



**Illinois  
Liquor Control  
Commission**

Governor JB Pritzker  
Cynthia Berg, Chair  
Chimaobi Enyia, Executive Director

100 West Randolph Street, Suite 7-801, Chicago, IL 60601  
300 West Jefferson Street, Suite 300, Springfield, IL 62702

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January 31, 2020

Illinois General Assembly  
Joint Committee on Administrative Rules  
Room 700, Stratton Office Building  
Springfield, Illinois 62701

Attention: Vicki Thomas  
Director

RE: 11 Ill. Adm. Code 100.250, Transfer of Alcohol,

Dear Director Thomas:

We have enclosed the Second Notice Filing for the above-referenced rulemaking. If your staff has any questions or comments with reference to this rulemaking, please have them contact me at their convenience.

Very truly yours,



Pamela Paziotopoulos  
General Counsel  
Phone: (312) 814-1804



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## SECOND NOTICE OF PROPOSED RULEMAKING

- 1) Agency: The Illinois Liquor Control Commission
- 2) Title and Ill. Adm. Code Citation of Proposed Rulemaking: The Illinois Liquor Control Commission, 11 Ill. Adm. Code 100.250
- 3) Date, Issue, and page number of the Illinois Register in which the First Notice was published: October 4, 2019, Volume 43, Issue 40; 43 Ill. Reg. 10763
- 4) Text and Location of any Changes Made to the Proposed Rulemaking During the First Notice Period: See Attachment A.
- 5) Final Regulatory Flexibility Analysis:
  - A. Summary of the issues raised by affected small businesses during the First Notice Period: No issues raised by small businesses.
  - B. Description of actions taken on any alternatives to the proposed rule suggested by small businesses during the First Notice Period, including reasons for rejecting alternatives not utilized: No issues raised.
- 6) Analysis of the Economic and Budgetary Effects of the Proposed Rulemaking: None requested.
- 7) Response to Recommendations Made by the Administrative Code Division for Changes in the Rule to Make It Comply with the Codification Scheme: All changes requested by the Administrative Code Division have been made.
- 8) Evaluation of the comments received by the agency from interested persons during the first notice period (but not including any questions raised by the Joint Committee in a preliminary review) including:
  - A. Date of any public hearing held during the first notice period. Name of the person or group requesting a hearing: No public hearing requested.
  - B. The names and addresses of all individuals or groups making comments or requesting the opportunity to make comments: Robert Anderson, Irene Bahr, Bahr Anderson Law Group, 1751 S. Naperville Road, Suite 209,

Wheaton, Illinois, 60189; American Multi-Cinema, Inc. by Robert Anderson of Bahr Anderson Law Group, 1751 S. Naperville Road, Suite 209, Wheaton, Illinois, 60189.

- C. A list of all specific criticisms and suggestions raised in the comments:  
See Attachment B.
  - D. The agency's evaluation of each of the specific criticisms and suggestions:  
See Attachment C.
  - E. A statement that the agency has considered all comments received during the first notice period: The Commission has reviewed and considered all comments received during the first notice period.
- 9) An analysis of the expected effects of the proposed rulemaking, including:
- A. Impact on the public: These rules will have no impact on the general public. They impact retailers selling alcoholic liquor; municipalities; not-for-profit corporations; licensed manufacturers, importing distributors and distributors.
  - B. Changes in the agency's programs or structure resulting from implementation of the rulemaking: None.
  - C. Impact of proposed rule on small businesses. Methods used by Agency to comply with 5 ILCS 100/5-30, including reasons for rejecting any methods not utilized: This rule has minimal impact on small business.
- 10) A justification and rationale for the proposed rulemaking, including:
- A. Any changes in statutory language requiring the proposed rulemaking:  
None.
  - B. Any changes in agency policy, procedures, or structure requiring the proposed rulemaking: The rulemaking will result in a clearer understanding by licensees as to the process and evaluation of transfer of alcohol requests..
  - C. Relationship to other rulemaking activities of the agency including anticipated rulemaking activities: None.
  - D. Relationship to any relevant federal rules, regulations, or funding requirements: None.

Second Notice of Proposed Rulemaking

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11 Ill. Adm. Code 100.500

E. Court orders or rulings which are related to the rulemaking: None.

11) Does this rulemaking include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act? No.

