

REGISTER



South Dakota Legislative Research Council

Volume 33

Monday, 8:00 a.m., April 2, 2007

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Secretary of State: Board of Finance:

(March 28, 2007) intends to amend rules to increase the reimbursement rate allowed for use of a privately-owned motor vehicle while on official business when a motor pool vehicle is not available, to increase the reimbursement rate allowed for use of a privately-owned motor vehicle equipped or modified for the transportation of an individual with special needs, to amend the private airplane use rates based on engine type and number of seats, and to amend the discretionary additional allowance for out-of-state and out-of-country per diem rates for lodging because of increased costs in certain destinations. The general authority for these rules, as cited by the board, is SDCL 3-9-1 and 3-9-2.

A public hearing will be held in the Secretary of State's office, Suite 204, 2nd floor, State Capitol, Pierre, South Dakota, on April 17, 2007, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Board of Finance, c/o Secretary of State, 500 E. Capitol, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at www.sdsos.gov. Material sent by mail must be received by April 27, 2007, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

Department of Labor: Board of Barber

Examiners: (March 30, 2007) intends to amend rules to increase fees for barber certificate of registration, operate a barber shop, barber chair, restoration of an expired barber certificate of registration, and expired license fee. The general authority for these rules, as cited by the board, is SDCL 36-14-9, 36-14-24, and 36-14-27.

A public hearing will be held via DDN, Watertown – Lake Area Technical Institute, 230 11th St. NE, Main Bldg. Room 125; Pierre – 500 E. Capitol, Room B12-Capitol B; Spearfish – Black Hills State University, E.Y. Library; and Huron – Huron High School, South Dakota, on April 30, 2007, at 11:00 a.m. CT, 10:00 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Barber Examiners, 135 E. Illinois, Suite 214, Spearfish, South Dakota 57783. Material sent by mail must be received by April 27, 2007, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

Department of Labor: Division of Labor and

Management: (March 30, 2007) is proposing to amend rules to update the Workers' Compensation Fee Schedule. The general authority for these rules, as cited by the department, is SDCL 62-7-8.

A public hearing will be held in the Kneip Building, Conference Room #1, 700 Governors Drive, Pierre, South Dakota, on April 26, 2007,

at 10:00 a.m., CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Labor, Division of Labor and Management, Kneip Building, 700 Governors Drive, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at www.sdjobs.org. Material sent by mail must be received by May 7, 2007, to be considered. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-3681 before the hearing.

DECLARATORY RULING:

The South Dakota Gaming Commission has issued a declaratory ruling dated March 26, 2007, In the Matter of the Declaratory Ruling regarding the “Basement Level” of the Clark and Martin Mason Building restoration. After hearing the testimony, considering the evidence, and applying the relevant statutes and rules, the Commission determined that the basement floor of the Clark Building constitutes a separate building for the purposes of determining the number of gaming devices that may be placed within the building.

FILINGS IN THE SECRETARY OF STATES OFFICE:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT:

74:29:01:01; and 74:29:11:01 to 74:29:11:60, inclusive.

History-Notice: 33 SDR 117, Dec. 26, 2006
 Hearing: January 18, 2007
 Filed: March 28, 2007
 Effective: April 17, 2007

Note: A copy of the rules may be obtained directly from the above agencies. 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

4-5-2007	Labor: Retirement System	Amend rules to limit the refund of contributions after a stream of benefit payments in certain circumstances, to reconfigure the process of administrative appeals, to allow the refund of contributions in certain circumstances, to provide for administration of service purchase contracts during administrative leave, to confirm that member service coincides with employer report dates, to rectify legal provisions regarding termination of a period of disability in certain circumstances, to remove the need for a special board appointment in certain circumstances, to conform with federal law regarding rollovers of beneficiary payments, to clarify certain aspects of participation by elected officials, to conform with federal law regarding benefit payment limits, to conform
----------	--------------------------	---

