

# REGISTER



## South Dakota Legislative Research Council

Volume 32

Monday, 8:00 a.m., November 14, 2005

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

**Bureau of Administration:** (November 8, 2005) intends to adopt rules to increase the maximum fees chargeable for legal publications required by state law. The general authority for these rules, as cited by the bureau, is SDCL 17-2-19.

A public hearing will be held in Room LRC 1, 3<sup>rd</sup> floor, State Capitol, Pierre, South Dakota, on December 8, 2005, at 1:30 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Bureau of Administration, State Capitol Building, 500 East Capitol, Pierre, South Dakota 57501. Written comments must be received by December 19, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3688 at least 48 hours before the hearing.

**Department of Game, Fish and Parks:** (November 9, 2005) intends to amend a rule to increase the daily electrical charge imposed at all campgrounds sites having electricity. The general authority for this rule, as cited by the department, is SDCL 41-17-1.1 and 41-17-13.4.

A public hearing will be held at the Ramkota River Center, Pierre, South Dakota, on December 1, 2005, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, 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 Noon on the

day 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 e-mail to [chuck.schlueter@state.sd.us](mailto:chuck.schlueter@state.sd.us). E-mail 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.

**Department of Revenue and Regulation: Commission on Gaming:** (November 10, 2005) is proposing to amend Deadwood Gambling Rules to eliminate language in the rules relating to copyrighting, patenting and rights to the game, as well as requirements that the table display the appropriate layout for Hold 'em eighty-eight, Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet, Caribbean stud poker, Bonus 6 poker, Twisted Pineapple poker, Texas Shootout poker, a variation of Texas Hold 'em poker, Silverado Study poker, Four-Card poker, and Hold 'em 212 poker; and amend a rule to recognize that bonus awards may be based on not only a specific wager, but also on a specific event and to clarify the procedures adhered to in slot machine promotional and bonus systems. The general authority for these rules, as cited by the commission, is 42-7B-4, 42-7B-7, and 42-7B-11.

A public hearing will be held at the City Hall, 102 Sherman Street, Deadwood, South Dakota, on Tuesday, December 13, 2005, 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, 425 East Capitol Avenue, Pierre,

South Dakota 57501. Materials sent by mail must reach the Commission on Gaming by December 13, to be considered. However, the Commission requests that all written comments be received by Wednesday, December 7, 2005, 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 Revenue and Regulation: Division of Insurance:*** (November 10, 2005) intends to amend rules to modify the requirements when paper copies of life replacement notices must be provided to applicants for life insurance; to require disclosure of policy provisions allowing for premium increases in certain advertisements and solicitations; to require disclosure of policy provisions allowing for premium increases in certain advertisements for Medicare supplement insurance; to require disclosure of policy provisions allowing for premium increases in certain advertisements for health insurance solicitation; and to increase the allowable credit for certain continuing education coursework. The general authority for these rules, as cited by the division, is SDCL 58-4-1, 58-17A-2, 58-30-117, and 58-33A-7.

A public hearing will be held in the Main Floor Conference Room, Department of Revenue and Regulation, Anderson Building, Pierre, South Dakota, on December 7, 2005, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. The text of the proposed rules will be posted on the Division of Insurance's website at [www.state.sd.us/drr2/revenue.html](http://www.state.sd.us/drr2/revenue.html). The rules may also be obtained as a Microsoft Word attachment by emailing

[Melissa.Kusser@state.sd.us](mailto:Melissa.Kusser@state.sd.us). Written comments must be received by December 6, 2005, 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) 773-3563 at least 48 hours before the hearing.

