

ILLINOIS REGISTER

ILLINOIS STATE POLICE

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: ILLIOIS STATE POLICE

PART 1232
FIREARM DEALER LICENSE CERTIFICATION ACT

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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 Illinois State Police Law [20 ILCS 2605].

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

Section 1232.10 Definitions

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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.

"ATF" means the federal Bureau of Alcohol, Tobacco, Firearms and Explosives within the U.S. Department of Justice.

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

"Dealer" means any person or entity engaged in the business of selling firearms at wholesale or retail; any person or entity engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker engaged in the business of selling firearms.

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

"Director" means the Director of State Police.

"Disaster" means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including, but not limited to, fire, flood, earthquake, wind, storm, hazardous materials spill, or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic or cyber terrorism.

"Electronic Record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

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"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 that 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 that engages only in the manufacture or import of firearms but does not sell, lease or transfer firearms at wholesale or retail to individual purchasers;

a person or entity that is a collector of firearms who acquires, holds or disposes of firearms as curios or relics;

pawnshops that acquire firearms only for purposes of bailment as defined in Section 5-25(11) of the Act;

a person or entity that 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.

"FFL" means Federal Firearms License.

"FFL Holder" *means a person, firm, corporation, or other entity that has been given, and currently possesses, a valid Federal Firearms License.*

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

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"Gunsmith" means a person who devotes time, attention and labor to servicing firearms as a regular course of trade or business with the principal objective of livelihood and profit, including a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"Importer" means any person or entity engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

"Inspection of Licensee's Place of Business" means review of all records and documents involving the selling, leasing or transferring of firearms present in a retail location, as well as all firearms subject to sale, lease or transfer in a retail location.

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

"ISP" means the Illinois State Police.

"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 certified licensee to which only the CL, the CL's agents and other authorized personnel (e.g., ISP 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.

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"Manufacturer" means any person or entity engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution.

"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.

"Pawnbroker" means any person or entity whose business or occupation includes the taking of, or receiving of, by way of pledge or pawn, any firearm as security for the payment or repayment of money.

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

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

"Secure Gun Storage or Safety Device" means:

a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

a device incorporated in the design of the firearm to prevent the operation of the firearm by anyone not having access to the device; or

a safe, gun safe, gun case, lock box, or other locked receptacle that is designed to be, or can be, used to store a firearm and that is designed to be unlocked only by use of a key, combination, or other similar means.

"Straw Purchase" means:

the unlawful purchase of a firearm by a person who knowingly purchases or attempts to purchase a firearm with the intent to deliver that firearm to another person who is prohibited by federal or State law from possessing a firearm; or

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the unlawful purchase of a firearm by a person who intentionally provides false or misleading information on an ATF firearms transaction record form to purchase a firearm with the intent to deliver that firearm to another person.

"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).

"With the Principal Objective of Livelihood and Profit" means that the intent underlying the sale, lease or transfer of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal collection, and is not intended to apply to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes.

Section 1232.20 Application Procedures

- a) Application for a certificate of license shall be made by completing an application form provided by ISP. The application will be made available through ISP's website (www.isp.state.il.us) or in a form and manner prescribed by ISP 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 ISP's website.
- c) Federal Firearms License Required
 - 1) The applicant shall submit a copy of its FFL, with a sworn affidavit verifying that the FFL presented was issued to the applicant and that the FFL is valid at the time of submission of the application.
 - 2) In lieu of requiring an affidavit, ISP may verify the validity of an FFL via any system or website approved by ATF and designed to allow an FFL holder or other authorized entity to verify or authenticate the FFL

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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) ISP will advise applicants on its website or the application itself if an FFL affidavit is not required to be submitted.
- d) The applicant shall submit an affidavit identifying the name and Firearm Owner's Identification Card number of each owner, employee, or other agent who sells or transfers firearms for the applicant. The affidavit shall declare that each owner, employee, or other agent of the applicant who sells or transfers firearms is at least 21 years of age, has a valid FOID Card, and, for a renewal, has completed the training required under Section 5-30 of the Act. The affidavit form will be available through ISP'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) ISP 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, ISP will file a Notice of Intent to Deny, unless it elects to grant the applicant an extension of time to complete the application.
- f) ISP 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 ISP.

