

REGISTER



South Dakota Legislative Research Council

Volume 38

Monday, 8:00 a.m., April 23, 2012

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

Department of Human Services: Division of Rehabilitation Services: (April 16, 2012) intends to amend rules to update the definition section to include a reference to the Division of Rehabilitation Services; update language; clarify and add timelines to the administrative review, fair hearing, and mediation process; provide options for the applicant or consumer of vocational rehabilitation services; update and clarify the attendant services application process and hours of attendant services to reflect current practices; and to remove reference to the application process in current rule. The general authority for these rules, as cited by the department, is SDCL §§ 28-8A-6.1, 28-9-44, and 28-10-21.

A public hearing will be held in the Large Conference Room at the Department of Human Services, Hillview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on May 7, 2012, at 1:30 p.m. (CDT). Copies of the proposed rules may be obtained without charge from and written comments sent to Velda Bartel, Administrative Rules Coordinator, Department of Human Services, Hillview Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed rules may also be obtained at the following Department's website at www.dhs.sd.gov/drs/ or by emailing velda.bartel@state.sd.us. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Materials sent by mail, email, or fax (605-773-5483) must reach the

Department of Human Services by 5 p.m. on May 17, 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) 773-5990 or (605) 773-6412 TTY at least 48 hours before the hearing.

Department of Revenue: Commission on Gaming: (April 17, 2012) is proposing to amend Gaming rules to identify the definition of Pit Boss to provide enhanced security at table games following the bet limit increase; enhance security in light of the Legislature's increase of bet limits to \$1,000; allow the Executive Secretary to approve transfer of license stamps between licensed operators; permit the Executive Secretary to approve license renewals, approval of additional retail license, and approve assignment of location of retail licenses subject to the approval of the Commission; increase the minimum bankroll requirements that must be maintained by the licensee; require pit boss supervision at blackjack or house banked poker games with bet limits in excess of \$100; require tips to be placed in a secure location and provide measures for the coloring up, or exchange of chips to a higher denomination; add Pai Gow and Casino War as authorized variations of poker; clarify that the bonus bet is an optional bet and clarify when the three card option should be utilized; include radio frequency identification chips as associated equipment in slot machines; create a fifty-cent chip, a one-thousand dollar chip and a five-thousand dollar chip, as well as denote their colors; require fixed cameras for blackjack or house banked poker games with bets in excess of \$100; increase the period of time that a licensee must retain

recorded video images from seven to 14 days; and require daily inspections of recording equipment and a review of all recorded images weekly. The general authority for these rules, as cited by the commission, is SDCL §§ 42-7B-4, 42-7B-7, 42-7B-11, 42-7B-19, and 42-7B-32.

A public hearing will be held at the City Hall, 102 Sherman Street, Deadwood, South Dakota, on May 16, 2012, at 9:00 a.m. MDT. 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 May 14, 2012, to be considered. However, the Commission requests that all written comments be received by May 4, 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 Revenue: Division of Business Tax and Division of Property and Special Taxes: (April 19, 2012) intends to amend Business Tax rules to simplify the filing process for a seller that is registered under the Streamline agreement; comply with the Streamline agreement; correct a typo; and further define the application process for a professional employers organization; amend Property and Special Taxes rules to update the rules based on a statutory change; define the term "retail establishment" as used in SDCL 10-50-105; provide a mechanism to take a deduction for certain taxes paid; update an outdated provision; and raise the allowable refund rate. The general authority for these rules, as cited by the department, is SDCL §§ 10-45-47.1, 10-45-108, 10-46-35.1, 10-50-60, 10-50B-6, 35-10-1, and 37-10-26.

A public hearing will be held in the Anderson

Building, Room 109, 445 E. Capitol Avenue, Pierre, South Dakota, on May 11, 2012, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing John.Richter@state.sd.us. Copies of the rules are also available at the department's website: <http://www.state.sd.us/drr2/RULES2012.pdf>. Material sent by mail must reach the department by May 21, 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) 773-4701 at least 48 hours before the hearing.

NOTICE:

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan concerning the payment methodology for the Disproportionate Share Hospitals program and South Dakota Medicaid funding of graduate medical education effective June 30, 2012. The proposed changes have no fiscal impact and amend Attachment 4.19-A of the State Plan. Each year the Department of Social Services must survey South Dakota hospitals to determine qualification for Disproportionate Share Hospital (DSH) program payments based upon the hospitals' share of patients, relative to other hospitals, that are Medicaid patients. The Department must recalculate the payment levels per standard deviations above the mean for those hospitals that qualify so that the total amount of payments for the program does not exceed the legislative appropriation. The State must also calculate every year the three South Dakota teaching hospitals' payments from the Graduate Medical Education pool. Copies of the proposed State Plan Amendment are available at the Department of Social Services, Division of Medical Services or online at <http://dss.sd.gov/tribalconsultation/index.asp>. Written requests for a copy of these changes,

and corresponding comments, may be sent to the Division Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S 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

