

**ARTICLE 69.5-01
NORTH DAKOTA RACING COMMISSION RULES**

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**CHAPTER 69.5-01-01
DEFINITIONS**

Section

69.5-01-01-01	Definitions
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69.5-01-01-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 53-06.2, except:

1. "Age" means the age of a horse and shall be reckoned from the first day of January of the year of foaling.
2. "Appaloosa" means a horse registered with the appaloosa horse club.
3. "Applicable horsemen's organization" means the jockey club with respect to thoroughbred horses, the American quarter horse association with respect to quarter horses, the United States trotting association with respect to ~~standard bred~~ standardbred horses, the appaloosa horse club with respect to appaloosa horses and the American paint horse association with respect to pinto and paint horses.
4. "Arabian" means a horse registered with the international Arabian horse association, the Arabian horse registry of America, Inc., or the Anglo-Arabian horse registry.
5. "Arrears" means all moneys owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules.
6. "Association" means an individual or business entity holding:
 - a. A permit from the commission to conduct racing or pari-mutuel wagering, or both; and
 - b. An annual license authorizing the specific dates of the annual racing meeting.
7. "Association grounds" means all real property utilized by an association in the conduct of its race meeting, including the track, concessions, stands, offices, barns, stables, employee housing, and parking.
8. "Authorized agent" means a person licensed by the commission as an agent for a horse owner

or principal by virtue of a notarized appointment of agent on a form approved by the

commission filed by the owner or principal with the horsemen's bookkeeper authorizing the agent to handle matters pertaining to racing and stabling.

9. "Bleeder" means a horse which hemorrhages from within the respiratory tract during a race or within one hour posttrace, or during exercise, or within one hour of such exercise.
10. "Bleeder list" means a tabulation of all bleeders to be maintained by the commission.
11. "Chemist" means any official racing individual designated by the commission and working for an accredited and licensed laboratory.
12. "Claiming race" means a race which includes a condition that any horse starting the race may be ~~claimed and~~ purchased by any licensed owner who has started a horse at the current meeting for an amount specified in the conditions for that race by the racing secretary.
13. "Commission" means the North Dakota racing commission.
14. "~~Contractual vendor~~ ~~Contractual concessionaire~~" means any business or individual dealing in the furnishing, sale, or distribution of materials, supplies, or services to an association.
15. "Day" means a twenty-four-hour period beginning at one minute after twelve a.m. and ending at twelve midnight. Also referred to as a "raceday".
16. "Dead heat" means the finish of a race by two horses or more at the same time.
17. "Declaration" means the act of withdrawing an entered horse from a race.
18. "Entry" means:
 - a. A horse entered for a race; or
 - b. Two or more horses entered and joined for the same race for pari-mutuel wagering purposes because of common ties of ownership, lease, or training.
19. "Field or mutuel field" means a group of two or more horses upon which a single bet may be placed. A mutuel field is required when the number of horses starting in a race exceeds the capacity of the track totalizator. The highest numbered horse with the totalizator capacity and all the higher-numbered horses following are then grouped together in the mutuel field.
20. "Foreign substances" means all substances except those which exist naturally in the untreated horse at normal physiological concentration.
21. "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or penalty imposed by order of the stewards or the commission.
22. "Furosemide" means 4 Chloro-N-(2 furylmethyl)-5-sulfamoy-lanthanilic acid.
23. "Handicap" means a race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.
24. "Horse" means any horse (including and designated as a ~~mare male~~, filly, stallion, colt, ridgling, or gelding) registered for racing under the jurisdiction of the commission and which requires a jockey to race.
25. "Hypodermic injection" means any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection,

intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, and intraocular (intraconjunctival) injection.

26. "Jockey" means a rider licensed to ride in commission-approved races.
27. "Licensee" means any person or entity holding a license from the commission to engage in racing or related regulated activity.
28. "Maiden" means a horse that, at the time of starting, has never won a race on the flat where racing is:
 - a. Supervised by a lawfully established racing commission or board;
 - b. Covered by the Daily Racing Form or official racing publication (e.g. American quarter horse chart books, the appaloosa horse club chart books, the paint horse chart books, US Trotting Association, and the Arabian horse chart book); or
 - c. A maiden that has been disqualified after finishing first is still a maiden.
29. "Match race" means a race between two horses, the property of two owners, on terms agreed upon by them. The match is void if either of the horses or if either owner dies prior to the running of the race. It remains a match even if money or other ~~award is~~ awards are added to the stakes.
30. "Meeting" means the specified period and dates each year during which an association is authorized to conduct racing by approval of the commission.
31. "Minor" means any person under the age of eighteen.
32. "Month" means a calendar month.
33. "Nominator" means the person in whose name a horse is entered for a race.
34. "Official time" means the period from the time the first horse crosses the timing beam until the first horse crosses the finish line.
35. "Operating costs" includes, for purposes of subsection 6 of section 53-06.2-05 and subsection 6 of section 53-06.2-08 of the North Dakota Century Code, contributions to the Breeders, Purse, racing Promotion, and General funds.
36. "Overnight race" means a race for which entries close seventy-two hours, or less, before the time set for the first race of the day on which the race is to be run.
37. "Owner" means:
 - a. A person who holds any title, right, or interest, whole or partial, in a horse; or
 - b. A lessee of a horse holding an owner's license.

An interest only in the winnings of a horse does not constitute partial ownership.
38. "Patron" means a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.
- ~~39. "Performance" means a schedule of eight races or more per day unless otherwise authorized by the commission.~~
- ~~40-39.~~ "Permit" means an authorization by the commission to an association to conduct horse racing and pari-mutuel wagering at a specified place.

41-40. "Permitholder" means an association holding a commission permit to conduct racing meetings and pari-mutuel wagering.

42-41. "Place":

- a. In general, to place means to finish a race in either first, second, or third place.
- b. In particular, to place means to finish second in a race.

Example: Win - to place first in the finish.

Place - to place second in the finish.

Show - to place third in the finish.

43-42. "Post position" means the position assigned to the horse in the starting gate of a race.

44-43. "Post time" means the time set for the arrival of all horses in a race at the starting gate.

44. "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

45. "Program" means:

- a. A schedule of eight races or more per day unless otherwise authorized by the commission.
- b. A paper booklet offering racegoers various race information.

45-46. "Purse" means the gross cash portion of the prize for which a race is run.

46-47. "Purse race" means a race for money or other prize to which the owners of horses entered do not contribute money toward its purse and for which entries close less than seventy-two hours prior to its running.

47-48. "Quarter horse" means a horse registered with the American quarter horse association.

48-49. "Race" means a running contest between horses ridden or driven by jockeys for a purse, prize, or other reward run at a licensed association in the presence of the stewards of the meeting or such other horse racing contests as may from time to time be authorized by the commission. This includes purse races, overnight races, and stakes races.

49-50. "Recognized meeting" means any meeting with regularly scheduled races for horses on the flat in a jurisdiction having reciprocal relations with this state and a commission for the mutual enforcement of rulings relating to horseracing.

50-51. "Rules" means the rules adopted by the commission to regulate the conduct of horse racing.

51-52. "Schooling" means practice races held using actual racing conditions, but in which no wagering is allowed, allowing an inexperienced horse the opportunity to become familiar with track surroundings.

52-53. "Scratch" means the act of withdrawing an entered horse from the race after the closing of overnight entries.

53-54. "Scratch time" means the time set by the association for the closing of applications-entries to withdraw from races of that day.

54-55. "Security area" means the area surrounding the security stall delineated by the commission and controlled by it.

55. ~~"Security stall" means the stall within the security barn assigned by the commission to a horse on the bleeder list, or occupancy as a prerequisite for receiving bleeder medication.~~

56. "Specimen" means any bodily substance, including blood, ~~urine~~ or hair, taken from a horse under the supervision of the commission veterinarian or such veterinarian's authorized designee and in such manner prescribed by the commission for the purpose of analysis.
57. "Stable name" means a name used by an owner or lessee and registered with the commission.
58. "Stakes race" means one in which nominators of the entries contribute to a purse for the winners. A stakes race shall close for entries more than seventy-two hours in advance of its running. A stakes race includes a race for which horses are invited by an association to run for a guaranteed purse of five thousand dollars or more, without payment of stakes.
59. "Starter" means a horse in a race when the starting gate doors open in front of it at the moment the official starter dispatches the horses for a race.
60. "Stewards" means the duly appointed racing officials or their deputies serving at a licensed horse racing meeting.
61. "Subscription" means moneys paid for nomination, entry, eligibility, or starting of a horse in a stakes race.
62. "Test level" means the concentration of a foreign substance found in the test sample.
63. "Test sample" means any bodily substance, including blood, ~~urine or urine~~ or hair, taken from a horse under the supervision of the commission veterinarian or such veterinarian's authorized designee and in such manner as prescribed by the commission for the purpose of analysis.
64. "Thoroughbred" means a horse registered with the ~~New York~~ jockey club.
65. "Tout" means an individual who offers information or tips for any share of any resulting winnings. This can include spying on racehorses, during practice, or a race, in order to obtain information.
66. "Veterinarian" means a veterinarian currently licensed by the state board of veterinary medical examiners and the commission.
67. "Weigh in" means presentation of a jockey to the clerk of scales for weighing prior to a race.
68. "Weigh out" means presentation of a jockey to the clerk of scales for weighing after a race.
69. "Year" means a calendar year.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2012; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10, 53-06.2-10.1

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10, 53-06.2-10.1

CHAPTER 69.5-01-02 THE COMMISSION

Section

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69.5-01-02-01. General authority.

1. The commission has the authority, upon its own action or upon referral from the stewards, to:
 - a. Charge any licensee or permittee for a violation of these rules or of the pari-mutuel horse racing laws of this state;
 - b. Conduct hearings and to impose fines and other penalties as provided by law and these rules; and
 - c. Suspend, revoke, or encumber through conditions of probation licenses or permits. The commission will include in its rulings against licensees the licensee's full name and date of birth.
2. The commission, upon application therefore and for good cause shown, may temporarily waive or modify any rule or permit any activity otherwise lawful but not specifically authorized by these rules when, in the opinion of the commission, such circumstances exist that without such waiver, modification, or activity the health or safety of any person or horse is adversely affected or the due conduct or best interest of pari-mutuel horse racing of North Dakota is adversely impaired.
3. Whenever a situation arises in connection with a quarter horse meeting which is not covered by these rules, the American quarter horse association rules shall govern.

Where a conflict exists between the rules of the commission and the American quarter horse association, the commission's rules shall govern. Any rule covered by both a commission and American quarter horse association rule must be interpreted so that the commission rule modifies or supersedes the American quarter horse association rule.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-02. Suspensions.

1. When any license is suspended by the commission or by the racing regulatory agency of another state recognized by the commission, then the suspended licensee is prohibited from participating in any pari-mutuel activity regulated by the commission.
2. The suspension shall, in addition, render ineligible for entry or starting, every horse in which the suspended licensee has any ownership interest or trainer responsibility. Eligibility for affected horses in such cases may be restored by transfer of the suspended licensee's interest or responsibilities to another licensed person, if approved by the stewards of the meeting.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-03. Racing dates and permit.

1. Racing dates must be granted by the commission. The application for racing dates and the application for a license to conduct a race meeting must be filed with the commission over the signature of an executive officer of each association and on a form approved and provided by the commission. All applications must be filed within the time frame established by the commission and associations shall post bonds as required by the commission before a racing license may be issued.
2. The commission, after receiving an application, may request further information in writing from the applicant or may request a representative or representatives of an association to appear in person before the commission to supply any additional information that the commission may require. Licenses must be granted by the commission after the permittee has complied with all legal requirements.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-04. Commission stewards.

The commission shall appoint two of the three stewards at each horse racing meeting. One of the stewards appointed by the commission must be the chief steward.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-05. Search and inspection.

The commission, through its employees or agents, or through employees of the association, so authorized by the commission, may search and inspect for prohibited medication, drugs, drug paraphernalia, or any electrical or mechanical equipment usable to affect the condition or racing condition of a horse or any item prohibited by these rules, at any time without notice. Such search and inspection may be made of the following:

1. Association stables, receiving barns, the paddock, jockeys' room, supply rooms, blacksmith, track, gate area, and similar service shops or any areas located within enclosure of the association grounds, including living quarters or private vehicles; and
2. The person, employee, or agent of any licensee while upon the association grounds in the prescribed areas described in subsection 1.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-06. Exclusion of patrons.

1. **Offenses.** The commission may exclude from the licensed premises a patron who has been convicted of any of the offenses listed in this subsection, if the commission determines that the circumstances of the offense giving rise to the conviction make the patron's presence a

hazard to the reputation and conduct of racing and pari-mutuel wagering, or may reasonably undermine the public confidence in the integrity of racing:

- a. Offenses related to drugs or controlled substances;
 - b. Offenses related to arranging the outcome of a race, or to any fraud or deception while participating in racing or pari-mutuel wagering activities;
 - c. Offenses related to representations made about any horse, ownership interest in a horse, or lease or sale of any horse;
 - d. Any felony of which the patron has been convicted; or
 - e. Any offense related to gaming or gambling.
2. **Notification.** In all cases where the commission excludes a person from any or all pari-mutuel facilities in this state, the commission will attempt to notify said person of the facts or conduct which warrant exclusion in writing by electronic mail or mail and provide said person with a post-exclusion hearing.
 3. **Ejection.** Nothing in this rule precludes an association from exercising its right to eject persons from the premises.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-02-07. Commission veterinarian.

1. The commission may employ or contract with a veterinarian or veterinarians who are authorized to:
 - a. Maintain and operate a barn for the detention and testing of horses after each race;
 - b. Collect specimens for analysis to determine the presence of prohibited substances in any entered horse;
 - c. Examine any horse entered in any race and, upon a determination of unfitness to run, may recommend to the stewards that they scratch the horse; and
 - d. Delegate the veterinarian's duties to the veterinarian appointed by the licensed association subject to the supervision of the commission veterinarian and the approval of the commission.
2. Every horse entered to race may be subjected to a veterinary examination for racing soundness and health on a race day, not later than two hours prior to official post time for the first race.
3. Testing of horses entering a race will occur as follows:
 - a. After each race, the winner of each race and any other horse designated by the stewards must be taken directly to the enclosure for such testing as the commission representative may require. Blood samples may be taken only by a veterinarian. All other body fluid samples must be taken by a veterinarian or under a veterinarian's supervision.
 - b. Each horse to be tested must be accompanied by its owner, trainer, or the representative of either who shall remain during the testing and sign as a witness on the sample

marking tag which will be detached and safeguarded by the commission representative before the sample is forwarded to the laboratory.

- c. Samples taken must be marked for identification by a two-part tag initialed by the commission representative that includes on both parts an identical number, and the date of the sample, and on the commission part the name of the horse and its owners or trainer. The numbered part must be delivered under the seal of the commission to the testing laboratory. The identified part must be retained by the commission veterinarian until the results are obtained from the laboratory at which time the sample tag must be filed with the commission.
 - d. The laboratory shall ensure the integrity of samples and sample containers.
 - e. The commission has the authority to direct the official laboratory to retain and preserve by freezing, samples for future analysis.
 - f. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on association grounds under the jurisdiction of the commission, shall undergo a post mortem examination at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. The cost of such examination shall be assessed to the owner of the horse.
4. A track security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of eighteen years old, be currently licensed by the commission, display their commission identification badge, and have a legitimate reason for being in the test barn area.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

CHAPTER 69.5-01-03 RACING OFFICIALS

Section

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69.5-01-03-01. General description.

Every association conducting a race meeting shall appoint at least the following officials:

1. At least one Association steward, consisting of at least one ~~one~~ of the members of a three-member board of stewards.
2. Association veterinarian who shall assist and be responsible to the commission veterinarian and whose appointment must be from a list approved by the commission veterinarian.
3. Auditor.
4. Clerk of scales.
5. Horse identifier.
6. Horsemen's bookkeeper.
7. Jockey room attendant, custodian, or valet.
8. Paddock judge.
9. Pari-mutuel manager.
10. Racing secretary.
11. Security manager.
12. Starter.
13. Timer.
14. Track manager.

15. Such other officials as the commission may from time to time require.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-02. Eligibility for officials.

To qualify as a racing official the appointee must be licensed by the commission after a determination that the proposed racing official:

1. Is of good moral character and reputation.
2. Is experienced in horse racing.
3. Is familiar with the duties to which the racing official is appointed and with the commission's rules of horse racing.
4. Possesses the mental and physical capacity to perform the duties which the racing official is appointed to perform.
5. Possesses natural or correctable eyesight sufficient to perform the racing official's duties; and
6. Has not been convicted of a crime which the commission may determine has a direct bearing upon the racing official's ability to serve in the appointed capacity or if so convicted, that the official has been sufficiently rehabilitated.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-03. Official's prohibited activities.

A racing official or the racing official's assistants listed in section 69.5-01-03-01, while serving during any meeting in such capacity, may not engage in any of the following:

1. Participate in the sale, purchase, training, or ownership of any horse racing at the meeting;
2. Be involved in any way in the purchase or sale of any contract on any jockey racing at the meeting;
3. Sell or solicit horse insurance on any horse racing at the meeting or participate in any other business sales or solicitation not a part of the official's duties;
4. Directly or indirectly wager on the outcome of any race being run at the track or association grounds;
5. Directly or indirectly wager on any gambling game located on association grounds;
6. Accept or receive money or anything of value for such official's assistance in connection with such official's duties;
7. Act as a tout or provide information on a horse for betting purposes; or
8. Consume any alcoholic beverage or prohibited substance or refuse any breath test or to submit a urine, blood, or hair sample when directed by commission staff.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-04. Report of violations.

Every racing official and such official's assistants are responsible to report immediately to the stewards of the meeting every observed violation of these rules and of the laws of this state which occur within such official's or assistant's jurisdiction.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-05. Single official appointment.

An official appointed to any meeting may not hold more than one official position listed in section 69.5-01-03-01 unless, in the determination of the stewards or the commission, the holding of more than one appointment would not subject the official to a conflict of the official's interests and duties to the two appointments.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-06. Stewards - General authority.

1. The stewards for each racing meeting are responsible to the commission for the conduct of the race meeting in accordance with the laws of this state and the rules adopted by the commission. The stewards only have authority to resolve conflicts or disputes between all other racing officials or licensees where the disputes are reasonably related to the conduct of each race, or races, and to punish violators of these rules in accordance with the provisions of these rules.
2. Should any steward be absent at race time, the other two stewards shall agree on the appointment of a deputy for the absent steward or if they are unable to agree on a deputy, then the racing secretary shall appoint a deputy for that race. If any deputy steward is appointed, the commission must be notified immediately by the stewards.
3. All three stewards must be present in the stands during the running of each race.
4. The period of authority for the association stewards commences upon issuance of their license by the commission and terminates thirty days after the final end of each racing meet.
5. Stewards, from their own observations, may take notice of misconduct or rule violations and institute investigations and compliance of possible rules'violations.
6. Stewards may inspect at any time a license document or paper related to horse racing including, without limitation, partnership papers, jockey employment contracts, appointments of authorized agents or jockey agents, jockey agents' engagement records, and the adoption of colors.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-07. Stewards - Enforcement authority.

1. Stewards shall enforce these rules and the racing laws of this state and have authority to charge any licensee for a violation of these rules and the laws of this state, to conduct

hearings, and to recommend to the commission the imposition of administrative fees or suspensions within the limits and procedures of this section. The decision of the stewards as to the extent of a disqualification of any horse in any race is final for purposes of distribution of the pari-mutuel pool and purses.

2. Stewards may impose administrative fees of up to one thousand dollars for each offense or suspend occupational licenses for up to six months for each offense, or both such fee and suspension. Such action by the stewards does not bar the commission from imposing a more severe penalty if so required in the determination of the commission. However, the commission shall initiate no action increasing any steward's penalty after sixty days from the date of the stewards' action. The stewards, instead of taking action against a licensee, may refer any alleged violation to the commission for hearing and decision, but such referral to the commission by the stewards is not necessary as a condition to commission action against a licensee. In cases where fines or penalties alter the results of a race, the stewards shall re-award purses, prizes, awards, and trophies.
3. All fines imposed by the stewards upon a licensee must be paid by the licensee to the commission within forty-eight hours after imposition.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-08. Stewards' summary hearings.

