

REGISTER



South Dakota Legislative Research Council

Volume 43

Monday, 8:00 a.m., February 27, 2017

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

Notice of Proposed Administrative Rules:

(The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Revenue: SD Commission on Gaming: (February 21, 2017) is proposing to amend Racing rules to clarify the penalty for use of illegal substances, repeal 20:04:27:13 to allow therapeutic medication to be used, allow the use and administration of furosemide, clarify the use of certain therapeutic medications, allow the Commission and stewards to impose penalties which may be considered by other racing jurisdictions and allow the Commission and stewards to consider a trainer's pattern of drug or medication violations in other jurisdictions when determining a penalty for violations in South Dakota. The general authority for these rules, as cited by the commission, is SDCL § 42-7-56.

A public hearing will be held in City Hall, 102 Sherman Street, Deadwood, South Dakota, on March 22, 2017, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 445 East Capitol Avenue, Pierre, South Dakota 57501 or by e-mail to larry.eliason@state.sd.us. Materials sent by mail must reach the Commission on Gaming by March 20, 2017, to be considered. However, the Commission requests that all written comments be received by March 16, 2017, to allow for adequate consideration prior to the hearing. The text of the rules is also available at <http://rules.sd.gov/>. This hearing is being held in a physically accessible place.

Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-6050 or (605) 578-3074 at least 48 hours before the hearing.

Department of Education: Board of Education: (February 23, 2017) intends to amend Special Education and Career and Technical Education rules to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28; repeal Certification rules in Article 24:15 that were made obsolete by the updated certification rules in Article 24:28; amend a Certificate Denial and Discipline Procedures rule to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28; amend Accreditation and School Improvement rules to update references with the rule to the applicable preparation and certification requirements and remove language which limits certificate holders based on school structure and repeal the waiver route for noncertified administrators; and amend a Teacher Preparation Program Approval rule to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28. The general authority for these rules, as cited by the board, is SDCL §§ 13-1-12.1, 13-1-55, 13-3-47, 13-13-90, 13-37-1.1, 13-37-31, 13-39-13, 13-39-37, 13-39-75, 13-42-3, and 13-42-26.

A public hearing will be held at the Northern State University, Student Center Centennial Rooms A & B West, 1200 S. Jay Street, Aberdeen, South Dakota, on March 20, 2017, at 11:30 a.m. CT. Copies of the proposed rules may be obtained without charge from the

Department of Education, Attn: Ferne Haddock, 800 Governors Drive, Pierre, SD 57501 or at <http://www.doe.sd.gov/board/index.aspx>.

Written comments may be sent to the board at the address above or at this website: <https://rules.sd.gov/default.aspx>. Material sent by mail must be received by March 17, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3553 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Carla Gatzke, Brookings, was appointed on February 17, 2017, to the **South Dakota Workforce Development Council**, to replace Warren Lotsberg, effective immediately and shall continue until June 30, 2019.

Mike Vehle, Mitchell, was appointed on February 17, 2017, to the **Transportation**

Commission, to replace Larry Thompson, effective immediately and shall continue until April 18, 2020.

Carroll Forsch, Pierre, was appointed on February 22, 2017, to the **Planning Council on Developmental Disabilities**, to replace Patricia Monson, effective immediately.

Tasha Jones, Pierre, was appointed on February 22, 2017, to the **Independent Living Council**, to replace Vona Johnson, effective immediately and shall continue until June 30, 2018.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