***Department of Social Services: Office of Medical Services:*** (November 10, 2005) intends to amend rules to the Medicaid prescription drug program to require prior approval from the department for certain prescription drugs; based on recommendations from the department's Pharmaceutical and Therapeutics (P&T) committee, allow the department to establish a list of drugs that are subject to prior approval; require a provider to obtain approval from the department before supplying a drug subject to prior approval; when recommending drugs considered appropriate for placement on the prior approval list, require the P&T committee to include a preferred list of covered prescription drugs within the appropriate therapeutic class for a particular disease or condition and the criteria for prior authorization; before placing a drug on the prior authorization list, provide notice to interested parties offering an opportunity to present data, opinions, and arguments concerning placement of the drug on the list; provide a 30 day written notice to providers informing them of the intended placement of a drug on the prior authorization list, the implementation date, and therapeutically equivalent drugs that do not require prior authorization which may be substituted; deny payment if prior authorization is not obtained or a therapeutically equivalent drug is not substituted; in emergency situations, allow a provider to dispense an emergency supply of a drug that requires prior authorization if a prior authorization request cannot be submitted and a response received within 24 hours; establish an appeal process for denied requests; and repeal rules that allowed a physician to override the multiple-source drug payment limit if "brand necessary" or "brand medically necessary" was written on the

prescription. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Monday, December 5, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by December 15, 2005, 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. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3305 at least 48 hours before the hearing.

**Department of Social Services: Office of Economic Assistance:** (November 10, 2005) intends to amend rules to the Food Stamp Program to increase the standard telephone allowance, the standard utility allowance, the limited utility allowance, and the one-utility allowance used by the department when computing the household's shelter expenses; and incorporate the latest changes to the monthly gross and net income eligibility standards, the household's maximum food stamp allotment, and the thrifty food plan as required by the United States Department of Agriculture, Food and Nutrition Service and used by the

department when determining a household's eligibility for the Food Stamp Program and computing the amount of benefits a household is entitled to receive. The general authority for these rules, as cited by the department, is SDCL 28-12-1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Monday, December 5, 2005, at 11:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by December 15, 2005, 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. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3305 at least 48 hours before the hearing.

**FILINGS IN THE SECRETARY OF STATES OFFICE:** (None)

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**

11-16-2005	Attorney General: Law Enforcement Officers Standards and Training Commission	Amend a rule to clarify who is eligible for reciprocity as a law enforcement officer; 32 SDR 63.
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11-16-2005	Secretary of State: Board of Elections	Amend rules to change the number of instructions to voters posters placed at each polling place; remove op-tech ballot instructions from the posters, from the ballot instructions, and from instructions on how to count imperfectly marked optical scan ballots; provide instructions for new voting machines; add new voting machines and name of new federal agency that certifies voting equipment to the distribution requirements; update absentee ballot application and add the authorization to use a computer absentee ballot log; 32 SDR 69.
11-17-2005	Transportation	Amend speed zones on South Dakota Highway 50 through the city of Vermillion in Clay County and on U.S. Highway 16 through the city of Presho in Lyman County; adopt a rule to prohibit parking along State Trunk Highway 11 in Corson County during snow events; and amend rules to provide a new electronic bidding system to comport with modern business practices; 32 SDR 75.
11-17-2005	Transportation	Amend speed zones in Custer and Fall River Counties on U. S. Highway 18, U. S. Highway 385 and State Trunk Highway 79 from Nebraska to Hermosa to allow for a maximum of 70 miles per hour along rural, divided segments of highway; 32 SDR 75.
11-18-2005	Revenue and Regulation: Appraisers	Amend rules to add definition for distance education; capitalize Appraisal Subcommittee; specify that completion of the Appraisal Foundation's 7-hour National Uniform Standards of Professional Appraisal Practice Update Course is required for continuing education; require appraisers to comply with administrative rule regarding competency; allow state-registered appraisers to have more than one supervisor; limit supervisors to only three trainees; require supervisors to be in good standing and not subject to disciplinary action by the department for the past two years; require state-registered appraisers to report name of supervisors; describe supervisors' responsibilities; national examination only valid for 24 months; no alternative to successful completion of the national examination; no longer extension given for sitting for the national examination;