1. **Violations.** The stewards may take summary and immediate action when violations constitute an immediate danger to public health, safety, and welfare. If such action is taken prior to the summary hearing procedure in subsection 2, the affected licensee is entitled to a post-suspension hearing pursuant to such subdivision. The stewards may conduct summary proceedings for violations involving the following:
 - a. Horse riding.
 - b. The use of drugs and medication.
 - c. Possessing a device for the injection of prohibited substances in horses.
 - d. Suspensions under reciprocity agreements with other states.
 - e. Acts prohibited by any of the provisions of North Dakota Century Code chapter 12.1 and any other criminal offenses prohibited by state law when by a preponderance of evidence, the stewards believe such offenses to have occurred.
 - f. Prearranging or attempting to prearrange the outcome of a race.
2. **Summary hearing procedure.** Stewards' hearings in respect to matters exempted from notice and hearing provisions, unless waived by the licensee, nevertheless shall provide at least the following:
 - a. Written notice to the licensee, delivered at least three days prior to the hearing, informing the licensee of the charges against the licensee and the possible penalties which may be imposed as well as the right to counsel; the right to present a defense, including witnesses for that purpose; and the right to cross-examine the stewards' witnesses.
 - b. The stewards may grant a continuance of any hearing set under the summary procedures authorized for good cause shown.

- c. Failure of a licensee to appear at any scheduled hearing shall constitute a violation of these rules.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-09. Appeals from stewards' hearings.

1. Any licensee aggrieved by the imposition by the stewards of any fee or suspension may appeal to the commission. Appeals must be in writing and filed with the commission within fourteen days of the stewards' order. The stewards shall, in that event, forward to the commission their charges and evidence for an administrative hearing (de novo) by the commission upon all the evidence pursuant to North Dakota Century Code chapter 28-32. No appeal from a stewards' order to the commission shall stay or supersede the penalty imposed by the stewards unless the commission shall order, in writing, a stay of the penalty.
2. The stewards shall possess and may exercise emergency authority, as follows:
 - a. Substitute officials. When in an emergency any official is unable to discharge the official's duties, the stewards may approve the appointment of a substitute. The stewards shall report such appointment immediately to the commission.
 - b. Substitute jockeys. The stewards have the authority in an emergency to place a substitute jockey on any horse in the event the trainer does not do so. Before using such authority, the stewards shall attempt, in good faith, to contact the trainer to inform the trainer of the emergency and to afford the trainer the opportunity to appoint a substitute jockey. If the trainer cannot be contacted, or if the trainer is contacted but fails to appoint a substitute jockey and to inform the stewards by thirty minutes prior to post time, then the stewards may appoint under this rule.
 - c. Substitute trainer. The stewards have the authority, in an emergency, to designate a substitute trainer for any horse.
 - d. Excuse horse. In case of accident or injury to a horse or any other emergency deemed to exist by the stewards before the start of any race, the stewards may excuse the horse from starting.
 - e. Exercise authority. No licensee may exercise a horse on the track between races unless upon the approval of the stewards.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-10. Steward investigations and decisions.

1. **Investigations.** The stewards, upon direction of the commission, shall conduct inquiries and shall recommend to the commission the issuance of subpoenas to compel the attendance of witnesses and the production of reports, books, papers, and documents for any inquiry. The commission stewards have the power to administer oaths and examine witnesses and shall submit to the commission a written report of every such inquiry made by them.
2. **Cancel trifecta.** The stewards shall cancel trifecta wagering any time there are fewer than five betting interests unless there is a late scratch.

3. **Form reversal.** The stewards shall take notice of any marked reversal of form by any horse and shall conduct an inquiry of the horse's owner, trainer, or other persons connected with said horse including any person found to have contributed to the deliberate restraint or impediment of a horse in order to cause it not to win, be likely to cause it not to win, finish as near as possible to first, or be likely to finish as near as possible to first.
4. **Fouls.**
 - a. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and shall place any horse found to be disqualified behind the others in the race with which it interfered or may place the offending horse last in the race.
 - b. Coupled entry. When a horse is disqualified under this section and where that horse was a part of a coupled entry and, where, in the opinion of the stewards, the act which lead to the disqualification served to unduly benefit the other part of the coupled entry, the stewards may, at their discretion, disqualify the other part of the entry.
5. **Stewards to inquire.**
 - a. The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by this chapter to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.
 - b. In determining the extent of disqualification, the stewards may:
 - (1) Declare void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry;
 - (2) Affirm the placing judges' order of finish and hold the jockey responsible if, in the stewards' opinion, the foul riding did not affect the order of finish; or
 - (3) Disqualify the offending horse and hold the jockey blameless if, in the stewards' opinion, the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.
6. **Race objections.**
 - a. An objection to an incident alleged to have occurred during the running of a race may be received only when lodged with the clerk of scales, the stewards or their designees, by the owner, the authorized agent of the owner, the trainer, or the jockey of a horse engaged in the same race.
 - b. An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a fast official procedure is permitted.
 - c. The stewards shall make all findings of fact as to all matters occurring during and incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determinations are final and may not be appealed.
7. **Protests and complaints.** The stewards shall investigate promptly and render a decision in every protest and complaint made to them. They shall keep a record of all protests and complaints and any rulings made by the stewards and file such reports daily with the commission.

- a. Protests involving fraud. Protests involving fraud may be made by any person at any time to the stewards.
- b. Protests not involving fraud. Protests, except those involving fraud, may be filed only by the owner of a horse or the owner's authorized agent, the trainer, or the jockey of the horse in the race over which the protest is made. The protest must be made to the clerk of the scales or to the stewards before the race is declared official. If the placement of the starting gate is in error, no protest may be made thereon, unless the protest is entered prior to the time the first horse enters the gate.
- c. Protest to clerk of scales. A jockey who intends to enter a protest to the clerk of scales following the running of any race, and before the race is declared official, shall notify the clerk of scales of this intention immediately upon the arrival of the jockey at the scales.
- d. Prize money of a protested horse. During the time of determination of a protest, any money or prize won by a horse protested or otherwise affected by the outcome of the race must be paid to and held by the horseman's accountant until the protest is decided.
- e. Protest in writing. A protest, other than one arising out of the actual running of a race, must be in writing, signed by the complainant, and filed with the stewards one hour before post time of the race out of which the protest arises.
- f. Frivolous protests. No person or licensee shall make a frivolous protest nor may any person withdraw a protest without the permission of the stewards.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2018; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-11. Racing secretary.

1. **General authority.** The racing secretary is responsible for setting the conditions for each race of the meeting, regulating the nomination of entries, determining the amounts of purses and to whom they are due, and the recording of racing results.
2. **Conditions.** The racing secretary shall establish the conditions and eligibility for entering the races of the meeting and cause them to be published to owners, trainers, and the commission. Unless otherwise provided by the conditions, the winner of a certain sum means the winner of a single race of that sum. Corrections to the conditions must be made within twenty-four hours of publication.
3. **Posting of entries.** Upon the closing of entries each day, the racing secretary shall post a list of entries in a conspicuous location in the racing secretaries' office and furnish that list to local newspapers and radio and television stations.
4. **Stakes and entrance money records.** The secretary is caretaker of the permanent records of all stakes, entrance moneys, and arrears paid or due in a race meeting and shall keep permanent records of the results of each race of the meeting.
5. **Record of racing.** The racing secretary, no later than the day following each race, shall attach or endorse on the registration certificate of each horse winning in any race the fact of that winning performance and the distance, the date of the race, and the type of conditions of the race.
6. **Record of jockeys.** Upon entry of a horse in a race, the owner or trainer shall furnish to the racing secretary the name of the jockey who will ride the entry no later than scratch time of the

date of the race unless unusual circumstances prevail and the stewards grant contrary permission, but in no event later than forty-five minutes before post time.

7. **Handicapping.** The racing secretary, or a handicapper assigned by the racing secretary, shall assign the weight to be carried by each horse in a handicap when weights are not stated in the condition of the race. The commission has adopted the association of racing commissioners international's model rules of racing for all scale of weights criteria, version 11.0.
8. **Penalties not cumulative.** Penalties and weight allowances are not cumulative unless so declared in the conditions of a race by the racing secretary.
9. **Winnings.**
 - a. All inclusive. For the purpose of the setting of conditions by the racing secretary, winnings must be considered to include all moneys and prizes won up to the time of the start of a race, including those races outside the United States. Foreign winnings must be determined on the basis of the normal rate of exchange prevailing on the day of the win.
 - b. Winnings considered from January first. Winnings during the year must be reckoned by the racing secretary from the preceding January first.
 - c. Winner of a certain sum. Winner of a certain sum means the winner of a single race of that sum, unless otherwise expressed in the condition book by the racing secretary. In determining the net value to the winner of any race, the sums contributed by its owner or nominator must be deducted from the amount won. In all stakes races, the winnings must be computed on the value of the grossearnings.
 - d. Winner's award. Unless the conditions of a race provide otherwise the entrance money, starting and subscription fees, and other contributions, shall go to the winner of the race. If for any reason a race is not run, those entrance, and starting and subscription fees must be returned to the nominators.
10. **Cancellation of a race.** The racing secretary has the authority to withdraw, cancel, or change any race which has not been closed. In the event the canceled race is a stakes race, all subscriptions and fees paid in connection with the race must be refunded.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-12. Paddock judge.

1. The paddock judge is in charge of the paddock and has general responsibility for the saddling and mounting of horses and for the equipment used.
2. The paddock judge shall attempt to maintain consistency in the use of equipment on individual mounts. Duties of the paddock judge include:
 - a. Requiring that a **farrier** be in the paddock prior to each race to ensure that all horses are properly shod.
 - b. Excluding from the paddock all those persons who have no immediate business with the horses entered in a race and report rule violations in the paddock area to the stewards.
 - c. Permitting horses competing in a race to be shod in special training shoes only with the express permission of the stewards.

- d. Reporting to the stewards all horses that fail to arrive in the paddock at the designated time.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-13. Horse identifier.

The horse identifier must be present for each race and shall inspect each horse prior to its departure from the paddock to the post to confirm the horses' proper identity. The horse identifier shall report to the stewards any horse not properly identified or whose foal papers are not in conformity with these rules.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-14. Clerk of the scales.

The clerk of the scales (clerk) is responsible to weigh out jockeys and their equipment before each race and to weigh in jockeys and equipment after each race. The clerk shall record and publish any weight over or under the weight appearing on the official program. The clerk upon determination that there has been a change in weight, jockey, or racing colors from those given in the official program shall note the change immediately to officials of the association for immediate dissemination to the public. The clerk shall report immediately to the stewards any violation of these rules respecting weight, weighing, or riding equipment. After each race the clerk shall advise the stewards of any underweight or overweight carried by any jockey. The clerk shall report to the stewards any other information they may require.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-15. Starter.

1. The starter shall:
 - a. Have complete jurisdiction over the starting gate, the starting of horses, and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;
 - b. Appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;
 - c. Ensure that at least one assistant starter is available for each horse in a race;
 - d. Assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions not more than ten minutes before post time for the race;
 - e. Assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make the assessment known to the stewards;

- f. Load horses into the gate in any order deemed necessary to ensure a safe and fair start; and
 - g. Immediately report to the stewards any false starts, impeded starts, or unfair starts.
2. The assistant starters may not:
- a. Handle or take charge of any horse in the starting gate without the expressed permission of the starter;
 - b. Impede the start of a race;
 - c. Apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;
 - d. Slap, boot, or otherwise dispatch a horse from the starting gate;
 - e. Strike or use abusive language to a jockey; or
 - f. Accept or solicit any gratuity or payment other than the assistant starter's regular salary, directly or indirectly, for services in starting a race.

History: Effective July 1, 1989; amended effective April 1, 2018.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-16. Timer.

Each association shall provide where necessary for each race an official timer who shall occupy the timers' stand or other appropriate place to observe the running of each race. The timer shall record permanently the time elapsed between the start and finish of each race.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-17. Patrol judges.

At least three patrol judges shall observe the running of the race and report information concerning the running of the race to the stewards. Each patrol judge shall have a duty station assigned by the stewards.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-18. Stewards serve as placing judges.

It is the duty of the stewards to determine the winner of each race and the order of finish for each of the remaining horses in the race. In case of a difference of opinion among the stewards, the majority opinion shall govern. In determining places at the finish of a race, the stewards shall consider only the noses of the placing horses. The stewards may correct errors in their determination of the placing of horses at the finish before the display of the official sign, or if the official sign has been displayed in error, after that display. If the display is in error, no person is entitled to any proceeds of the pari-mutuel pool on account of such error. At the conclusion of each racing day, the stewards shall file with the commission a copy of the official placement of horses with the names of the first four horses finishing in each race of that day. The stewards shall provide other racing information within their observation or

records upon the request of any official of the association or the commission. The stewards' decision on the race is final.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-19. Association veterinarian.

The association veterinarian may, at the direction of the commission veterinarian, be required to inspect all the horses in a race at the starting gate, and, after the finish of a race, shall observe the horses leaving the track. The association veterinarian is responsible to the commission veterinarian.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-03-20. Jockey room custodian and valet attendants.

1. The jockey room custodian has the following duties:
 - a. Maintain order, decorum, and cleanliness in the jockey and scale rooms.
 - b. Assist the clerk of the scales as required.
 - c. Ensure that no person other than representatives of the commission, association, news media, jockey's guild, and jockey room attendants are admitted to the jockey room on a racing day except by permission of the stewards and ensure that no unauthorized personnel is permitted in the jockey room after the final race on racing day.
 - d. Supervise the care and storage of racing colors.
 - e. Supervise the jockey attendants and arrange their rotation among jockeys for the weighing out.
 - f. Ensure that jockeys are neat in appearance and properly attired when they leave the jockey room to ride in a race.
 - g. Report any rule violation within the jockey room to the stewards.
 - h. Assign to each jockey a locker capable of being locked for the use of the jockey in storing clothing, equipment, and personal effects.
2. Valet attendants have the following duties and restrictions:
 - a. No person or licensee except a valet-attendant provided by the association may assist jockeys in weighing out and weighing in.
 - b. No jockey room attendant or jockey valet on duty may make a bet on any race nor place a bet for another person.
 - c. No attendant or valet may mingle with the public or loiter in public areas of the association premises during racing hours.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

CHAPTER 69.5-01-04 PERMITS AND REQUIREMENTS

Section

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69.5-01-04-01. General requirements.

Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe, and enforce these rules. Furthermore, it is the duty of each officer, director, and every official and employee of said licensee to observe and enforce these rules.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-02. Commission offices.

Each association shall furnish for the commission's use on the association grounds reasonable office space for the commission's use. The office shall be accessible to the public. The office must have appropriate connections for the live and replay capabilities for each race. The office space provided must include heating, cooling, electricity, a refrigerator, and lighting. A separate private office must be provided for the stewards to conduct investigations and hearings.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-03. Ejections.

Associations are obligated to honor commission exclusions and to immediately eject any person found on association grounds who is under exclusion status by the commission and to report same to the commission. Whenever any association ejects any person from the premises, it shall report the ejection to the commission.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-04. Racing surfaces.

Each racing association shall, as determined by the commission, safety committee, or stewards, provide the following:

1. Training and racing surfaces whose construction, elevation, and surfaces have received commission approval as safe and humane; provided, however, that upon proof of economic hardship and a bona fide effort to comply, exemptions to this section may be granted by the commission. Application for exemption must be in writing with notice to all interested parties;
2. Adequate and proper equipment to maintain said surfaces;
3. Sufficient trained personnel to properly operate said equipment; and
4. Daily records on the condition of each training and racing surface which must be open for public inspection.
5. Watering and grooming services to the track before each race. Exemptions may be allowed by the state chief steward or safety committee.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-05. Racing times.

A permitted association shall conduct horse racing between the hours of nine a.m. and twelve midnight, unless otherwise authorized by the commission.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-06. Number of races per performance program.

Unless otherwise permitted by the commission, no association may offer more than twelve races per program performance on any one day.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-07. First race time approval.

The association shall notify the commission staff of the post time of the first race of each program performance for approval.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-08. Appointment of racing officials and department heads.

Each association shall submit to the commission at least thirty days prior to the opening day of a meeting, a complete list of the association racing officials set forth in chapter 69.5-01-03 and department heads appointed for the meeting. No person may hold any appointment for a race meeting unless approved by the commission's executive director or [statechief](#) steward after a determination that the appointee is qualified to perform the appointee's assigned duties, and is not prohibited by any law or rule of this state from participating in racing.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-09. Horsemen's bookkeeper.

1. Each association shall maintain a separate bank account, to be known as the "horsemen's account", with at all times sufficient funds in such account to pay all money owing to horsemen in regard to purses, stakes, rewards, claims, and deposits. Deposits and withdrawals from this account are at all times subject to audit by the commission, and the horsemen's bookkeeper in charge of such account must be bonded in an amount determined by the commission.
2. All portions of purse money must be made available to earners thereof within forty-eight hours, Sundays excluded, after the result of the race in which such money was earned has been declared official; except, however, when the stewards or commission shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute.
3. No portion of purse money other than jockey fees may be deducted by the association for itself or for another, unless so requested in writing by the person to whom such purse moneys are payable, or such person's duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing account at the close of each race meeting.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-10. Condition book.

The association, at least sixty days prior to the opening of each meeting, shall furnish to the commission a copy of its first condition book for approval by the executive director of the commission. Additional condition books or sheets must be furnished to the commission as soon as published. All changes to the condition book must be approved either by the executive director of the commission or the [statechief](#) steward.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-11. Photo finish equipment.

Each association shall utilize photo finish equipment to assist the stewards in determining the order of finish of every race.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-12. Video equipment.

Every association shall furnish for each race a complete video recording of the race. The equipment and video must be of a reliability and quality approved by the commission and capable of replay within one minute after the end of any race. The association shall safeguard the videos of any race in which there were lodged objections, inquiries, or reports of accidents for one year from the date of the race and make such videos available for inspection by officials of the association and the commission.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-13. Photograph posted.

At least one photograph or image of the finish of each race must be posted conspicuously and promptly after each race.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-14. Starting gate.

A starting gate approved by the commission must be used in starting all races. Each association shall maintain at least one operable starting gate during racing hours. The association shall also make at least one starting gate, along with adequate personnel, available for schooling for two hours each day during training hours, exclusive of nonrace days.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-15. Distance poles.

Each association shall maintain distance poles as follows:

1/4 poles	Red and white
1/8 poles	Green and white
1/16 poles	Black and white

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-16. Detention enclosure.

Each association shall provide and maintain a designated detention area or enclosure for use by the commission in securing from horses that have run a race, samples of hair, urine, saliva, blood, or other bodily substances or tissues for chemical analysis. The enclosure must include a wash rack, commission veterinarian office, a walking ring, and a sufficient number of stalls each equipped with a window sufficiently large to allow the taking of the samples to be witnessed from outside the stall.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-17. Grounds' facilities, water, and sewage.

1. Each association shall provide and maintain adequate and sanitary drinking water and toilets for all licensees, patrons, and other persons invited to the track.
2. When a race meeting is in progress, or scheduled for opening, the association shall provide systematic and effective insect control against flies, mosquitoes, and other insects at all times.
3. Each association shall ensure that horses are stabled in individual box stalls with separate feeding and watering facilities; that the stables and immediate surrounding area are always maintained in approved sanitary condition at all times; that satisfactory drainage is provided; and that manure and other refuse is kept in separate boxes or containers at locations distant from living quarters and promptly and properly removed.
4. Management is responsible that paddocks, starting gates, and other equipment subjected to contact by different animals be kept in a clean condition and free of dangerous surfaces.
5. Management shall provide isolation facilities for horses ordered isolated by the association or commission veterinarian. Approved sanitary measures must be instituted in cooperation with the state livestock sanitary board, and the commission must be kept informed.
6. Each association shall provide a conveniently located receiving area for the use of arriving horses during the meeting. The area may have adequate stable room and facilities, hot and cold water, and stall bedding. The association shall employ attendants to operate and maintain, in clean and healthy condition, the receiving area.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-18. Safety and medical aid.

Each association shall maintain on the grounds during every day that its track is open for racing or exercising, an ambulance for humans, equipped according to prevailing standards and manned by medical doctors, paramedics, or other personnel trained to operate them.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-19. Helmets.

The association may not allow any person to exercise any horse on association grounds unless that person is wearing a protective helmet of a type approved by the commission.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-20. Fire protection.

