

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Firearm Dealer License Certification Act
- 2) Code Citation: 20 Ill. Adm. Code 1232
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1232.10	New Section
1232.20	New Section
1232.30	New Section
1232.40	New Section
1232.50	New Section
1232.60	New Section
1232.70	New Section
1232.80	New Section
1232.90	New Section
1232.100	New Section
1232.110	New Section
1232.120	New Section
1232.130	New Section
1232.140	New Section
1232.150	New Section
1232.160	New Section
1232.170	New Section
1232.180	New Section
1232.190	New Section
1232.200	New Section
1232.210	New Section
1232.220	New Section
1232.230	New Section
1232.EXHIBIT A	New Section
- 4) Statutory Authority: Implementing and authorized by the Firearm Dealer License Certification Act [430 ILCS 68] and authorized by Section 2605-15 of the Department of State Police Law [20 ILCS 2605].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed regulations implement the Firearm Dealer License Certification Act [430 ILCS 68] by establishing an application process for individuals and entities subject to regulation under the Act, describing enforcement mechanisms by law-enforcement agencies, and identifying licensee obligations relating to security and storage plans, record-keeping requirements,

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

and training mandates. Additionally, the proposed regulations set forth the fee schedule for license applicants and disciplinary fines and sanctions for violations of the Act. Finally, the proposed regulations create administrative processes for investigating alleged violations of the Act and establish an appeal process for licensees and applicants to formally challenge determinations of the Department.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These rules will not require a local government to establish, expend, or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed rules. The submissions must be in writing and directed to:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-7658
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business or not-for-profit corporation engaging the sale of firearms may be affected.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- B) Reporting, bookkeeping or other procedures required for compliance: Affected entities will be required to maintain and report documentation as appropriate relating to any Federal Firearm License, sales of affected items, training records, storage records and logs, electronic monitoring information, and other necessary documentation demonstrating their compliance with the Firearm Dealers License Certification Act [430 ILCS 68].
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rules:
- 42 Wholesale Trade
44-45 Retail Trade
- B) Categories that the Agency reasonably believes the rulemaking will impact, including:
- i. hiring and additional staffing;
 - ii. regulatory requirements;
 - iii. purchasing;
 - iv. licensing fees;
 - v. equipment and material needs;
 - vi. training requirements;
 - vii. record keeping;
- 15) Regulatory Agenda on which this rulemaking was summarized: This proposed Part did not appear on a Regulatory Agenda because it was not signed into law until January 2019.

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

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1232
FIREARM DEALER LICENSE CERTIFICATION ACT

Section	
1232.10	Definitions
1232.20	Application Procedures
1232.30	Measuring Distances
1232.40	Exemptions
1232.50	Inspection of Certified Licensees' Places of Business
1232.60	Security System
1232.70	Alarm Monitoring System
1232.80	Safe Storage By Certified Licensees
1232.90	Training; Statewide Compliance Standards
1232.100	Electronic-based Recordkeeping
1232.110	Fees and Fines
1232.120	Term of License
1232.130	Retention of Records
1232.140	Return of Suspended or Revoked Certificate of License
1232.150	Disciplinary Sanctions; Restoration
1232.160	Complaints; Investigations; Hearings
1232.170	Order of the Director
1232.180	Filing
1232.190	Form of Documents
1232.200	Motion and Answer
1232.210	Rehearings
1232.220	Administrative Review
1232.230	Mandatory Signage

1232.EXHIBIT A Warning Signage

AUTHORITY: Implementing and authorized by the Firearm Dealer License Certification Act [430 ILCS 68] and authorized by Section 2605-15 of the Department of State Police Law [20 ILCS 2605].

SOURCE: Adopted at 43 Ill. Reg. _____, effective _____.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

Section 1232.10 Definitions

The following additional definitions also apply to this Part unless the context clearly requires a different meaning:

"Act" means Firearm Dealer License Certification Act [430 ILCS 68].

"Applicant" means a person who has submitted an application for a certified license.

"Certified Licensee" or "CL" means a licensee who has certified its FFL under the Act and this Part.

"Department" means the Department of State Police.

"Director" means the Director of State Police.

"Engage in the Business of Dealing Firearms", as used in Section 5-5 of the Act, and "Engage in the Business of Selling, Leasing, or Otherwise Transferring Firearms" as used in Section 5-15 of the Act, mean a person or entity that devotes time, attention and labor to the selling, leasing or transferring of firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale, lease or transfer of firearms. These terms apply to any person or entity who engages in the business on a full or part-time basis. The terms shall not apply to the following:

a person or entity who only engages in gunsmithing services in which it accepts a firearm for service, services the firearm, and returns it only to the customer who gave it the firearm to service;

a person or entity who only engages in transactions that do not require the completion of a Form 4473 and background check under State or federal law; or

any activity otherwise exempt under Section 5-25 of the Act.

"Entity" means any person, firm, corporation, group of individuals, or other legal entity.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

"FFL" means Federal Firearms License.

"FFL Holder" means a person, firm, corporation, or other entity who has been given, and is currently in possession of, a valid Federal Firearms License.

"FOID Act" means the Firearm Owners Identification Card Act [430 ILCS 65].