		<p>delete unnecessary upgrade language for state-registered appraiser; reduce experience requirement from 24 months to 12 months for state-licensed classification; delete no time limit for obtaining experience; adopt acceptable experience effective January 1, 2008; require separate appraisal assignment logs for each supervisor; describe experience that may be claimed; set time limit for obtaining experience; describe requirements for experience verification; adopt education requirements effective January 1, 2008, for the registered, licensed and certified classifications; repeal credit allowed for challenge examination; prohibit substitution of education by experience; correct date in reference to the applicable edition of the uniform standards; change precertification to qualifying education; clarify education deferral timeframe; add additional description for acceptable continuing education courses; revise the continuing education course topics; allow field trips for continuing education hours; clarify requirements for qualifying education credit; allow continuing education credit for activities other than as a student; revise sources of education; remove individual types of courses and replace with general term for all courses that are acceptable without state review; establish requirements for acceptable distance education courses; and remove individual types of courses and replace with general term for all courses for approval; 32 SDR 57.</p>
<p>12-1-2005</p>	<p>Game, Fish and Parks</p>	<p>Amend a rule to increase the daily electrical charge imposed at all campground sites having electricity; 32 SDR 85.</p>
<p>12-5-2005</p>	<p>Social Services: Office of Medical Services</p>	<p>Amend rules to the Medicaid prescription drug program to require prior approval from the department for certain prescription drugs; based on recommendations from the department's Pharmaceutical and Therapeutics (P&amp;T) committee, allow the department to establish a list of drugs that are subject to prior approval; require a provider to obtain approval from the department before supplying a drug subject to prior approval; when recommending drugs considered appropriate for placement on</p>

		<p>the prior approval list, require the P&amp;T committee to include a preferred list of covered prescription drugs within the appropriate therapeutic class for a particular disease or condition and the criteria for prior authorization; before placing a drug on the prior authorization list, provide notice to interested parties offering an opportunity to present data, opinions, and arguments concerning placement of the drug on the list; provide a 30 day written notice to providers informing them of the intended placement of a drug on the prior authorization list, the implementation date, and therapeutically equivalent drugs that do not require prior authorization which may be substituted; deny payment if prior authorization is not obtained or a therapeutically equivalent drug is not substituted; in emergency situations, allow a provider to dispense an emergency supply of a drug that requires prior authorization if a prior authorization request cannot be submitted and a response received within 24 hours; establish an appeal process for denied requests; and repeal rules that allowed a physician to override the multiple-source drug payment limit if "brand necessary" or "brand medically necessary" was written on the prescription; 32 SDR 86.</p>
<p>12-5-2005</p>	<p>Social Services: Office of Economic Assistance</p>	<p>Amend rules to the Food Stamp Program to increase the standard telephone allowance, the standard utility allowance, the limited utility allowance, and the one-utility allowance used by the department when computing the household's shelter expenses; and incorporate the latest changes to the monthly gross and net income eligibility standards, the household's maximum food stamp allotment, and the thrifty food plan as required by the United States Department of Agriculture, Food and Nutrition Service and used by the department when determining a household's eligibility for the Food Stamp Program and computing the amount of benefits a household is entitled to receive; 32 SDR 87.</p>
<p>12-7-2005</p>	<p>Revenue and Regulation: Insurance</p>	<p>Amend rules to modify the requirements when paper copies of life replacement notices must be provided to applicants for life insurance;</p>

		require disclosure of policy provisions allowing for premium increases in certain advertisements and solicitations; require disclosure of policy provisions allowing for premium increases in certain advertisements for Medicare supplement insurance; require disclosure of policy provisions allowing for premium increases in certain advertisements for health insurance solicitation; and increase the allowable credit for certain continuing education coursework; 32 SDR 86.
12-8-2005	Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 32 SDR 85.
12-13-2005	Revenue and Regulation: Gaming Commission	Amend Deadwood Gambling Rules to eliminate language in the rules relating to copyrighting, patenting and rights to the game, as well as requirements that the table display the appropriate layout for Hold 'em eighty-eight, Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet, Caribbean stud poker, Bonus 6 poker, Twisted Pineapple poker, Texas Shootout poker, a variation of Texas Hold 'em poker, Silverado Study poker, Four-Card poker, and Hold 'em 212 poker; and amend a rule to recognize that bonus awards may be based on not only a specific wager, but also on a specific event and to clarify the procedures adhered to in slot machine promotional and bonus systems; 32 SDR 85.

### Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 6, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: January 9, 2006.

**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.

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