

REGISTER



South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., November 5, 2012

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

Department of Transportation: (October 29, 2012) is proposing to amend a Traffic Safety rule restricting parking along U.S. Highway 16 in Rapid City (Mt. Rushmore Road) to prohibit parking on either side of the highway from its intersection with Tower Road to Omaha Street. The general authority for this rule, as cited by the department, is SDCL § 32-30-2.4.

A public hearing will be held in the Commission Room of the Becker Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on November 29, 2012, at 9:05 a.m. CST. Copies of the proposed rule may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by November 28, 2012, 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) 773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

Department of Revenue: Commission on Gaming: (November 2, 2012) is proposing to amend Horse Racing rules to remove the requirement for associations to provide boxes and pits for refuse collection; require the clerk of scales to weigh in jockeys at least 45 minutes prior to the race; remove the requirement that the printer of program be licensed and be responsible for program content; remove the requirement that an owner or trainer consent for

jockey to carry over two pounds overweight; allow trainers to waive apprentice allowance for selected races; remove the requirement for horses' equipment to have head numbers; remove the requirement that names of the sire and dam of a horse be listed on entry forms; repeal a rule regarding horses entered for a purse must be starters because the rule is ambiguous; eliminate stakes rules on tracks of less than one mile circumference; allow two horses owned by the same ownership to be uncoupled for wagering in daily double races; repeal restriction on daily double entries; allow the apprentice jockey weight allowance to be waived in selected areas; delete the requirement that if a South Dakota bred race is cancelled, it must be rescheduled; delete the requirement for a second drawing of horses from the also eligible list to compete in a race; increase the maximum time for close of entries on an overnight race from 72 hours to 96 hours; delete authorization for use of Meclofenamic acid; and amend Gaming rules to identify an independent contractor for slot machine manufacturing purposes; declare independent contractors exempt from licensing requirements; provide a process whereby independent contractors can be deemed suitable or unsuitable by the Commission; identify what can occur in the event the Commission deems an independent contractor unsuitable; require that agreements between licensed manufacturers and unlicensed independent contractors may be terminated under certain circumstances; set forth manufacturers' responsibilities when using unlicensed independent contractors; and define "control program" for use in independent contractors arrangements with licensed manufacturers. The general authority for these rules, as cited by the commission, is

SDCL §§ 42-7-56, 42-7B-7, and 42-7B-11.

A public hearing will be held at the City Hall, 102 Sherman Street, Deadwood, South Dakota, on November 28, 2012, 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 November 26, 2012, to be considered. However, the Commission requests that all written comments be received by November 21, 2012, 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 Social Services: Child Protection Services: (November 2, 2012) intends to amend rules to define host families and reference applicable licensing provisions and specify training requirements for host family volunteers. The general authority for these rules, as cited by the department, is SDCL § 26-6-16.

A public hearing will be held in the Kneip Conference Room 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on November 26, 2012, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by December 6, 2012, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. 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) 773-3165 at least 48 hours before the hearing.

Department of Health: Health Systems Development and Regulation: (November 2, 2012) is proposing to adopt rules to establish additional criteria pertaining to the authorization of additional nursing home beds within Rapid City, based on the identified need for additional beds. The general authority for these rules, as cited by the department, is SDCL § 34-12-35.8.

A public hearing will be held at the Health Laboratory Building, 615 East Fourth Street, Pierre, South Dakota, on November 26, 2012, at 9:30 a.m. Copies of the proposed rules may be obtained from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre, South Dakota, 57501. Copies of the proposed rules may also be obtained at the Health Department website: <http://doh.sd.gov/News>. Written comments must be received by December 6, 2012, 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) 773-3361 at least 48 hours before the public hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Gregory J. Stoltenburg, Deuel County, was appointed on October 23, 2012, as **Judge of the Third Judicial Circuit Court of South Dakota**, effective immediately upon taking the oath of office and shall continue until December 31, 2014.

Susan M. Sabers, Lincoln County, was appointed on October 30, 2012, as **Judge of the Second Judicial Circuit Court of South Dakota**, effective immediately upon taking the

oath of office and shall continue until December 31, 2014.

Robin Hattervig, Howard, was reappointed on October 31, 2012, to the **State Board of Dentistry**, effective immediately and shall continue until October 30, 2015.

Todd A. McCaskell, Pierre, was appointed on October 31, 2012, to the **State Plumbing Commission**, to replace Clark Hepper, effective November 6, 2012, and shall continue until April 14, 2015.

Tara T. Schaack, Rapid City, was appointed on October 31, 2012, to the **State Board of Dentistry**, to replace Glen Sachau, effective immediately and shall continue until October 30, 2014.

Audrey M. Ticknor, Vermillion, was reappointed on October 31, 2012, to the **State Board of Dentistry**, effective immediately and shall continue until October 30, 2015.