"Inventory" means firearms in the possession of an individual or entity for the purpose of sale or transfer.

"Law Enforcement Agency" means a federal or state government agency that:

is authorized by law to engage in or supervise the prevention, detection, investigation, prosecution or incarceration of any person for any violation of law;

has statutory powers of arrest or custodial detention; and

allows its members to carry a firearm while on duty.

"License" means a Federal Firearms License authorizing a person or entity to engage in the business of dealing firearms.

"Limited Access Area" means a room or rooms on the premises of, and under the control of, the CL to which only the CL, the CL's agents and other authorized personnel (e.g., Department or law enforcement personnel) have access. "Limited access area" includes places where weapons are stored when not on display, surveillance equipment is maintained, and other areas that are not generally accessible by the public or nonauthorized employees.

"Open to the Public" means that a certified licensee sells, leases or transfers firearms to the general public during regular business hours or by appointment only.

"Person" means any individual, corporation, company, association, firm, partnership, or any other entity, including any governmental entity.

"Retail Location" means a store open to the public from which a certified licensee engages in the business of selling, transferring, or facilitating a sale or transfer of

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

a firearm. For purposes of the Act, a gun show or similar event at which a certified licensee engages in business from time to time is not a retail location.
(Section 5-5 of the Act)

"Straw Purchase" means an illegal firearm purchase in which the actual buyer of the gun, being unable to pass the required federal background check or desiring to not have his or her name associated with the transaction, uses a proxy buyer who can pass the required background check to purchase the firearm for him or her.

"Valid" means current and not suspended, revoked, expired, canceled, invalidated, denied or disqualified.

"Valid Photo Identification Card" means a current, and not suspended, revoked, expired, canceled, invalidated, denied or disqualified, driver's license or identification card issued by the federal government or any state. It does not include a temporary visitor's driver's license (TVDL).

Section 1232.20 Application Procedures

- a) Application for a certificate of license shall be made by completing an application form provided by the Department. The application will be made available through the Department's website (www.isp.state.il.us) or in a form and manner prescribed by the Department as directed on its website.
- b) All applications and related documents shall be completed accurately and in their entirety, accompanied by the correct fee (see Section 1232.110), and submitted as indicated on the application or the Department's website.
- c) Federal Firearms License Required
 - 1) The applicant shall submit a copy of its FFL, together with a sworn affidavit indicating that the FFL presented is, in fact, its license and that the FFL is valid at the time of submission of the application.
 - 2) The Department may, in lieu of requiring an affidavit, verify the validity of an FFL via any system or website, approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), designed to allow an FFL holder or other authorized entity to verify or authenticate the FFL

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

submitted under subsection (c)(1). The system or website will verify the information shown on the FFL to determine if the FFL is valid.

- 3) The Department will advise applicants on its website or the application itself if an FFL affidavit is not required to be submitted.
- d) Affidavit
- 1) The applicant shall submit, with the application for certification of an initial or renewed FFP, an affidavit:
 - A) identifying the name and Firearm Owner's Identification Card number of each owner, employee, or other agent who sells or transfers firearms for the certified licensee; and
 - B) stating that each owner, employee, or other agent of the applicant who sells or transfers firearms is at least 21 years of age, has a currently valid FOID Card, and, for a renewal, has completed the training required under Section 5-30 of the Act.
 - 2) The affidavit form will be available through the Department's website.
- e) Incomplete Submissions
- 1) Any application that is not completed accurately and in its entirety, or does not include the correct fee (see Section 1232.110), will be rejected.
 - 2) The Department will provide written notice to any applicant whose application is rejected stating the reasons for the rejection. The notice will also inform the applicant that a Notice of Intent to Deny will be filed 30 days after notice of the rejection if the applicant fails to provide all required information, complete the application in its entirety, and submit the correct fee.
 - 3) If an applicant has not provided the required information or fee within 30 days after notice of the rejection, the Department will file a Notice of Intent to Deny, unless it elects to grant the applicant an extension of time to complete the application.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- f) The Department will, as part of the application process, ask any questions necessary to determine eligibility for a certificate of license.
- g) All certificates issued shall remain the property of the Department.

Section 1232.30 Measuring Distances

For purposes of Section 5-20(c) of the Act, the distance between a retail location and a school, pre-school, or day care facility shall be measured linearly and shall be the shortest distance between the nearest corner of the building holding the retail location to the corner of the school, pre-school, or day care facility building nearest the retail location at the time the retail location seeks licensure.

Section 1232.40 Exemptions

FFL holders are not required to obtain a certificate of license if they do not engage in the business of selling, leasing, or otherwise transferring firearms, or if they only engage in any of the transfers described in Section 5-25 of the Act. However, if an FFL holder engages in the business of selling, leasing, or otherwise transferring firearms in any manner not described in Section 5-25, a valid certificate of license issued under the Act is required.

