha]-methyl-3[beta], 17[beta]-  
 dihydroxy-5a-androstane),  
 (xxxiv) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy  
 -5a-androstane),  
 (xxxv) 17[alpha]-methyl-3[beta],17[beta]-  
 dihydroxyandrost-4-ene),  
 (xxxvi) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-  
 methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one),  
 (xxxvii) methyldienolone (17[alpha]-methyl-17[beta]-  
 hydroxyestra-4,9(10)-dien-3-one),  
 (xxxviii) methyltrienolone (17[alpha]-methyl-17[beta]-  
 hydroxyestra-4,9-11-trien-3-one),  
 (xxxix) methyltestosterone (17[alpha]-methyl-17[beta]-  
 hydroxyandrost-4-en-3-one),  
 (xl) mibolerone (7[alpha],17a-dimethyl-17[beta]-  
 hydroxyestr-4-en-3-one),  
 (xli) 17[alpha]-methyl-[delta]1-dihydrotestosterone  
 (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-  
 androst-1-en-3-one)(a.k.a. '17-[alpha]-methyl-



- 1-testosterone'),
- (xlii) nandrolone (17[beta]-hydroxyestr-4-en-3-one),
- (xliii) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene),
- (xliv) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene),
- (xlv) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene),
- (xlvi) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene),
- (xlvii) 19-nor-4,9(10)-androsta-4,9-diene-3,17-dione),
- (xlviii) 19-nor-4-androstenedione (estr-4-en-3,17-dione),
- (xlix) 19-nor-5-androstenedione (estr-5-en-3,17-dione),
- (l) norbolethone (13[beta], 17a-diethyl-17[beta]-hydroxygon-4-en-3-one),
- (li) norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one),
- (lii) norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one),
- (liii) normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one),
- (liv) oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-5[alpha]-androstan-3-one),
- (lv) oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one),
- (lvi) oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-(5[alpha]-androstan-3-one),
- (lvii) stanozolol (17[alpha]-methyl-17[beta]-hydroxy-(5[alpha]-androst-2-eno[3,2-c]-pyrazole),
- (lviii) stenbolone (17[beta]-hydroxy-2-methyl-(5[alpha]-androst-1-en-3-one),
- (lix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone),
- (lx) testosterone (17[beta]-hydroxyandrost-4-en-3-one),
- (lxi) tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one),
- (lxii) trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one).

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(d-5) "Clinical Director, Prescription Monitoring Program" means a Department of Human Services administrative employee licensed to either prescribe or dispense controlled substances who shall run the clinical aspects of the Department of Human Services Prescription Monitoring Program and its Prescription Information Library.

(d-10) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as

the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if both of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be compounded.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means (i) a drug, substance, or immediate precursor in the Schedules of Article II of this Act or (ii) a drug or other substance, or immediate precursor, designated as a controlled substance by the Department through administrative rule. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in the Liquor Control Act and the Tobacco Products Tax Act.

(f-5) "Controlled substance analog" means a substance:

(1) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II;

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(g) "Counterfeit substance" means a controlled substance, which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) (Blank).

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Financial and Professional Regulation" means the Department of Financial and Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" means any drug that (i) causes an overall depression of central nervous system functions, (ii) causes impaired consciousness and awareness, and (iii) can be habit-forming or lead to a substance abuse problem, including but not limited to alcohol, cannabis and its active principles and their analogs, benzodiazepines and their analogs, barbiturates and their analogs, opioids (natural and synthetic) and their analogs, and chloral hydrate and similar sedative hypnotics.

(n) (Blank).

(o) "Director" means the Director of the Illinois State Police or his or her designated agents.

(p) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(t-5) "Euthanasia agency" means an entity certified by the Department of Financial and Professional

Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess, and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his or her treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

- (1) lack of consistency of prescriber-patient relationship,
- (2) frequency of prescriptions for same drug by one prescriber for large numbers of patients,
- (3) quantities beyond those normally prescribed,
- (4) unusual dosages (recognizing that there may be clinical circumstances where more or less than the usual dose may be used legitimately),
- (5) unusual geographic distances between patient, pharmacist and prescriber,
- (6) consistent prescribing of habit-forming drugs.