Agency Personnel Who Will Respond to Joint Committee Questions Regarding the Proposed Rulemaking:

Pamela Paziotopoulos  
General Counsel  
Illinois Liquor Control Commission  
100 W. Randolph St., Suite 7-801  
Chicago, IL 60601

(312) 814-1804



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## ATTACHMENT A

### FIRST NOTICE CHANGES

Agency: The Illinois Liquor Control Commission

Rulemaking: 11 Ill. Adm. Code 100.250

Changes:

1. In line 119-121 change "In normal circumstances, a request must be submitted to the Commission at least 10 business days prior to the date of transfer. In the case of an imminent act of god, the request must be received prior to the transfer" to "In normal circumstances, a request must be submitted and approved by the Commission at least 10 business days prior to the date of transfer. In the case of an imminent act of god, the request must be received prior to the transfer."
2. In line 157-160 change "Opening of a new non-common ownership license, including the sale or purchase of the existing business and its interests, at the same location with the intent to take possession of the current inventory of the closing licensee" to "Opening of a new ~~non-common ownership~~ license, ~~including the sale or purchase of the existing business and its interests,~~ at the same location and the new license with the intent to take takes possession of the ~~current~~ inventory of the ~~closing~~ immediately prior license;"
3. In line 165-168 change "For the purposes of this Section, "retail license" shall include the following licenses: retailer, caterer retailer, Special Event Retailer's (not-for-profit), railroad, boat, wine-maker's premises, airplane, and brew pub licenses (Section 5-1 of the Act)" to "For the purposes of this Section, "retail license" shall include the following licenses: retailer, caterer retailer, Special Event Retailer's (not-for-profit), railroad, boat, wine-maker's premises, airplane, and brew pub, and distiller pub licenses (Section 5-1 of the Act)."



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## ATTACHMENT B

A LIST OF ALL SPECIFIC CRITICISMS AND SUGGESTIONS RAISED IN THE COMMENTS.

Agency: The Illinois Liquor Control Commission

Rulemaking: 11 Ill. Adm. Code 100.250

See attached letters.

# ***Bahr Anderson Law Group, LLC***

Liquor Licensing, Regulation and Related Litigation  
1751 S. Naperville Road, Suite 209  
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[www.bahrandersonlaw.net](http://www.bahrandersonlaw.net)

**Irene F. Bahr, Attorney at Law**  
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phone | (630) 517-3410  
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Pamela Paziotopoulos  
General Counsel  
Illinois Liquor Control Commission  
100 W. Randolph St., Suite 7-801  
Chicago, IL 60601

November 6, 2019

Re: American Multi-Cinema, Inc.  
Comment on ILCC Proposed Amendment to Rule 100.250

Dear Pam,

I am writing on behalf of my client, American Multi-Cinema, Inc. regarding the proposed amendment to Rule 100.250 regarding One Time Transfers of Alcohol between retailers. Specifically, subsection (e) of the proposed amendment outlines factors which the Commission may utilize in reviewing a transfer request.

Subsection (e)(6) indicates that the “[o]pening of a new non-common ownership license, including the sale or purchase of the existing business and its interests, at the same location with the intent to take possession of the current inventory of the closing licensee...” is one of the factors that can be considered. However, this language would potentially exclude changes in licensee which come about by the merger or other acquisition of various corporate entities with an ultimate common ownership.

Given that “the Illinois Liquor Control Commission recognizes that cases arise in which the transfer of alcohol from one retailer to another is prudent...” as outlined in the Notice of Proposed Amendment, it would appear that excluding new licensees which take over a location as the result of a merger of corporate entities would not be in keeping with the stated purpose of the proposed rule change. My client would request that a modification to subsection (e)(6) be made to allow for that type of change of licensee to transfer existing alcohol inventory upon the takeover of a location.

We would recommend either removing the “non-common ownership” language, or adding language so that the section reads “Opening of a new non-common ownership license or opening a new common ownership license created by way of a merger or other acquisition, including the sale of purchase of the existing business and its interests, at the same location with the intent to take possession of the current inventory of the closing licensee.” This would address this type of licensee change and permit a common practice which has been approved in the past.

Sincerely,

Robert B. Anderson

CC: Bridget Holton-Deere

# ***Bahr Anderson Law Group, LLC***

Liquor Licensing, Regulation and Related Litigation  
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Pamela Paziotopoulos  
General Counsel  
Illinois Liquor Control Commission  
100 W. Randolph St., Suite 7-801  
Chicago, IL 60601

November 12, 2019

Re: Comment on ILCC Proposed Amendment to Rule 100.250

Dear Pam,

We are writing to address a concern that could effect various clients of ours in the Proposed Amendment to Rule 100.250. Specifically, subsection (d)(5) requires that transfer requests must be submitted at least 10 business days prior to the date of the transfer. The only current exception to that is in the case of an imminent act of god, in which case the request must be submitted prior to the transfer.