Section 1232.50 Inspection of Certified Licensees' Places of Business

- a) *Certified licensees shall have their places of business available for inspection by the Department and law enforcement agencies during all hours of operation involving the sale, leasing or transfer of firearms, provided that the Department or law enforcement agency may conduct no more than one unannounced inspection per year without good cause.*
- b) Any certified licensee that is not open to the public, does not keep regular business hours, or operates by appointment only shall immediately advise the Department, in writing, of its hours of operation, including that it does not maintain regular business hours, when so requested by the Department.
- c) *During an inspection, certified licensees shall make all records, documents and firearms accessible for inspection, upon the request of the Department or law enforcement agency. (Section 5-35 of the Act)*
- d) Failure to fully cooperate with an inspection could result in the imposition of

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

discipline and/or a fine in accordance with the Act.

Section 1232.60 Security System

- a) *On or before January 2, 2021, a certified licensee operating a retail location shall be required to operate and maintain, on the premises, in good working order a 24 hour, seven days a week, closed-circuit television video surveillance system that complies with the following minimum standards:*
- 1) Visually records and monitors all building *entrances and exits*, all parking lot areas, and rear alley areas immediately adjacent to the building space used for the business, and covers the entire inside of the facility *where firearms in inventory are stored, displayed, handled, sold or transferred*, including all limited access areas where firearms in inventory are stored or transferred, but does not include *restrooms* or any other area specifically prohibited by law. Fixed cameras shall be installed to provide a consistently recorded image of these areas. Cameras shall be mounted so as to allow for the capture of facial recognition, clear and certain identification of any person entering or exiting the retail location, the immediate surrounding area, and license plates of vehicles in the parking lot area. The certified licensee shall instruct the company or individuals installing the surveillance cameras to maximize the quality of facial and body images and to avoid backlighting and physical obstructions.
 - 2) Cameras installed outdoors and in low-light interior areas shall be day/night cameras. The installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image.
 - 3) The recording device shall be digital and shall:
 - A) Display a date and time stamp on all recorded video. The date and time shall be set correctly and shall not significantly obstruct the picture;
 - B) Produce a digital file video. The digital file video shall be viewable on any Windows PC;
 - C) Have the ability to remain operational during a power outage with

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

a minimum four-hour battery backup; and

- D) Allow for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall be able to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall be able to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- 4) A display monitor shall be connected to the electronic recording security system at all times.
 - 5) Electronic recording security systems shall be maintained in good working order at all times and have a failure notification system that provides notification to the certified licensee of any failure in the system. The CL shall instruct each manager, employee or other person overseeing the functioning of the video recording security system to immediately report to the CL's manager or the chief of security personnel any malfunctioning or technical problems with the system and memorialize the report in an email or written document.
 - 6) Security Recording Retention
 - A) Security recordings shall be retained by the certified licensee for a minimum of 90 days, except as otherwise provided in subsection (a)(6)(B) or (C). The recording system for the security cameras must be located in a locked, tamper-proof compartment within a limited access area. The recordings shall be simultaneously backed-up offsite (e.g., cloud storage, offsite server).
 - B) The 90 day requirement for retaining security recordings does not apply if the certified licensee is aware of the loss or theft of any firearms in inventory, or is aware of, or has been notified by the Department under subsection (a)(6)(C) of, a pending criminal, civil or administrative investigation or of a legal proceeding for which the recording may contain relevant information. In these instances, recordings shall be retained until receipt of the written notice

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

issued pursuant to subsection (a)(6)(C) releasing the CL from this extended retention requirement.

- C) Upon notice from the Department of a pending investigation, upcoming inspection, or other need to preserve video recordings, a CL shall preserve the recordings until the CL receives written notice from the Department that the recording is no longer needed and can be recorded over or otherwise erased from temporary and/or offsite storage when the 90 days expires.
- 7) Upon request, the recording or any photo made from a recording shall be turned over to the Department. Twenty-four hour recordings from all video cameras shall be available for immediate viewing by the Department upon request.
- b) Access to limited access areas where the recording system for the security cameras is contained shall be limited to authorized personnel. A current list of authorized personnel that have access to the limited access area shall be available to the Department upon request. Limited access areas shall remain locked at all times.

Section 1232.70 Alarm Monitoring System

- a) *Beginning January 2, 2020, a certified licensee maintaining an inventory of firearms for sale or transfer must be connected to an alarm monitoring system or service that will notify its local law enforcement agency of an unauthorized intrusion into the premises of the certified licensee where firearms in inventory are maintained. (Section 5-50(c) of the Act)*
- b) Each alarm monitoring system or service shall meet the following minimum requirements:
 - 1) Coverage of the business space, including all business facility entrances, exits and rooms
 - A) with exterior windows;
 - B) with exterior walls, roof hatches, skylights, or window or wall mounted air conditioners;

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- C) that contain safes or vault access; and
 - D) where firearms in inventory are stored.
- 2) Monitoring with cellular back-up, interior motion detection, and, where windows are present, glass breakage detection.
 - 3) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the certified licensee, within five minutes after the failure, by telephone, email or text message.
 - 4) The ability to remain operational during a power outage and ensure all access doors are not solely controlled by an electronic access panel so that locks are not released during a power outage.
 - 5) Duress alarm; i.e., a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system.
 - 6) Panic alarm; i.e., an audible security alarm system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring law enforcement response.
 - 7) Holdup alarm; i.e., a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
 - 8) Automatic voice dialer; i.e., any electrical, electronic, mechanical or other device capable of being programmed to send a prerecorded voice message requesting dispatch, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency.
- b) The system shall be:
 - 1) tested on a regular basis, but in no event less than once quarterly, to ensure it is functioning properly; and

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 2) inspected annually, with all devices being tested by a qualified alarm vendor.