(u-0.5) "Hallucinogen" means a drug that causes markedly altered sensory perception leading to hallucinations of any type.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(u-5) "Illinois State Police" means the State Police of the State of Illinois, or its successor agency.

(v) "Immediate precursor" means a substance:

- (1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;
- (2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and
- (3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

- (a) statements made by the owner or person in control of the substance concerning its nature, use or effect;
- (b) statements made to the buyer or recipient that the substance may be resold for profit;
- (c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;
- (d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance other than methamphetamine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his or her own use; or

(2) by a practitioner, or his or her authorized agent under his or her supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) (Blank).

(z-5) "Medication shopping" means the conduct prohibited under subsection (a) of Section 314.5 of this Act.

(z-10) "Mid-level practitioner" means (i) a physician assistant who has been delegated authority to prescribe through a written delegation of authority by a physician licensed to practice medicine in all of its branches, in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987, (ii) an advanced practice nurse who has been delegated authority to prescribe through a written delegation of authority by a physician licensed to practice medicine in all of its branches or by a podiatrist, in accordance with Section 65-40 of the Nurse Practice Act, or (iii) an animal euthanasia agency.

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation; however the term "narcotic drug" does not include the isoquinoline alkaloids of opium;

(2) (blank);

(3) opium poppy and poppy straw;

(4) coca leaves, except coca leaves and extracts of coca leaves from which substantially all of the cocaine and ecgonine, and their isomers, derivatives and salts, have been removed;

(5) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(6) ecgonine, its derivatives, their salts, isomers, and salts of isomers;

(7) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (1) through (6).

(bb) "Nurse" means a registered nurse licensed under the Nurse Practice Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ee-5) "Oral dosage" means a tablet, capsule, elixir, or solution or other liquid form of medication intended for administration by mouth, but the term does not include a form of medication intended for buccal, sublingual, or transmucosal administration.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental

subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a license or certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act.

(ii-5) "Pharmacy shopping" means the conduct prohibited under subsection (b) of Section 314.5 of this Act.

(ii-10) "Physician" (except when the context otherwise requires) means a person licensed to practice medicine in all of its branches.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated prior to the time of issuance; the term does not mean a written prescription that is individually generated by machine or computer in the prescriber's office.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a controlled substance in accordance with Section 303.05, a written delegation, and a written supervision agreement required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act and in accordance with Section 303.05, a written delegation, and a written collaborative agreement under Section 65-35 of the Nurse Practice Act.

(nn) "Prescription" means a written, facsimile, or oral order, or an electronic order that complies with applicable federal requirements, of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, of an optometrist for a Schedule III, IV, or V controlled substance in accordance with Section 15.1 of the Illinois Optometric Practice Act of 1987, of a physician assistant for a controlled substance in accordance with Section 303.05, a written delegation, and a written supervision agreement required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act who issues a prescription for a controlled substance in accordance with Section 303.05, a written delegation, and a written collaborative agreement under Section 65-35 of the Nurse Practice Act when required by law.

(nn-5) "Prescription Information Library" (PIL) means an electronic library that contains reported controlled substance data.

(nn-10) "Prescription Monitoring Program" (PMP) means the entity that collects, tracks, and stores reported data on controlled substances and select drugs pursuant to Section 316.

(nn-11) "Prescription Monitoring Program Advisory Committee" (PMPAC) means a committee of voting members consisting of licensed healthcare providers representing all professions who are licensed to prescribe or dispense controlled substances. The Chairperson of the PMPAC may appoint non-licensed persons who are associated with professional organizations representing licensed healthcare providers to ensure dissemination of information. The Committee shall serve in a consultant context regarding longitudinal evaluations of compliance with evidence based clinical practice and the prescribing of controlled substances. The Committee shall make recommendations regarding scheduling of controlled substances and recommendations concerning continuing education designed at improving the health and safety of the citizens of Illinois regarding pharmacotherapies of controlled substances.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance other than methamphetamine.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(qq-5) "Secretary" means, as the context requires, either the Secretary of the Department or the Secretary of the Department of Financial and Professional Regulation, and the Secretary's designated agents.