3-2-2017	<p>Department of Game, Fish, and Parks</p> <p>Amend Public Water Zoning rules to add a "public swimming zone" on Lake Madison in Lake County, modify the size and configuration of the "public swimming zone" on Lake Alvin in Lincoln County, amend and clarify the public water safety zone regulations for Sheridan Lake in Pennington County, and add a "no motors zone" on Lewis and Clark Lake in Yankton County; amend Motorboats and Watercraft rules to clarify the definition of "careless boat operation" and adopt a rule to prohibit a boat operator from eluding law enforcement; amend a Duck Hunting Season rule to decrease the daily bag limit for pintail; amend a Goose Hunting Season rule to increase the number of days for the light goose hunting season from 86 days to 105 days as allowed by the U.S. Fish and Wildlife Service; amend a Tundra Swan Hunting Season rule to set the number of licenses available; amend Aquatic Invasive Species rules to allow businesses approved by the department to transport and possess boats with aquatic invasive species attached for the purpose of decontamination, allow participants in a local boater registry to transport and possess aquatic invasive species in accordance with the provisions of the registry, allow participants in a local boater registry to launch a boat with an aquatic invasive species attached if it is done in accordance with the provisions of the registry, adopt a rule to define and identify specific waters that will be classified as "containment waters," create a local boater registry, require the decontamination of boats with at least one gallon of</p>
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	water from a lake, river or stream remaining in the watercraft, that cannot be drained after all drain plugs, bailers, valves, or other devices used to control the drainage of water have been opened or removed, after use in a "containment water," and require decontamination of boats that have been moored in a "containment water" for three or more continuous days; 43 SDR 111, February 13, 2017.
3-9-2017	Department of Health: Board of Medical and Osteopathic Examiners Amend rules to update outdated language related to examinations, licensing and continuing education; 43 SDR 115, February 21, 2017.
3-16-2017	Department of Education: SD School Finance and Accountability Board Adopt rules to establish an appeals process and a set of factors that will be used to determine if a school district be recommended for a waiver from their accountabilities in regards to teacher compensation as outlined in SDCL 13-13-73.6; 43 SDR 109, February 6, 2017.
3-20-2017 Prior hearing held on 1-19-2017	Department of Education: Board of Education Amend rules to update the state certification process for educators to: streamline the certification process; eliminate unnecessary barriers to the certification process; and ensure educators meet the minimum content and pedagogical knowledge requirements expected of them prior to being certified; 43 SDR 95, January 3, 2017.
3-20-2017	Department of Education: Board of Education Amend Special Education and Career and Technical Education rules to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28; repeal Certification rules in Article 24:15 that were made obsolete by the updated certification rules in Article 24:28; amend a Certificate Denial and Discipline Procedures rule to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28; amend Accreditation and School Improvement rules to update references with the rule to the applicable preparation and certification requirements and remove language which limits certificate holders based on school structure and repeal the waiver route for noncertified administrators; and amend a Teacher Preparation Program Approval rule to replace obsolete citations to Article 24:15 with citations to the updated certification requirements in Article 24:28; 43 SDR 119, February 27, 2017.
3-22-2017	Department of Revenue: SD Commission on Gaming Amend Racing rules to clarify the penalty for use of illegal substances, repeal 20:04:27:13 to allow therapeutic medication to be used, allow the use and administration of furosemide, clarify the use of certain therapeutic medications, allow the Commission and stewards to impose penalties which may be considered by other racing jurisdictions and allow the Commission and stewards to consider a trainer's pattern of drug or medication violations in other jurisdictions when determining a penalty for violations in South Dakota; 43 SDR 119, February 27, 2017.
4-10-2017	Department of Health: Board of Massage Therapy Amend rules relating to applications, temporary permits and inactive licenses, clarify the educational requirements for licensure or a temporary permit, increase the fees for an initial license, renewed license, inactive license and temporary permit, clarify the time period of a continuing education cycle and a licensee's continuing education requirements and recordkeeping requirements, repeal unnecessary rules regarding the board's complaint process, clarify the malpractice insurance requirements of a licensee or temporary permit holder and recordkeeping requirements, clarify the requirements for requesting an inactive license, and updating the list of facilities recognized by the board

	to provide the education necessary to meet the requirements for licensure; 43 SDR 109, February 6, 2017.
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RULES REVIEW COMMITTEE MEETINGS

The Interim Rules Review Committee will have an informal meeting near the close of the Ninety-second Legislative Session to set the tentative meeting schedule for the 2017 interim. Watch for a notice of this informal meeting on the LRC website and at the Capitol.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://www.sdlegislature.gov/Rules/RulesManual.aspx>.