The association, in accordance with applicable state fire codes, shall prohibit, for the protection of persons and property from fire damage, the following:

1. Smoking in horse stalls, feed rooms, and under the sheds.

2. Sleeping in feed rooms or stalls.
3. Open fires and oil or gasoline burning lanterns or lamps in the stable area.
4. Leaving electrical appliances unattended or in unsafe proximity to walls, beds, or furnishings.
5. Keeping inflammable materials, including cleaning fluids or solvents, in the stable area.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-21. Stable and ground security.

Each association shall secure the peaceful use of its grounds and stable areas to licensees and prohibit the use of the grounds to persons not authorized by license or invitation of the association. In this regard, the following rules apply:

1. The stable area must be properly fenced as defined by the commission and admission to the stables permitted only in accordance with the rules of the commission. No person may be admitted to the stable area except:
 - a. Licensees whose duties require them to be in the area and who are wearing a photographic identity badge issued by the commission and recorded in a permanent record maintained by the commission.
 - b. Temporary passholders.
 - (1) A temporary written pass will be issued by the chief of security or the chief of security's designee for the stable area, for a maximum period of forty-eight hours and a copy of the pass will be retained by the chief of track security. The form of the temporary pass must be approved by the commission.
 - (2) A temporary pass is available only to guests of the association or the commission. The term "guests" does not include any person brought to the stable area for the purpose of working in any capacity requiring a commission license except for the individuals who deliver and accompany horses to association premises on nights and weekends when the commission offices for regular licensing are closed.
 - (3) A temporary pass to enter the stable area is not an occupational license and does not permit the holder to enter a horse in a race or in any other way participate in racing.
 - (4) A temporary pass must contain at least:
 - (a) The bearer's name, address, and employer;
 - (b) The bearer's signature;
 - (c) The date and time of issuance;
 - (d) The date and time of expiration;
 - (e) The reason for issuing the pass;
 - (f) The signature of the chief of security or the chief of security's designee; and
 - (g) A pass number showing the sequence in which the pass was issued.

2. The association through its own employees or persons retained by the association shall maintain twenty-four-hour-a-day security service throughout the stable enclosure during the time horses occupy the grounds, employing such electronic, telephonic, television, and human guard personnel as are required to adequately police the grounds. Upon request, the association shall furnish to the commission a list of personnel employed in security services, giving for each such person, the person's address, employer, employer address, duties, duty station, and areas supervised.
3. The director of security of each association shall submit to the stewards a written report describing every arrest or completed incident of security investigation or real or suspected rule violation including with each such person mentioned as charged in the report, the person's name, the charges against such person, and such person's present whereabouts.
4. Each association shall maintain current records relating to security in permanent form available for commission inspection for a period of two years from the completion of the record and shall provide at the commission's request such additional information related to track security as the commission may require. All such records must be governed by open record provisions of state law.
5. A person may not smoke in a stall, barn, or an area where feed is kept on the grounds of association property.
6. A person may not permit a dog or other animal other than approved horses to enter the stable area of an association during the progress of a race meeting. Exceptions may be authorized by the commission safety committee, chief steward, state veterinarian, executive director, or as authorized by law.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-22. Electric timing device.

Any electric timing device used by the association must be approved by the commission.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-04-23. Judge's communication.

The association shall provide adequate communication between the stewards and each judge's station and necessary track officials.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

CHAPTER 69.5-01-05 LICENSEES

Section

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69.5-01-05-01. Licenses required.

Every person participating in horse racing, whether as permit holder, holder of any interest in a permit, association employee, vendor concessionaire and contract holder and the owner or general manager of same, pari-mutuel, or racing official, and all other persons whose duties require them to be present on association premises during racing hours, or to regularly visit such premises during racing hours, are required to have an occupational license from the commission authorizing them to be employed on the licensed premises and to practice their business, profession, or skill. License applicants may be required to furnish to the commission a set of fingerprints and a recent photograph and may be required to be re-fingerprinted or rephotographed periodically as the commission may require.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-02. License fees.

Each application for a license required by this chapter, or its renewal, must be accompanied by the payment of an annual fee according to the following schedule:

1.	Association license to conduct live racing	\$100.00 + \$10.00 per day of racing
2.	Trainer	\$75.00
3.	Owner, individual	\$50.00
4.	Owner-trainer (combined)	\$75.00
5.	Owner (partnership, corporation)	\$75.00
6.	Jockey/driver	\$35.00
7.	Jockey apprentice	\$35.00
8.	Jockey agent	\$50.00
9.	Authorized agent	\$50.00
10.	Stable name	\$25.00
11.	Pari-mutuel manager	\$35.00
12.	Auditor	\$35.00
13.	Totalizator operator	\$15.00
14.	Track tote fee	\$35.00
15.	Pari-mutuel employee	\$15.00
16.	Racing secretary	\$35.00
17.	Association veterinarian	\$100.00
18.	Assistant veterinarian	\$25.00
19.	Chief of security	\$10.00
20.	Director of racing/speed	\$35.00
21.	Horse identifier	\$35.00
22.	Paddock judge	\$35.00
23.	Concessions owner/manager	\$10.00
24.	Racing secretary assistant	\$15.00
25.	Association steward	\$35.00
26.	Starter	\$35.00
27.	Track manager	\$50.00
28.	Custodian jockey room	\$15.00
29.	Clerk of scales	\$35.00
30.	Handicapper	\$10.00
31.	Timer	\$15.00
32.	Announcer	\$15.00
33.	Exercise person	\$20.00
34.	Groom	\$10.00
35.	Valet	\$15.00
36.	Attendant	\$15.00
37.	Photo/Video manager	\$25.00

38.	Outrider	\$15.00
39.	Pony person	\$20.00
40.	Track concessions employee	\$10.00
41.	Gate admission seller	\$10.00
42.	Starting gate attendant assistant	\$10.00
43.	Hot walker	\$10.00
44.	Office personnel	\$15.00
45.	Photo/Video employee	\$10.00
46.	Security staff	\$10.00
47.	Stable foreman	\$15.00
48.	Others not listed (e.g., track maintenance)	\$10.00
49.	Duplicate license issued to same person or entity during same year	\$10.00
50.	Farrier	\$50.00
51.	Site operator	New \$1,000.00 Renew \$250.00
52.	Service provider	New \$7,500.00 Renew \$2,500.00
53.	Totalizator companies	New \$2,500.00 Renew \$1,500.00

History: Effective July 1, 1989; amended effective January 1, 2008; July 1, 2011; October 1, 2022.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-02.1. Mad scramble wager licensing fee.

Repealed effective October 1, 2022.

69.5-01-05-03. License acceptance.

Acceptance of the license or permit from the commission by any permittee or licensee is deemed a consent to search and inspection by the commission pursuant to these rules, and to the seizure of any prohibited medication, drugs, paraphernalia, or devices.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-04. Recommendation by stewards.

The commission may not issue licenses to applicants previously not licensed in this state for the following occupations listed herein, except upon prior recommendation by the stewards at the meeting: owners, trainers, jockeys, jockey agents, ~~farriers—blacksmiths~~, apprentice ~~farriers~~ ~~blacksmiths~~, veterinarians, veterinarian assistants, horse dentists, exercise persons, stable agents, and authorized agents. The stewards, for the purpose of determining recommendation under this section, may add to their membership a representative of the association, of the horsemen, of the ~~farriers~~~~blacksmiths~~, or of the jockeys, or the commission veterinarian. The stewards may require any applicant to support such application by

endorsers who may be called to testify as to the applicant's qualifications for license. The commission may renew licenses without approval of the stewards.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-05. Unlicensed employees.

The employment at any association premises of any unlicensed person by an association, owner, trainer, or other licensee is prohibited. Upon discharge of any licensed person by any other licensee or permitholder for violation of rules or laws within the jurisdiction of the commission, the employer must report that fact in writing to the commission, including the name and occupation of the discharged licensee and the reasons for the discharge.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-06. Application endorsement.

The commission may not issue any license to any association employee or to any vendorencessionaire employee unless the application includes the prior endorsement of the employee's department head.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-07. Applications recommended by track security.

Repealed effective October 1, 2022.

69.5-01-05-08. Temporary license certificate.

1. A temporary horse owner's license certificate may be issued in emergency situations (i.e., owner out of country or seriously ill).
2. Upon submission to the commission of an affidavit setting forth the emergency by the owner's trainer, the stewards may approve the issuance of a temporary license certificate to an owner. Such temporary license certificate will be valid for a maximum of thirty calendar days from the date of issue.
3. Failure to obtain a permanent license within the designated time may result in the automatic revocation of the owner's license eligibility, andeligibility and may result in a fine or suspension or both for the affiant that has failed to comply.
4. Purses may not be paid to the owner of any horse holding a temporary license certificate pursuant to the provisions of this section. Such payments are only permitted after the individual has obtained a permanent license.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-09. Ineligible license applicants.

The commission may deny or revoke the license of any applicant or holder who:

1. Has been convicted of any of the offenses listed in this subsection, which the commission hereby determines have a direct bearing upon the applicant's or holder's ability to serve the public and present a hazard to the reputation and conduct of racing and pari-mutuel wagering, or may reasonably undermine the public confidence in the integrity of racing:
 - a. Offenses related to drugs, including, without limitation, controlled substances;
 - b. Offenses related to gambling or gaming, including bookmaking, or acting as a tout;
 - c. Offenses related to arranging the outcome of a race, or to any fraud or deception while participating in racing or pari-mutuel wagering activities;
 - d. Offenses related to representations made about any horse, ownership interest in a horse, or lease or sale of any horse;
 - e. Any felony; or
 - f. Any other offense declared by the commission to have a direct bearing upon the applicant's or holder's ability to serve the public in any specified occupation, trade, or profession which is the subject of the commission's jurisdiction.
2. Is not eighteen years of age except owners under eighteen years of age may be licensed with the permission of their legal guardians;
3. Has demonstrated a lack of financial responsibility in transactions related to racing or pari-mutuel wagering;
4. Commits any of the prohibited practices included in section 69.5-01-05-13.
5. Is ineligible to participate in racing in another state or racing jurisdiction whose racing regulatory agency is recognized by and reciprocates in the actions of this state.
6. Seeks application for more than one occupational license, if in the determination of the stewards, the holding of the two licenses would subject the applicant to a conflict of interest in those two licensed activities;
7. Is employed in any part-time or full-time employment with a government or private employer in any work in which a conflict exists with the interests and objectives of a licensed employment;
8. Has been denied patron privileges by order of the commission and has not been reinstated;
9. Supplies false information in the application; or
10. Is not of good moral character.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-10. Duration of license.

1. Licenses issued by the commission must be for a period of one calendar year or such other period of time greater than one year as permitted by the commission.
2. The commission may also issue a license good for one racing season at a pari-mutuel facility.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-11. Workers' compensation.

All owners and trainers shall carry workers' compensation insurance covering all their employees. This section is intended to include all individuals employed by owners and trainers involved in the training and racing of horses.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-12. Best effort.

All licensed personnel are expected to give their best efforts to win in all races in which they participate, and any instructions or advice to the jockey, or any riding or handling of their mounts other than for the purpose of winning are forbidden.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-06, 53-06.2-07, 53-06.2-08

69.5-01-05-13. Prohibited practices.

The following practices by licensees are prohibited:

1. Giving or offering, directly or indirectly, a bribe in any form to any person licensed by the commission to violate these rules or the laws of this state related to racing.
2. Soliciting or offering to accept, directly or indirectly, a bribe in any form by a person licensed by the commission to violate these rules or the laws of this state related to racing.
3. Failing as a licensee to report any bribe or solicitation as in subsections 1 and 2.
4. Soliciting by any licensee except the association of bets by the public.
5. Improperly influencing or attempting to improperly influence the results of a race or combining with any person or conspiring to combine with any person to improperly influence or attempt to improperly influence the results of a race.
6. Entering or starting a horse known or believed to be ineligible or disqualified.
7. Offering or receiving money or other benefit for withdrawing a horse from a race.
8. Making a wager for a jockey by any person except the jockey's owner or trainer.
9. An owner or trainer ~~making~~makes a wager for a jockey on a horse other than that ridden by the jockey. This may not be construed to include bets on another horse in combination with such owner's or trainer's own in multiple wagering bets.
10. Offering or giving a jockey money or other benefit concerning a race, except by the owner or trainer of the horse to be ridden or a track bonus available to all jockeys.
11. Possessing any electrical or mechanical device designed to increase or decrease the speed of a horse during a race, other than an ordinary riding whip.
12. Bookmaking, which is the taking or receiving of a wager upon the result of any horse race of which betting is being conducted by any association licensed by the commission, except through the regular betting windows and facilities provided by the association.
13. Purchasing any ticket or share of a pari-mutuel pool for another, for hire or anything of value.

14. The giving under oath of any false statement or the refusing to testify after proper notice to the commission about any matter regulated by the commission, except in the exercise of a lawful privilege.
15. Subjecting an animal to cruel and inhumane treatment by failing to supply it with adequate food, water, medical treatment, exercise or shelter, or by neglect or intentional act cause a horse to suffer unnecessary pain.
16. Permitting a horse to start a race unless the horse has been officially tattooed under the upper lip or electronically chipped or any other approved means of identification. A horse which is not properly identified may be allowed to race if all the following requirements are met:
 - a. A tattooer or chip technician is unavailable as determined by the ~~state~~chief steward;
 - b. Before post time the horse is inspected by the chief steward and the commission veterinarian; and
 - c. Before post time the ~~state~~chief-steward and commission veterinarian certify the horse's identity to the racing secretary and the horse identifier.
17. Giving false, misleading, or inaccurate information about a horse's performance for publication in a printed program or racing publication.
18. In addition to any of the foregoing prohibited practices, any person who commits an act on the grounds of any pari-mutuel facility which is patently contrary to the best interest of racing or which is in violation of a criminal statute of the United States or of this state and classified as a felony, is subject to administrative action including license revocation, suspension, fine, or deprivation of patron privileges.
19. Disorderly or offensive conduct that breaches the public peace or use of profane, obscene, or indecent language to be heard by another or offer such prohibited conduct to any representative of the commission or the association.
20. Possessing any alcoholic beverage in any pari-mutuel wagering area of any association public areas unless the beverage is purchased on the premises.
21. Possessing any equipment for hypodermic injection, any substance for hypodermic administration or any foreign substance which can be administered internally to a horse by any route, except for an existing condition and as prescribed by a veterinarian. The supply of such prescribed foreign substances shall be limited by ethical practice consistent with the purposes of this section. Notwithstanding the provisions of this subsection, any person may possess within a racetrack enclosure any chemical or biological substance for such person's own use, provided that if such chemical substance is prohibited from being dispensed by any federal law or the law of this state without a prescription, such person is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to that person. Notwithstanding the provisions of this subsection, any person may possess within any racetrack enclosure any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to such person, provided that such person has notified the state steward:
 - a. Of such person's possession of such device;
 - b. Of the size of such device; and
 - c. Of the chemical substance to be administered by such device, and has obtained written permission for possession and use from the state steward.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-14. Alcohol and drug testing.

1. Alcohol prohibition or breathalyzer test.

- a. No licensee or employee of any entity associated with the conduct of racing, while on the grounds of a licensed premises or racetrack may have a blood alcohol concentration of five one-hundredths of one percent by weight, nor may such persons be in any manner impaired by or under the influence of alcoholic beverages.
- b. Stewards or a designated racing commission representative may direct any jockey or gate crew staff to submit to pre-race alcohol testing. If the results show a reading of five one-hundredths of one percent alcohol content or more by weight, such licensee or employee may not be permitted to continue such licensee's or employee's duties for that day.
- c. Acting with reasonable cause, the stewards or a designated racing commission representative may direct any such licensee or employee to submit to a breathalyzer or intoxolizer test or of a test of such person's blood. Such licensee or employee shall, when so directed, submit to such examination. If the results thereof show a reading of five one-hundredths of one percent alcohol content or more by weight, such licensee or employee may not be permitted to continue such licensee's or employee's duties for that day. Such licensee or employee shall also be subject to fine, or suspension, or other discipline by the stewards or the commission.
- d. A racing official may not consume any alcoholic beverage or prohibited substance or refuse any breath test or to submit a urine, blood, or hair sample when directed by commission staff during the race meeting.
- e. For a subsequent violation such licensee or employee may be subject to procedures following positive chemical analysis, as set out in subsection 3.
- f. Any licensee who refuses to submit to such test when duly requested to submit to such blood test as set out in this section may be subject to discipline by the stewards and by the commission.

2. Drug prohibition or body fluid test.

- a. No licensee or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised racetrack shall have present within the licensee's or employee's system any controlled substance as defined in North Dakota Century Code chapter 19-03.1 or any prescription legend drug unless such prescription legend drug was obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of such physician's professional practice.
- b. Acting with reasonable cause, the stewards or a designated commission representative may direct any such licensee or employee to deliver a specimen of urine in the presence of a medically trained professional~~the track physician~~ or subject the licensee or employee to the taking of a blood sample or other body fluids by a medically trained professional.
- c. In such cases, the stewards or the designated commission representative may prohibit such licensee or employee from participating in the day's racing or until such time as such licensee or employee evidences a negative test result.

- d. Sufficient ~~samples~~ samples should be collected to ensure a quantity for a split sample when possible.
- e. Refusal by such a licensee or employee to provide the samples described in this section, as so directed, is a violation of these rules and shall subject such licensee or employee to sanction by the stewards or the commission.
- f. All testing must be at the expense of the commission.

3. Procedures following positive chemical analysis.

- a. For a licensee's or employee's first violation such licensee or employee may not be allowed to participate in racing until such time as a licensee's or employee's condition has been professionally evaluated by an appropriate health care professional.
 - (1) After such professional evaluation, if such licensee's or employee's condition is found by the evaluator or the commission to be nonaddictive and not detrimental to the best interest of racing, such licensee or employee will be allowed to participate in racing provided such person can produce a negative test result and agrees to further testing at the discretion of the stewards or designated commission representative to ensure unimpairment.
 - (2) After such professional evaluation, should such licensee's or employee's condition be found by the evaluator or the commission to be addictive or detrimental to the best interest of racing, such licensee or employee will not be allowed to participate in racing until such time as such person can produce a negative test result and show documented proof that such person has successfully completed a certified alcohol or drug rehabilitation program approved by the racing commission. The licensee or employee must agree to further testing at the discretion of the stewards or racing commission representative to ensure the licensee's or employee's unimpairment.
- b. For a licensee's or an employee's second violation, a licensee or an employee must be suspended and allowed to enroll in a certified alcohol or drug rehabilitation program approved by the commission, and may apply for reinstatement only at the discretion of the commission.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-15. Veterinarians.

- 1. Every veterinarian practicing on association premises must be:
 - a. Currently licensed by the state board of veterinary medical examiners; and
 - b. Licensed by the commission.
- 2. The following restrictions and duties apply to veterinarians licensed by the commission:
 - a. A licensed veterinarian practicing at any meeting is prohibited from possessing any ownership, directly or indirectly, in any horse racing during the meeting.
 - b. Veterinarians licensed by the commission as veterinarians are prohibited from placing any wager of money or other things of value, directly or indirectly, on the outcome of any

race conducted at the meeting at which such veterinarians are furnishing professional service.

- c. No veterinarian, within the association grounds, may deliver, furnish, sell, or loan any hypodermic syringe, needle, or other injection device, or without limitation, any drug, narcotic, controlled substance, or other prohibited substance, to any other person within the grounds of an association where racehorses are stabled unless with written permission of the stewards.
 - d. The use of other than single-use disposable syringes and infusion tubes on association premises is prohibited. Whenever a veterinarian has used a hypodermic needle or syringe, such veterinarian shall destroy the needle and syringe and remove it from the association premises.
3. A licensed veterinarian who prescribes or administers any medication or treatment to a horse which the veterinarian considers could affect the racing condition of the horse shall furnish immediately to the horse's trainer and to the stewards a written statement setting forth the name of the horse, its owners, the type of drug or medication and amount prescribed or administered, the date of the administration or prescription, and withdrawal period for the drug.
 4. Every licensed veterinarian practicing on association premises shall maintain records showing all medications purchased or otherwise obtained, and for each horse treated, the name of the horse and its owner, the medication, its method of administration, and its date of administration. Veterinarians shall retain duplicate copies of bills or statements to trainers or owners which must be retained for at least three years and made available to the commission upon request.
 5. Each veterinarian shall report immediately to the stewards and the commission veterinarian any illness in a horse entrusted into the veterinarian's care presenting unusual or unknown symptoms.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.1-05, 53-06.1-10

69.5-01-05-16. Licensing requirements for multiple owners.