(rr) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular

possession thereof, and any area subject to the legal authority of the United States of America.

(rr-5) "Stimulant" means any drug that (i) causes an overall excitation of central nervous system functions, (ii) causes impaired consciousness and awareness, and (iii) can be habit-forming or lead to a substance abuse problem, including but not limited to amphetamines and their analogs, methylphenidate and its analogs, cocaine, and phencyclidine and its analogs.

(ss) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

(Source: P.A. 96-189, eff. 8-10-09; 96-268, eff. 8-11-09; 97-334, eff. 1-1-12.)

(720 ILCS 570/206) (from Ch. 56 1/2, par. 1206)

Sec. 206. (a) The controlled substances listed in this Section are included in Schedule II.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiates, and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, levopropoxyphene, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

- (i) Raw Opium;
- (ii) Opium extracts;
- (iii) Opium fluid extracts;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine Hydrochloride;
- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone;
- (xv.5) Tapentadol;
- (xvi) Thebaine;
- (xvii) Thebaine-derived butorphanol.

(xviii) Dextromethorphan, except drug products that may be dispensed pursuant to a prescription order of a practitioner and are sold in compliance with the safety and labeling standards as set forth by the United States Food and Drug Administration, or drug products containing dextromethorphan that are sold in solid, tablet, liquid, capsule, powder, thin film, or gel form and which are formulated, packaged, and sold in dosages and concentrations for use as an over-the-counter drug product. For the purposes of this Section, "over-the-counter drug product" means a drug that is available to consumers without a prescription and sold in compliance with the safety and labeling standards as set forth by the United States Food and Drug Administration.

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers);

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Unless specifically excepted or unless listed in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) Alfentanil;
- (1.1) Carfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (non-dosage forms);
- (6) Dihydrocodeine;

(6.5) Dihydrocodeinone (Hydrocodone), with one or more active, non-narcotic ingredients in regional therapeutic amounts;

- (7) Diphenoxylate;
- (8) Fentanyl;
- (9) Sufentanil;
- (9.5) Remifentanil;
- (10) Isomethadone;
- (11) Levomethorphan;
- (12) Levorphanol (Levorphan);
- (13) Metazocine;
- (14) Methadone;
- (15) Methadone-Intermediate,  
4-cyano-2-dimethylamino-4,4-diphenyl-1-butane;
- (16) Moramide-Intermediate,  
2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (17) Pethidine (meperidine);
- (18) Pethidine-Intermediate-A,  
4-cyano-1-methyl-4-phenylpiperidine;
- (19) Pethidine-Intermediate-B,  
ethyl-4-phenylpiperidine-4-carboxylate;
- (20) Pethidine-Intermediate-C,  
1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (21) Phenazocine;
- (22) Piminodine;
- (23) Racemethorphan;
- (24) Racemorphan;
- (25) Levo-alpha-acetylmethadol (some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, isomers, and salts of its isomers;
- (3) Phenmetrazine and its salts;
- (4) Methylphenidate;
- (5) Lisdexamfetamine.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;
- (4) Pentazocine;
- (5) Phencyclidine;
- (6) Gluthethimide;
- (7) (Blank).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
  - (i) Phenylacetone

Some trade or other names: phenyl-2-propanone;  
P2P; benzyl methyl ketone; methyl benzyl ketone.

- (2) Immediate precursors to phencyclidine:
  - (i) 1-phenylcyclohexylamine;
  - (ii) 1-piperidinocyclohexanecarbonitrile (PCC).
- (3) Nabilone.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/208) (from Ch. 56 1/2, par. 1208)

Sec. 208. (a) The controlled substances listed in this Section are included in Schedule III.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation;

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Title 21, Code of Federal Regulations, Section 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the Federal Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt thereof:

- (3.1) Aprobarbital;
- (3.2) Butabarbital (secbutabarbital);
- (3.3) Butalbital;
- (3.4) Butobarbital (butethal);
- (4) Chlorhexadol;
- (5) Methyprylon;
- (6) Sulfondiethylmethane;
- (7) Sulfonethylmethane;
- (8) Sulfonmethane;
- (9) Lysergic acid;
- (10) Lysergic acid amide;

(10.1) Tiletamine or zolazepam or both, or any salt of either of them.