Section 1232.80 Safe Storage By Certified Licensees

- a) *Certified licensees maintaining a retail location shall develop a written plan that addresses the safe storage of firearms and ammunition during retail hours and after closing. Safe storage plans shall address the following areas:*
 - 1) Storage of firearms and ammunition during retail hours and after closing;
 - 2) Access to firearms and ammunition during retail hours (business practices);
 - 3) Procedures for removing or replacing firearms to show to customers;
 - 4) Loss or theft reporting;
 - 5) Description of anti-theft measures and practices;
 - 6) Disaster plan;
 - 7) Structural Security;
 - 8) Inventory Security;
 - 9) Employee Screening; and
 - 10) Employee training and education regarding certified licensee's policy and procedures and loss prevention measures.
- b) *Safe storage plans shall be submitted to the Department for approval, in a form and method that shall be provided by the Department on its website. (Section 5-55 of the Act)*
- c) A certified licensee maintaining a retail location shall ensure the following practices are implemented:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 1) Store all firearms in inventory in a safe, vault, secured room, or locked display and in such a manner as to prevent diversion, theft or loss;
- 2) Maintain all firearms in inventory in a limited access area or location within the retail location, accessible only to specifically authorized personnel;
- 3) Keep all approved safes, vaults, displays, or other equipment or areas used for the storage of firearms in inventory securely locked or protected from entry, except for the actual time required to remove, replace or show for sale or transfer the firearms;
- 4) Keep all locks and security equipment in good working order;
- 5) Prohibit keys from being left in the locks and do not store or place keys in a location accessible to persons other than specifically authorized personnel;
- 6) Prohibit other security measures, such as combination numbers, codes, passwords or electronic or biometric security systems, from being accessible to persons other than specifically authorized personnel;
- 7) Keep the retail location securely locked and protected from unauthorized entry at all times when closed for business or unoccupied by authorized personnel;
- 8) Keep ammunition stored separately from the firearms inventory and out of the reach of customers;
- 9) Ensure inventory records are protected by securing the records after business hours in a secured location. Only authorized or law enforcement personnel shall be permitted to view or handle the inventory records;
- 10) Complete a firearms inventory on a regular basis, but in no event less than once quarterly. Inventories shall be conducted by at least two persons and shall be memorialized in an email or other written document made available upon request of the Department or other law enforcement entity;

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 11) Keep current and accurate acquisition and disposition records. These records shall be made available to law enforcement entities upon request;
 - 12) Maintain a disaster plan that adequately ensures the timely securing of firearms in inventory in the event of a natural or man-made disaster. The plan shall be made available to the Department upon request; and
 - 13) Ensure employees with access to firearms in inventory, or who otherwise handle firearms in inventory, are not prohibited from possessing firearms under State or federal law.
- d) If a retail location presents special security issues, such as an extremely large inventory, exposed handling, or unusual vulnerability to diversion, theft or loss, the Department may require additional safeguards.
 - e) If a loss, theft or diversion of firearms in inventory has occurred from a retail location, the certified licensee shall notify ATF and the appropriate local law enforcement authority within 48 hours after the loss or theft is discovered, pursuant to the notification requirements of 18 USC 923(g)(6). The CL shall provide a copy of any such notification to the Department. If any firearms previously reported as lost or stolen are subsequently recovered by the CL, the CL shall notify ATF and the appropriate local law enforcement authority of the recovery.
 - f) Any CL whose certification is revoked or not current shall dispose of its inventory in a manner allowed by State law and procedures approved by ATF, and provide notice to the Department of its plan to transfer or otherwise dispose of inventory.

Section 1232.90 Training; Statewide Compliance Standards

- a) The annual training shall consist, at minimum, of the review of materials made available to certified licensees by the Department. Those materials will be made available on the Department's website or through other publicly-available means.
- b) A CL shall:
 - 1) Ensure the CL and all employees who sell or otherwise transfer firearms attend the training required by Section 5-30 of the Act. The required

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

training shall be completed before certification by the Department and yearly thereafter.

- 2) Ensure training required by Section 5-30 of the Act is completed by all newly hired employees who will be selling or otherwise transferring firearms prior to the new employee participating in the sale or transfer of any firearms or ammunition.
- 3) Verify completion of the required annual training by the CL and all applicable employees by submitting an affidavit to the Department indicating the CL and all applicable employees have completed the training required by Section 5-30 of the Act. A copy of the affidavit will be available through the Department's website. The affidavit shall be submitted with each application for certification or renewal.

