

TITLE 70 – DEPARTMENT OF TRANSPORTATION

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ARTICLE 70:11

REST AREA NEWSPAPER VENDING DEVICES

Chapter

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CHAPTER 70:11:01

APPLICATION AND PROCESS

Section

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70:11:01:01. Definitions. The following terms used in this chapter, chapter 70:11:02, and chapter 70:11:03 mean:

- (1) “Department,” the South Dakota Department of Transportation;
- (2) “Device” or “vending device,” a commercially manufactured newspaper vending machine vending newspapers only;
- (3) “Permit,” a newspaper vending device permit issued by the department in accordance with the provisions of this article.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:02. Newspaper vending devices authorized. The department may issue a permit to allow a vending device vending newspapers only, at an interstate rest area or information center in a location designated by the department. No newspaper vending device is allowed at an interstate rest area or information center unless a permit has been issued pursuant to this chapter.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:03. Number of devices allowed. The maximum number of newspaper vending devices permitted at each interstate rest area or information center is six.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:04. Application. An application for a newspaper vending device permit is required for each vending device at each interstate rest area or information center. Each application shall be submitted to the department region engineer for review and consideration.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:05. Contents of application. Each application for a permit shall include the following information:

- (1) The name and mailing address of the owner of the device, and the location of the interstate rest area or information center for which the permit is requested;
- (2) The name, address, and daytime telephone number of the person responsible on a daily basis for the operation and maintenance of the device;
- (3) The name of the publication being vended; and
- (4) Whether the publication is daily, weekly, monthly or other publishing cycle.

No application may be considered for approval until the application meets the requirements of this section.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:06. Approval of application. The completed application shall be reviewed by the region engineer and, if all requirements are met, the region engineer shall issue a permit to applicant within 30 days after submission.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:07. Issuance of permit. Permits will be issued on a first-come, first-served basis. A permit is valid for as long as all the conditions of this article are being complied with, or until the device is removed by the owner or by the department. However a permit terminates if the newspaper vending device is not installed within 60 days after the permit is issued. No permit may be granted for more than the maximum number of newspaper vending devices allowed at an interstate rest area or information center. Only one publication is permitted per device. No permit may be transferred.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:01:08. Indemnification. The owner of the newspaper vending device, upon placement of that device at an interstate rest area or information center assumes the unconditional obligation and thereby agrees to defend, indemnify, and save harmless the state of South Dakota and the South Dakota department , its officers, agents, and employees from all suits, claims, or actions of any kind or character arising out of the placement, use, or maintenance of the vending device. This indemnification provision shall be included in any permit issued in accordance with this chapter.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

CHAPTER 70:11:02

OPERATION AND MAINTENANCE OF NEWSPAPER VENDING DEVICES

Section

- 70:11:02:01 Newspaper vending devices allowed.
- 70:11:02:02. Location of devices.
- 70:11:02:03 Identification of responsible person.
- 70:11:02:04 Publications.
- 70:11:02:05 Department not responsible for damage.

70:11:02:01. New vending devices allowed. A newspaper vending device shall be a commercially manufactured newspaper vending device in good working condition with all structural parts intact. Each device shall be maintained in an aesthetically pleasing condition free from sharp edges, broken glass, or other features that create a safety concern. Each device shall be maintained so it is reasonably free of dirt and grease; chipped, faded, peeling, and cracked paint; rust; and corrosion. No newspaper vending device may exceed five feet in height, 36 inches in width, or 30 inches in depth.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:02:02. Location of devices. The department shall determine the location at each interstate rest area or information center where the devices may be located. The location shall be designated in the permit. No location other than that designated in the permit is allowed, except with the prior express written permission from the department. Each location shall be selected so as to not impede or interfere with the use of the interstate rest area or information center by the traveling public, yet be readily visible to and accessible by the traveling public. Each vending device shall be securely placed so as to reasonably prevent personal injury or property damage due to tilting, tipping, or overturning.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:02:03. Identification of responsible person. A sticker containing the name, mailing address, and telephone number of the person identified in the application as the person responsible for the day-to-day operation and maintenance of the newspaper vending device shall be issued with each permit. The sticker shall be affixed to the front or top of the newspaper vending device so as to be readily apparent upon observation. The information displayed on the sticker shall be kept current at all times by the owner of the device.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:02:04. Publications. Each newspaper vending device shall be filled with the current issue of the designated publication a minimum of once per publication cycle, or monthly, whichever time period is less. No unsold newspaper may be disposed of at an interstate rest area or information center or within a highway right-of-way.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:02:05. Department not responsible for damage. The department is not responsible for any damage caused to a newspaper vending device while located at an interstate rest area or information center, except any damage as may be caused by the sole negligence of the department, its agents, or employees.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

CHAPTER 70:11:03
REVOCATION OF PERMIT

Section

70:11:03:01	Grounds for revocation of permit.
70:11:03:02	Notice of revocation.
70:11:03:03	Removal of newspaper vending device.
70:11:03:04	Reapplication for a permit after revocation – Revocation of all permits.

70:11:03.01. Grounds for revocation of permit. Noncompliance with any requirement or other provision of chapters 70:11:01 or 70:11:02 authorizes the department to revoke a permit issued in accordance with § 70:11:01:05 and to cause the removal of the newspaper vending device from the interstate rest area or information center.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:03:02. Notice of revocation. Upon learning of a condition authorizing the revocation of a permit issued in accordance with § 70:11:01:05, the department shall notify the person responsible for the day-to-day operation and maintenance of the newspaper vending device by first-class mail at the address provided to remove the device by a date certain. The department may take any action intended to alleviate the effects of a condition of noncompliance

immediately, including the removal of the newspaper vending device from the interstate rest area or information center without a requirement to first provide actual notice to the responsible person. In such a case, the written notice required by this section shall include information on where the device is located and may be retrieved.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:03:03. Removal of newspaper vending device. Upon notification of a condition of noncompliance as provided by § 70:11:03:02, the owner of the newspaper vending device shall have 14 days from the date of notification to remove the newspaper vending device from the interstate rest area or information center. If the newspaper vending device has not been removed from the interstate rest area or information center within 14 days after the date of the notice required by § 70:11:03:02, the department may remove and dispose of the device as abandoned property, without liability or payment to the owner.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.

70:11:03:04. Re-application for a permit after revocation – Revocation of all permits. No applicant whose permit has been revoked may reapply for a permit for a newspaper vending device at any interstate rest area or information

center for a minimum period of 90 days following revocation. If an applicant has a permit revoked three times within a five-year period, the applicant is no longer eligible for a permit, and all permits previously issued and held by applicant are deemed revoked.

General Authority: SDCL 31-29-83.

Law Implemented: SDCL 31-29-83.