Some trade or other names for a tiletamine-zolazepam combination product: Telazol.

Some trade or other names for Tiletamine:

2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

Some trade or other names for zolazepam:

4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e], [1,4]-diazepin-7(1H)-one, and flupyrazapon.

(11) Any material, compound, mixture or preparation containing not more than 12.5 milligrams of pentazocine or any of its salts, per 325 milligrams of aspirin;

(12) Any material, compound, mixture or preparation containing not more than 12.5 milligrams of pentazocine or any of its salts, per 325 milligrams of acetaminophen;

(13) Any material, compound, mixture or preparation containing not more than 50 milligrams of pentazocine or any of its salts plus naloxone HCl USP 0.5 milligrams, per dosage unit;



- (14) Ketamine;
- (15) Thiopental.

(d) Nalorphine.

(d.5) Buprenorphine.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, as set forth below:

(1) not more than 1.8 grams of codeine per 100 milliliters or not more than 90

milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine per 100 milliliters or not more than 90

milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(3) ~~(blank) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~

~~(4) (blank) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;~~

(5) not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90

milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than

15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not

more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(8) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids, except the following anabolic steroids that are exempt:

(1) Androgyn L.A.;

(2) Andro-Estro 90-4;

(3) depANDROGYN;

(4) DEPO-T.E.;

(5) depTESTROGEN;

(6) Duomone;

(7) DURATESTRIN;

(8) DUO-SPAN II;

(9) Estratest;

(10) Estratest H.S.;

(11) PAN ESTRA TEST;

(12) Premarin with Methyltestosterone;

(13) TEST-ESTRO Cypionates;

(14) Testosterone Cyp 50 Estradiol Cyp 2;

(15) Testosterone Cypionate-Estradiol Cypionate injection; and

(16) Testosterone Enanthate-Estradiol Valerate injection.

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro- 6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol) or (-)-delta-9-(trans)-tetrahydrocannabinol.

(2) (Reserved).

(h) The Department may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(Source: P.A. 96-328, eff. 8-11-09; 96-1000, eff. 7-2-10; 97-334, eff. 1-1-12.)

(720 ILCS 570/311.5)

Sec. 311.5. Electronic prescriptions for controlled substances. Notwithstanding any other Section in this Act, a prescriber who is otherwise authorized to prescribe controlled substances in Illinois may issue an electronic prescription for Schedule II, III, IV, and V controlled substances if done in accordance with the federal rules for electronic prescriptions for controlled substances, as set forth in 21 C.F.R. Parts 1300, 1304, 1306, and 1311, as amended. To ensure validity of orders, as of January 1, 2015 each Schedule II prescription must be issued via electronic prescribing. All electronic prescribing must pass through the Prescription Monitoring Program portal, to establish an audit trail regarding the eventual dispensing of the medication.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/314.5)

Sec. 314.5. Medication shopping; pharmacy shopping.

(a) It shall be unlawful for any person knowingly or intentionally to fraudulently obtain or fraudulently seek to obtain any controlled substance or prescription for a controlled substance from a prescriber or dispenser while being supplied with any controlled substance or prescription for a controlled substance by another prescriber or dispenser, without disclosing the fact of the existing controlled substance or prescription for a controlled substance to the prescriber or dispenser from whom the subsequent controlled substance or prescription for a controlled substance is sought.

(b) It shall be unlawful for a person knowingly or intentionally to fraudulently obtain or fraudulently seek to obtain any controlled substance from a pharmacy while being supplied with any controlled substance by another pharmacy, without disclosing the fact of the existing controlled substance to the pharmacy from which the subsequent controlled substance is sought.

(c) A person may be in violation of Section 3.23 of the Illinois Food, Drug and Cosmetic Act when medication shopping or pharmacy shopping, or both.