Section 1232.100 Electronic-based Recordkeeping

- a) *On or before January 2, 2020, each certified licensee operating a retail location shall implement an electronic-based record system to keep track of its changing inventory by updating the make, model, caliber or gauge, and serial number of each firearm that is received or sold by the certified licensee.*
- b) *Retail sales and purchases shall be recorded within 24 hours after the transaction. Shipments of firearms from manufacturers or wholesalers shall be recorded upon the earlier of five business days or within 24 hours after the shipment is unpacked and the firearm placed in inventory. (Section 5-65 of the Act)*
- c) *A certified licensee shall make a legible copy of a buyer's or transferee's valid photo identification card whenever a firearm sale transaction takes place. The copy shall be attached to the documentation detailing the record of sale. (Section 5-20(a) of the Act)*
- d) *Each certified licensee shall maintain these records for a period of no less than the time period under 27 CFR 478.129 or any subsequent law that regulates the retention of records. (Section 5-65 of the Act)*

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- e) Any computerized or electronic based record keeping system approved by ATF that accurately records the information required to be maintained by this Section is sufficient for satisfying the requirements of Section 5-65 of the Act.

Section 1232.110 Fees and Fines

- a) An applicant for license certification shall submit the following fees with each application, submitted in the form of a certified check or money order payable to the "Illinois Department of State Police", or by such other means as approved by the Department. Checks or money orders shall be delivered to the Department as provided in Section 1232.180.
- 1) The fee for initial certification of an FFL held by a person *operating without a retail location*, as defined by Section 5-5 of the Act, shall be \$300 for each application submitted.
 - 2) The fee for initial certification of an FFL held by a person *operating with a retail location* shall be \$1,500 for each application submitted.
 - 3) The fee for each certification of a renewed FFL shall be \$100 for a CL operating without a retail location and \$500 for a CL operating with a retail location.
 - 4) For new certified licensee applicants who are current FFL holders as of January 18, 2019, the fee for the initial certification shall be prorated on a monthly basis from the date of the initial application. The prorated fee shall be based on the number of months remaining on the applicant's current valid FFL.
 - 5) For CLs who submitted a full fee prior to the effective date of this Part, and who are eligible for proration of their fees under subsection (a)(4), the Department will credit any overpayment towards the cost of the CL's next renewal or, upon written request by the CL to the Department, will issue a refund of any overpayment.
- b) *The Department may not charge a certified licensee, operating under the same or different business name in this State, fees exceeding \$40,000 for the certification of multiple licenses. (Section 5-70 of the Act)*

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- c) *The Department may impose a fine not to exceed \$10,000 for each violation of the Act (see Sections 5-15 and 5-85 of the Act and Section 1232.150). (Section 5-85 of the Act)*
- d) *All civil penalties or fines imposed under the Act shall be paid within 90 days after the effective date of the final order issued imposing the fine. (Section 5-15(g)) All civil penalties or fines shall be paid by certified check or money order payable to the "Illinois Department of State Police", or by such other means as approved by the Department. Checks or money orders shall be delivered to the Department as provided in Section 1232.180.*
- e) *All monies (fees and fines) collected under the Act shall be deposited in the Firearm Dealer License Certification Fund in the State treasury. (Section 70 of the Act)*

Section 1232.120 Term of License

- a) *Each certification shall be valid for the term of the FFL being certified. An FFL holder shall certify each new or renewed FFL. However, the Department is not required to renew a certification if a prior certification has been revoked or suspended. (Section 5-75 of the Act)*
- b) *If a CL submits an application for certification of a renewed FFL prior to the expiration of the current FFL, the current certification shall remain valid while the application is pending.*

Section 1232.130 Retention of Records

- a) *Each certified licensee shall keep, either in electronic form or hard copy, all acquisition and disposition records for a period of time no less than the time required under 27 CFR 478.129 or any subsequent law that regulates the retention of records. Electronic-based recordkeeping will be required for CLs operating a retail location on or after January 2, 2020, pursuant to Section 5-65 of the Act.*
- b) *All video surveillance records, along with any sound recordings obtained from them, shall be retained by the certified licensee for a minimum of 90 days and in accordance with Section 1232.60(a)(6). (Section 5-80 of the Act)*

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

Section 1232.140 Return of Suspended or Revoked Certificate of License

- a) *Upon the suspension or revocation of a certification of license, the certified licensee shall surrender the certificate to the Department in accordance with Section 1232.180. Upon failure to do so, the Department will seize the certificate.*
- b) *When the certification is suspended, the CL shall not operate as a CL during the period in which the certificate is suspended and, if operating during that period, shall be operating in violation of Section 5-15(a) of the Act (Section 5-100(e) of the Act).*

Section 1232.150 Disciplinary Sanctions; Restoration

- a) *For violations of the Act not penalized under Section 5-15 of the Act, the Department may refuse to renew or restore, or may reprimand, place on probation, suspend, revoke, or take other disciplinary or nondisciplinary action against any certified licensee, and may impose a fine commensurate with the severity of the violation not to exceed \$10,000 for each violation. (Section 5-85(a) of the Act)*
- b) The following factors shall be weighed by the Director or hearing officer appointed by the Director when determining the severity of the violation and the resulting fine:
 - 1) Whether the violation constitutes a criminal offense under the Criminal Code of 2012 or any federal law and, if so, whether the violation would be considered a petty or business offense, misdemeanor, or felony under Illinois law;
 - 2) Whether the CL cooperated with the Department in its investigation;
 - 3) Whether the CL refused to cooperate with the Department in its investigation, including, but not limited to, providing false or misleading information;
 - 4) Whether the violation is the first violation or a subsequent violation of the Act;