1. If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate, or other association or entity, each shareholder, member, or partner holding a five percent or greater beneficial interest shall be licensed as required in this rule.
2. Each partnership, corporation, limited liability company, syndicate, or other association or entity shall disclose to the commission all owners holding a five percent or greater beneficial interest, unless otherwise required by the commission.
3. Each partnership, corporation, limited liability company, syndicate, or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
4. To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the stewards. In the event that no owner has greater than a five percent ownership or beneficial interest in a horse, no less than one owner shall be licensed by the commission.

5. Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice, or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
6. The written appointment of a managing owner of authorized agent shall be filed with the commission.

History: Effective July 1, 1989; amended effective January 1, 2015.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-17. Owners - General partnership.

Repealed effective January 1, 2015.

69.5-01-05-18. Owners - Limited partnership.

Repealed effective January 1, 2015.

69.5-01-05-19. Applicable horsemen's organization.

Each owner must be licensed by the applicable horsemen's organization.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-20. Stable names.

1. Licensed owners and lessees may adopt stable farm, racing, or corporate names, if registered with the applicable horsemen's organization and the commission.
2. Applications must include the identity or identities of all persons interested in the ownership of the name. After registration by the commission, changes in identities of owners of the stable name must be reported immediately to and approved by the commission.
3. A trainer who is a licensed owner or a part owner may use a stable name in that person's capacity as owner or part owner but a trainer may be licensed as a trainer only in the trainer's legal name.
4. Any person registered under a stable name may cancel the stable name by giving written notice to the commission. A stable name may be changed by registering the new name with the commission.
5. No person may register as the person's stable name one which has already been registered by another person with any other racing authority, which is the real name of another owner or owners of racehorses, which is the real or stable name of any prominent person who does not own racehorses, which is not plainly distinguishable from that of another registered stable name, or which the stewards determine is being used to advertise any product or service.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-21. Leases.

1. No licensee may lease a horse for the purpose of racing at tracks in this state without prior approval of the stewards.
2. Both lessor and lessee entering into such a lease must be licensed by the commission prior to engaging in any activity related to horseracing.
3. Each licensee who leases a horse at any meeting shall submit a copy of that lease to the stewards. The lease must contain at least all of the conditions of the lease arrangement and the names of all parties and horses related to the lease. The failure to submit accurate and complete information under this rule is a violation of these rules. The stewards shall immediately forward a copy of the lease to the commission.
4. An eligibility certificate must be issued by the applicable horsemen's organization for each lessee before any horse under lease is permitted to race.
5. When any lessor of a horse is a corporation, syndicate, partnership, or other entity of multiple interests, it shall furnish to the commission, under oath, the identification of its stockholders, members, partners, or other interested persons and such other information as the commission may require.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-22. Racing colors.

Colors, provided by the owners and approved by the stewards of the meeting, must be utilized during racing competition. Colors may be used by the association which correspond with post position colors.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-23. Registration of horses.

No owner may participate in racing nor stable any horse on association premises unless each horse in the owner's charge is registered with the racing secretary of the association showing for each horse the name, color, sex, age, breeding, and ownership. At registration, the applicable horsemen's organization eligibility certificate for each horse must be presented and evidence of registration of each horse with the applicable horsemen's organization.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-24. Transfer of horses.

Each transfer of horse ownership at a meeting must be approved by the stewards, recorded with the applicable horsemen's organization and promptly reported to the racing secretary and the commission.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-25. Change of trainer.

No owner may change the trainer of the owner's horse unless by written notice to and the approval of the stewards of the meeting. The stewards will advise the racing secretary of the change and the racing secretary shall require the new trainer to sign the trainer's name on the owner's registration.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-26. Prohibited acts.

1. No owner may employ in this state a veterinarian who is not licensed by both the state board of veterinary medicine examiners and the commission.
2. No owner may enter or start a horse in any race if the horse is ineligible under these rules or the laws of this state related to racing.
3. A trainer may represent the owner of a horse in making entry of a horse in a race, or declaring the horse out of a race.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-27. Trainers.

The following restrictions and duties apply to trainers.

1. No person may hold a trainer's license unless the trainer:
 - a. Is at least eighteen years old;
 - b. Is qualified, in the opinion of the stewards, by reason of experience, background, and knowledge of racing as manifested by passing a written examination and interview administered by the stewards;
 - c. Has complied with the provisions of the state workers' compensation law and has secured workers' compensation for the trainer's employees in accordance with that law; and
 - d. Has applied for a trainer's license in the trainer's legal name, and not under any fictitious or stable name.
2. The commission, in considering whether to license a trainer in this state, may consider the licensure of the trainer currently licensed or registered in another state that is a member of the national association of state racing commissioners.
3. The trainer is responsible for and is the absolute insurer of the condition of the horses in the trainer's care and custody and for the conditions and contents of stalls, tack rooms, feed rooms, sleeping rooms, and other areas which have been assigned by the association to the trainer. The trainer is the absolute insurer of the condition of the horses in the trainer's care and custody during the race and is liable for the presence in the trainer's horse during the race of any drug, medication, or any other prohibited substance. A trainer whose horse has been claimed remains responsible for the horse under this section until after the collection of urine or blood specimens as may be required.

4. Each trainer shall report immediately to the stewards and the commission veterinarian any illness in the horse entrusted into the trainer's care presenting unusual or unknown symptoms. Any alteration in the sex of a horse must be reported and noted by the trainer to the racing secretary or horse identification office immediately, and that office must note the same on the foal certificate.
5. A trainer or the trainer's assistant must be present with the trainer's horse in the paddock and shall supervise the saddling of the horse unless the stewards permit a substitute trainer to perform those duties. Every trainer who brings a horse to the paddock warrants that the horse is qualified for the race, ready to run and in physical condition to exert its best efforts, and entered with the intention to win.
6. A trainer shall present the trainer's horse in the paddock at least twenty minutes before post time of the race in which the horse is entered.
7. The following prohibited acts apply to trainers:
 - a. No trainer may enter or start a horse in any race if the horse is ineligible under these rules or the laws of this state related to racing.
 - b. No trainer may employ a veterinarian who is not licensed by both the state board of veterinary medicine examiners and the commission.
 - c. No trainer may employ any person under the age of sixteen.
 - d. No trainer may employ a jockey for the purpose of preventing the jockey from riding in any race.
 - e. No trainer may train or be responsible for any horse which is wholly or partly owned by a person under suspension by the stewards or the commission.
8. A trainer is responsible for the condition of a horse trained by the trainer and entered in an official workout or race. A trainer is responsible for the presence of a prohibited drug, medication, or substance in a horse trained by the trainer. A trainer is responsible for the presence of a permitted drug, medication, or substance more than the maximum allowable level in a horse trained by the trainer. A report, by a laboratory approved by the commission, is prima facie evidence of the presence of a prohibited drug, medication, or substance and is prima facie evidence of the presence of a permitted drug, medication, or substance in excess of the maximum allowable level.
9. A trainer whose horse has been claimed remains responsible for any violations of rules regarding that horse's participation in the race in which the horse is claimed.
10. The trainer is responsible for maintaining the assigned stable area in a clean, neat, and sanitary condition at all times.
11. Additionally, with respect to horses in a trainer's care or custody, the trainer is responsible for:
 - a. The proper identity, custody, care, health, condition, and safety of the horses;
 - b. Ensuring that at the time of arrival at locations under the jurisdiction of the commission a valid health certificate and a valid negative equine infectious anemia test certificate accompany each horse and which, where applicable, shall be filed with the racing secretary;

- c. Having each horse in the trainer's care that is racing, or is stabled on association grounds, tested for equine infectious anemia in accordance with state law and for filing evidence of such negative test results with the racing secretary;
 - d. Using the service of those veterinarians licensed by the commission to attend horses that are on association ground;
 - e. Immediately reporting the alteration of the sex of the horse to the horse identifier and the racing secretary;
 - f. Promptly reporting to the racing secretary and the official veterinarian when a posterior digital neurectomy is performed and ensuring that such fact is designated on its certificate of registration;
 - g. Promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in the trainer's charge;
 - h. Promptly reporting the serious injury or death of any horse at locations under the jurisdiction of the commission to the stewards and the official veterinarian and compliance with the rules in this chapter governing postmortem examinations;
 - i. Maintaining a knowledge of the medication record and status;
 - j. Immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug, or substance;
 - k. Ensuring the fitness to perform credibly at the distance entered;
 - l. Ensuring that every horse entered to race is present at its assigned stall for a prerace soundness inspection as prescribed in this chapter;
 - m. Ensuring proper bandages, equipment, and shoes;
 - n. Presence in the paddock at least twenty minutes before post time or at a time otherwise appointed before the race in which the horse is entered;
 - o. Personally attending the paddock and supervising the saddling thereof, unless excused by the stewards; and
 - p. Attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so.
12. A trainer may represent the owner of a horse in making entry of a horse in a race, or declaring the horse out of a race.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-28. Authorized agent.

- 1. Authorized licensees and their appointments by the owner expire at the end of the license year unless earlier revoked by the owner, the stewards, or the commission. An owner may appoint only one person at a time to act as the owner's authorized agent. After the appointment, the acts of the agent must be deemed the acts of the owner.

- 2 The stewards shall approve the appointment of authorized agents by endorsing that fact on the authorized agent appointment documents submitted to them and shall verify the validity of the agent's license before approving the appointment. If the authorized agent appointment is for a partnership or stable name, each of the owners of the partnership or stable name shall execute the appointment of agent written authority.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-29. Jockeys and apprentice jockeys.

1. Eligibility.

a. Jockeys.

- (1) No person under sixteen years of age will be licensed by the commission as a jockey.
- (2) The stewards may require that any jockey pass a physical examination and may refuse to allow any jockey to ride until such jockey successfully completes such examination.
- (3) A jockey may not be an owner or trainer of any racehorse.
- (4) A license may not be granted until the applicant has successfully completed two rides under a provisional license of the commission and has been approved by the starter.
- (5) Whenever a jockey from a foreign country, excluding Mexico and Canada, rides in the United States, such jockey must declare that he or she is a holder of a valid license and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet to the commission. The sheet must state:
 - (a) That the jockey is the holder of a valid license to ride;
 - (b) That the jockey is not currently under suspension; and
 - (c) That the jockey agrees to be bound by the rules of the commission.

This sheet must be retained by the commission and at the conclusion of the jockey's participation in racing, it must be returned to the jockey, properly endorsed by the commission, stating that the jockey has not incurred any penalty or had a fall. If a penalty has been assessed against the jockey, the appropriate racing official shall notify the racing authority issuing the original license to extend the penalty for the same period of time.

b. Apprentice jockeys.

- (1) A contract with a horse owner to provide apprentice jockey services, or an apprentice certificate from the stewards must be presented to the commission to be licensed.
- (2) The conditions in subdivision a of subsection 1 with regard to jockeys also apply to apprentice jockeys.

2. Jockeys' fees.

- a. Track management shall have the authority to set the jockey mount fee.
- b. Schedule. The minimum fee to jockeys must be in all races as follows:

Purse	Win	2nd	3rd	Unplaced
\$400 and under	\$27	\$19	\$17	\$16
\$500	30	20	17	16
\$600	36	22	17	16
\$700 - \$900	10%	25	22	20
\$1,000 - \$1,400	10%	30	25	22
\$1,500 - \$1,900	10%	35	30	28
\$2,000 - \$3,400	10%	45	35	33
\$3,500 - \$4,900	10%	55	45	35
\$5,000 - \$9,900	10%	65	50	40
\$10,000 - \$14,900	10%	5%	5%	45
\$15,000 - \$24,900	10%	5%	5%	50
\$25,000 - \$49,900	10%	5%	5%	60
\$50,000 - \$99,900	10%	5%	5%	75
\$100,000 and up	10%	5%	5%	100

- c. Entitlement. Any apprentice or contract jockey is entitled to the regular jockey fees, except when riding a horse owned in part or solely by such jockey's contract holder. An interest in the winnings only (such as trainer's percent) does not constitute ownership.
- d. Fee earned. A jockey's fee must be considered earned when the jockey is weighed out by the clerk of scales. The fee may not be considered earned if the jockey, of the jockey's own free will, takes himself or herself off of the jockey's mount, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above ruling must be at the discretion of the stewards.
- e. Multiple engagements. If any owner or trainer engages two or more jockeys for the same race, the owner or trainer is required to pay each of the jockeys whether the jockey rides in the race or not.
- f. Dead heats. Jockeys finishing a race in a dead heat shall divide equally the totals they individually would have received had one jockey won the race alone. The owners of the horses finishing in the dead heat shall pay equal shares of the jockey fees.

3. Apprentice subject to jockey rules. Unless excepted under these rules, apprentice jockeys are subject to all commission rules governing the conduct of jockeys and racing.

4. Apprentice allowances.

- a. An apprentice jockey shall ride with a five-pound [2.27-kilogram] weight allowance beginning with the apprentice jockey's first mount and for one full year from the date of the apprentice jockey's fifth winning mount.
- b. If after riding one full year from the date of the apprentice jockey's fifth winning mount, the apprentice jockey has failed to ride a total of forty winners from the date of the

apprentice jockey's first winning mount, the apprentice jockey shall continue to ride with a five-pound [2.27-kilogram] weight allowance for one more year from the date of the apprentice jockey's fifth winning mount or until the apprentice jockey has ridden a total of forty winners, whichever comes first.

- c. If an apprentice jockey is unable to ride for a period of fourteen consecutive days or more after the date of the apprentice jockey's fifth winning mount because of service in the armed forces of the United States of America, or because of physical disablement, the commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride.

5. **Conduct.**

- a. **Clothing and appearance.** A jockey shall wear the standard colors for the post position of the horse the jockey is riding, except as otherwise ordered or permitted by the commission or stewards, and shall also wear the number of the saddlecloth corresponding to the number given in the racing program. A jockey shall maintain a neat and clean appearance while engaged in the jockey's duties on association premises and shall wear a clean jockey costume, cap, helmet (as approved by commission), a jacket, breeches, and top boots.
- b. **Competing against contractor.** No jockey may ride in any race against a starting horse belonging to the jockey's contract employer unless the jockey's mount and the contract employer's horse are both trained by the same trainer.
- c. **Competing against spouse.** No jockey may compete in any race against any horse which is owned or trained by the jockey's spouse.
- d. **Confined to jockey room.** A jockey who is engaged to ride a race shall report to the scale room on the day of the race at the time designated by association officials. The jockey shall then report the jockey's engagements and any overweight to the clerk of scales.
- e. **Jockey betting.** A jockey may only be allowed to wager on a race in which the jockey is riding if:
 - (1) The jockey's owner or trainer makes the wager for the jockey; and
 - (2) The jockey only wagers on his or her own mount to win or in combination with other horses in multiple bets.
- f. **Whip prohibited.** No jockey may use a whip on a two-year-old horse before April first of each year.
- g. **Spurs prohibited.** No jockey may use spurs.
- h. **Possessing drugs or devices.** No jockey may have in the jockey's care, control, or custody any drugs or prohibited substances or any electrical or mechanical device that could affect a horse's racing performance.

- 6. **Jockey effort.** A jockey shall exert every effort to ride the jockey's horse to the finish in the best and fastest run of which the horse is capable. No jockey may ease up or coast to a finish, without adequate cause, as determined by the stewards, even if the horse has no apparent chance to win prize money.

- 7. **Duty to fulfill engagements.** Every jockey shall fulfill such jockey's duly scheduled riding engagements, unless excused by the stewards. No jockey may be forced to ride a horse the

jockey believes to be unsound, nor over a racing strip the jockey believes to be unsafe, but if the stewards find a jockey's refusal to fulfill a riding engagement is based on personal belief unwarranted by the facts and circumstances, such jockey may be subject to disciplinary action. The jockey is responsible to the jockey's agent for any engagements previously secured by said agent.

8. Riding interference.

- a. Interference. When the way is clear in a race, a horse may be ridden to any part of the ~~course, but~~ course but may not weave nor cross in front of other contenders so as to interfere with their course or threaten their safety.
- b. Jostling. No jockey may jostle another horse or jockey. No jockey may strike another horse or jockey or ride so carelessly as to cause injury or possible injury to another horse in the race.
- c. Partial fault - Third party interference. If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the infraction was wholly caused by the fault of some other horse or jockey.

9. Jockey weighed out.

- a. A jockey must wear a safety vest when riding in any official race. A safety vest shall weigh no more than two pounds [.91 kilogram] and be designed to provide shock- absorbing protection to the upper body of at least a rating of five as defined by the British equestrian trade association.
- b. Each jockey must be weighed for his or her assigned horse not more than thirty minutes before the time fixed for the race. Any jockey weighing more than four pounds [1.81 kilograms] over the highest weight stated in the published conditions may be weighed only once prior to the first scheduled race.
- c. A jockey's weight must include his or her clothing, saddle, girth, pad, and saddle cloth.
- d. A jockey's weight does not include the number cloth, whip, head number, bridle, bit or reins, blinkers, helmet, tongue strap, tongue tie, muzzle, hood, noseband, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.
- e. If a jockey weighs less than the required condition weight, the clerk of scales shall require the jockey to add extra weight until they meet the minimum weight.

10. Overweight limited. No jockey may weigh more than two pounds [.91 kilogram] over the weight the jockey's horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of the scales at least forty-five minutes before the start of the race. All weights over published conditions must be announced to the public.

11. Weigh in - Unsaddling. Upon completion of a race, each jockey shall ride promptly to the winners circle and dismount. The jockey shall then present himself or herself to the clerk of scales to be weighed in. If a jockey is prevented from riding his or her mount to the winner's circle because of accident or illness either to the jockey or to the jockey's horse, the jockey may walk or be carried to the scales unless excused by the stewards.

- a. Unsaddling. Each jockey upon completion of a race shall return to the winner's circle and shall unsaddle his or her horse, unless excused by the stewards.

- b. Removing horse's equipment. No person except the valet-attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in, each jockey shall carry to the scales all pieces of equipment with which the jockey weighed out. Thereafter, the jockey may hand the equipment to the valet-attendant.
- c. Underweight. When any horse places first, second, or third in a race, or is coupled in any form of multiple exotic wagering, and thereafter the horse's jockey is weighed in short by more than two pounds [.91 kilogram] of the weight of which the jockey was weighed out, the jockey's mount may be disqualified and all purse moneys forfeited.
- d. Overweight. No jockey may be weighed in more than two pounds [.91 kilogram] over the jockey's declared weight, but consideration must be given for excess weight caused by rain or mud. If the jockey is overweight, the jockey's mount may be disqualified and all purse moneys forfeited.

12. Contracts.

- a. Jockey contracts. A jockey may contract with an owner or trainer to furnish jockey services whenever the owner shall require, and in that event a jockey may not ride or agree to ride in any race for any other person without the consent of the owner or trainer to whom the jockey is under contract.
- b. Apprentice contracts and transfers.
 - (1) Owners or trainers and apprentices who are parties to contracts for apprentice jockey services shall file a copy of the contract with the commission, upon forms approved by the commission, and shall, upon any transfer, assignment, or amendment of the contract, immediately furnish a copy thereof to the commission.
 - (2) No apprentice jockey may ride for a licensed owner or agent unless with the consent of the apprentice's contract employer.
- c. Contract condition. No person other than an owner, trainer, jockey agent, or authorized agent of an owner in good standing may make engagements for an apprentice jockey or jockey. However, a jockey not represented by an agent may make his or her own engagements.

13. Jockey fines and forfeitures. A jockey shall pay any fine or forfeiture from the jockey's own funds within forty-eight hours of the imposition of the fine or forfeiture. No other person may pay jockey fines or forfeitures for the jockey.

14. Competing claims. Whenever two or more licensees claim the services of one jockey for a race, first call shall have priority and any dispute must be resolved by the stewards.

15. Jockey suspension.

- a. Offenses involving fraud. Suspension of a licensee for an offense involving fraud or deception of the public or another participant in racing shall begin immediately after the ruling unless otherwise ordered by the stewards or commission.
- b. Offenses not involving fraud. Suspension for an offense not involving fraud or deception of the public or another participant in racing shall begin on the third day after the ruling.
- c. Withdrawal of appeal. Withdrawal by the appellant of a notice of appeal filed with the commission whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the commission must be deemed a frivolous appeal and

referred to the commission for further disciplinary action in the event the appellant fails to show good cause to the stewards why such withdrawal should not be deemed frivolous.