(d) When a person has been identified as having 6 or more prescribers or 6 or more pharmacies, or both, that do not utilize a common electronic file as specified in Section 20 of the Pharmacy Practice Act for controlled substances within the course of a continuous 30-day period, the Prescription Monitoring Program may issue an unsolicited report to the prescribers informing them of the potential medication shopping.

~~(e) (Blank). Nothing in this Section shall be construed to create a requirement that any prescriber, dispenser, or pharmacist request any patient medication disclosure, report any patient activity, or prescribe or refuse to prescribe or dispense any medications.~~

(f) This Section shall not be construed to apply to inpatients or residents at hospitals or other institutions or to institutional pharmacies.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/314.6 new)

Sec. 314.6. Reporting to the Department of Financial and Professional Regulation of consistent issuance of unsolicited reports.

(a) Upon review by the Prescription Monitoring Program Advisory Committee of prescribers who have not registered as Prescription Monitoring Program users, the Committee by means of an intergovernmental agreement shall generate a file of information regarding these practitioners with consistently high numbers of patients with multiple prescribers which shall be submitted to the Department of Financial and Professional Regulation.

(b) Upon review by the Prescription Monitoring Program Advisory Committee practitioners who are registered users but have failed to use their access and who have numerous patients with multiple prescribers may also be placed on a computer generated report by the Committee under an intergovernmental agreement; which report shall be submitted to the Department of Financial and Professional Regulation.

(720 ILCS 570/316)

Sec. 316. Prescription monitoring program.

(a) The Department must provide for a prescription monitoring program for Schedule II, III, IV, and V controlled substances, the purpose of which is to develop a clinical tool to assist healthcare providers in preventing accidental overdoses or duplications of controlled substances to the patients they are treating. The Program shall include ~~that includes~~ the following components and requirements:

(1) The dispenser must transmit to the central repository, in a form and manner specified by the Department, the following information:

(A) The recipient's name.

(B) The recipient's address.

(C) The national drug code number of the controlled substance dispensed.

(D) The date the controlled substance is dispensed.

- (E) The quantity of the controlled substance dispensed.
- (F) The dispenser's United States Drug Enforcement Administration registration number.
- (G) The prescriber's United States Drug Enforcement Administration registration number.
- (H) The dates the controlled substance prescription is filled.
- (I) The payment type used to purchase the controlled substance (i.e. Medicaid, cash, third party insurance).
- (J) The patient location code (i.e. home, nursing home, outpatient, etc.) for the controlled substances other than those filled at a retail pharmacy.
- (K) Any additional information that may be required by the department by administrative rule, including but not limited to information required for compliance with the criteria for electronic reporting of the American Society for Automation and Pharmacy or its successor.

(2) The information required to be transmitted under this Section must be transmitted not more than 7 days after the date on which a controlled substance is dispensed, or at such other time as may be required by the Department by administrative rule.

(3) A dispenser must transmit the information required under this Section by:

- (A) an electronic device compatible with the receiving device of the central repository;
- (B) a computer diskette;
- (C) a magnetic tape; or
- (D) a pharmacy universal claim form or Pharmacy Inventory Control form;

(4) The Department may impose a civil fine of up to \$100 per day for willful failure to report controlled substance dispensing to the Prescription Monitoring Program. The fine shall be calculated on no more than the number of days from the time the report was required to be made until the time the problem was resolved, and shall be payable to the Prescription Monitoring Program.

(b) The Department, by rule, may include in the monitoring program certain other select drugs that are not included in Schedule II, III, IV, or V. The prescription monitoring program does not apply to controlled substance prescriptions as exempted under Section 313.

(c) The collection of data on select drugs and scheduled substances by the Prescription Monitoring Program may be used as a tool for addressing oversight requirements of long-term care institutions as set forth by Public Act 96-1372. Long-term care pharmacies shall transmit patient medication profiles to the Prescription Monitoring Program monthly or more frequently as established by administrative rule.

(d) By January 1, 2015, all Electronic Health Records Systems must interface with the Prescription Monitoring Program application program interface to insure that all providers have access to specific patient records as they are treating the patient.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/317.5 new)

Sec. 317.5. Access to the Prescription Monitoring Program Database.

