

Dear Valued Member,

The DPH Emergency Rule 690.50 Expired January 4, 2021. The Illinois Department of Public Health (IDPH) adopted emergency regulation 77 Ill. Admin. Code 690.50, on August 7, 2020.

This regulation was used to enforce the COVID-19 restrictions on businesses and schools to require masks, physical distancing (isolation), and capacity limits.

Emergency regulations adopted by administrative agencies, like IDPH, are not allowed to stay in effect for longer than 150 days.

January 4, 2021 marks 151 days since emergency rule 690.50 was adopted. Since IDPH did not adopt a companion proposed rule, beginning today these COVID-19 restrictions expire.

That means the health department can no longer write you a citation. I have included the information below for your review.

Please remember that customers appreciate restaurants taking precautions to keep your employees and customers safe. Although this rule has expired, consumers are expecting their safety to be a priority. I encourage all of you to maintain these practices and let your customers know you are taking all the necessary steps to keep them safe.

Types of Rules

Four categories of rulemaking can be conducted by State agencies:

Proposed Rules – New rules and rule amendments that must undergo public comment and JCAR review prior to adoption. This process can take from 90 days to a year to complete. The vast majority of State agency rules fall into this category.

Emergency rules – Temporary rules that take effect immediately or up to 10 days after filing with the Secretary of State, but remain in effect for no more than 150 days. The IAPA allows use of emergency rulemaking when an agency determines that a "threat to the public interest, safety or welfare" requires rules to be adopted in less time than would be needed to complete proposed rulemaking. JCAR reviews emergency rules to insure that they meet these criteria. If an agency wants to maintain the policy established in the temporary emergency rule, a companion proposed rule must also be adopted. The companion proposed rulemaking should be adopted before the emergency rule expires. Agencies cannot file the same emergency rule more than once within a 24-month period, unless the General Assembly makes an exception to this limit and to the 150-day limit in statute. Statutes may also authorize agencies to use emergency rulemaking for specific purposes.

(c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded. No emergency rule may be adopted more than once in any 24-month period, except that this limitation on the number of emergency rules that may be adopted in a 24-month period does not apply to (i) emergency rules that make additions to and deletions from the Drug Manual under Section 5-5.16 of the Illinois Public Aid Code or the generic drug formulary under Section 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii) emergency rules adopted by the Pollution Control Board before July 1, 1997 to implement portions of the Livestock Management Facilities Act, (iii) emergency rules adopted by the Illinois Department of Public Health under subsections (a) through (i) of Section 2 of the Department of Public Health Act when necessary to protect the public's health, (iv) emergency rules adopted pursuant to subsection (n) of this Section, (v) emergency rules adopted pursuant to subsection (o) of this Section, or (vi) emergency rules adopted pursuant to subsection (c-5) of this Section. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section.