16. **Association valet-attendant.** No jockey may have a valet-attendant except one provided and paid for by the association.
17. **Jockey agent.**
 - a. No jockey may have more than one agent.
 - b. All engagements to ride other than those for the jockey's contract employer must be made by the agent.
 - c. No revocation of a jockey's agent authority is effective until the jockey notifies the stewards in writing of the revocation of the agent's authority.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2018; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-05-30. Jockey agent.

1. **Eligibility.** No person may act as a jockey's agent unless such person has first demonstrated to the stewards that such person has a contract for agency with at least one jockey and has been licensed by the commission.
2. **Limit on contract.** No jockey agent may serve as agent for more than two jockeys. No jockey agent may make or assist in making any riding engagement for a jockey with whom the agent has no contract.
3. **Agent's record.**
 - a. All jockey agents must have in their possession at all times engagement books approved by the stewards, and all engagements made for jockeys by agents must be recorded in said books. Books are subject to examination by the stewards at all times.
 - b. When an owner or trainer engages the services of a jockey through a jockey agent, he or she shall obtain a card from the jockey agent specifying thereon whether or not he or she has first or second call on the services of the jockey. Such calls must be declared at the time of entry.
 - c. Before each day's entries are taken, jockey agents are required to file their first, second, and third calls in each race in the racing secretary's office with a person designated by the stewards. If during the time the entries are being taken, a jockey agent should lose or pick up a call, the jockey agent shall immediately add these calls to the ones previously filed.
 - d. No jockey agent may falsify the jockey agent's records.
4. **Agent withdrawal.** When any jockey agent withdraws from the jockey agent's representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfilled engagements the jockey agent has made for the jockey. No jockey agent may be permitted to withdraw from the representation of any jockey unless advance written notice to the stewards has been provided.
5. **Agent's contract filed.** No jockey agent's contract with a jockey or apprentice jockey, nor any assignment of that contract, is effective unless filed with the stewards.

6. **Prohibited areas.** A jockey agent is prohibited during racing hours from being present in the paddock, the winner's circle, or the saddling enclosure, unless permitted by the stewards.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

**CHAPTER 69.5-01-06
PATRONS**

[Repealed effective October 1, 2022.]

CHAPTER 69.5-01-07 CONDUCT OF RACES

Section

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69.5-01-07-01. Horses ineligible.

A horse is ineligible to start a race when:

1. The horse is not stabled on the grounds of the licensed association or facilities approved by the association at least forty-eight hours prior to the race except for ship-ins on race day. Ship-in horses shall be in their assigned stall on the day they are scheduled to race. The racing association must have designated ship-in stalls and must provide the commission veterinarian with stalls assigned prior to nine a.m. All ship-in horses will be subject to prerace examinations by the commission veterinarian at their assigned stalls between nine a.m. and eleven a.m.;
2. The horse's applicable horsemen's organization registration certificate is not on file with the racing secretary, horse identifier, or digital certificate available in the jockey club database;
3. The horse is not fully identified by an official tattoo on the inside of the upper lip or through a digital tattoo or chip, or any other approved method;
4. With respect to a horse who is entered for the first time, the nominator has failed to identify the horse by name, color, sex, age, and the names of his sire and dam as registered;
5. A horse is brought to the paddock and is not in the care of and saddled by a trainer or assistant trainer;
6. A horse has been knowingly entered or raced in any jurisdiction under a different name, with an altered registration certificate or altered lip tattoo by a person having lawful custody or control of the horse for the purpose of deceiving any association or regulatory agency;
7. A horse has been allowed to enter or start by a person having lawful custody or control of the horse who participated in or assisted in the entry of racing of some other horse under the name of the horse in question;

8. A horse is wholly or partially owned by a disqualified person or a horse is under the direct or indirect management of a disqualified person;
9. A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
10. A horse has no current negative coggins test certificate attached to the registration certificate;
11. The stakes or entrance money for the horse has not been paid;
12. A horse appears on the starter's list, stewards' list, or veterinarian's list;
13. A horse is a first-time starter and not approved by the starter;
14. A horse is owned in whole or in part by an undisclosed person or interest;
15. A horse which has started in a race within the past calendar year which race has not been reported in a nationally published monthly chart book, unless at least forty-eight hours prior to entry, the owner of the horse provides to the racing secretary under oath performance records which show the place and date of the race, the distance, the weight carried, the amount carried, and the horse's finishing position and time;
16. In a stakes race, a horse has been transferred with its engagements, unless, prior to the start, the fact of transfer of the horse and its engagements has been filed with the racing secretary;
17. A horse is subject to a lien which has not been approved by the stewards and filed with the horseman's accountant;
18. A horse seven years of age or older and still a maiden;
19. A horse is subject to a lease not filed with the stewards;
20. A horse is not in sound racing condition;
21. A horse has been nerved by surgical neurectomy except in the case of heel nerves upon veterinarian approval, or cryosurgery;
22. A horse has been trachea-tubed to artificially assist its breathing;
23. A horse has been blocked with alcohol or otherwise drugged to desensitize the nerves above the ankle;
24. A horse has impaired eyesight in both eyes; or
25. When it is thirteen years old unless it wins a recognized race each preceding year in which case it may continue to race.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-02. Entries.

1. **Filing.** The association shall provide forms for making entries and declarations with the racing secretary. Entries and declarations shall be in writing, or by telephone or other electronic communication ~~or telegraph~~ subsequently confirmed in writing by the owner, trainer, or authorized agent. When any entrant or nominator claims failure or error in the receipt by an association of any entry or declaration,

such entrant or nominator may be required to submit evidence within a reasonable time of the filing of the entry or the declaration.

2. **Posting.** Upon the closing of entries, the racing secretary shall promptly compile a list of entries and cause it to be conspicuously posted.
3. **Coupling.**
 - a. **Entry coupling.** When one or more horses entered in a race have a common owner, the horses must be coupled as an entry. However, a trainer may enter two horses, separately owned, for wagering purposes. One of the horses must be preferred. If the race overfills, only one may start. If the race does not overfill, both horses may start and run as separate betting interest. Except in time trials and stakes races, there is no limit on the number of horses a single owner or trainer may run in that race and all entrants may race uncoupled with the steward's permission for wagering purposes. If an infraction occurs where, in the opinion of the stewards, the act which led to the disqualification served to unduly benefit the owner or trainer of the other entrant, the stewards may, at their discretion, disqualify the other parts of the owned or trained entrants.
 - b. **Coupled entries prohibited.** Coupled entries may not be permitted to race on any program in a race which is part of a daily double.
 - c. **Coupling of entries by stewards.** The stewards shall couple as a single entry any horses which, in the determination of the stewards are connected by common ownership or by a common trainer or when the stewards determine that coupling is necessary in the interest of the regulation of the pari-mutuel racing industry or necessary to the public confidence in racing.
 - d. **Coupled entry excluding others.** A coupled entry may not be permitted to enter or start if the effect of the entry is to deprive an uncoupled single entry horse from starting.
4. **Splitting of a race.** If a race is canceled and declared off for insufficient entries, the association may split the list of entries for any other overnight race to provide an additional race to replace the one canceled. The racing secretary shall by lot divide the entries of the race so split into two different races.
5. **Entry weight.** Owners, trainers, or any person duly authorized by either who enter a horse for a race shall ensure that the entry is correct and accurate as to the weight allowances available and claimed for the horse under the conditions set for the race. After a horse is entered and has been assigned a weight to carry in the race, the assignment of weight may not be changed except in the case of error.
6. **Horses run once daily.** No horse may be entered for more than one race on the same day on which pari-mutuel wagering is conducted.
7. **Foreign entries.** For the purposes of determining eligibility, weight assignments, or allowances for horses imported from a foreign nation, the racing secretary shall take into account the "European Pattern Race Book" published jointly by the Irish turf club, the jockey club of Great Britain, and the societ e d'encouragement.

110 yards	=	100 meters
1 furlong	=	200 meters
1 mile	=	1,600 meters

8. **Weight conversions.** For the purposes of determining eligibility, weight assignments, or allowances for horses imported from a foreign nation, the racing secretary shall convert metric distances to English measures by reference to the following scale:
9. **Name.** The "name" of a horse means the name reflected on the certificate of registration or racing permit or temporary racing permit issued by the applicable horsemen's organization. Imported horses shall have a suffix, enclosed by brackets, added to their registered names showing the country of foaling. This suffix is derived from the International Code of Suffixes and constitutes part of the horse's registered name. The registered names and suffixes, where applicable, must be printed in the official program.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-03. Sweepstakes entries.

1. **Entry and withdrawal.** The entry of a horse in a sweepstakes is a subscription to the sweepstakes. Before the time of closing, any entry or subscription may be altered or withdrawn.
2. **Entrance money.** Entrance money must be paid by the nominator to a race. In the event of the death of the horse or a mistake made in the entry of an otherwise eligible horse, the nominator subscriber shall continue to be obligated for any stakes, and the entrance money may not be returned.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-04. Closing of entries.

1. **Overnight entries.** Entries for overnight racing must be closed at ten a.m. by the racing secretary, unless a later closing is established by the racing secretary or unless approved by the stewards.
 - a. Sweepstakes entries. If an hour for closing is designated, entries and declarations for sweepstakes cannot be received thereafter. However, if a time for closing is not designated, entries and declarations may be mailed ~~or telegraphed~~ **or other electronic communication** until midnight of the day of closing, if they are received in time to comply with all other conditions of the race. In the absence of notice to the contrary, entries and declarations for sweepstakes which close during or on the day preceding a race meeting shall close at the office of the racing secretary in accordance with any requirement the racing secretary shall make. Closing for sweepstakes not during race meetings must be at the office of the association.
 - b. Nominations for stakes races do not close nor is any eligibility payment due on a day in which the United States postal service is not operating.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-05. Prohibited entries.

1. **Entry by disqualified person.** An entry by a disqualified person or the entry of a disqualified horse is void. Any money paid for such entry must be returned if the disqualification is

disclosed at least forty-five minutes before post time for the race. Otherwise the entry money must be paid to the winner.

2. **Limited partner entry prohibited.** No person other than a managing partner of a limited partnership or a person authorized by the managing partner may enter a horse owned by that partnership.
3. **Altering entries prohibited.** No alteration may be made in any entry after the closing of entries, but the stewards may permit the correction of an error in an entry.
4. **Limitation on overnight entries.** If the number of entries to any purse or overnight race is in excess of the number of horses that may be accommodated due to the size of the track, the starters for the race and their post positions must be determined by lot conducted in public by the racing secretary.
5. **Stake race entry limit.** In a stake race, the number of horses who may compete may be limited only by the number of horses nominated and entered. In any case, the association's lawful race conditions govern.
6. **Steward's denial of entry.** The stewards, after notice to the entrant, subscriber, or nominator, may deny entry of any horse to a race if the stewards determine the entry to be in violation of these rules or the laws of this state or to be contrary to the interests of the commission in the regulation of pari-mutuel wagering or to public confidence in racing.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-06. Preference and eligibles.

Each racing association shall provide a preference system before the beginning of each race meet.

1. **Eligible-to-start list.** A list of names may be drawn from entries for positions available in the race. These names must be listed as eligible-to-start as originally entered horses are withdrawn. The order in which these are listed shall become eligible-to-start and their post positions must be determined by the racing secretary. Any owner, trainer, or authorized agent who has entered a horse listed as an eligible-to-start and who does not wish to start shall file a scratch card with the secretary not later than the scratch time designated for that race.
2. **Preferred list entrants.** In making an entry of a horse on the preferred list, a claim of preference must be made at the time of entry and noted on the entry form or the preference will be lost. The preferred list must be posted in a place readily available to all horsemen.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-07. Post positions.

Post positions must be determined by the racing secretary publicly and by lot. Post positions must be drawn from also-eligible entries at scratch time. In all races, horses drawn into the race from the also-eligible list shall take the outside post positions. In races of four hundred forty yards [400 meters] or less, horses will move into the post positions of the horses which have been scratched.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-08. Scratch - Declaring out.

1. **Notification to the secretary.** No horse may be considered scratched, declared out, or withdrawn from a race until the owner, agent, or other authorized person has given notice in writing to the racing secretary before the time set by the association as scratch time. All scratches must be approved by the stewards.
2. **Declaration irrevocable.** Scratching, or the declaration of a horse out of an engagement for a race, is irrevocable.
3. **Limitation on scratches.** No horse may be permitted to be scratched from a race if the horses remaining in the race number less than eight, unless the stewards permit a lesser number. Where there are more requests to scratch that, if granted, would leave a field less than eight, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race. In the case of scratches from races involving daily doubles or trifecta wagering, eight entries must remain in the race to enable an entrant to voluntarily scratch.
4. **Scratch time.** Unless otherwise set by the racing secretary, scratch time, with regard to stake races, must be at least forty-five minutes before post time, and with regard to other races may be no later than eight a.m. of the day of the race.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-09. Workouts.

1. **When required.** No horse may be started unless the horse has raced or has an approved timed workout satisfactory to the stewards. Such workout must have occurred on the grounds of a licensed pari-mutuel facility within the previous thirty days. A horse which has not started for a period of sixty days or more is ineligible to race until it has completed a timed workout satisfactory to the stewards prior to the day of the race in which the horse is entered. No horse may be taken onto the track for training or a workout except during hours designated by the association.
2. **Identification.** The timer or the stewards may require any licensee to identify a horse in the licensee's care being worked. The owner, trainer, or jockey may be required to identify the distance the horse is to be worked and the point on the track where the workout will start.
3. **Information dissemination.** If the stewards approve such timed workout so as to permit the horse to run in a race, they shall make it mandatory that this information is furnished to the public in advance of the race including, but not limited to, the following means:
 - a. Announcement over the track's public address system;
 - b. Transmission on the track's messageboard;
 - c. Posting in designated conspicuous places in the racing enclosure; and
 - d. Exhibit on track television monitors at certain intervals if the track has closed circuit television.

If the workout is published prior to the race in either the daily racing form or the track program, then it is not necessary to make the announcements set forth in this subsection.

4. **Restrictions.** No horse may be taken onto the track for training or a workout except during hours designated by the association.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-10. Equipment.

1. **Whip and bridle limitations.** Unless permitted by the stewards, no whip or substitute for whip may exceed one pound [.45 kilogram] or thirty inches [762.00 millimeters] and no bridle may exceed two pounds [.91 kilogram].
2. **Equipment change.** No licensee may change the equipment used on a horse from that used in the horse's last race, unless with permission of the paddock judge. No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter, the paddock judge, and the stewards. In the paddock prior to a race, a horse's tongue may be tied down with clean bandages, clean gauze, or with a tongue strap.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-11. Racing numbers.

1. **Number display.** Each horse in a race shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.
2. **Coupled entries.** In the case of a coupled or other entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry must be entered as 1 and 1-A.
3. **Field horses.** In a combined field of horses, each horse in the field shall carry a separate number.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-12. Purse money.

1. The amount of purse money earned is credited in United States currency and there may be no appeal for any loss on the exchange rate at the time of transfer from the United States currency to that of another country.
2. All purse money must be paid out in its entirety for each race run.

History: Effective July 1, 1989; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-13. Dead heats.

1. In the event of a dead heat, the prize money will be distributed in equal shares to the owners of the horses so finishing. In a dead heat finish for first place, each horse must be considered a winner of the amount of the purse or prize.

2. If a prize includes a cup, plate, or other indivisible prize, owners shall draw lots for the prize in the presence of at least two stewards.
3. In the event of a dead heat finish for second place (and thereafter), and an objection to the winner of the race is sustained, the horses in the dead heat must be considered to have run a dead heat for first place.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-14. Purse money presumption.

The fact that purse money has been distributed prior to the issuance of a laboratory report may not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning such purse money.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-15. Coggins test.

1. **Certified required.** No horse may be allowed to enter, start, or be stabled on the grounds of the racing establishment unless a valid negative coggins test certificate is presented.
2. **Trainer responsibility.** In the event of claims, sales, or transfers, it is the responsibility of the new trainer to ascertain the validity of the certificate for the horse within twenty-four hours. If the certificate is either unavailable or invalid, the previous trainer is responsible for any reasonable cost associated with obtaining a coggins certificate.
3. **Positive test reports.** Whenever any owner or trainer is furnished a coggins test positive result that the owner's or trainer's horse has equine infectious anemia (EIA), the horse must be removed by the owner or trainer from association premises or approved farms within twenty-four hours of actual notice of the infection to the owner or trainer.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-16. Race procedures.

1. **Full weight.** Each horse shall carry the full weight assigned for that race from the paddock to the starting point, and shall parade past the stewards' stand, unless excused by the stewards.
2. **Touching and dismounting prohibited.** After the horses enter the track, no jockey may dismount nor entrust the jockey's horse to the care of an attendant unless, because of an accident occurring to the jockey, the horse, or the equipment, and then only with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the hands of the jockey or the assistant starter or an outrider on a lead pony may touch the horse before the start of the race.
3. **Outriders.** Two licensed outriders shall be mounted and on duty during racing hours and one licensed outrider during training hours. They shall be approved by and work under the direction of the stewards.

4. **Jockey injury.** If a jockey is seriously injured on the way to the post, the jockey's horse must be returned to the paddock and a replacement jockey obtained. In such an event both the injured jockey and the replacement jockey will be paid by the owner.
5. **Twelve-minute-parade limit.** After entering the track, all horses shall proceed to the starting post in not more than twelve minutes unless approved by the stewards. After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner. Once at the post, the horses must be started without unnecessary delay. All horses shall participate in the parade carrying their weight and equipment from the paddock to the starting post and any horse failing to do so may be disqualified by the stewards. No lead pony leading a horse in the parade shall obstruct the public's view of the horse entered in the race that the lead pony is leading except with permission of the stewards.
6. **Striking a horse prohibited.** In assisting the start of a race, no person other than the jockey, the starter, the assistant starter, or the veterinarian shall strike a horse or use any other means to assist the start.
7. **Delays prohibited.** No person may obstruct or delay the movement of a horse to the starting post.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2018.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-16.1. Post to finish.

1. The start
 - a. The starter shall assure each participant receives a fairstart.
 - b. If the stewards suspect a false start has occurred, the stewards shall post the inquiry sign and may disqualify the horse, declare it a nonstarter, or take no action.
 - c. If, when the starter dispatches the field, any door at the front of the starting gate stalls does not open properly due to a mechanical failure or malfunction or if any action by any starting personnel directly causes a horse to receive an unfair start, the stewards may declare the horse a nonstarter.
 - d. Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse must be declared a nonstarter by the stewards.
 - e. If an accident or malfunction of the starting gate, or other unforeseeable event compromises the fairness of the race or the safety of race participants, the stewards may declare individual horses to be nonstarters, exclude individual horses from all parimutuel pools or declare a "no race".
 - f. If a race is declared a "no race" the purse must be distributed evenly to all participants or the funds must be returned to their source. If it is determined funds must be returned:
 - (1) All funds provided by the commission must be returned to the commission except when an association returns the funds to that association's purse pool and uses the funds to fund subsequent races.
 - (2) Nomination, entry fees, or similar payments by horsemen for eligibility in the race must be returned to the horsemen.