(a) All licensed prescribers of controlled substances may register for individual access to the Prescription Monitoring Program, where the data is to be used in treating their patients.

(b) Those licensed prescribers who have registered to access the Prescription Monitoring Program, may authorize a designee to consult the Prescription Monitoring Program on their behalf. The practitioner assumes all liability from that authorization. The Prescription Monitoring Program Advisory Committee shall draft rules with reasonable parameters concerning a practitioner's authority to authorize a designee.

(c) Any Electronic Medical Records System may apply for access to the Prescription Monitoring Program on behalf of their enrolled practitioners.

(d) A Pharmacist-in-charge (PIC), pharmacist intern or his or her designee (which includes another pharmacist, pharmacist intern, or other individual as may be permitted by administrative rules) may register for individual access to the Prescription Monitoring Program.

(e) Any Pharmacy Electronic Record System may apply for access to the Prescription Monitoring Program on behalf of their enrolled pharmacies to streamline access to patient specific data to address provision of pharmaceutical care.

(f) Prescribers, pharmacists, or persons acting on their behalf, in good faith, are immune from any recourse (civil liability) arising from any false, incomplete or inaccurate information submitted to or reported to the Prescription Monitoring Program registry.

(720 ILCS 570/319)

Sec. 319. Rules. The Department must adopt rules under the Illinois Administrative Procedure Act to implement Sections 314.6, 316 through 321, including the following:

(1) Information collection and retrieval procedures for the central repository, including the controlled substances to be included in the program required under Section 316 and Section 321 (now repealed).

(2) Design for the creation of the database required under Section 317.

(3) Requirements for the development and installation of on-line electronic access by the Department to information collected by the central repository.

(4) The process for choosing members for the advisory committee, the clinical consulting long term care advisory committee, and the clinical outcomes research group under the direction of the Prescription Monitoring Program Clinical Director.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/320)

Sec. 320. Advisory committee.

(a) The Secretary of the Department of Human Services must appoint an advisory committee to assist the Department in implementing the controlled substance prescription monitoring program created by Section 316 and former Section 321 of this Act. The Advisory Committee consists of prescribers and dispensers.

(b) The Secretary of the Department of Human Services or his or her designee must determine the number of members to serve on the advisory committee. The Chair of the Prescription Monitoring Program Advisory Committee and the other clinical consulting committees shall be the Prescription Monitoring Program Clinical Director ~~Secretary must choose one of the members of the advisory committee to serve as chair of the committee.~~

(c) The advisory committee may appoint its other officers as it deems appropriate.

(d) The members of the advisory committee shall receive no compensation for their services as members of the advisory committee but may be reimbursed for their actual expenses incurred in serving on the advisory committee.

(e) The advisory committee shall:

(1) provide a uniform approach to reviewing this Act in order to determine whether changes should be recommended to the General Assembly.

(2) review current drug schedules in order to manage changes to the administrative rules pertaining to the utilization of this Act.

(Source: P.A. 97-334, eff. 1-1-12.)

(720 ILCS 570/320.5 new)

Sec. 320.5. Continuing Education Recommendations.

(a) The Prescription Monitoring Program Advisory Committee shall report to the Director of the Division of Alcoholism and Substance Abuse, the Director of Public Health, and the Secretary of the Department of Financial and Professional Regulation annually, their trended evaluation of the historic prescribing of controlled substances. As part of this report they shall make recommendations for courses of continuing professional education and other training materials for licensed health care professionals in the appropriate use of pain medications. The training may include:

(1) educational and continuing medical education requirements for practitioners appropriate to address prescription pain medication awareness among health care professionals;

(2) continuing education requirements for pharmacists related to prescription pain medication awareness; and

(3) continuing education in palliative care as it relates to pain management.

(b) The Prescription Monitoring Program Advisory Committee shall provide outreach and assistance to health care professional organizations to encourage and facilitate continuing medical education training programs for their members regarding appropriate prescribing practices for optimum patient care."

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 1568** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Assignments.

