

REGISTER



South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., November 19, 2012

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

Department of Labor and Regulation:

Cosmetology Commission: (November 13, 2012) intends to amend rules to update and clarify general rules language, reorganize the rules to make them more streamlined and easier to read, add definitions, clarify the differences between the different infection control standards, set standards for branch schools regarding equipment, safety standards, and curriculum, add language and requirements to allow for short-term substitute senior instructors, clarify prohibited equipment, add language to clarify that schools are allowed to offer students the opportunity to earn more than eight hours of credit per day, update the required text books to be used in schools, and streamline rules as to when same rules apply to both business establishments and schools. The general authority for these rules, as cited by the commission, is SDCL §§ 36-15-2.3, 36-15-2.4, 36-15-13, 36-15-13.2, 36-15-20, 36-15-20.1, 36-15-25, 36-15-25.1, 36-15-26, 36-15-26.1, and 36-15-26.2.

A public hearing will be held at the Cosmetology Commission's office via telephone conference call, 111 East Capitol, Pierre, South Dakota, on December 4, 2012, at 10:00 a.m. (CST). Individuals may participate in the conference call by calling (605) 773-2327 and entering the conference password of 6320# (for assistance call (605) 773-3011). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Cosmetology Commission, 500 E. Capitol, Pierre, South Dakota 57501-1234.

Material sent by mail must be received by November 29, 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) 773-6193 at least 48 hours before the hearing.

Secretary of State: (November 14, 2012) intends to amend rules to repeal outdated provisions concerning the voter registration system and to standardize the fee schedule for purchasing a voter registration file. The general authority for these rules, as cited by the office, is SDCL § 12-4-39.

A public hearing will be held in Room 499, 4th floor, State Capitol, Pierre, South Dakota, on December 4, 2012, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501. Written comments must be received on or before December 14, 2012, 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) 773-3537 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

**BUREAU OF HUMAN RESOURCES:
CIVIL SERVICE COMMISSION:** Chapters 55:01:01 to 55:02:26, inclusive; 55:06:01:02; and Articles 55:09 and 55:10.

History-Notice: 39 SDR 63, October 9, 2012
Hearing: October 25, 2012

Filed: November 13, 2012
Effective: December 3, 2012

DEPARTMENT OF GAME, FISH AND PARKS: 41:06:61:01, 41:06:61:02, and 41:06:61:06.

History-Notice: 39 SDR 31, August 20, 2012
Hearing: October 4, 2012
Filed: November 13, 2012
Effective: December 3, 2012

DEPARTMENT OF GAME, FISH AND PARKS : 41:03:03:06, 41:03:03:08; 41:03:04:03, 41:03:04:09, 41:03:04:10, 41:03:04:10.01; 41:06:02:03; 41:07:01:06; 41:07:02:05; 41:07:03:03, 41:07:03:04; 41:07:05:03; 41:07:06:03, 41:07:06:05; 41:07:08:03, 41:07:08:05.01, 41:07:08:06; 41:07:10:01, 41:07:10:04; 41:09:04:03, 41:09:04:04, 41:09:04:11, 41:09:04:12, 41:09:04:16; 41:10:04:01, 41:10:04:03, and 41:10:04:04.

History-Notice: 39 SDR 67, October 15, 2012
Hearing: November 1, 2012
Filed: November 13, 2012
Effective: December 3, 2012

DEPARTMENT OF REVENUE: COMMISSION ON GAMING: 20:18:06:02; 20:18:15:06; and 20:18:16:15.18.

History-Notice: 39 SDR 27, August 13, 2012
Hearing: September 12, 2012
Filed: November 13, 2012
Effective: December 3, 2012

DEPARTMENT OF TOURISM: STATE HISTORICAL SOCIETY BOARD OF TRUSTEES: 24:52:05:02; 24:52:14:01; and 24:52:15:08.

History-Notice: 38 SDR 199, May 14, 2012
Hearing: September 7, 2012
Filed: November 13, 2012
Effective: December 3, 2012

DEPARTMENT OF REVENUE: LOTTERY COMMISSION: 48:01:01:01; 48:01:02:06 to 48:01:02:09, inclusive; 48:01:03:03; 48:01:04:02, 48:01:04:03, 48:01:04:05, 48:01:04:06, 48:01:04:09, 48:01:04:13; 48:02:08:01; 48:03:01:01; 48:03:02:04, 48:03:02:09; 48:03:03:04; 48:03:04:01, 48:03:04:02, 48:03:04:04, 48:03:04:05; 48:03:08:01 to 48:03:08:03, inclusive; 48:03:09:01 to 48:03:09:03, inclusive; 48:03:10:03; 48:03:11:01 to 48:03:11:03, inclusive; 48:03:12:01 to 48:03:12:03, inclusive; 48:03:14:04, and 48:03:14:05.