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 5) Whether the CL has received prior discipline for the violation in question (i.e., 1st violation, 2nd or subsequent violation);
 - 6) The number of violations committed by the CL;
 - 7) Whether the violation involves fraudulent activity, deception or misrepresentation;
 - 8) Whether the violation directly resulted in the death or injury to any person or damage to any property; and
 - 9) Whether the violation constitutes a petty, minor, or major violation as those terms are defined in subsections (c), (d) and (e).
- c) Petty violations of the Act shall be subject to a civil penalty or fine not to exceed \$200 for a 1st violation and \$500 for a 2nd or subsequent violation. For purposes of this Section, "petty violation" means any violation of the Act listed in Section 5-85 of the Act that is not a criminal offense, or that constitutes a petty or business offense or a Class B or C misdemeanor, under the Criminal Code of 2012.
- d) Minor violations of the Act shall be subject to a civil penalty or fine not to exceed \$2,500 for a 1st violation and \$5,000 for a 2nd or subsequent violation. For the purposes of this Section, "minor violation" means:
- 1) any violation of Section 5-15 of the Act that would constitute a Class A misdemeanor; and
 - 2) a violation of Section 5-85:
 - A) (a)(1), (a)(3), (a)(5) or (a)(8), if the violation would constitute a Class A misdemeanor;
 - B) (a)(2), if due to negligence or carelessness;
 - C) (a)(6)(A), if a misdemeanor;
 - D) (a)(7), if the person did not have knowledge the firearms were sold or transferred illegally, but should have known; and

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- E) (a)(9).
- e) Major violations of the Act shall be subject to a civil penalty or fine not to exceed \$5,000 for a 1st violation and \$10,000 for a 2nd or subsequent violation. For the purposes of this Section, "major violation" means:
- 1) any violation of Section 5-15 that would constitute a Class 4 felony; and
 - 2) a violation of Section 5-85:
 - A) (a)(1), (a)(3), (a)(5), (a)(6)(A), or (a)(8), if the violation would constitute a felony;
 - B) (a)(2), if due to intentional or willful and wanton behavior;
 - C) (a)(7), if the person had knowledge the firearms were sold or transferred illegally;
 - D) (a)(10); and
 - E) (a)(11).
- f) *The civil penalties or fines shall only be assessed by the Department after a hearing is held in accordance with Sections 5-95 and 5-100 of the Act. (Section 5-15(e) of the Act)*
- g) *All civil penalties or fines imposed under the Act shall be paid within 90 days after the effective date of the final order imposing the fine. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from any court of record. (Sections 5-15(g) and 85(b) of the Act) All civil penalties or fines shall be paid via certified check or money order payable to the "Illinois Department of State Police", or by such other means as approved by the Department. Checks or money orders shall be delivered to the Department as provided in Section 1232.180.*
- h) *Any certificate of license obtained under the Act by material misstatement or fraudulent misrepresentation shall be automatically revoked.*

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- i) *At any time after the successful completion of a term of probation, suspension or revocation of a certificate of license, the Department may restore it to the certified licensee, unless, after an investigation and a hearing, the Director determines that restoration is not in the public interest. (Section 5-105 of the Act)*

Section 1232.160 Complaints; Investigations; Hearings

- a) Notice of Intent to Deny
 - 1) A refusal to issue a certificate of license shall be initiated by the filing of a Notice of Intent to Deny and issuance of a written Notice of Hearing. A Notice of Intent to Deny shall clearly state the facts that inform the applicant of the particular acts or circumstances complained of by the Department and the statutes or rules upon which the allegations in the Notice of Intent to Deny are based.
 - 2) A Notice of Intent to Deny and Notice of Hearing shall be served upon the applicant, by certified mail to the applicant's address of record, at least 30 days prior to the date set for hearing. The Notices shall advise the applicant of the following:
 - A) a written answer to the charges must be filed under oath within 20 days after service;
 - B) failure to answer will result in a default being entered against the applicant; and
 - C) the time and place for the hearing on the charges.
 - 3) Answers to the Notice of Intent to Deny shall be filed with the Department in the form and manner as provided for in Sections 1232.180, 1232.190 and 1232.200.
- b) Complaint for Discipline
 - 1) An action for discipline shall be initiated by the filing of a written Complaint and issuance of a written Notice of Hearing. The Complaint shall clearly state the charges made and facts that inform the CL of the

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

particular acts complained of by the Department and the statutes or rules upon which the allegations in the Complaint and Notice are based.