Senator Delgado offered the following amendment and moved its adoption:

[April 18, 2013]

**AMENDMENT NO. 2 TO SENATE BILL 1568**

AMENDMENT NO. 2. Amend Senate Bill 1568 on page 1, line 5, by changing "Section 11" to "Sections 11 and 14"; and

on page 4 by inserting immediately below line 11 the following:

"(820 ILCS 115/14) (from Ch. 48, par. 39m-14)

Sec. 14. (a) Any employee not timely paid wages, final compensation, or wage supplements by his or her employer as required by this Act shall be entitled to recover through a claim filed with the Department of Labor or in a civil action, but not both, the amount of any such underpayments and damages of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. In a civil action, such employee shall also recover costs and all reasonable attorney's fees.

(a-5) In addition to the remedies provided in subsections (a), (b), and (c) of this Section, any employer or any agent of an employer, who, being able to pay wages, final compensation, or wage supplements and being under a duty to pay, wilfully refuses to pay as provided in this Act, or falsely denies the amount or validity thereof or that the same is due, with intent to secure for himself or other person any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, delay or defraud the person to whom such indebtedness is due, upon conviction, is guilty of:

- (1) for unpaid wages, final compensation or wage supplements in the amount of \$5,000 or less, a Class B misdemeanor; or
- (2) for unpaid wages, final compensation or wage supplements in the amount of more than \$5,000, a Class A misdemeanor.

Each day during which any violation of this Act continues shall constitute a separate and distinct offense.

Any employer or any agent of an employer who violates this Section of the Act a subsequent time within 2 years of a prior criminal conviction under this Section is guilty, upon conviction, of a Class 4 felony.

(b) Any employer who has been demanded or ordered by the Department or ordered by the court to pay wages, final compensation, or wage supplements due an employee shall be required to pay a non-waivable administrative fee of ~~\$250~~ to the Department of Labor in the amount of \$250 if the amount ordered by the Department as wages owed is \$3,000 or less; \$500 if the amount ordered by the Department as wages owed is more than \$3,000, but less than \$10,000; and \$1,000 if the amount ordered by the Department as wages owed is \$10,000 or more. Any employer who has been so demanded or ordered by the Department or ordered by a court to pay such wages, final compensation, or wage supplements and who fails to seek timely review of such a demand or order as provided for under this Act and who fails to comply within 15 calendar days after such demand or within 35 days of an administrative or court order is entered shall also be liable to pay a penalty to the Department of Labor of 20% of the amount found owing and a penalty to the employee of 1% per calendar day of the amount found owing for each day of delay in paying such wages to the employee. All moneys recovered as fees and civil penalties under this Act, except those owing to the affected employee, shall be deposited into the Wage Theft Enforcement Fund, a special fund which is hereby created in the State treasury. Moneys in the Fund may be used only for enforcement of this Act.

(b-5) Penalties and fees under this Section may be assessed by the Department and recovered in a civil action brought by the Department in any circuit court or in any administrative adjudicative proceeding under this Act. In any such civil action or administrative adjudicative proceeding under this Act, the Department shall be represented by the Attorney General.

(c) Any employer, or any agent of an employer, who discharges or in any other manner discriminates against any employee because that employee has made a complaint to his employer, to the Director of Labor or his authorized representative, in a public hearing, or to a community organization that he or she has not been paid in accordance with the provisions of this Act, or because that employee has caused to be instituted any proceeding under or related to this Act, or because that employee has testified or is about to testify in an investigation or proceeding under this Act, is guilty, upon conviction, of a Class C misdemeanor. An employee who has been unlawfully retaliated against shall be entitled to recover through a claim filed with the Department of Labor or in a civil action, but not both, all legal and equitable relief as may be appropriate. In a civil action, such employee shall also recover costs and all reasonable attorney's fees.

(Source: P.A. 95-209, eff. 8-16-07; 96-1407, eff. 1-1-11.)".

The motion prevailed.

[April 18, 2013]

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

At the hour of 3:39 o'clock p.m., the Chair announced that the Senate stand at ease.

**AT EASE**

At the hour of 3:48 o'clock p.m., the Senate resumed consideration of business.  
Senator Link, presiding.