2. Disqualification
 - a. If the stewards determine a horse is disqualified for interference, the stewards may place the offending horse behind such horses as in the stewards' judgment it interfered with, or the stewards may place it last.
 - b. If a horse is disqualified for a foul, any horse in the same race owned or trained by the same interests, whether coupled or uncoupled, also may be disqualified.
 - c. When a horse is disqualified for interference in a time trial race, for the purposes of qualifying only, the horse must receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits, and is eligible to qualify for the finals or consolations of the race on the basis of the assigned time.
 - d. Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person authorized to handle or attend to a horse is prima facie evidence of a violation of these rules and is sufficient grounds for the stewards to scratch or disqualify the horse.
 - e. The stewards may determine that a horse must be unplaced for the purpose of purse distribution and time trial qualification.
3. Multiple disqualifications. If the stewards determine there is more than one incident of interference in a race for which disqualification is warranted, the stewards shall deal with the incidents in the order in which the incident occurs during the race from start to finish; except in the case in which the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered. The stewards shall make a conscious effort to place and maintain as placed, every and all horses placed behind others for interference.
4. Use of riding ~~whipcrop~~
 - a. Although the use of a riding crop is not required, any jockey who uses a riding ~~whipcrop~~ during a race shall do so only in a manner consistent with exerting his/her best efforts to win.
 - b. In all races in which a jockey rides without a riding ~~whipcrop~~, an announcement of such fact must be made over the public address system.
 - c. No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, may be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.
 - d. The riding ~~whipcrop~~ only may be used for safety, correction, and encouragement.
 - e. All riders should comply with the following when using a riding ~~whipcrop~~:
 - (1) Showing the horse the riding ~~whipcrop~~ and giving it time to respond before hitting it;
 - (2) Having used the riding ~~whipcrop~~, giving the horse a chance to respond before using it again; and
 - (3) Using the riding ~~whipcrop~~ in rhythm with the horse's stride.
 - f. Prohibited use of the riding ~~whipcrop~~ includes striking a horse:

- (1) On the head, flanks, or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse;
 - (2) During the post parade or after the finish of the race except when necessary to control the horse;
 - (3) Excessively or brutally causing welts or breaks in the skin;
 - (4) When the horse is clearly out of the race or has obtained its maximum placing;
 - (5) Persistently even though the horse is showing no response under the riding whipcrack; or
 - (6) Striking another rider or horse.
- g. After the race, horses are subject to inspection by a racing or official veterinarian looking for cuts, welts, or bruises in the skin. Any adverse findings must be reported to the stewards.
- h. The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.
5. Horse leaving the racecourse. If a horse leaves the racecourse during a race, the horse is disqualified.
6. Order of finish
- a. The official order of finish must be decided by the stewards. The decision may be made with the aid of the photo finish system, and in the absence of the photo finish film record, the video replay. The photo finish and video replay are only aids in the stewards' decision. The decision of the stewards is final in all cases.
 - b. The nose of the horse determines the placement of the horse in relationship to other horses in the race.
7. Time trials. In absence of specific conditions for a particular race that set forth criteria to address the situations that may arise from the running of time trials to determine the eligible horses to participate in finals, these rules apply:
- a. Except in cases in which the starting gate or racetrack physically restricts the number of horses starting, each time trial must consist of no more than ten horses.
 - b. The time trials must be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten fastest times qualify to participate in the finals. If the time trials are conducted on two days, the horses with the five fastest times on the first day and the horses with the five fastest times on the second day qualify to participate in the finals. When time trials are conducted on two days, the racing secretary shall make a best effort to split owners with more than one entry into separate days or time trials, or both.
 - c. If the association's starting gate has fewer than ten stalls or the racetrack safely accommodates fewer than ten horses, the maximum number of qualifiers must correspond to the maximum number of starting gate post positions or maximum number of horses the track can safely accommodate.
 - d. Except in races around the turn, if only eleven or twelve horses are entered to run in time trials from a gate with twelve or more stalls, the association may choose to run finals

only. If eleven or twelve horses participate in the finals, only the first ten finishers receive purse money.

- e. In the time trials, horses must qualify on the basis of time and order of finish. The times of the horses in the time trial is determined to the limit of the timer. The only exception is when two or more horses have the same time in the same trial heat. In that case, the order of finish also determines the preference in qualifying for the finals. If two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position, a draw by public lot must be conducted as directed by the stewards. Qualifying times in separate trials may not be determined beyond the limit of the timer by comparing and/or enlarging photo-finish images.
- f. Except in the case of a disqualification, under no circumstances may a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.
- g. If a horse is disqualified for interference during the running of a time trial, the horse must receive the time of the horse it is immediately placed behind plus one hundredth of a second, or the maximum accuracy of the electronic timing device. No adjustments may be made in the times recorded in the time trials to account for headwind, tailwind, offtrack, etc. If a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse must be given no time plus and that horse should not be eligible to run in the finals.
- h. If a malfunction occurs with the electronic timer on any time trial, finalists from that time trial must be determined by official hand timing operated by two official and disinterested persons. The average of the two hand times must be utilized for the winning time, unless one of the hand times is clearly incorrect. In such cases, the more accurate hand time must be utilized for the winning time; other horses must be given times according to the order and margins of finish with the aid of the photo finish, if available.
- i. When there is a malfunction of the timer during some time trials, but the timer operates correctly in other time trials, the accurate electronic times may not be discarded, nor may the average of hand times be used for all time trials.
- j. If the accuracy of the electronic timer or the average of the hand times, or both, are questioned, the video of a time trial may be used by the stewards to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. When the timer malfunctions and there are no hand times, the stewards may select qualifiers based on the video.
- k. If there is a malfunction of the starting gate, and one or more stall doors do not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors nonstarters or may allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. If a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter purposely dispatches the field, the horse may be declared a non-starter and the stewards may direct that all entry fees be refunded. If one or more, but not all stall doors, open at the exact moment the starter purposely dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic time. If the electronic timer malfunctions in this instance, the average of the hand times, or if not available, the video may be utilized for horses declared starters.
- l. If a horse is scratched from the time trials, the horse's owner may not be eligible for a refund of the fees paid and may not be allowed to enter the final. If a horse that qualified

for the final is unable to enter due to racing soundness, or scratched for any reason other than a positive drug test or a rule violation, the horse is deemed to have earned and the owner will receive, last place money. If more than one horse is scratched, those purse monies may be added together and divided equally among those owners.

- m. If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the time trials are declared official, but prior to entry for the final or consolation, the non-qualifier with the next fastest time replaces the disqualified horse. If a qualifier is disqualified after entry for a final or consolation for any reason other than racing unsoundness, illness, or death, if necessary, the purse must be redistributed among the remaining qualifiers.

History: Effective July 1, 2017.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-17. Claiming races.

1. General requirements.

- a. Starting requirements. No person may file a claim for any horse unless such person holds an owner's license.
- b. One stable claim. No stable which consists of horses owned by more than one person and which has a single trainer may submit more than one claim in any race and an authorized agent may submit only one claim in any race regardless of the number of owners represented.
- c. Procedure for claiming. To make a claim for a horse, an eligible person shall:
 - (1) Deposit to such person's account with the horsemen's bookkeeper the full claiming price and applicable taxes as established by the racing secretary's conditions.
 - (2) File the claim filled out completely and with sufficient accuracy to identify the claim in writing on forms provided by the association prior to the time the horse leaves the paddock in a locked claim box maintained for that purpose by the stewards.

2. Claim box.

- a. The claim box must be approved by the commission and kept locked until the horses have left the paddock, when it must be presented to the stewards or their designee for opening and publication of the claims.
- b. The claim envelope must have the time of day noted and initialed on the envelope by the horseman's bookkeeper or stamped by an automatic time clock prior to being dropped in the box.
- c. No official of said association may give any information as to the filing of claims therein until after the race has been run.

3. Claim irrevocable. After a claim has been filed in the racing office, it may not be withdrawn.

4. Multiple claims on single horses. If more than one claim is filed on a horse, the successful claim must be determined by lot conducted by the stewards or their representatives.

5. Successful claims - Later races.

- a. Sale or transfer. No successful claimant may sell or transfer a horse, except in a claiming race, for a period of thirty days from the date of claim.
- b. Eligibility price. A claimed horse may not start in a race in which the claiming price is less than the price in which it was claimed for a period of thirty days. If a horse is claimed, no right, title, or interest therein may be sold or transferred except in a claiming race for a period of thirty days following the date of claiming. The day claimed does not count but the following calendar day must be the first day. The horse is entitled to enter whenever necessary so the horse may start on the thirty-first calendar day following the claim for any claiming price. The horse is required to continue to race at the track where claimed for a period of thirty days or the balance of the current race meeting whichever comes first.
- c. Racing elsewhere. A horse which was claimed under these rules may not participate at a race meeting other than that at which it was claimed until the end of the meeting, except with written permission of the stewards. This limitation does not apply to stakes races.
- d. Same management. A claimed horse may not remain in the same stable or under the control or management of its former owner.
- e. When a horse is claimed out of a claiming race, the horse's engagements are included.

6. Transfer after claim.

- a. Forms. Upon a successful claim, the stewards shall issue in triplicate, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization must be forwarded to and maintained by the commission, the stewards, and the racing secretary for the benefit of the horse identifier. No claimed horse may be delivered by the original owner to the successful claimant until authorized by the stewards. Every horse claimed shall race for the account of the original owner.
- b. Other jurisdiction rules. The commission will recognize and be governed by the rules of any other jurisdiction regulating title and claiming races when ownership of a horse is transferred or affected by a claiming race conducted in that other jurisdiction.
- c. Determination of sex and age. The claimant is responsible for determining the age and sex of the horse claimed notwithstanding any designation of sex and age appearing in the program or in any publication. In the event of a spayed mare, the (s) for spayed should appear next to the mare's name on the program. If it does not and the claimant finds that the mare is in fact spayed, claimant may then return the mare for full refund of the claiming price.
- d. Affidavit by claimant. The stewards may, if they determine it necessary, require any claimant to execute a sworn statement that the claimant is claiming the horse for the claimant's account or as an authorized agent for the claimant's principal and not for any other person.
- e. Delivery required. No person may refuse to deliver a properly claimed horse to the successful claimant and the claimed horse is disqualified from entering any race until delivery is made to the claimant. Transfer of possession of a claimed horse must take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the original trainer or the trainer's representative shall maintain physical custody of the claimed horse and shall observe the testing procedure and sign the test sample tag. The successful claimant or the claimant's representative also shall accompany the horse to the test barn.

- f. Obstructing rules of claiming. No person or licensee may obstruct or interfere with another person or licensee in claiming any horse nor enter any agreement with another to subvert or defeat the object and procedures of a claiming race, or attempt to prevent any horse entered from being claimed.
 - g. Title. Title to a claimed horse must be vested in the successful claimant at the time the horse leaves the paddock. The successful claimant becomes the owner of the horse whether the horse is alive or dead, sound or unsound, or injured at any time after leaving the paddock, during the race or after. If the claimed horse has been approved by the stewards to run without the registration certificate on file in the racing office, the registration certificate must be provided to the stewards for transfer to the new owner before claiming funds will be approved for transfer by the stewards.
 - h. Title warranty. A person entering a horse in a claiming race warrants that the title to the horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and the horse's entry approved by the stewards. A transfer of ownership arising from a recognized claiming race terminates any existing prior lease for that horse.
7. **Elimination of stable.** An owner whose stable has been eliminated by claiming may claim for the remainder of the meeting at which such owner was eliminated or for thirty racing days, whichever is longer. If the thirty-day period extends into a succeeding meeting, the owner shall obtain a certificate from the stewards of the meeting at which the owner's last horse was claimed to attach to any claim the owner makes at the succeeding meeting. With the permission of the stewards, stables eliminated by fire or other casualty may claim under this rule.
8. **Deceptive claim.** The stewards may cancel and disallow any claim within twenty-four hours after a race if they determine that a claim was made upon the basis of a lease, sale, or entry of a horse made for the purpose of fraudulently obtaining the privilege of making a claim. In the event of such a disallowance, the stewards may further order the return of a horse to its original owner and the return of all claim moneys.
9. **Protest of claim.** A protest to any claim must be filed with the stewards before noon of the day following the date of the race in which the horse was claimed. Nonracing days are excluded from this rule.

History: Effective July 1, 1989; amended effective April 1, 2018.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-18. Medication.

- 1. Except as otherwise specifically provided by law, the commission adopts by reference:
 - a. The association of racing commissioners international controlled therapeutic medication schedule version 14.4.
 - b. The association of racing commissioner's international uniform classification guidelines for foreign substances and recommended penalties version 14.4.
 - c. The model rules ARCI-011-020 section B(13)(a) through (j) of the association of racing commissioners international model rules of racing version 11.0.
- 2. Furosemide.

- a. Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the furosemide list. In order for a horse to be placed on the furosemide list the following process must be followed.
 - (1) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official veterinarian or the veterinarian's designee shall be notified using the prescribed form, that the horse is to be put on the furosemide list.
 - (2) The form must be received by the official veterinarian or the veterinarian's designee by the proper time deadlines so as to ensure public notification.
 - (3) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or the veterinarian's designee, on the proper form, no later than the time of entry.
 - (4) After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of sixty calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official furosemide list a second time in a three hundred sixty-five-day period, the horse may not be placed on the list for a period of ninety calendar days.
 - (5) Furosemide shall only be administered on association grounds.
 - (6) Furosemide shall be the only authorized bleeder medication.
- b. The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized:
 - (1) Furosemide shall be administered by the official veterinarian or the veterinarian's designee no less than four hours prior to post time for the race for which the horse is entered.
 - (2) A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified above.
 - (3) The dose administered shall not exceed five hundred milligrams nor be less than one hundred fifty milligrams.
 - (4) Furosemide shall be administered by a single, intravenous injection.
 - (5) After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody, and control of its trainer or the trainer's designated representative under the association or commission security supervision, or both, until called to the saddling paddock.
- c. The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

- (1) Furosemide shall be administered by the official veterinarian or the veterinarian's designee no less than four hours prior to post time for the race for which the horse is entered.
 - (2) The furosemide dosage administered shall not exceed five hundred milligrams nor be less than one hundred fifty milligrams.
 - (3) Furosemide shall be administered by a single, intravenous injection.
 - (4) After treatment, the horse shall be required by the commission to remain in the proximity of its stall in the care, custody, and control of its trainer or the trainer's designated representative under general association or commission security surveillance, or both, until called to the saddling paddock.
- d. Test result must show a detectable concentration of the drug in the post-race serum, plasma, or urine sample.
- (1) The specific gravity of post-race urine samples may be measured to ensure the samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;
 - (2) Quantitation of furosemide in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.
- e. The administering authority or association may assess a fee approved by the commission on licensed owners of treated horses to recoup the reasonable costs associated with the administration of furosemide in the manner prescribed in these rules.
3. Bleeder list.
- a. The official veterinarian shall maintain a bleeder list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.
 - b. Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:
 - (1) First incident - Fourteen days;
 - (2) Second incident within a three hundred sixty-five-day period - Thirty days;
 - (3) Third incident within a three hundred sixty-five-day period - One hundred eighty days;
 - (4) Fourth incident within a three hundred sixty-five-day period - Barred for racing lifetime.
 - c. For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.
 - d. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

- e. A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.
 - f. A horse which has been placed on a bleeder list in another jurisdiction pursuant to these rules shall be placed on a bleeder list in this jurisdiction.
4. Antiulcer medications. The following antiulcer medications are permitted to be administered, at the stated dosage, up to 24 hours prior to the race in which the horse is entered:
- a. Cimetidine (Tagamet®) - 8-20 mg/kg PO BID-TID.
 - b. Opeprazole (Gastrogard®) - 2.2 grams POSID.
 - c. Rantidine (Zantac®) - 8 mg/kg PO BID.

History: Effective July 1, 1989; amended effective January 1, 2008; January 1, 2015; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

69.5-01-07-19. Horseracing Integrity and Safety Act of 2020.

The commission and all licensees are subject to any Horseracing Integrity and Safety Act of 2020 rules that are required to be enforced in North Dakota.

History: Effective October 1, 2022.

General Authority: NDCC 53-06.2-04

Law Implemented: NDCC 53-06.2-04

**CHAPTER 69.5-01-08
PARI-MUTUEL WAGERING SYSTEMS**

Section	
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69.5-01-08-08	Betting Explanation
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69.5-01-08-20	Claims for Payment from Pari-Mutuel Pool
69.5-01-08-21	Complaints Pertaining to Association Pari-Mutuel Operations
69.5-01-08-22	Licensee Duty to Report

69.5-01-08-01. General.

Each association may permit wagering only on races conducted by each association on the grounds of such association except as otherwise permitted by the commission and state law. A licensee that is hosting pools may permit wagering only through the systems and methods approved by the commission. All such permitted wagering must be under the pari-mutuel system employing a totalizator system approved by the commission. All other systems of wagering other than pari-mutuel are prohibited.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-02. Totalizator system.

1. Each association shall install and operate during its meeting a totalizator system approved by the commission and such system must be tested prior to and during the meeting as required by the commission.
2. A licensee that is hosting pools shall use only a totalizator system approved by the commission.
3. A licensee hosting tournament style pools, including the tournament wager or 123racing Pick-n Wager may elect to calculate pools using its own software and servers suitable for this purpose rather than a licensed totalizator system only if all of the following conditions are met:
 - a. Wagers made into the tournament pool are not comingled with wagers placed through any other entity or any interstate or international combined wagering pools.

- b. The licensee provides a daily report of all tournament wagering activity including such data as requested by the commission or as necessary to comply with statute or administrative rules. The daily reports must be delivered to the commission's independent auditor or other designated representative no later than 8:00 a.m. eastern time the day following the generation of the wagers in a manner and format designated by the commission.
- c. The licensee establishes a real-time data feed with a totalizator company approved by the commission. The data feed must include the odds feed, stop betting, scheduled post time, and payoffs for any race comprising part of the tournament wager. The data feed may be provided via inter-tote system protocol, web service application program interface, or other method capable of providing the required data as approved by the commission. The licensee shall utilize a secure network for all datacommunications.
- d. The licensee utilizes the stop betting data from the real-time data feed to automatically close wagering. The licensee's system also must be capable of automatically closing wagering at post time in the event of an interruption in the real-time datafeed.
- e. After close of wagering for a tournament or any race or races comprising the tournament, the licensee makes all such picks publicly available by immediately posting a listing of all selections by player in the tournament.
- f. The licensee obtains all necessary authorizations to allow the commission, its independent auditor, or other designated representative to obtain pricing data files directly from the host totalizator at a track holding a race which comprises part of the tournament wager. If there is a discrepancy between the pricing data of the track host totalizator and the licensee, the licensee shall work directly with the independent auditor to identify and reconcile the error in accordance with section 69.5-01-11-04.1.
- g. The licensee provides any track holding a race which comprises part of the tournament wager with authorization to view reports from the commission's independent auditor or other designated representative providing the wagering data required in order to audit licensee payments to the track.
- h. A totalizator company provides access to the commission, its independent auditor, or its designated representative to its facility, records, and any other information as required by the commission.
- i. The licensee submits a tournament wagering operations plan to the commission for its review and approval. The operations plan must provide details on all operations specified in this section as well as any additional information requested by the commission. The plan must provide the following additional information and specifically address how the licensee's operations ensure the same level of integrity in the wagering process as required of licensed totalizators pursuant to sections 69.5-01-11-13 through 69.5-01-11-15 as applicable:
 - (1) Facility safety and security.
 - (2) Hardware operation and security.
 - (3) Software operation and security.
 - (4) Management procedures.
 - (5) Personnel requirements.
 - (6) Reporting and log requirements.

History: Effective July 1, 1989; amended effective April 1, 2016; January 1, 2017.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-03. Records.

The pari-mutuel (mutuels) manager shall maintain complete records of all wagering so the commission may review such records for any race including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest, and such other information as the commission may require. Such wagering records must be retained by each association or licensee and safeguarded for a period of time specified by the commission.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-04. Calculation and distribution of pools.

1. **General.** The only pari-mutuel wagering pools permitted are, those designated in the association of racing commissioners international model rules of racing ARCI-004-105 part I, A through X, and pari-mutuel plus, pick 1-2-3, pick 1-2-3-4-5, 123racing Pick-n Wager®, Tote-X® win, and tournament wager. In each pool there must be a separate and independent calculation and distribution. From each pool there must be deducted by each association or licensee the commissions as provided by state law. The remainder of the moneys in the pool must be distributed as payoff to ticketholders as set out therein.

2 Pari-mutuel plus.

- a. The pari-mutuel plus pool requires selection of the order of any designated number of finishers, in their exact positions, in designated contests. The service provider must obtain written approval from the commission concerning the scheduling of the pari-mutuel plus contests and designate the percentage of the amount of carryover. The pari-mutuel plus pool consists of a pool and jackpot carryover and must have predetermined percentages set aside for the pool designated to winners who selected the designated number of finishers. The pool will be distributed to the winners who selected the finishers, in their exact positions, and they will then be eligible for the random drawing of the randomly generated numbers assigned to the wager's ticket to be drawn for the awarding of the jackpot pool. To be awarded the jackpot pool, the winner of the pool must have the matching randomly generated number on the person's ticket that is drawn randomly from the group of designated numbers. Any changes to the approved pari-mutuel plus format require prior approval from the commission.
- b. Unless otherwise stated, the major share of the net pari-mutuel plus pool shall be distributed as a single price pool to those who selected the designated number of finishers, in exact positions, based upon the official order of finish.
- c. The pari-mutuel plus pool shall be apportioned with no minor pool and carryover by choosing the designated number of horses in exact order of finish. The service provider must make a written request to the commission for approval to offer consolation and minor pools in the pari-mutuel plus pool, and be granted approval before implementation.
 - (1) The net pari-mutuel plus pool shall be distributed in accordance with the method for distributing the major share to all winners who selected the designated number of finishers, in exact positions.
 - (2) If there are no wagers qualifying for the major share, the net major share shall be added to the carryover.