- 2) A copy of the Complaint and Notice shall be served upon the CL, by certified mail to the CL's address of record, at least 30 days prior to the date set for hearing and shall advise the CL of the following:
 - A) a written answer to the charges must be filed under oath within 20 days after service;
 - B) failure to answer will result in a default being entered against the CL; and
 - C) the time and place for the hearing on the charges.
 - 3) Answers to the Complaint and Notice shall be filed with the Department as provided for in Sections 1232.180, 1232.190 and 1232.200.
- c) Investigations
- 1) *The Department may, as necessary, coordinate efforts with relevant State and federal law enforcement agencies to enforce the Act. (Section 5-120 of the Act)*
 - 2) Authority to Continue Operations
 - A) *Certified Licensees. A certified licensee may continue to operate during the course of an investigation or hearing unless the Director finds that the public interest, safety, or welfare requires emergency action. (Section 5-100(d) of the Act)*
 - B) *Certification Applicants. An applicant who is served with a Notice of Intent to Deny, due to a determination by the Department that the applicant does not possess a currently valid FFL, shall be prohibited from operating during the course of the investigation or hearing, or unless and until the Department determines that the applicant possesses a currently valid FFL.*

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 3) Each certified licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Department for information contained in the records required to be kept by the Act as may be required for determining the disposition of one or more firearms in the course of a criminal investigation. The requested information shall be provided orally or in writing as the Department may require.
- d) Issuance of Subpoenas
- 1) Upon application to a hearing officer appointed by the Director, the hearing officer *may* issue a *subpoena* requiring *any person or entity* to attend a hearing to *give written or oral testimony*. The subpoena *may include* an order to *produce books, papers, records, or any other documents* or tangible things designated in those materials that *the Department deems directly relevant or material to an investigation or hearing* and reasonably necessary to resolve the matter under consideration, *subject to the same fees and in the same manner prescribed in civil cases in the courts of this State*.
 - 2) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony or produce documents, records or tangible things at the time and place specified in the subpoena. Notice of the request for subpoena shall be served on all parties.
 - 3) *The certified licensee may file an emergency motion with the Director or a hearing officer authorized by the Department to quash a subpoena issued by the Department.*
 - 4) *The Hearing Officer or the Director, upon timely made written motion, and, in any event, at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is unreasonable and oppressive. (Section 5-45 of the Act)*
 - 5) Any application for subpoena must be submitted to the Hearing Office at least 10 days before the hearing.
- e) Hearings

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 1) The hearing officer for contested hearings shall be an attorney licensed to practice law in Illinois appointed by the Director. The hearing officer may be disqualified for bias or conflict of interest.
- 2) The procedures for the hearing shall be as described in Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100], unless other procedures are specifically described in this Section or as ordered by the hearing officer.
- 3) A hearing may be postponed or continued for due cause by the hearing officer upon his or her own motion or upon motion of a party to the hearing. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date, when feasible. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.
- 4) Failure of a CL to appear on the date set for hearing, or failure to proceed as ordered by the hearing officer, shall constitute a default. The hearing officer shall thereupon enter such Findings, Conclusions of Law, and Recommendations as is appropriate under the pleadings and the evidence received into the record.
- 5) The hearing officer's Findings, Conclusions of Law, and Recommendations shall be in writing and shall be separately stated when possible. Findings of Fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of Fact shall be accompanied by a statement of the underlying supporting facts. If a party submits proposed Findings of Fact that may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each Conclusion of Law shall be supported by authority or reasoned opinion. A hearing officer's Recommendation shall not be made except upon consideration of the record as a whole or such portion of the record as may be supported by competent material and substantial evidence.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 6) The hearing officer shall submit his or her Findings, Conclusions of Law, and Recommendations to the Director within 45 days after the conclusion of the hearing.
- 7) All hearings shall be conducted at a location determined by the Director.

Section 1232.170 Order of the Director

- a) The Director shall review the hearing officer's Findings, Conclusions of Law, and Recommendations and shall issue an order either adopting or declining to adopt the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, in whole or in part, within a reasonable time. *The order shall also contain a finding of whether the accused person violated the Act or failed to comply with the conditions required in the Act.* (Section 5-100(a) of the Act)
- b) The decision in the case will become effective immediately upon the execution of a written order, or as otherwise specified by either the order or applicable statute. The order is final and subject to judicial review under Section 5-10 of the Act.
- c) A CL shall be immediately notified of the order, either personally or by certified mail, addressed to the last known address of the CL. A copy of the order shall be delivered or mailed to the CL or to his or her attorney of record.

Section 1232.180 Filing

- a) Documents and motions permitted or required to be filed with the Department in connection with a hearing or response to a subpoena issued by the Department shall be addressed to and mailed to, or filed in person with, the Department of State Police, 801 South Seventh Street, Springfield IL 62703, in duplicate or as otherwise directed by a hearing officer if one has been appointed by the Director. The offices of the Department are open for filing from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on National and State legal holidays.
- b) By agreement of the parties or by order of the hearing officer, filing of these documents may also be accomplished by email to the Department and opposing party (or opposing party's counsel). Any filings by email must be received by the recipient no later than 5:00 p.m. on the date filing is due.

Section 1232.190 Form of Documents

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- a) Documents shall clearly show the file Hearing Number and the title of the proceedings in connection with which they are filed.
- b) Except as otherwise provided, 2 copies of all documents, including notices, motions, and petitions, shall be filed with the Department.
- c) Except as otherwise provided, documents shall be typewritten or reproduced from typewritten copy on letter or legal size white paper.
- d) One copy of each document filed shall be signed by the certified licensee or by his or her authorized representative or attorney.