4-30-2012	Agriculture: Animal Industry Board	Amend rules to relax bovine tuberculosis and brucellosis testing requirements for captive cervids moving between permitted premises within the state; change the surveillance program for Chronic Wasting Disease (CWD) in captive cervid herds from a mandatory program to a voluntary program, and to reduce the amount of surveillance required to maintain recognition of herds which have voluntarily conducted CWD surveillance for at least five years; 38 SDR 165.
5-1-2012	Labor and Regulation: Appraiser Certification Program	Amend rules to define written examination; change supervising to supervisory appraiser; allow only state-certified residential and state-certified general appraisers to supervise state-registered appraisers; allow state-registered appraisers to assist only state-certified residential and state-certified general appraisers in the preparation of appraisals; eliminate state-licensed appraisers from the supervisory role; require supervisory appraisers to be in good standing and have three years of experience; allow a supervisory appraiser to renew the supervisory certificate within six months of expiration and pay a late renewal fee; require supervisory appraisers to sign the state-registered appraiser's appraisal log; require appraisers to complete the education and experience required prior to completing the appraiser examination; establish time limit by requiring state-registered appraisers to complete education five years prior to application; distinguish appraisal education from college education

		requirements for the state-licensed appraiser; require college level courses for the state-licensed appraiser classification; renumber rules; require a Bachelor's degree for state-certified residential appraiser classification applicants; eliminate college level courses in lieu of degrees for the state-certified residential and state-certified general appraiser classifications; allow credit toward qualifying education requirements if an applicant holds a real estate degree; establish mandatory disciplinary actions for certain reasons; prohibit duplication of continuing education courses during the continuing education reporting period; add acceptable continuing education course topics; require instructors of the uniform standards courses to be in good standing; and require equivalent uniform standards courses to be approved by the Appraiser Qualifications Board; 38 SDR 171.
5-2-2012	Bureau of Personnel	Amend rules concerning state employee health and life benefits into conformity with the legislature's adoption of House Bill 1028, SDCL 3-6E; 38 SDR 165.
5-2-2012	Labor and Regulation: Division of Insurance	Amend rules to update sources referenced in rule; incorporate the new 2012 Medicare deductibles and update the rules in accordance with federal regulations; allow for insurers to utilize persons other than insurance agents to complete applications for insurance; and modify the number of continuing education hours that crop insurance agents may obtain from a single source; 38 SDR 171.
5-3-2012	Social Services: Division of Economic Assistance	Repeal obsolete provisions regarding the Sales Tax on Food Refund Program; 38 SDR 177.
5-7-2012	Human Services: Division of Rehabilitation Services	Amend rules to update the definition section to include a reference to the Division of Rehabilitation Services; update language; clarify and add timelines to the administrative review, fair hearing, and mediation process; provide options for the applicant or consumer of vocational rehabilitation services; update and clarify the attendant services application process and hours of attendant services to reflect current practices; and to remove reference to the application process in current rule; 38 SDR 183.

5-9-2012	Social Services: Division of Medical Services	Amend rules to clarify the payment rate for inpatient services provided at out-of-state hospitals; specify that the daily rates for perinatal units, rehabilitation units, children's care hospitals, and swing-bed hospitals are located on the department's website; outline new reimbursement guidelines for in-state acute care hospitals submitting cost outlier claims containing charges for implantable devices; specify that coverage of non-emergency dental services for adults will be limited to \$1,000 per state fiscal year; maintain the dispensing fees for certain items dispensed by a pharmacy or public health service provider; and update the cost share amount for brand name drugs and propose a cost share amount for generic name drugs; 38 SDR 177.
5-11-2012	Revenue: Division of Business Tax and Division of Property and Special Taxes	Amend Business Tax rules to simplify the filing process for a seller that is registered under the Streamline agreement; comply with the Streamline agreement; correct a typo; and further define the application process for a professional employers organization; amend Property and Special Taxes rules to update the rules based on a statutory change; define the term "retail establishment" as used in SDCL 10-50-105; provide a mechanism to take a deduction for certain taxes paid; update an outdated provision; and raise the allowable refund rate; 38 SDR 184.
5-16-2012	Revenue: Commission on Gaming	Amend Gaming rules to identify the definition of Pit Boss to provide enhanced security at table games following the bet limit increase; enhance security in light of the Legislature's increase of bet limits to \$1,000; allow the Executive Secretary to approve transfer of license stamps between licensed operators; permit the Executive Secretary to approve license renewals, approval of additional retail license, and approve assignment of location of retail licenses subject to the approval of the Commission; increase the minimum bankroll requirements that must be maintained by the licensee; require pit boss supervision at blackjack or house banked poker games with bet limits in excess of \$100; require tips to be placed in a secure location and provide measures for the coloring up, or exchange of

		chips to a higher denomination; add Pai Gow and Casino War as authorized variations of poker; clarify that the bonus bet is an optional bet and clarify when the three card option should be utilized; include radio frequency identification chips as associated equipment in slot machines; create a fifty-cent chip, a one-thousand dollar chip and a five-thousand dollar chip, as well as denote their colors; require fixed cameras for blackjack or house banked poker games with bets in excess of \$100; increase the period of time that a licensee must retain recorded video images from seven to 14 days; and require daily inspections of recording equipment and a review of all recorded images weekly; 38 SDR 183.
--	--	---

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 29, 2012, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2012 interim: July 10, August 14, September 18, November 13, and December 18.

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>.