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

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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 ISP and law enforcement agencies assisting ISP during all hours of operation involving the sale, leasing or transfer of firearms, provided that ISP, acting on its own or with an assisting law enforcement agency, may conduct no more than one unannounced inspection per year without good cause. Nothing in this subsection shall be construed to interfere with any federal agency or any federal agency investigation.*
- 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 ISP, in writing, of its hours of operation, including that it does not maintain regular business hours, when so requested by ISP.
- c) *During an inspection, certified licensees shall make all records, documents related to the sale, lease, transfer, and/or destruction of firearms, and all firearms accessible for inspection, upon the request of ISP or assisting law enforcement agency. (Section 5-35 of the Act)*
- d) Failure to fully cooperate with an inspection could result in the imposition of discipline and/or a fine in accordance with the Act.

Section 1232.60 Security System

On or before January 2, 2021, a certified licensee operating a retail location shall be required to operate and maintain in good working order a video security system with video surveillance of critical areas of the business premises, including, but not limited to, all places where firearms in

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inventory are stored, handled, sold or transferred, and each entrance and exit. The video security system must not include video surveillance of the bathroom of a retail location and may not monitor inside the bathroom.

Section 1232.70 Alarm Monitoring System

- a) *Beginning January 2, 2020, a certified licensee maintaining an inventory of firearms for sale, lease or transfer must be connected to an alarm monitoring system or service that will notify the local law enforcement agency having primary jurisdiction for the licensee's retail location 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 critical areas of the retail location, including all entrances, exits, exterior windows, roof hatches, skylights, window or wall mounted air conditioning units, and rooms where firearms in inventory are stored.
 - 2) Monitoring of interior motion detection, glass breakage detection, and/or any failure in the alarm system.
 - 3) A notification system that will provide an alert to the certified licensee, by telephone, email or text message or a combination thereof, within five minutes after any interior motion detection, glass breakage, or system failure.
 - 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.
- c) 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

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- 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 in a secure gun storage or safety device. 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) Employee Screening; and
 - 9) Employee training and education regarding certified licensee's policy and procedures and loss prevention measures.
- b) *Safe storage plans shall be submitted to ISP for approval in an electronic format that will be provided by ISP on its website. (Section 5-55 of the Act)*
- c) A certified licensee maintaining a retail location shall ensure the following practices are implemented:
 - 1) Store all inventory in a secure gun storage or safety device to prevent diversion, theft or loss;
 - 2) Keep all locks and security equipment in good working order;

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- 3) 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;
- 4) Require authorized personnel to keep a log documenting the date, time and name of the person possessing and/or using keys related to secure gun storage or safety devices;
- 5) 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;
- 6) Keep the retail location securely locked and protected from unauthorized entry at all times when closed for business or unoccupied by authorized personnel;
- 7) Keep ammunition stored securely and out of the reach of customers;
- 8) Ensure inventory records are protected by securing the records after business hours in a locked location. Only authorized or law enforcement personnel shall be permitted to view or handle the inventory records;
- 9) Complete an audit on a regular basis, but in no event less than once quarterly. Audits shall be conducted by at least two persons and shall be memorialized in writing and made available to ISP upon request;
- 10) Keep current and accurate inventory acquisition and disposition records. These records shall be made available to ISP upon request;
- 11) Maintain a plan that adequately ensures the timely securing of inventory in the event of a disaster. The plan shall be made available to ISP upon request; and
- 12) Ensure employees with access to inventory, or who otherwise handle inventory, are not prohibited from possessing firearms under State or federal law.

