

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

883J0144

## SENATE BILL NO. 12

Introduced by: Senators McCracken, Bogue, and Dennert and Representatives Hunhoff, Engels, and Smidt at the request of the Interim Committee on Rules Review

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning when an  
2 administrative rule adoption or amendment is complete.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-26-6 be amended to read as follows:

5 1-26-6. The adoption, amendment, or repeal of a rule is complete when:

- 6 (1) ~~Ten days have passed since all~~ All the requirements of § 1-26-4 have been completed  
7 or, if the rule is an emergency rule, three days have passed since all the requirements  
8 of § 1-26-5 have been complied with;
- 9 (2) It has been signed by a majority of the members of the multi-member body or by the  
10 officer having the authority to adopt it;
- 11 (3) It has been signed by the director;
- 12 (4) A copy has been filed with the director, in a form prescribed by the director to show  
13 amendments, deletions, and other changes to existing rules, for use in preparation of  
14 copy for the Administrative Rules of South Dakota;
- 15 (5) The rule and a certificate have been filed with the secretary of state. The certificate



1 shall affirm that the rule filed is a true and correct copy of the rule as adopted and that  
2 the agency has complied with § 1-26-4 or 1-26-5, and with this section; and

3 (6) For a permanent rule, the agency has appeared and presented the proposed rule to the  
4 Interim Rules Review Committee.

5 Certificates required by this section shall be affidavits executed, under oath, by the officers  
6 authorized by statute to promulgate the rule. If a rule is promulgated by a multi-member body,  
7 the certificate shall be signed by its presiding officer.

8 Emergency rules are provisionally effective immediately after being filed. Notwithstanding  
9 § 15-6-6(a), all other rules are provisionally effective on the twentieth day after being filed, not  
10 counting the day of filing. In either case a later effective date may be specified as part of the  
11 rules being filed. A rule which is not yet effective or a provisionally effective rule may be  
12 suspended in the manner specified by § 1-26-38 any time prior to the first day of July of the year  
13 following the year in which it became, or would have become, effective. The rule's provisional  
14 status ends at that time, and ~~it~~ the rule may not thereafter be suspended by the rules committee.  
15 Unless suspended, a provisionally effective rule shall be enforced by the agency and the courts  
16 as if it were not so conditioned.

17 No rule ~~adopted~~ promulgated after June 30, 1975, is valid unless adopted in compliance with  
18 § 1-26-4 or 1-26-5, and this section and copies of ~~it~~ the rule are made available to the public  
19 upon request, by the agency.