

REGISTER



South Dakota Legislative Research Council

Volume 38

Monday, 8:00 a.m., August 22, 2011

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

Department of Revenue: Commission on Gaming: (August 16, 2011) is proposing to amend Horse Racing rules to repeal informal consultation with Executive Secretary; clarify that all appeals other than disqualifications of the official order of finishes go to the Commission; clarify that appeals on orders of finish only go to the Board of Stewards, not to the Commission, and to be consistent with other rules; clarify that posted business hours of the racing office shall be maintained; remove baths from the facilities racing associations must provide; require racing secretary to record wins on horses' appropriate records; clarify that in time trials hand timing by the timers will be conducted in certain circumstances; eliminate the requirement that white or light breeches must be worn by jockeys; repeal restrictions on the sale, control, and racing of claimed horses; clarify that it is the unofficial winner of races that are tested following a race; clarify penalty provisions for use of illegal substances; remove Ibuprofen as an authorized drug in race horses; clarify the time frames and methods of administration of furosemide (lasix); clarify the use of chemist's test as evidence of unauthorized drug use; eliminate the punishment of voiding of purses and track records with certain drug usage; add testing assistant as a category of licensee; repeal education courses required for renewal; amend Greyhound Racing rules to repeal the provisions that relate to live races, yet keeps the authorization for wire signals and off track betting; add multijurisdictional totalizator hubs as licensed facilities at which pari-mutuel tickets can be sold; clarify that the Commission

auditor may access all properly licensed facilities; clarify that all licensed facilities must cooperate with the Commission auditor; clarify that the South Dakota Racing Commission no longer exists and that all licensed facilities must properly operate their mutual departments; clarify that all licensed facilities must report violations of laws or rules; and amend Gaming rules to allow players to play up to two hands of Three-Card Poker at the operator's discretion; and provide for the appropriate pay tables for the game, Four-card poker. The general authority for these rules, as cited by the commission, is SDCL 42-7-56, 42-7-60, 42-7-67, 42-7-94, 42-7-96, 42-7B-4, and 42-7B-7.

A public hearing will be held at the City Hall, 102 Sherman Street, Deadwood, South Dakota, on September 14, 2011, at 9:00 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 221 West Capitol Avenue, Suite 101, c/o 1320 East Sioux Avenue, Pierre, South Dakota 57501-3100. Materials sent by mail must reach the Commission on Gaming by September 14, 2011, to be considered. However, the Commission requests that all written comments be received by September 9, 2011, to allow for adequate consideration prior to the hearing. 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 Game, Fish and Parks: (August 18, 2011) intends to amend Park

Licenses rules to repeal rules that provide that the park season extends from January 1 to December 31, inclusive, of each year, and establish time limits for a temporary park entrance license; amend Use of Parks and Public Lands rules to amend the Oahe Downstream Lodge fees to allow non-profit groups and government agencies a reduced user rate during shoulder and winter seasons and establish a check out time for camping cabins and park lodges; amend License Forms and Fees rules to eliminate the Custer State Park "any mountain lion" hunting license and \$150 fee for the license; lower the fee for replacing lost or destroyed nonresident waterfowl licenses from \$15 to \$5; eliminate the rule provisions that authorize the issuance of a permit in lieu of a lost license; create a new resident senior combination license at a cost of \$34 (\$29 plus \$5 surcharge) for persons 65 years of age and older; and reduce the fee charged for nonresident youth small game licenses from \$25 to \$10; amend Custer State Park Restrictions rules to eliminate the eligibility requirement prohibiting a person who received a Custer State Park (CSP) "any mountain lion" license in any of the preceding nine years from applying for a license for the current mountain lion hunting season; and repeal the rule which prohibits a licensee hunting in the field during a CSP big game season from being accompanied by a guide; amend a Waterfowl Hunting Seasons rule to repeal the existing rule which requires use of nontoxic shot to take all species of waterfowl; amend a Sandhill Crane Hunting Season rule to repeal the existing rule which requires use of nontoxic shot to take sandhill crane; appeal a Depredation Permits rule to eliminate the rule which provides there is no application fee for a depredation permit; amend Mountain Lion Hunting Season rules to increase the total statewide mountain lion harvest limit from 50 to 60 mountain lions and increase the female harvest limit from 30 to 40 female mountain lions; repeal rules adopted in 2010 that provided for mountain lion hunting in CSP; and establish a random drawing process to allow a limited number of mountain lion hunters an opportunity

to hunt in CSP; amend a Dog Training rule to repeal the section which requires an applicant for a professional dog training license to provide proof that the applicant has obtained written permission of all landowners on which the dog training will be held; amend a Nursing Home Group Fishing rule to repeal the section which provides that nursing home residents are subject to all other statutes and rules relating to fishing; and amend a Non-Game Bird Damage rule to repeal the chapter. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-18.4, 41-6-19.6, 41-6-29.1, 41-6-37.2, 41-11-5, 41-17-1.1, 41-17-13, 41-17-13.4, and 41-17-18.