While the proposed amendment does not explicitly state that an inventory of the alcohol to be transferred must be submitted and only requires the request to be submitted on forms provided by the Commission which must be completed in their entirety, we anticipate that an inventory would be required as listed on any new forms that the Commission would create based on this rule. The current One Time Transfer Request Form requires such an inventory to be submitted.

Assuming that is the case, an issue arises with requiring the transfer request to be submitted 10 days before the transfer but also requiring an accurate inventory of what is transferred to be submitted and approved. Often these types of transfers occur upon the closure of a business or the takeover of an existing business/location by a new licensee. The transfers often take place with the transferor licensee continuing to operate and sell alcohol up until the day of the transfer. As such, it would be impossible to provide an accurate inventory with a transfer request that had to be submitted 10 days prior to the transfer taking place, since sales will still be being made by the transferor licensee. Such inventories currently provided with One Time Transfer Requests are usually prepared at the close of business the day prior to the transfer.

To assist licensees who are submitting these One Time Transfer Requests in providing accurate inventories while still being in compliance with the rule, we would recommend a modification be made to the requirement that the request be submitted 10 days prior to the transfer. This could be done in several ways:

- 1) Remove the 10-day requirement and only require the transfer request to be filed prior to the transfer taking place in all cases, not just for imminent acts of God.
- 2) Allow the filing of the transfer request with a preliminary inventory and permit a final inventory of actual transferred goods to be submitted either on the transfer date or after the transfer.
- 3) Permit the inventory required for the transfer requests to be filed after the transfer has occurred.

We would ask the ILCC to address the issue of the timing of the inventory and make modifications to the proposed Amendment to reflect the business realities of how the inventory required to be filed is created.

Sincerely,



Robert B. Anderson



Irene F. Bahr



# Illinois Liquor Control Commission

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## ATTACHMENT C

### AGENCY EVALUATION OF SPECIFIC CRITICISMS AND SUGGESTIONS

Agency: The Illinois Liquor Control Commission

Rulemaking: 11 Ill. Adm. Code 100.250

#### Bahr Anderson Law Group, LLC

1. RE: 100.250 (d)(5)  
Bahr Anderson Law Group, LLC expressed concern that the requirement found in subsection (d)(5) requires the submission of the request at least 10 days prior to the date of transfer. The concern expresses that an inventory may be required to be submitted as part of the request and that inventory may change between the date of the request and the final date of the transfer as the business may still be operating during that intervening time. The Commission recognizes that this can be a concern for businesses. Therefore, the Commission will change the language in subsection (d)(5) to read as follows: "~~In normal circumstances,~~ A request must be submitted and approved by the Commission at least 10 business days prior to the date of transfer. In the case of an imminent act of god, the request must be received prior to the transfer."

#### American Multi-Cinema, Inc.

- 1) RE: 100.250 (e)(6)  
American Multi-Cinema, Inc. expressed concern that the wording in subsection (e)(6) could potentially exclude the scenario in which a new license is issued to a location due to a change in corporate governance. The Commission recognizes that the language in this section may be confusing to some. Therefore, the Commission will change the language of subsection (e)(6) as follows: "Opening of a new ~~non-common ownership~~ license, ~~including the sale or purchase of the existing business and its interests,~~ at the same location and the new license with the intent to take takes possession of the current inventory of the closing immediately prior licensee;"

# JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

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CO-CHAIR:  
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REP. STEVEN REICK  
REP. ANDRE' THAPEDI

700 STRATTON BUILDING  
SPRINGFIELD, ILLINOIS 62706  
217/785-2254

## MEMORANDUM

TO: Chimaobi Enyia, Executive Director  
Liquor Control Commission

FROM: Vicki Thomas  
Executive Director

DATE: 2/4/20

RE: The Illinois Liquor Control Commission (11 Ill. Adm. Code 100)  
43 Ill. Reg. 10763 - 10/4/19

The Office of the Joint Committee on Administrative Rules has accepted the Second Notice for the above-referenced rulemaking. The Second Notice period began on 2/4/20 and ends no later than 3/19/20, unless extended pursuant to Section 5-40 of the IAPA.

This rulemaking is scheduled to be considered by JCAR at its 3/18/20 meeting, in Room C-1, Stratton Building, Springfield, IL at 10:30 a.m. contingent on the Legislative schedules. Staff will be contacting you if they have questions concerning this rulemaking and will advise you of any change in time or location of the Committee meeting.

Please contact us if you have any questions regarding the JCAR review procedure.

VT:KK:pb

cc: Pamela Paziotopoulos  
Adm. Code Div.