Arlene H. Ham-Burr, Rapid City, was reappointed on November 1, 2012, to the **State Board of Pharmacy**, effective immediately and shall continue until October 1, 2015.

Leonard J. Petrik, Pierre, was appointed on November 1, 2012, to the **State Board of**

Pharmacy, to replace Arvid Liebe, effective immediately and shall continue until October 1, 2015.

Linda I. Wordeman, Rapid City, was reappointed on November 1, 2012, to the **Board of Social Services**, effective immediately and shall continue until October 30, 2015.

Executive Order:

The Governor has signed **Executive Order 2012-14** dated October 29, 2012. This order declares that the offices for state government, within the executive branch, shall be administratively closed on Friday, November 23, 2012, and Monday, December 24, 2012.

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

11-7-2012	Health: Health and Medical Services	Update rules to be reflective of industry standards; 39 SDR 67.
11-14-2012	Labor and Regulation: Unemployment Insurance	Amend rules to change the name from Department of Labor to the Department of Labor and Regulation and to change the General Authority and Law Implemented citations so they correctly refer to re-numbered statutes. Two changes of substance increase the amount of unpaid employer contributions due before the Department begins collection action from \$5 to \$25 and consider participation by an unemployment benefit applicant in a Department approved

		reemployment services program to be "actively seeking work"; 39 SDR 67.
11-15-2012	Secretary of State: Board of Elections	Amend rules to implement legislation concerning the voting rights of those serving a sentence for a felony conviction; update the voter registration form; implement legislation concerning vote centers; and allow the person in charge of the election to designate the ballot face on the ballot; 39 SDR 81.
11-26-2012	Health: Health Systems Development and Regulation	Adopt rules to establish additional criteria pertaining to the authorization of additional nursing home beds within Rapid City, based on the identified need for additional beds; 39 SDR 88.
11-26-2012	Social Services: Child Protection Services	Amend rules to define host families and reference applicable licensing provisions and specify training requirements for host family volunteers; 39 SDR 88.
11-28-2012	Revenue: Gaming Commission	Amend Horse Racing rules to remove the requirement for associations to provide boxes and pits for refuse collection; require the clerk of scales to weigh in jockeys at least 45 minutes prior to the race; remove the requirement that the printer of program be licensed and be responsible for program content; remove the requirement that an owner or trainer consent for jockey to carry over two pounds overweight; allow trainers to waive apprentice allowance for selected races; remove the requirement for horses' equipment to have head numbers; remove the requirement that names of the sire and dam of a horse be listed on entry forms; repeal a rule regarding horses entered for a purse must be starters because the rule is ambiguous; eliminate stakes rules on tracks of less than one mile circumference; allow two horses owned by the same ownership to be uncoupled for wagering in daily double races; repeal restriction on daily double entries; allow the apprentice jockey weight allowance to be waived in selected areas; delete the requirement that if a South Dakota bred race is cancelled, it must be rescheduled; delete the requirement for a second drawing of horses from the also eligible list to compete in a race; increase the maximum time for close of entries on an overnight race from 72 hours to 96 hours;

		delete authorization for use of Meclofenamic acid; and amend Gaming rules to identify an independent contractor for slot machine manufacturing purposes; declare independent contractors exempt from licensing requirements; provide a process whereby independent contractors can be deemed suitable or unsuitable by the Commission; identify what can occur in the event the Commission deems an independent contractor unsuitable; require that agreements between licensed manufacturers and unlicensed independent contractors may be terminated under certain circumstances; set forth manufacturers' responsibilities when using unlicensed independent contractors; and define "control program" for use in independent contractors arrangements with licensed manufacturers; 39 SDR 87.
11-29-2012	Transportation	Amend a Traffic Safety rule restricting parking along U.S. Highway 16 in Rapid City (Mt. Rushmore Road) to prohibit parking on either side of the highway from its intersection with Tower Road to Omaha Street; 39 SDR 87.
12-1-2012	Health: Board of Chiropractic Examiners	Amend rules to clarify language regarding the use of contracts; implement use of informed consent; update language in advertising and solicitation to include social media; update composition and qualifications of ethics, disciplinary and peer review committee members; repeal chapter regarding chiropractic facilities; and correct a typographical error in peer review procedure; 39 SDR 81.
12-12-2012	Board of Regents	Amend rules to allow students an opportunity to complete coursework in Career and Technical education, allow for students pursuing alternative forms of instruction to establish initial eligibility in the program, and provide eighth semester funding to students who graduate a semester early; 39 SDR 75.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 13, 2012, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – Northern State University, 1200 S. Jay St., Room Lib 117; Mitchell – Mitchell Technical Institute, 1800 E. Spruce, Room TC 155; Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the

following tentative meeting schedule for the 2012 interim: December 19.

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>.