A public hearing will be held at the Outdoor Campus West, 4130 Adventure Trail, Rapid City, South Dakota, on October 6, 2011, at 2:00 p.m. (MDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by email to Wildinfo@state.sd.us. All written and email comments must include the commenter's name and address. 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) 773-3387 before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Order:

The Governor has signed **Executive Order 2011-15** dated August 15, 2011. This order provides for the temporary suspension of the requirements for extended period permits for the use of oversized vehicles used to transport

round baled feed for livestock. The order will end after sixty days.

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

8-25-2011	Veterans Affairs	Amend rules to align the existing rules with South Dakota Codified Laws affected by the Executive Reorganization Order 2011-01 creating the Department of Military and the Department of Veterans Affairs; address VA and Medicaid rules with regard to fees charged at the Michael J. Fitzmaurice Veterans Home; and clarify the number of days a resident can furlough at the Michael J. Fitzmaurice Veterans Home; 38 SDR 15.
8-25-2011	Transportation	Amend a speed zone in the town of Lake Norden in Hamlin County on State Highway 28 to create a 50 mile per hour reduced speed zone adjacent to commercial and residential areas in the city limits and the curves near the lake; 38 SDR 15.
9-2-2011	Labor and Regulation: Division of Securities	Amend a rule to create an exemption from registering or reporting to South Dakota Division of Securities for certain private fund advisers; 38 SDR 19.
9-6-2011	Labor and Regulation: Division of Insurance	Amend rules to revise the time frame for disclosures for the sale of life insurance policies; require specimen copies of provider contracts with access plan filings; and modify the requirements as they relate to internal appeals procedures; 38 SDR 23.
9-14-2011	Revenue: Commission on Gaming	Amend Horse Racing rules to repeal informal consultation with Executive Secretary; clarify that all appeals other than disqualifications of the official order of finishes go to the Commission; clarify that appeals on orders of finish only go to the Board of Stewards, not to the Commission, and to be consistent with other rules; clarify that posted business hours of the racing office shall be maintained; remove baths from the facilities racing associations must provide; require racing

		<p>secretary to record wins on horses' appropriate records; clarify that in time trials hand timing by the timers will be conducted in certain circumstances; eliminate the requirement that white or light breeches must be worn by jockeys; repeal restrictions on the sale, control, and racing of claimed horses; clarify that it is the unofficial winner of races that are tested following a race; clarify penalty provisions for use of illegal substances; remove Ibuprofen as an authorized drug in race horses; clarify the time frames and methods of administration of furosemide (lasix); clarify the use of chemist's test as evidence of unauthorized drug use; eliminates the punishment of voiding of purses and track records with certain drug usage; add testing assistant as a category of licensee; repeal education courses required for renewal; amend Greyhound Racing rules to repeal the provisions that relate to live races, yet keeps the authorization for wire signals and off track betting; add multijurisdictional totalizator hubs as licensed facilities at which pari-mutuel tickets can be sold; clarify that the Commission auditor may access all properly licensed facilities; clarify that all licensed facilities must cooperate with the Commission auditor; clarify that the South Dakota Racing Commission no longer exists and that all licensed facilities must properly operate their mutual departments; clarify that all licensed facilities must report violations of laws or rules; and amend Gaming rules to allow players to play up to two hands of Three-Card Poker at the operator's discretion; and provide for the appropriate pay tables for the game, Four-card poker; 38 SDR 27.</p>
<p>10-6-2011</p>	<p>Game, Fish and Parks</p>	<p>Amend Park Licenses rules to repeal rules that provide that the park season extends from January 1 to December 31, inclusive, of each year, and establish time limits for a temporary park entrance license; amend Use of Parks and Public Lands rules to amend the Oahe Downstream Lodge fees to allow non-profit groups and government agencies a reduced user rate during shoulder and winter seasons and establish a check out time for camping cabins and park lodges; amend License Forms</p>

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		fishing; and amend a Non-Game Bird Damage rule to repeal the chapter; 38 SDR 27.
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RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 30, 2011, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – SDSM&T, 501 E. St. Joseph St., Room CB109; Sioux Falls – SFUC, 4810 N. Career Ave., Room 145N; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2011 interim: September 27, November 15, and December 12.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.