- d. If there is a dead heat in the pari-mutuel plus pool involving:
 - (1) Contestants representing the same betting interest, the pool will be distributed as if no dead heat occurred.
 - (2) Contestants representing two or more betting interests, the pool will be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- e. The pari-mutuel plus pool shall be canceled and all pari-mutuel plus wagers for the individual performance shall be refunded under the following conditions:
 - (1) If the pari-mutuel plus contests are canceled or declared no contest prior to the first pari-mutuel plus contest being declared official, the entire pari-mutuel plus pool shall be refunded on wagers for those contests.
 - (2) If all remaining pari-mutuel plus contests are canceled or declared no contests after the first pari-mutuel plus contest is declared official, the entire net pari-mutuel plus pool, but not the pari-mutuel plus carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the pari-mutuel plus contest. However, if there are no wagers selecting the winning combination in the pari-mutuel plus contest, the entire pool shall be refunded on wagers for those contests.
- f. Mandatory distribution.
 - (1) The service provider must submit a written request to the commission for permission to distribute the pari-mutuel plus carryover on a specific performance. The request to the commission shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance of the distribution. The service provider must notify the commission at least ten days prior to implementation. If the pari-mutuel plus pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.
 - (2) If the pari-mutuel plus carryover is designated for distribution on a specific date and performance, and if there are no wagers qualifying for the major share, which is sixty-five percent of the pool, then the following precedence shall be followed in determining the winning wagers for the pari-mutuel plus pool and carryover pool:
 - (a) The major share and the pari-mutuel plus carryover shall be distributed as a single price pool to those who selected the designated number of finishers, in exact positions, based upon the official order of finish, and who have received a matching random number selected through a drawing of one of a designated group of numbers, minus the service provider or racetrack take-out.
 - (b) The major share and the pari-mutuel plus carryover shall be distributed as a single price pool to those who correctly selected the most finishers, in their exact positions, based upon the official order of finish.
- g. If for any reason, the pari-mutuel plus carryover must be held over to the corresponding pari-mutuel plus pool of a subsequent pari-mutuel plus contest, the carryover shall be deposited in an interest-bearing account approved by the commission. The pari-mutuel plus carryover plus accrued interest shall then be added to the pari-mutuel plus pool of the following meet on a date and performance so designated by the commission.
- h. With written approval of the commission, the service provider may contribute to the pari-mutuel plus carryover a sum of money to be designated by the service provider or the

racetrack. Moneys contributed to the pool may be withdrawn when the pool accumulation totals the moneys contributed.

- i. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
 - j. The service provider may suspend previously approved pari-mutuel plus wagering with prior approval from the commission. Any carryover shall be held until the suspended pari-mutuel plus wagering is reinstated. A service provider may request approval of the pari-mutuel plus wager or a separate pari-mutuel plus wagering pool for specific performances.
3. **Pick 1-2-3 pool.** The pick 1-2-3 pool requires selection of the first three finishers, irrespective of order, in each of three designated contests. Payment of the ticket may be made only to the purchaser who has selected the qualifying finishers in three designated races.
- a. Pick 1-2-3 requires a selection of a combination of either nine, eight, seven, or six, first, second, and third place finishers, in any order, in three consecutive races that are designated as pick 1-2-3 races to qualify for a payout. There will be no monetary award for the winning combination for winning the first pick 1-2-3 race or any combination of five or less qualifiers in each of the three races.
 - b. The service provider must obtain written approval from the commission concerning the scheduling of the pick 1-2-3 contests, the designation of qualifying races, and the cap to be set on the carryover. Any changes to the pick 1-2-3 wager format requires prior approval from the commission.
 - c. The pick 1-2-3 pool and carryover, if any, shall be distributed as a single price pool to those who selected the winning combination of the top three finishers in three races, or a decreasing scale of qualifiers eight of nine, seven of nine, or six of nine, in the following payout method:
 - (1) Fifty percent of net pool and accumulated jackpot divided between players selecting nine of nine.
 - (2) Thirty percent of net pool divided between players selecting eight of nine.
 - (3) Fifteen percent of net pool divided between players selecting seven of nine.
 - (4) Five percent of net pool divided between players selecting six of nine.
 - (5) If there are no winning wagers for the nine of nine winners, then fifty percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - (6) If there are no winning wagers for the eight of nine winners, then thirty percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - (7) If there are no winning wagers for the seven of nine winners, then fifteen percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.

- (8) If there are no winning wagers for the six of nine winners, then five percent of the net pool carryover will be added to the next pick 1-2-3 race in the race meet schedule.
 - d. Dead heats. In the event of a dead heat in any of the position pick 1-2-3 contests based upon the official order of finish for the purposes of determining whether a wager correctly selected the finishers in exact position, contestants in a dead heat are deemed to jointly occupy both or all positions in the dead heat. For example, if five and six finish in a dead heat for first, then a selection of five for either first or second is correct and a selection of six for either first or second is also correct.
 - e. Scratches.
 - (1) If, due to a late scratch, the number of betting interests in a contest of the pick 1-2-3 pool is reduced to fewer than six contestants, for the purposes of the pick 1-2-3 pool only, such contests shall be declared no contest and the pick 1-2-3 pool shall be declared a canceled contest.
 - (2) Should a betting interest in any contest of the pick 1-2-3 pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.
 - (3) Scratch contestant losers:
 - (a) The scratch contestant is deemed to be a loser, for the purposes of the pick 1-2-3 pool only.
 - (b) Other correctly selected finishers in the pick 1-2-3 shall continue to count toward winning, as usual.
 - f. Canceled contests.
 - (1) If any of the pick 1-2-3 contests are canceled or declared no contest prior to the first pick 1-2-3 contest being declared official, the daily pick 1-2-3 pool shall be refunded on the pick 1-2-3 wagers for those contests.
 - (2) If all remaining pick 1-2-3 contests are canceled or declared no contest after the first pick 1-2-3 contest is declared official, the entire net pick 1-2-3 pool, but not the pick 1-2-3 carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first pick 1-2-3 contest. However, if there are no wagers selecting the winning combination in the first pick 1-2-3 contest, the daily pick 1-2-3 pool shall be refunded on pick 1-2-3 wagers for those contests.
 - g. Mandatory distribution. The service provider must submit a written request for permission to distribute the pick 1-2-3 carryover on a specific performance to the commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The service provider must notify the commission at least ten days prior to implementation. If the pick 1-2-3 pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.
4. **Pick 1-2-3-4-5 pool.** Pick 1-2-3-4-5 requires selection of the first five finishers, irrespective of order, in each of three designated contests. Payment of the ticket may be made only to the purchaser who has selected the qualifying finishers in three designated races.

- a. Pick 1-2-3-4-5 requires the selection of a combination of either fifteen, fourteen, thirteen, or twelve first, second, third, fourth, and fifth place finishers, in any order, in three consecutive races that are designed as pick 1-2-3-4-5 races to qualify for a payout. There will be no monetary award for the winning combination for winning the first pick 1-2-3-4-5 race or any combination of eleven or less qualifiers in each of the three races.
- b. The service provider must obtain written approval from the commission concerning the scheduling of the pick 1-2-3-4-5 contests, the designation of qualifying races and the cap to be set on the carryover. Any changes to the pick 1-2-3-4-5 wager format require prior approval from the commission.
- c. The pick 1-2-3-4-5 pool and carryover, if any, shall be distributed as a single price pool to those who selected the first five finishers in three races or a decreasing scale of qualifiers fifteen of fifteen, fourteen of fifteen, thirteen of fifteen, or twelve of fifteen in the following payout method:
 - (1) Fifty percent of net pool and accumulated jackpot divided between players selecting fifteen of fifteen.
 - (2) Thirty percent of net pool divided between players selecting fourteen of fifteen.
 - (3) Fifteen percent of net pool divided between players selecting thirteen of fifteen.
 - (4) Five percent of net pool divided between players selecting twelve of fifteen.
 - (5) If there are no winning wagers for the fifteen of fifteen winners, then fifty percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
 - (6) If there are no winning wagers for the fourteen of fifteen winners, then thirty percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
 - (7) If there are no winning wagers for the thirteen of fifteen winners, then fifteen percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
 - (8) If there are no winning wagers for the twelve of fifteen winners, then five percent of the net pool carryover will be added to the next pick 1-2-3-4-5 race in the race meet schedule.
- d. Dead heats. In the event of a dead heat in any of the position pick 1-2-3-4-5 contests based upon the official order of finish for the purposes of determining whether a wager correctly selected the finishers in exact position, contestants in a dead heat are deemed to jointly occupy both or all positions in the dead heat. For example, if five and six finish in a dead heat for first, then a selection of five for either first or second is correct and a selection of six for either first or second is also correct.
- e. Scratches.
 - (1) If, due to a late scratch, the pick 1-2-3-4-5 pool is reduced to fewer than six contestants, for the purposes of the pick 1-2-3-4-5 pool only, such contests shall be declared no contest and the pick 1-2-3-4-5 pool shall be declared a canceled contest.

- (2) Should a betting interest in any contest of the pick 1-2-3-4-5 pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.
- (3) Scratch contestant losers:
 - (a) The scratch contestant is deemed to be a loser, for the purposes of the pick 1-2-3-4-5 pool only.
 - (b) Other correctly selected finishers in the pick 1-2-3-4-5 shall continue to count toward winning, as usual.
- f. Canceled contests.
 - (1) If any of the pick 1-2-3-4-5 contests are canceled or declared no contest prior to the first pick 1-2-3-4-5 contest being declared official, the entire pick 1-2-3-4-5 pool shall be refunded on the pick 1-2-3-4-5 wagers for those contests.
 - (2) If all remaining pick 1-2-3-4-5 contests are canceled or declared no contest after the first pick 1-2-3-4-5 contest is declared official, the entire net pick 1-2-3-4-5 pool, but not the pick 1-2-3-4-5 carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first pick 1-2-3-4-5 contest. However, if there are no wagers selecting the winning combination in the first pick 1-2-3-4-5 contest, the entire pick 1-2-3-4-5 pool shall be refunded on pick 1-2-3-4-5 wagers for those contests.
- g. Mandatory distribution. The service provider must submit a written request for permission to distribute the pick 1-2-3-4-5 carryover on a specific performance to the commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The service provider must notify the commission at least ten days prior to implementation. If the pick 1-2-3-4-5 pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performances.
- h. Coupled entries and mutuel fields. Coupled entries and mutuel fields are not permitted in pick 1-2-3-4-5 contests.

5. 123racing Pick-n Wager©.

- a. The 123racing Pick-n Wager is a separate pari-mutuel pool wager established by the association or licensee on a designated number of races. The gross pool consists of the total amount wagered for the multiple race bet. Winning wagers are determined by the highest points totals earned after all rounds have been completed, based on cumulative mythical two dollar win, place, show wagers (a fantasy two dollar across the board wager), on one betting interest per wagering race. It is not a parlay and has no connection with or relation to other pools conducted by the association or licensee other than the utilization of live race payouts as a means of calculating players' fantasy points.
- b. A valid 123racing Pick-n Wager ticket shall be evidence of a binding contract between the holder of the ticket and the association or licensee, and shall constitute an acceptance of 123racing Pick-n Wager provisions and rules contained in this chapter.
- c. A licensee may establish a minimum and maximum number of entries per tournament. If the minimum number of entries are not received, the licensee may cancel and refund all wagers in that tournament. The minimum entries for each tournament must be published in advance of the opening of the tournament.

- d. A licensee may limit the number of entries per player. The maximum entries per player for each tournament must be published in advance of the opening of the tournament.
- e. A 123racing bet may not be retracted once it has been purchased.
- f. A 123racing Pick-n Wager may be given a distinctive name by the association conducting the meeting or licensee, subject to commission approval, and existing license, copyrights, and patents.
- g. 123racing Pick-n Wagers shall be conducted as follows:
 - (1) Each player wagers into the gross pool and selects one betting interest per wagering race.
 - (2) The number of races that complete the wager varies depending on the specifics of "tournament", as determined by the host racing association or licensee, but shall include no less than four races.
 - (3) Each round of the "tournament" consists of a mythical win, place, show wager on one betting interest per race.
 - (4) Official program numbers must be used for all wagers. All players are responsible for ensuring each wager is placed correctly.
 - (5) Live race payouts are used to calculate players' fantasy points totals.
 - (6) As part of the announced tournament rules, and as approved by the commission, the host racing association or licensee may opt to cap the maximum odds on all fantasy payouts.
 - (7) Each player's fantasy points will be reflected in their cumulative fantasy points totals at the end of each race.
 - (8) Following a race being declared "official", the actual pari-mutuel pool payout for a fantasy across-the-board wager will be translated to points and added to a player's cumulative fantasy points totals. The host racing association or licensee may specify a maximum number of points that can be accumulated by any one wager per contest race subject to commission approval.
 - (9) Of the bettors, the players with the highest fantasy points totals after the last leg are the "winners".
 - (10) A portion of the net pari-mutuel pool as determined in advance of the contest by the host racing association or licensee and approved by the commission, designated the "major net pool" is distributed in accordance with subdivision i.
 - (11) In addition to the major net pool, a host racing association or licensee may designate in advance of the contest and as approved by the commission a portion of the net pari-mutuel pool for carryover as follows:
 - (a) A "perfect pick carryover pool" is carried over to subsequent contests until a bettor successfully selects the winning runners of all designated contests in the current contest, in which case the perfect pick carryover pool will be equally divided between the bettors successfully selecting every winning runner.
 - (b) A "place carryover pool" is carried over to subsequent contests until a bettor successfully selects runners finishing first or second in all designated contests in the current contest, in which case the place carryover pool will be equally

divided between the bettors successfully selecting runners finishing first or second in all designated contests.

- (c) A "show carryover pool" is carried over to subsequent contests until a bettor successfully selects runners finishing first, second, or third in all designated contests in the current contest, in which case the show carryover pool will be divided between the bettors successfully selecting runners finishing first, second, or third in all designated contests.
 - (d) A host racing association or licensee may designate a contest on which a perfect pick carryover pool, place carryover pool, or show carryover pool is terminated and fully distributed to the best performing bettor or bettors in that contest.
- h. A fantasy wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field as determined by the rules of the live corresponding race.
 - i. If a selection in any race designates a betting interest that was scratched, excused, or determined by the stewards to be a nonstarter in the race, the fantasy wager will be on the tote favorite in that race.
 - j. Points for dead heats will be determined by the payouts of the live corresponding race.
 - k. The takeout and its distribution for the 123racing Pick-n Wager shall be set and approved by the host regulatory commission, but shall include the distribution of the negotiated proprietary fee.
 - l. All tickets shall be refunded if all races comprising the 123racing Pick-n Wager are canceled or declared as a no contest. The entire pool shall be refunded if less than four races are completed and if four or more races are completed the net pool shall be distributed pursuant to subdivision l.
 - m. After wagering closes on the first race comprising the 123racing Pick-n Wager, the tournament shall be deemed closed and no entry ticket shall be sold, exchanged, or canceled. No person shall be determined to hold a winning 123racing Pick-n Wager ticket until the last designated race has been declared official.
 - n. In accordance with the following provisions, the host racing association or licensee shall distribute the net pool to the holders of valid tickets that correctly selected the combination of first-place, second-place, and third-place place finishers that generated the top three highest points totals through the designated races or rounds comprising the 123racing Pick-n Wager as follows, unless otherwise approved by the host racing commission:
 - (1) Sixty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holder of the pari-mutuel ticket with the wager which has the highest fantasy points totals after all races have been completed.
 - (2) Thirty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holder of the pari-mutuel ticket with the wager which has the second-highest points totals after all races have been completed.
 - (3) Ten percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holder of the pari-mutuel ticket with

the wager which has the third-highest points totals after all races have been completed.

- (4) If there are two pari-mutuel wagers that equal the highest points totals after all races have been completed, ninety percent of the net amount in the pari-mutuel pool subject to distribution shall be distributed to those ticket holders. Ten percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of pari-mutuel tickets with wagers which have the third-highest points totals after all races have been completed.
 - (5) If there are three pari-mutuel wagers that equal the highest points totals after all races have been completed, one hundred percent of the net amount in the pari-mutuel pool subject to distribution shall be distributed to those ticket holders.
 - (6) If one pari-mutuel ticket wager scores the highest points totals, and two or more pari-mutuel tickets wagers equal the second-highest points totals after all races have been completed, sixty percent of the net amount in the pari-mutuel pool subject to distribution shall be distributed to the highest-scoring ticket holder, and forty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of pari-mutuel tickets which have the second-highest points totals after all races have been completed.
 - (7) If one pari-mutuel ticket wager scores the highest points totals, one pari-mutuel ticket wager scores the second-highest points totals, and two or more pari-mutuel ticket wagers score the third-highest points totals after all races have been completed, then sixty percent of the net amount in the pari-mutuel pool subject to distribution shall be distributed to the highest-scoring ticket holder, thirty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the second-highest scoring ticket holder, and ten percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of pari-mutuel tickets which have the third-highest points totals.
- a. Should circumstances occur which are not addressed by these rules, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of the 123racing Pick-n Wager pool made by the commission are final.

6. Tote-X win.

- a. The Tote-X wagering platform uses a conventional pari-mutuel betting system and a separate pari-mutuel pool to allow ticket holders to wager among themselves on the results of individual races. However, at the time the bet is placed on a selected race through the Tote-X platform, the customer is allocated a fixed number of redeemable units ("RUs") based upon the then-current odds of the horse being wagered upon using proprietary algorithms. The algorithms are applied uniformly to all wagers in the pool. These RUs are then held within the Tote-X platform specific to that bettor. When the odds of the horses in that race change after the initial wager is placed, the value of the issued RUs fluctuates in accordance with the change in odds. The customer may then choose to redeem all or part of their RUs for the current cash value of the RUs at any time prior to the close of wagering on the selected race. The Tote-X platform calculates the final pool by combining all bets made into the Tote-X win pool on a given event and then deducting commission, refunds, redemption payouts, and applicable taxes and fees.
- b. For each Tote-X win pool:

- (1) All bets are placed into the Tote-X win pool for a specific race.
- (2) A valid Tote-X ticket or unique electronic identifier shall be evidence of a binding contract between the holder of the ticket and the host racing association or licensee, and shall constitute an acceptance of Tote-X provisions and rules contained in this chapter.
- (3) Official program numbers must be used for all Tote-X wagers. All players are responsible for ensuring each wager is placed correctly.
- (4) The odds calculations for Tote-X are performed on the same basis as for a conventional pari-mutuel pool. In the Tote-X platform, the proprietary mathematical algorithms will then automatically recalculate the RU values for each horse after each transaction or batch of transactions (bet or redemption), reflecting the change in the current Tote-X pool odds.
- (5) The Tote-X proprietary algorithms shall be applied uniformly to all wagers in the pool.
- (6) As approved by the commission, the host racing association or licensee may opt to cap the maximum odds on all Tote-X payouts.
- (7) A Tote-X wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field as determined by the rules of the live corresponding race.
- (8) The customer may choose to redeem all or part of their RUs for their then-current value at any time prior to the close of the relevant pool if a horse or combination of horses has not been excused by the stewards or declared a nonstarter and the pool operator has not otherwise suspended the capacity for ticket holders to redeem their wagers.
- (9) A Tote-X wager may not be rescinded once it has been purchased other than through proper redemption of RUs in accordance with these rules.
- (10) A redemption requires the customer to surrender all or part of the underlying wager. In the event of a redemption of all RUs issued for a specific wager, the original wager shall be surrendered in its entirety. In the event of a partial redemption of the RUs issued for a specific wager, the original wager will be surrendered in proportion to the percentage of RUs being redeemed;
- (11) Subsequent to the deduction from the pool of each redemption payout, the remainder of the funds in the pool shall constitute the new value of all RUs which are available for subsequent redemptions. Thereafter, those RUs which are not redeemed prior to the closure of the pool constitute the net pool for distribution as payoff to ticket holders of wagers following a race being declared "official".
- (12) Once the Tote-X win pool is closed prior to the race, ticket holders may no longer redeem any of their RUs.
- (13) Each customer holding a successful bet after the race is declared "official" is entitled to collect according to the relevant final odds.
- (14) From each redemption and final pool payout a commission shall be deducted by the host racing association or licensee in accordance with state law.