		with federal law regarding certain payouts, to clarify the legality of certain eligible retirement plans, to clarify the order of certain beneficiary payments, and to allow certain legal assignment of benefits; 33 SDR 151.
4-11-2007	Education: Board of Education	Adopt rules to formalize the Teacher Compensation Oversight Board, program guidelines, and application requirements; 33 SDR 156.
4-12-2007	Game, Fish and Parks	Amend a License Forms and Fees rule to increase the license fee for a trophy bull bison license to \$5,000 beginning with the 2008 season; amend a Pheasant Hunting Season rule to establish season dates, open areas, shooting hours, daily bag limit and possession limit; incorporate Butte, Meade, Lawrence and western Pennington counties (previously designated as Unit 2) with the rest of the state to create one statewide pheasant hunting unit; and change the shooting hours to be noon to sunset through October 31, and beginning on November 1, from 10:00 a.m. to sunset for the remainder of the season; amend a Quail Hunting Season rule to establish season dates, open area, shooting hours, daily bag limit and possession limit; and expand the open area from the eight existing counties to the entire state; amend Sandhill Crane Hunting Season rules to establish season dates, open areas, shooting hours, daily bag limit and possession limit; and remove the requirement that a person obtain a special sandhill crane hunting permit; amend a Black Hills Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” (first and second season) licenses, types and number of available licenses, open areas, and shooting hours; and adjust the unit boundary for Unit H9; amend Landowner Preference (Black Hills Elk, Archery Elk, and Prairie Elk Hunting Seasons) rules to retain the requirement that an applicant for landowner-operator preference own or operate a minimum of 240 acres within an elk unit but will raise the threshold of elk use from 200 to 500 elk-use days; will remove criteria for landowners to qualify for preferences and under “severe elk depredation” and “hardship” situations; will change the “non-hardship”

	<p>landowner preference eligibility from every third year to every year; will require that qualifying property be located within an elk hunting unit; will clarify that the 9-year license ineligibility period applies only to individuals who drew an elk license in the first lottery drawing in the nine preceding years; and provide a process by which landowners can appeal eligibility decisions; amend a Mountain Goat Hunting Season rule to close the mountain goat hunting season; amend a Cottontail Rabbit Hunting Season rule to establish season dates, open area, daily bag limit and possession limit; and extend the existing exemption for landowners hunting cottontail rabbits on their own land to licensed hunters acting as agents of landowners; amend a Custer State Park Coyote Hunting Season rule to close the coyote hunting season in Custer State Park; amend an Archery Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” (Black Hills Units and Unit 30A) licenses, types and number of available licenses, open areas, and shooting hours; adjust the unit boundary for Unit H9; and expand the season dates in Unit 30A to include the last 17 days of August; amend a Special Custer State Park Anterless Elk Hunting Season rule to establish season dates, shooting hours, hunting requirements and restrictions, and decrease the number of available licenses from 100 to 60 for the first two seasons (25 tags for first season, 35 tags for second season), with a possible third season to allow for additional harvest if deemed necessary; amend a Youth Pheasant Hunting Season rule to establish eligibility requirements, season dates, open areas, shooting hours, daily bag limit, and increase the possession limit from 6 to 9 cock pheasants; add one additional day to the season; amend a Black Hills Bighorn Sheep Hunting Season rule to establish eligibility requirements, season dates, open areas, shooting hours, and increase by one the number of available licenses; and Amend a Prairie Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk”</p>
--	---

		licenses, types and number of available licenses, open areas, and shooting hours in the open units; and expand the season dates in Unit 30A to include the last 17 days of August; 33 SDR 155.
4-16-2007	Health	Amend a rule to ensure that Children's Special Health Services is using the current poverty guidelines in determining cost share eligibility as a part of financial assistance to eligible clients; 33 SDR 156.
4-17-2007	Secretary of State: Board of Finance	Amend rules to increase the reimbursement rate allowed for use of a privately-owned motor vehicle while on official business when a motor pool vehicle is not available, to increase the reimbursement rate allowed for use of a privately-owned motor vehicle equipped or modified for the transportation of an individual with special needs, to amend the private airplane use rates based on engine type and number of seats, and to amend the discretionary additional allowance for out-of-state and out-of-country per diem rates for lodging because of increased costs in certain destinations; 33 SDR 159.
4-19-2007	Environment and Natural Resources: Board of Minerals and Environment	Amend air pollution control program rules to comply with revision to the federal regulations; 33 SDR 151.
4-26-2007	Labor: Division of Labor and Management	Amend rules to update the Workers' Compensation Fee Schedule; 33 SDR 159.
4-30-2007	Labor: Board of Barber Examiners	Amend rules to increase fees for barber certificate of registration, operate a barber shop, barber chair, restoration of an expired barber certificate of registration, and expired license fee; 33 SDR 159.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 17, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: May 15, June 5, August 21, September 27, December 4, and January 7, 2008.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 33 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).