REGISTER

South Dakota Legislative Research Council

Volume 31 *Monday, 8:00 a.m., May 9, 2005*

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

Department of Revenue and Regulation: Property and Special Taxes: (May 4, 2005) has filed rules that will allow taxpayers to submit an electronic application to file and pay taxes electronically; change the definition of commencement of a project; change the way tax is reported on bad debts; provide information required for Streamline Registration and permits, and explain the reporting periods for volunteer registrations; allow direct mail transactions to be sourced under either of the two methods in this rule; clarify who is responsible for collecting tax due from auction sales; add definitions related to computer services; update sourcing examples for attorneys; end the exemption for nutritional supplements; remove the requirements for a disclosure form for manufactured homes purchased; add and delete provisions from the definitions; make form and style changes; reduce the reporting requirements for transfers of stock in corporations holding alcohol licenses; clarify that this chapter applies to all alcoholic beverages, except malt beverages; authorize electronic filing of price schedules; repeal rules that are no longer necessary; repeal the requirement that all advertising specialties be submitted to the Department, and increase the value of advertising material wholesalers may supply to retailers; increase the maximum amount of a rebate authorized by a manufacturer and to require wholesalers to notify other wholesalers before moving their products; allow the Secretary to authorize special disposition of alcoholic beverages; add a provision from 64:75:07:02 to 64:75:07:01 which allows that rule to be repealed; increase the maximum value of items that wholesalers may supply to retailers, and repeal the special provisions for tap handles; add rules to the chapters dealing with malt beverages; and require all wholesale licensees to report any attempts to solicit unauthorized incentives. The general authority for these rules, as cited by the department, is SDCL 10-45-47.1, 10-45-103, 10-45-108, 10-45B-12, 10-46-35.1, 10-46A-19, 10-46B-18, 10-46C-8, 35-5-10, 35-10-1, 49-34A-92, .

A public hearing will be held in Room 413, 4th floor, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on May 27, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Legal Services, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing Beth.Christie@state.sd.us. Copies of the rules are also available at the department's website: www.state.sd.us/drr. Material sent by mail must reach the department by May 26, 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) 773-4701 at least 48 hours before the hearing.

Department of Revenue and Regulation: Banking Commission: (May 5, 2005) has filed rules that authorize banks to provide mobile banking services to their customers; establish an application fee related to banks entering into mobile banking services; and establish a late fee for filing a renewal application for a money lending license. The general authority for these rules, as cited by the commission, is SDCL 51A-2-13, 51A-2-14, and 54-4-45.

A public hearing will be held at the State Capitol located at 500 East Capitol Avenue, Room 412, Pierre, South Dakota, on June 10, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Legal Services, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing Beth.Christie@state.sd.us. Copies of the rules are also available at the department's Web site: www.state.sd.us/drr. Material sent by mail must reach the department by June 9, 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) 773-4701 at least 48 hours before the hearing.

Department of Agriculture: (May 6, 2005) intends to adopt EMERGENCY rules to implement the South Dakota Certified Beef Program. The rules will set forth qualifications or conditions for using any intellectual property right, mark, or label of the South Dakota beef program; license application proceudres, the terms and conditions of any license, and any official form the secretary deems necessary and appropriate; methods and means of conducting inspections, keeping records, and otherwise insuring program compliance by participants in the program; and provisions to maintain the confidentiality of business information provided to the secretary by participants in the program. The general authority for these rules, as cited by the department, is SDCL 39-24-6.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF EDUCATION: BOARD OF EDUCATION: 24:15:02:03; 24:15:03:03.01, 24:15:03:09; 24:15:04:03; 24:03; and 24:43.

History-Notice: 31 SDR 129, March 7, 2005
Hearing: March 21, 2005
Filed: May 4, 2005
Effective: May 24, 2005

Executive Appointments:

Douglas J. Sharp, Watertown, was appointed on April 28, 2005, to the **South Dakota Lottery Commission**, to replace Michael Braley, effective April 30, 2005, and shall continue until January 1, 2008.

The following were appointed on May 4, 2005, to the **South Dakota Task Force to Study Abortion**, effective immediately and shall continue until December 31, 2005:

Dr. Marty L. Allison, Pierre
Dr. Maria C. Bell, Sioux Falls
Travis Benson, Sioux Falls
Dr. Allen Unruh, Sioux Falls
Dr. David M. Wachs, Aberdeen