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- 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, ISP may require additional safeguards.
- e) If a loss, theft or diversion of inventory has occurred from a retail location, the certified licensee shall notify ATF and the local law enforcement agency having primary jurisdiction for the licensee's retail location within 48 hours after the loss or theft is discovered, pursuant to the notification requirements of 18 USC 923(g)(6). The certified licensee shall provide a copy of any such notification to ISP. 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 agency of the recovery.
- f) Any CL whose certification is revoked or not current shall dispose of its inventory in a manner that comports with State law and procedures approved by ATF, and provide notice to ISP 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 ISP. Those materials will be made available on ISP's website or through other publicly available means.
- b) A certified licensee shall:
 - 1) Ensure the CL and all employees who sell, facilitate leases, or otherwise transfer firearms attend the training required by Section 5-30 of the Act. The required training shall be completed before certification by ISP 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, facilitating leases, or otherwise transferring firearms prior to the new employee participating in the sale, lease 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 ISP 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

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ISP'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 a searchable electronic record system to track its changing inventory by updating the date a firearm was received or sold, the name and address or the name and license number of the person from whom the firearm was received or sold, the name of the manufacturer and importer (if any), make, model, caliber or gauge, and serial number of each firearm that it receives or sells.* (Section 5-65 of the Act)
- b) The electronic record system must permit inventory queries by firearm serial number, acquisition date of the firearm, name of the manufacturer or importer, name of the purchaser, address of the purchaser or other transferee, and ATF Form 4473 transferor's transaction serial number. Use of commonly recognized trade names or abbreviations are acceptable when denoting manufacturer or importer.
- c) The electronic record system must denote original entries and be able to track any edits, corrections or amendments.
- d) The electronic record system must have a daily memory backup system.
- e) The electronic record system may be stored on a computer server or physical storage device owned and operated by the licensee, or contracted/leased by the licensee through a host facility such as a remote server or cloud storage provider. The electronic record system must be readily accessible through a computer server or device owned and operated by the licensee at the licensed premises during regular business hours. If a host facility is used, that facility must have a business premises within the United States and its territories and be subject to U.S. legal process.
- f) The electronic record system must have the capacity to provide a periodic printout of all records:
 - 1) at least semiannually;
 - 2) upon request by ISP when required by law;

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- 3) when the system memory is purged;
 - 4) when the license is terminated; and
 - 5) sequentially by date of acquisition for all inventory and indicating the date of all sales of inventory conducted during the period covered.
- g) The electronic record system must be able to record both the manufacturer and the importer for foreign-made firearms.
- h) Each licensee operating as a licensed dealer must maintain its firearms acquisition and disposition records on a separate/partitioned database that cannot be intermingled with the records associated with any other license.
- i) The electronic record system must be self-contained, without reliance upon invoices or other paper/manual systems to provide any of the above information.
- j) *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)*
- k) *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 photocopy shall be attached to the documentation detailing the record of sale. (Section 5-20(a) of the Act)*
- l) *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)*
- m) Any electronic 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.
- n) Alternate Method of Record Keeping

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- 1) Certified licensees may seek ISP approval to use an alternate method or procedure to record the acquisition and disposition of firearms when it is shown by the licensee that the alternate records will accurately and readily disclose the information required to be maintained. The alternate records must be legible even if scanned and must be easily uploaded to a PDF format. The amount of transactions recorded must assure that review of the alternate records will not impose an undue burden on ISP.
- 2) The Director may approve an alternate method or procedure when he or she finds that:
 - A) good cause is shown for the use of the alternate method or procedure;
 - B) the alternate method or procedure comports with the purpose and is consistent with the effect intended by the specifically prescribed method or procedure, and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
 - C) the alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the State or hinder the effective administration 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 State Police", or by such other means as approved by ISP. Checks or money orders shall be delivered to ISP 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 \$1,200 for each application submitted.