History-Notice: 39 SDR 45, Sept. 10, 2012
Hearing: September 28, 2012
Filed: November 15, 2012
Effective: December 5, 2012

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF INSURANCE: 20:06:48:09.

History-Notice: 39 SDR 31, August 20, 2012
Hearing: September 12, 2012
Filed: November 16, 2012
Effective: December 6, 2012

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF LABOR AND MANAGEMENT: 47:03:05:02, 47:03:05:05, and 47:03:05:13.

History-Notice: 39 SDR 55, Sept. 24, 2012
Hearing: October 18, 2012
Filed: November 16, 2012
Effective: December 6, 2012

Executive Appointments:

Sheldon E. Cotton, Volga, was appointed on November 6, 2012, to the **South Dakota State Railroad Board**, to replace Ron Mitzell, effective immediately and shall continue until October 30, 2015.

Linda Peitz, Yankton, was reappointed on November 8, 2012, to the **South Dakota**

Certification Board for Alcohol and Drug Professionals, effective immediately and shall continue until October 30, 2015.

Kristi Spitzer, Leola, was reappointed on November 8, 2012, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until October 30, 2015.

Kathy White, Sturgis, was reappointed on November 8, 2012, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall

continue until October 30, 2015.

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

11-26-2012	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

		<p>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.</p>
<p>11-29-2012</p>	<p>Transportation</p>	<p>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.</p>
<p>11-30-2012</p>	<p>Revenue: Property and Special Taxes</p>	<p>Amend rules to update manuals to current version and ensure that the language of the rules is consistent; provide the conditions under which a county director or their deputies may transmit a notice of assessment electronically; and provide the conditions under which a county treasurer or their deputies may transmit a written tax bill, notice of delinquent property, or notice of sale of real property electronically; 39 SDR 93.</p>
<p>12-1-2012</p>	<p>Health: Board of Chiropractic Examiners</p>	<p>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</p>

		members; repeal chapter regarding chiropractic facilities; and correct a typographical error in peer review procedure; 39 SDR 81.
12-3-2012	Health: Board of Examiners in Optometry	Amend rules to clarify language on testing for licensure; remove obsolete language on examination and certification requirements to prescribe pharmaceutical agents, and on glaucoma and ocular hypertension and list of approved institutions; clarify advertising requirements; remove outdated requirements; and update clinical procedural codes; 39 SDR 94.
12-4-2012	Labor and Regulation: Cosmetology Commission	Amend rules to update and clarify general rules language, reorganize the rules to make them more streamlined and easier to read, add definitions, clarify the differences between the different infection control standards, set standards for branch schools regarding equipment, safety standards, and curriculum, add language and requirements to allow for short-term substitute senior instructors, clarify prohibited equipment, add language to clarify that schools are allowed to offer students the opportunity to earn more than eight hours of credit per day, update the required text books to be used in schools, and streamline rules as to when same rules apply to both business establishments and schools; 39 SDR 99.
12-4-2012	Secretary of State	Amend rules to repeal outdated provisions concerning the voter registration system and to standardize the fee schedule for purchasing a voter registration file; 39 SDR 99.
12-6-2012	Game, Fish and Parks	Amend Spring Wild Turkey Hunting Season rules to establish the number of licenses/tags available which will include offering residents 105 less one-tag "male turkey" and 200 less two-tag "any turkey" licenses for the Prairie Units than authorized in 2012; and offering nonresidents 16 less two-tag "any turkey" licenses for the Prairie Units than authorized in 2012; and modify spring unit boundaries for the Black Hills and Meade County (Unit 49A) to be consistent with Fall turkey unit boundaries; and amend a Uses of Parks and Public Lands' rule to allow 10 resident archery licensees to hunt at Blood Run Nature Area and 10 resident archery licenses to hunt at Adams Homestead and Nature Preserve

		utilizing "access permits" valid from April 6 through April 30 to be issued by lottery drawing; 39 SDR 93.
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 last regular meeting of the Interim Rules Review Committee will be held Wednesday, December 19, 2012, in Room 414, Fourth Floor, of the State Capitol.

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>.