Section 1232.200 Motion and Answer

- a) Any CL receiving a Complaint or Notice of Intent to Deny shall file an answer within 20 calendar days after service and not later than 10 calendar days prior to the date of hearing. All answers or motions preliminary to a hearing shall be presented to the Department and to the hearing officer at least 10 calendar days prior to the date of hearing, or on such other date as the hearing officer shall designate, and shall be served personally or by certified mail.
- b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, an answer or motion shall be in writing and shall be accompanied by any other evidence relied upon and, as appropriate, by a proposed order. At least two copies of all such motions shall be filed with the Department (one for the Department attorney and one for the hearing officer) and at least one copy served on each additional party, if any, to the hearing.
- c) Every answer shall contain an explicit admission or denial of each allegation of the Complaint, Notice of Intent to Deny, or motion to which it relates. Every allegation not explicitly denied shall be deemed admitted unless the party states in his or her answer that he or she has no knowledge of the allegation sufficient to form a belief, and attaches an affidavit of the truth of the statement of want of knowledge, or unless the party has had no opportunity to deny. Denials must not be evasive, but must fairly answer the substance of the allegation denied.
- d) Within 10 calendar days after service of a written motion, or such other period as the hearing officer may prescribe, a party may file a response in support of or in

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

opposition to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion. The moving party shall have no right to reply, except as permitted by the hearing officer.

- e) No oral argument will be heard on a motion unless the hearing officer directs otherwise. A written brief may be filed with a motion or a response to a motion, stating the arguments and authorities relied upon.
- f) The hearing officer shall rule upon all motions, except that he or she shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.
- g) A party may participate in the proceedings without forfeiting any jurisdictional objection, if that objection is raised at or before the time the party files his or her answer or motion, or, if no answer or motion is made, before the commencement of the hearing.

Section 1232.210 Rehearings

- a) Except as otherwise provided by law, and for good cause shown, the Director may, in his or her discretion, order a rehearing on written motion of the CL. The motion shall specify the particular grounds for rehearing.
- b) When the record of testimony made at the hearing is found by the Director to be inadequate for purposes of judicial review, the Director may order a reopening of the hearing.
- c) A motion for a rehearing or a motion for the reopening of a hearing shall be filed within 20 calendar days after service of the Director's order. The Department may respond to the motion for rehearing within 20 calendar days after its service on the Department. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the director's reconsideration and for judicial review. A decision or order may be amended or vacated after rehearing.

Section 1232.220 Administrative Review

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- a) *All final administrative decisions of the Department shall be subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III]. (Section 5-110 of the Act) The term "administrative decision" is defined in Section 3-101 of the Administrative Review Law.*
- b) If any final Department action is appealed in circuit court pursuant to this Section, the record on review shall include the following:
 - 1) The application and any other related documents submitted;
 - 2) Any written documentation considered by the Department in making its final decision with respect to the application;
 - 3) Any written correspondence between the Department and the person or entity submitting the application, provided that the correspondence played a material role in the final decision rendered by the Department, made a material argument to the Department with respect to the application or petition, or would be helpful to the circuit court in reviewing the matter because the correspondence provides helpful procedural background.
 - 4) The transcript of any administrative hearing and any documents or other evidence submitted at the hearing.

Section 1232.230 Mandatory Signage

Sections 5-20 and 5-50 of the Act specify warning language that must be posted.

- a) Signage shall be posted as required under Sections 5-20 and 5-50 of the Act.
- b) Templates for signs required pursuant to Sections 5-20 and 5-50 of the Act are provided in Appendix A and are available on the Department's website.
- c) If a larger sign is warranted, the Department's image must be incorporated into the sign, and the required warning language must still be in block letters not less than one inch in height.
- d) The required signs shall be clearly and conspicuously posted, as required by Sections 5-20 and 5-50 of the Act, on the premises where the certified licensee conducts business.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

- 1) The sign required by Section 5-20 of the Act shall advise persons that it is unlawful:
 - A) *to store or leave an unsecured firearm in a place where a child can obtain access to it;*
 - B) *to sell or transfer a firearm to someone else without receiving an approval for the transfer from the Department; and*
 - C) *to fail to report the loss or theft of a firearm to local law enforcement within 72 hours. (Section 5-20 of the Act)*
- 2) The sign required by Section 5-50 of the Act shall provide persons entering the property notice that *the premises are under video surveillance and their image may be recorded* pursuant to Section 5-50 of the Act. (Section 5-50 of the Act)

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

Section 1232.EXHIBIT A Warning Signage

Pursuant to Sections 5-20 and 5-50 of the Act, the warning language on the signs must be in BLOCK LETTERS at least one inch in height.

The images are available on the Department website for download. Image prints to 25" x 32".

WITH FEW EXCEPTIONS ENUMERATED IN THE FIREARM OWNERS IDENTIFICATION CARD ACT, IT IS UNLAWFUL FOR YOU TO:

- (A) STORE OR LEAVE AN UNSECURED FIREARM IN A PLACE WHERE A CHILD CAN OBTAIN ACCESS TO IT;**
- (B) SELL OR TRANSFER YOUR FIREARM TO SOMEONE ELSE WITHOUT RECEIVING APPROVAL FOR THE TRANSFER FROM THE DEPARTMENT OF STATE POLICE;
OR**
- (C) FAIL TO REPORT THE LOSS OR THEFT OF YOUR FIREARM TO LOCAL LAW ENFORCEMENT WITHIN 72 HOURS.**



DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

Image prints to 8.5" x 14".