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- 3) The fee for each certification of a renewed FFL shall be \$100 for a certified licensee operating without a retail location and \$500 for a CL operating with a retail location.
 - 4) For new CL 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 FFL application and shall be effective for the duration of the current FFL in the applicant's possession. 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), ISP will credit any overpayment towards the cost of the CL's next renewal or, upon written request by the CL to ISP, will issue a refund of any overpayment.
- b) *ISP 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)*
 - c) *ISP 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) of the Act) All civil penalties or fines shall be paid by certified check or money order payable to the "Illinois State Police" or by such other means as approved by ISP. Checks or money orders shall be delivered to ISP 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, ISP is not required to*

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renew a certification if a prior certification has been revoked or suspended.
(Section 5-75 of the Act)

- b) If a certified licensee 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 certified licensees 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. (Section 5-80 of the Act)*

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 ISP in accordance with Section 1232.180. Upon failure to do so, ISP will seize the certificate.*
- b) *When the certification is suspended, the certified licensee 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, ISP 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)*

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- 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 certified licensee cooperated with ISP in its investigation;
 - 3) Whether the CL refused to cooperate with ISP 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;
 - 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:

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- 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 of the Act:
 - 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
 - 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 of the Act that would constitute a Class 4 felony; and
 - 2) a violation of Section 5-85 of the Act:
 - 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).

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- f) *The civil penalties or fines shall only be assessed by ISP 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 State Police" or by such other means as approved by ISP. Checks or money orders shall be delivered to ISP 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.*
- i) *At any time after the successful completion of a term of probation, suspension or revocation of a certificate of license, ISP 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 ISP 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

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- C) the time and place for the hearing on the charges.
 - 3) Answers to the Notice of Intent to Deny shall be filed with ISP 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 certified licensee of 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 ISP as provided for in Sections 1232.180, 1232.190 and 1232.200.
- c) Investigations
- 1) *ISP may, as necessary, coordinate efforts with relevant State and federal law enforcement agencies to enforce the Act. (Section 5-120 of the Act)*
 - 2) Investigations may be prompted by citizen complaints made directly to ISP through ISP's website in a form and manner prescribed by ISP as directed on its website or forwarded to ISP by other law enforcement entities.
 - 3) Authority to Continue Operations

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- 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 ISP 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 ISP determines that the applicant possesses a currently valid FFL.
- 4) Each certified licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by ISP 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 ISP 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, electronic records, or any other documents* or tangible things designated in those materials that *ISP 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 ISP to quash a subpoena issued by ISP.*

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- 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
- 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 include Findings of Fact and Conclusions of Law, and Recommendations or Opinions separately stated when possible. Findings of Fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including

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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.

- 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 licensee 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 certified licensee 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 ISP in connection with a hearing or response to a subpoena issued by ISP shall be addressed to and mailed to, or filed in person with, the Illinois 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 ISP are open for

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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 ISP 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

- 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 ISP.
- 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 ISP 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 ISP (one for the ISP 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

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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 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 certified licensee. 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. ISP may respond to the motion for rehearing if it is determined that a response is necessary to address issues raised in the rehearing motion. ISP's response shall be filed within 20

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calendar days after its service on ISP. 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

- a) *All final administrative decisions of ISP 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 ISP 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 ISP in making its final decision with respect to the application;
 - 3) Any written correspondence between ISP and the person or entity submitting the application, provided that the correspondence played a material role in the final decision rendered by ISP, made a material argument to ISP 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; and
 - 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 ISP's website.

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- c) If a larger sign is warranted, ISP'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.
 - 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 ISP; 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)

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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 ISP's 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 ILLINOIS STATE POLICE; OR**
- (C) FAIL TO REPORT THE LOSS OR THEFT OF YOUR FIREARM TO LOCAL LAW ENFORCEMENT WITHIN 72 HOURS.**



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Image prints to 8.5" x 14".

**THESE PREMISES
ARE UNDER VIDEO
SURVEILLANCE.
YOUR IMAGE MAY
BE RECORDED.**

(430 ILCS 68/5-50(b))



Illinois State Police