**REPORT FROM COMMITTEE ON ASSIGNMENTS**

Senator Harmon, Chairperson of the Committee on Assignments, during its April 18, 2013 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Criminal Law: **Senate Committee Amendment No. 1 to House Bill 181.**

Education: **Senate Floor Amendment No. 2 to Senate Bill 1571; Senate Committee Amendment No. 1 to Senate Bill 1573.**

Energy: **Senate Floor Amendment No. 3 to Senate Bill 2350.**

Executive: **Senate Floor Amendment No. 1 to Senate Bill 1977; Senate Floor Amendment No. 1 to Senate Bill 2136.**

Revenue: **Senate Floor Amendment No. 1 to House Bill 192; Senate Floor Amendment No. 2 to Senate Bill 2345.**

Senator Harmon, Chairperson of the Committee on Assignments, during its April 18, 2013 meeting, reported that the following Legislative Measures have been approved for consideration:

**Senate Floor Amendment No. 2 to Senate Bill 625**  
**Senate Floor Amendment No. 2 to Senate Bill 1657**

The foregoing floor amendments were placed on the Secretary's Desk.

**MESSAGE FROM THE HOUSE**

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 923

A bill for AN ACT concerning employment.

HOUSE BILL NO. 981

A bill for AN ACT concerning insurance.

HOUSE BILL NO. 1199

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 2275

A bill for AN ACT concerning State government.

HOUSE BILL NO. 2925

A bill for AN ACT concerning local government.

[April 18, 2013]

Passed the House, April 18, 2013.

TIMOTHY D. MAPES, Clerk of the House

The foregoing **House Bills Numbered 923, 981, 1199, 2275 and 2925** were taken up, ordered printed and placed on first reading.

### **RESOLUTIONS CONSENT CALENDAR**

#### **SENATE RESOLUTION NO. 227**

Offered by Senator Clayborne and all Senators:  
Mourns the death of Patrick Dylan Fiore of Belleville.

#### **SENATE RESOLUTION NO. 228**

Offered by Senator Clayborne and all Senators:  
Mourns the death of Johnnie C. McIntosh, Sr.

#### **SENATE RESOLUTION NO. 229**

Offered by Senator McCann and all Senators:  
Mourns the death of Rita M. Klaas of Meppen.

#### **SENATE RESOLUTION NO. 230**

Offered by Senator Koehler and all Senators:  
Mourns the death of Erma M. Davis of Peoria.

#### **SENATE RESOLUTION NO. 233**

Offered by Senator Frerichs and all Senators:  
Mourns the death of Roger Ebert.

#### **SENATE RESOLUTION NO. 234**

Offered by Senator McGuire and all Senators:  
Mourns the death of Angelo J. Garbin.

#### **SENATE RESOLUTION NO. 235**

Offered by Senator Koehler and all Senators:  
Mourns the death of Curtis Keith Davies of Washington.

The Chair moved the adoption of the Resolutions Consent Calendar. The motion prevailed, and the resolutions were adopted.

### **PRESENTATION OF RESOLUTION**

Senator Sullivan offered the following Senate Joint Resolution and, having asked and obtained unanimous consent to suspend the rules for its immediate consideration, moved its adoption:

#### **SENATE JOINT RESOLUTION NO. 34**

**RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN,** that when the two Houses adjourn on Thursday, April 18, 2013, the Senate stands adjourned until Tuesday, April 23, 2013, and when it adjourns on that day, it stands adjourned until Wednesday, April 24, 2013, and when it adjourns on that day, it stands adjourned until Thursday, April 25, 2013, and when it adjourns on that day it stands adjourned until April 30, 2013, or until the call of the President; and the House of Representatives stands adjourned until Friday, April 19, 2013, and when it adjourns on that day, it stands adjourned until Tuesday, April 30, 2013, or until the call of the Speaker.

[April 18, 2013]

The motion prevailed.

And the resolution was adopted.

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

At the hour of 3:52 o'clock p.m., pursuant to **Senate Joint Resolution No. 34**, the Chair announced the Senate stand adjourned until Tuesday, April 23, 2013, at 12:00 o'clock noon, or until the call of the President.