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

5-10-2005	Labor: Division of Labor and Management	Update the Workers' Compensation Fee Schedule; 31 SDR 153.
5-11-2005	Social Services: Medical Services	Amend rules relating specifically to prescription drugs, the effects of these changes will be to: remove the coverage limits and prior authorization requirements for Clozaril

		therapy; no longer require that certain lab tests be conducted as a condition of continued Clozaril therapy; no longer require the treating psychiatrist to notify the department if Clozaril therapy is being discontinued; remove the Clozaril enrollment information form; begin covering items prescribed for weight control and appetite depressants; supply the federal website address from which an individual can obtain a current list of drugs that the federal government has determined to be less than effective; delete a reference to the Health Care Financing Administration and reference instead the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services; change a reference to the brand name drug "Clozaril" to the generic name "Clozapine"; remove the coverage limits for Azidothymidine, brand name Retrovir; allow a pharmacy claim to be submitted electronically; require that a claim for a prescription drug include the provider's National Council of Prescription Drug Providers' (NCPDP) number and the prescribing physician's Drug Enforcement Agency (DEA) number; no longer require a referral from the recipient's primary care physician for prescriptions written by a physician who was not the recipient's primary care provider; no longer print a code on the recipient's medical identification card if a third-party payment source exists and instead notify providers through either the Department's Medical Eligibility Verification System or the Audio Response System; if a third-party payment source exists and the provider submits an electronic claim to the department for payment, require the provider to maintain and submit to the department, on request, evidence of payment or payment rejection from the third-party payment source; 31 SDR 163.
5-13-2005	Secretary of State: Board of Elections	Amend rules to bring the petition to increase or decrease the number of county commissioners, confirmation mailing notice, voter registration form and instructions into compliance with statutory changes, set up guidelines for statutory change on acceptance of facsimile

		absentee ballot applications from UOCAVA voters, set up criteria for approving electronic ballot marking systems, set up parameters for voter registration verification with social security administration records, provide additional information on the provisional ballot envelope, provide agencies with a larger size voter registration, declination and instruction form to use; 31 SDR 151.
5-19-2005	Revenue and Regulation: Division of Insurance	Amend rules to change the permissible exclusions in life insurance policies and clarify how certain notice requirements can be made; update Medicare supplement insurance policies and related requirements, clarify overinsurance, clarify the allowance of agent compensation, specify acceptable rating methodologies and update references and the Division's address; define premium; adopt notice requirements to those in long-term care facilities, define overinsurance; allow companies to implement a minimum premium for purposes of returning unearned premiums; clarify how certain notice requirements can be made; and implement definitions for discount plans; 31 SDR 163.
5-19-2005	Revenue and Regulation: Risk Pool Board	Amend rules to implement definitions and clarify the tolling of the 63-day timeframe; 31 SDR 164.
5-25-2005	Health	Amend and adopt rules that will expand the availability of healthcare services for South Dakota residents, increase the number of sub specialist physicians practicing in South Dakota, and allow additional areas in South Dakota to partake of the J-1 Visa Waiver Program; 31 SDR 170.
5-27-2005	Revenue and Regulation: Property and Special Taxes	Amend rules that will allow taxpayers to submit an electronic application to file and pay taxes electronically; change the definition of commencement of a project; change the way tax is reported on bad debts; provide information required for Streamline Registration and permits, and explain the reporting periods for volunteer registrations; allow direct mail transactions to be sourced under either of the two methods in this rule; clarify who is responsible for collecting tax due from auction sales; add definitions related to computer services; update sourcing

		examples for attorneys; end the exemption for nutritional supplements; remove the requirements for a disclosure form for manufactured homes purchased; add and delete provisions from the definitions; make form and style changes; reduce the reporting requirements for transfers of stock in corporations holding alcohol licenses; clarify that this chapter applies to all alcoholic beverages, except malt beverages; authorize electronic filing of price schedules; repeal rules that are no longer necessary; repeal the requirement that all advertising specialties be submitted to the Department, and increase the value of advertising material wholesalers may supply to retailers; increase the maximum amount of a rebate authorized by a manufacturer and to require wholesalers to notify other wholesalers before moving their products; allow the Secretary to authorize special disposition of alcoholic beverages; add a provision from 64:75:07:02 to 64:75:07:01 which allows that rule to be repealed; increase the maximum value of items that wholesalers may supply to retailers, and repeal the special provisions for tap handles; add rules to the chapters dealing with malt beverages; and require all wholesale licensees to report any attempts to solicit unauthorized incentives; 31 SDR 177.
6-3-2005	Health: Board of Chiropractic Examiners	Amend rules to update the licensing procedure to provide for a nonrefundable $100 as part of the initial license fee and further to provide for the criminal background investigation for applicants, to clarify the reciprocity provisions, to incorporate into approved continuing education courses a recognized approval organizations listings, to clarify preceptor selection, and to remove the term "gross" from professional conduct and to delete redundant and outdated rules; 31 SDR 170.
6-10-2005	Revenue and Regulation: Banking Commission	Adopt rules that authorize banks to provide mobile banking services to their customers; establish an application fee related to banks entering into mobile banking services; and establish a late fee for filing a renewal application for a money lending license; 31 SDR 177.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 17, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: June 14, August 9, September 20, October 18, December 6, and 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 LRC web site.

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