- (15) The commission and its distribution for the Tote-X wager shall be approved by the commission.
- c. Notwithstanding any language to the contrary, the funds remaining in the Tote-X win pool following the payment of redemptions prior to the closure of the pool constitute the net pool for the purpose of distribution as payoff to winning ticketholders.
 - d. Any funds remaining after the closing of the Tote-X win pool will be distributed as payoff to the winning ticket holders in the same manner as a win pool pursuant to subsection 2.
 - e. Notwithstanding subsection 20 or any language to the contrary contained in this chapter, if, after wagering has commenced on a race, a horse not coupled with another as a betting interest is excused by the stewards or declared a nonstarter, an amount based on the then-current odds as represented by the current value of the RUs on such horse shall be deducted from the pools and refunded upon presentation and surrender of affected pari-mutuel tickets or unique electronic identifier. If more than one horse represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager, then there may be no refund unless all of the horses representing such single betting interest as excused by the stewards or declared a nonstarter, or both.
 - f. Notwithstanding subsection 21 or any language to the contrary contained in this chapter, if, after wagering has commenced on a race, the race is thereafter canceled or declared a "no race" by the stewards, and no redemptions have occurred prior to such, then all wagering thereon shall be refunded upon presentation and surrender of affected pari-mutuel tickets or unique electronic identifier. However, if one or more redemptions have occurred prior to the stewards canceling or declaring a "no race", then all wagering thereon shall be refunded at the then-current odds, as represented by the current value of the RUs, at the time of cancellation upon presentation and surrender of affected pari-mutuel tickets or unique electronic identifier.
 - g. Notwithstanding subsection 22 or any language to the contrary contained in this chapter, in the event of an irreparable breakdown of the totalizator system during the wagering on a race, all Tote-X wagering thereon shall be refunded at the then-current odds, as represented by the current value of the RUs, at the time of irreparable breakdown upon presentation and surrender of affected pari-mutuel tickets or unique electronic identifier.
 - h. Notwithstanding section 69.5-01-08-05 or any language to the contrary contained in this chapter, there is no minimum payoff for a Tote-X redemption. However, any distribution made after closing of the Tote-X win pool shall be subject to the minimum payoff provisions of section 69.5-01-08-05.
 - i. Should circumstances occur which are not addressed by these rules, questions arising therefrom shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of the Tote-X pool made by the stewards are final.

7. Tournament wager.

- a. The tournament wager is a separate pari-mutuel pool wager established by the licensee on a designated number of races. The gross pool consists of the total amount wagered for the multiple race bet. Winning wagers are determined by the highest points totals earned after all races have been completed. It is not a parlay and has no connection with or relation to other pools conducted by the licensee other than the utilization of live race payouts as a means of calculating players' points.

- b. A valid tournament wager ticket is evidence of a binding contract between the holder of the ticket and the association, and constitutes an acceptance of tournament wager provisions and rules contained in this chapter.
- c. A tournament wager ticket may not be retracted within two hours of post time except in accordance with previously published rules. A tournament wager ticket may be canceled only with the approval of the licensee.
- d. A licensee may establish a minimum and maximum number of entries per tournament. If the minimum number of entries are not received, the licensee may cancel and refund all wagers in that tournament. The minimum entries for each tournament must be published in advance of the opening of the tournament.
- e. A licensee may limit the number of entries per player. The maximum entries per player for each tournament must be published in advance of the opening of the tournament.
- f. A tournament wager may be given a distinctive name by the licensee, subject to commission approval.
- g. Tournament wagers must be conducted as follows:
 - (1) Mythical win/place and win/place/show tournament:
 - (a) Players select one or more primary betting interests for each designated tournament race in accordance with published tournament rules.
 - (b) Players may select an alternate betting interests in accordance with published tournament rules. If there is a scratch of the player's primary selection, the alternate will be substituted. If there is also a scratch of the player's alternate selection, or if no alternate selection has been made, the selection will default to the remaining betting interest with the best post time odds as determined by win pool odds.
 - (c) Players accrue earnings based on the actual pari-mutuel win, place, or show payouts for any correct selections, determined from tote payouts, based on a mythical win/place or win/place/show wager of a dollar value established by the licensee in advance of the contest. The licensee may establish maximum mythical earnings in advance of the opening of the contest. As an example, for a two-dollar win/place/show tournament, the maximum payout may be forty- two dollars for a successful win selection, twenty-two dollars for a successful place selection, and twelve dollars for a successful showselection.
 - (d) Should there be a tie in earnings in the contest, ties will be broken in accordance with the following procedures:
 - [1] The entry with the most number of winners selected will win the tie, if a tie still remains, then;
 - [2] The entry selecting the horse with the highest mutuel win payout will win the tie, if a tie still remains, then;
 - [3] The entry with the most number of place horses selected will win the tie, if a tie still remains, then;
 - [4] The entry with the highest mutuel place payout will win the tie, if a tie still remains, then;

- [5] The entry with the most number of show (third place finishers that did not win or place) horses selected will win the tie, if a tie still remains, then; and
 - [6] The winning entry will be determined by a random draw among eligible entries.
- (e) A licensee may provide qualification for future or online tournaments for the entry based on their final ranking, including any tie breakers. Such an offering must be included in the tournament rules published in advance of the opening of the tournament.
 - (f) Pari-mutuel distributions are made at the conclusion of the tournaments that are based on the pari-mutuel distribution schedule published by the licensee in advance of the opening of the tournament.
- (2) Survivor tournament:
- (a) Players select one primary betting interest for each designated tournament race. Players remain in the tournament if the player's betting interest finishes in a win, place, or show position. A player may remain in a tournament if the player's betting interest finishes in third position where show wagering has been canceled by the track if provided by published tournament rules. Players whose betting interest does not finish win, place, or show must be eliminated from the tournament. If no players select a betting interest finishing win, place, or show in a designated tournament race, the licensee may continue the tournament to the next race with all then remaining players if provided by published tournament rules.
 - (b) Players may select an alternate betting interest. If there is a scratch of the player's primary selection, the alternate will be substituted. If there is also a scratch of the player's alternate selection, or if no alternate selection has been made, the selection will default to the remaining betting interest with the best post time odds as determined by win pool odds.
 - (c) Players earn one point per correct selection of a betting interest finishing in a win, place, or show position as determined by existence of a pari-mutuel payout for that position.
 - (d) If the size of the field or other circumstances produce only win/place or only win payouts, only those horses will be considered to be correct selections for the purposes of scoring.
 - (e) In the discretion of the licensee, tiebreakers may be applied in survivor tournaments pursuant to the terms published in advance of the opening of the tournament.
 - (f) Pari-mutuel distributions are made at the conclusion of the tournaments that are based on the pari-mutuel distribution schedule published by the licensee in advance of the opening of the contest.
- (3) Exacta box tournament:
- (a) Players select three primary betting interests for each designated tournament race.

- (b) Players may select an alternate betting interest for each of their three primary selections. If there is a scratch of the player's primary selection, the alternate will be substituted. If there is also a scratch of the player's alternate selection, or if no alternate selection has been made, the selection will default to the remaining betting interest with the best post time odds as determined by win pool odds.
 - (c) Players accrue earnings based on the actual pari-mutuel exacta payout for any correct selections regardless of order, determined from tote payouts, based on a mythical exacta wager of a dollar value established by the licensee in advance of the contest. The licensee may establish maximum mythical earnings in advance of the opening of the contest.
 - (d) In the discretion of the licensee, tiebreakers may be applied in exacta box tournaments pursuant to the terms published in advance of the opening of the tournament.
 - (e) Pari-mutuel distributions are made at the conclusion of the tournaments that are based on the pari-mutuel distribution schedule published by the licensee in advance of the opening of the contest.
- h. A fantasy wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field as determined by the rules of the live corresponding race.
 - i. Earnings or points for dead heats will be determined by the payouts of the live corresponding race.
 - j. The takeout and its distribution for the tournament wager shall be set and approved by the host regulatory commission.
 - k. All tickets must be refunded if all races comprising the tournament wager are canceled or declared as a no contest. The entire pool must be refunded if less than seventy percent of the tournament's designated races remain.
 - l. After wagering closes on the first race comprising the tournament wager, the tournament is deemed closed and no entry ticket may be sold, exchanged, or canceled. No person shall be determined to hold a winning tournament wager ticket until the last designated race has been declared official.
 - m. The licensee shall distribute the net pool to the holders of valid tickets that correctly selected the combination of finishers that generated the highest fantasy earnings or points totals through the designated races/rounds comprising the tournament wager. In advance of the opening of the tournament, the licensee shall submit a payout schedule to the racing commission for approval providing the number of places to be paid and the percentage of payout for each place. Approved payout schedules must be published in advance of the opening of the tournament to which they apply.
 - n. Should circumstances occur which are not addressed by these rules, questions arising thereby must be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of the tournament wager pool made by the commission are final.
8. **Refunds.** Unless otherwise provided, after wagering has commenced, if a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting gate door to open properly, the wagers on such horse must be deducted from the pools, and refunded upon presentation and surrender thereof. If more than one horse represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager or part of a

combination then there may be no refund unless all of the horses representing such single betting interest are excused by the stewards or are prevented from racing because of failure of the starting gate doors to open properly, or both.

9. Race canceled. If for any reason a race is canceled or declared "no race" by the stewards after wagering has commenced on such race, then all wagering thereon must be refunded upon presentation and surrender of pari-mutuel tickets thereon; except as otherwise provided.
10. Totalizator breakdown. In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race must be declared closed and the payoff must be computed on the sums wagered in each pool up to the time of the breakdown. If the odds can be displayed and communicated publicly, betting may continue.

History: Effective July 1, 1989; amended effective January 1, 2008; July 1, 2011; October 1, 2013; July 1, 2014; April 1, 2016; January 1, 2017; October 1, 2018; October 1, 2022.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11

69.5-01-08-05. Minimum wager and payoff.

The minimum wager to be accepted by any licensed association is one dollar except multiple contribution wagers may be accepted at ten cents. The minimum payoff on a two dollar wager must be two dollars and ten cents.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-06. Minors prohibited from wagering.

No minor may be permitted by any licensed association to purchase a pari-mutuel ticket or be present in the immediate wagering areas.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-07. Odds or payoffs posted.

Approximate odds, based on win pool betting for finishing first for each betting interest, must be posted on one or more boards or television screens within view of the wagering public, at intervals of not more than ninety seconds. If daily double wagering is conducted before off time of the second daily double race, the possible payoff for each two dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race; excepting that, in the event of a dead heat for first in the first daily double race, or a scheduled start in the second daily double race, is excused so as to cause a consolation daily double pool, then posting of all possible payoffs is not mandatory, but the association shall make every effort to compute such daily double prices and advise the public of the same by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-08. Betting explanation.

Each association shall publish in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered; such explanation also must be posted in conspicuous places about the association grounds so as to adequately inform the public. Such explanation must be submitted to the commission prior to publication so as to ensure an absence of conflict with these rules.

History: Effective July 1, 1989; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-09. Prior approval required for betting pools.

Each association desiring to conduct other than ten betting races in a single day, or desiring to offer daily double, trifecta, exacta, or quinella wagering, shall first apply therefore in writing to the commission and obtain specific approval as to number of betting races and type of wagering to be offered on a single day.

History: Effective July 1, 1989.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-10. Pools dependent upon betting interests.

Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

1. Shall offer win wagering on all contests with three or more betting interests.
2. May offer win wagering on all contests with two or more betting interests.
3. Shall offer place wagering on all contests with four or more betting interests.
4. Shall offer show wagering on all contests with five or more betting interests.
5. May offer quinella wagering on all contests with three or more betting interests.
6. May offer quinella double wagering on all contests with three or more betting interests.
7. May offer exacta wagering on all contest with two or more betting interests.
8. May offer trifecta wagering on all contests with three or more betting interests.
9. May offer superfecta wagering on all contests with four or more betting interests.
10. May offer twin quinella wagering on all contests with three or more betting interests.
11. May offer show quinella wagering on all contests with three or more betting interests.
12. Shall not offer twin trifecta, tri-superfecta, or twin trifecta wagering on any contests with six or less betting interests.

History: Effective July 1, 1989; amended effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-11. Pari-mutuel ticket sales.

1. No pari-mutuel tickets may be sold except by the association conducting the races on which such wagers are made or a licensee who is hosting pools. Association tickets must be sold only at regular "seller" windows properly designated by signs showing the type and denomination of tickets to be sold at such windows if there are restrictions of any kind. No pari-mutuel tickets may be sold after the totalizator has been locked and no association is responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.
2. Any claim by a person that the person has been issued a ticket other than that which the person requested must be made before such person leaves the seller window and before the totalizator is locked.
3. After purchasing a ticket and after leaving a ticket window, a person is not entitled to enter for issuance of an incorrect ticket, or claim refund or payment for tickets discarded, lost, destroyed, or mutilated beyond identification.
4. Payment on valid pari-mutuel tickets may be made only upon presentation and surrender thereof to the association where such wager was made within ninety days following the running of the race on which such wager was made. Failure to present any such ticket within ninety days constitutes a waiver of the right to receive payment thereon. The balance of funds not paid out constitutes the outs.
5. Payment of valid pari-mutuel tickets must be made on the basis of the order of finishes purposely posted on the infield results board and declared "official" by the stewards; any subsequent change in such order of finish or award of purse money as may result from a subsequent ruling by the stewards or commission in no way affects the pari-mutuel payoff. Cashiers' windows must remain open a reasonable length of time after the last race.
6. The association is responsible for the correctness of all payoff prices posted as "official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed thereon, then such posting error may be corrected accompanied by a public address announcement, and only the correct amounts may be used in the payoff, irrespective of the initial error on the public board.
7. Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets of such race to be proven and the winners verified. Such proof must show the amounts for commissions, breakage, and payoffs, which added together must equal the total pool. All pay slips are to be checked with computer printout sheets as to winner and prices before being issued to cashiers, and all board prices are to be rechecked before released to the public.
8. Whenever the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool, or pools, is less than the amount used in calculating the payoff, such deficiency must be deposited in the pool or pools by the association. Should the recapitulation of sales prove that the actual amount in the pool or pools is greater than the amount used in calculating the payoff due to an error of the totalizator, such error resulting in underpayment to the public, then the aggregate of such underpayments must be paid into the corresponding pool of the next race or races in such amounts as may be determined by the state steward and the pari-mutuel manager. If any such error should occur in computing the daily double pool, the underpayment must be added to the daily double pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from such final adjustment must be paid to the commission.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-12. Coupled entries and mutuel fields.

1. Contestants coupled in association wagering as a coupled entry or mutuel field are be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field may remain valid betting interests and no refunds will be granted; or the stewards may order a refund for the entire betting interest. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests must be refunded, notwithstanding other provisions of these rules.
2. For the purpose of price calculations only, coupled entries and mutuel fields must be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. The rule applies to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-12.1. The pari-mutuel manager.

The association pari-mutuel manager:

1. Shall deliver to the commission at the end of each racing day, a record showing the amount wagered in each pool, the commission and the breakage for each race, and the totals of each for the day.
2. Shall be properly and timely advised by the racing secretary, prior to the beginning of wagering on each race, on the horses that will compete in the race.
3. Is held responsible for the conduct of the mutuel's employees, but is not responsible for their shorts or longs. Each seller or cashier shall be responsible to the pari-mutuel manager for their shorts or longs. Such shorts or longs shall be a guide to the pari-mutuel managers as to the conduct and character of the employees.
4. Shall employ only those licensed by the commission unless by special permission of the commission.
5. Shall allow no one to enter the mutuel department other than those properly licensed and whose employment requires their presence, except with the specific authorization of the pari-mutuel manager or the commission.
6. Shall sign all license applications for employees of the pari-mutuel department.
7. Shall, upon discharging an employee or the resignation of an employee, immediately report same to the commission. If a discharge or resignation is related to possible violations of racing rules or state laws, or problems involving the handling or reconciliations of wagers, notice shall be accompanied by a report to the commission concerning the reasons for the action.
8. Shall be responsible for the odds board and the information it reflects.

History: Effective January 1, 2008; amended effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-13. Emergency situations.

In the event any emergency arises in connection with the operation of the pari-mutuel department not provided for by these rules, then the association pari-mutuel manager shall make an immediate decision and render a full report to the commission.

History: Effective July 1, 1989; amended effective January 1, 2008; April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-14. Totalizator employees.

Any employee of a totalizator company shall report any irregularities or wrongdoings by any person involving pari-mutuel wagering immediately to the commission.

History: Effective July 1, 1989; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-15. Breakage and outs.

1. Each licensee conducting a race meeting shall report to the commission the full amount of all breakage and funds due the state of North Dakota as prescribed by law and these rules, and shall remit such breakage and funds to the commission within thirty days after the race day on which such breakage and funds shall occur or accrue.
2. Each licensee conducting a race meeting shall report to the commission and remit to the commission the full amount of all outs (unclaimed winning tickets) within fifteen days after the ninety-day waiting period as described in subsection 4 of section 69.5-01-08-11.

History: Effective July 1, 1989; amended effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-16. Pari-mutuel cash vouchers.

1. Pari-mutuel cash vouchers may be offered by an association that issues pari-mutuel tickets. These vouchers shall be dispensed through the totalizator system. The stored value on a voucher may be redeemed in the same manner as a value of a winning pari-mutuel ticket for wagers placed at a pari-mutuel window or a self-service terminal, and may be redeemed for their cash value at any time.
2. An association, with prior approval of the commission, may issue special pari-mutuel cash vouchers as incentives or promotion prizes, and may restrict the use of those vouchers to the purchase of pari-mutuel wagers.
3. The tote system transaction record for all pari-mutuel vouchers must include the voucher identification number in subsequent pari-mutuel transactions. Pari-mutuel wagers made from a voucher must identify the voucher by identification number.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-17. Display of betting information by associations.

1. An association shall post the approximate odds for win pool betting on display devices within view of the wagering public and update at intervals of not more than sixty seconds for the current race of the performance.
2. The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the commission.
3. Official results and payouts must be displayed upon each contest being declared official.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-18. Refunds for short fields.

1. Notwithstanding other provisions of these rules, refunds of the entire association pool must be made on:
 - a. Win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two.
 - b. Place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three.
 - c. Show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four.
2. Authorized refunds must be paid upon presentation and surrender of the affected pari-mutuel ticket or automatically by a service provider or site operator in the case of account deposit wagering.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-19. Prior approval required for betting pools.

1. An association that desires to offer new forms of wagering shall apply in writing to the commission and receive written approval prior to implementing the new betting pool.
2. The association may suspend previously approved forms of wagering with the prior approval of the commission. Any carryover must be held until the suspended form of wagering is reinstated. An association may request approval of a form of wagering or separate wagering pool for specific performances.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-20. Claims for payment from pari-mutuel pool.

1. At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by an association in any case where the association has withheld payment, not placed a wager requested by a customer, or has refused to cash a pari-mutuel wager. The

association's full written report on the matter in accordance with requirements of section 69.5-01-08-21 (complaints pertaining to pari-mutuel operations) shall be forwarded to the commission within forty-eight hours of the commission's request.

2. In the case of a claim made for payment of a mutilated pari-mutuel ticket, the association shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-21. Complaints pertaining to pari-mutuel operations.

1. When a patron makes a complaint regarding pari-mutuel operations a complaint report must be issued upon commission request, setting out:
 - a. The name of the complainant;
 - b. The nature of the complaint;
 - c. The name of the persons, if any, against whom the complaint was made;
 - d. The date of the complaint; and
 - e. The action taken or proposed to be taken, if any.
2. Every complaint report must be submitted to the commission within forty-eight hours of commission request.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

69.5-01-08-22. Licensee duty to report.

All licensees shall report any known irregularities or wrong doings by any person involving pari-mutuel wagering immediately to the commission and cooperate in subsequent investigations.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

Law Implemented: NDCC 53-06.2-10, 53-06.2-11

**CHAPTER 69.5-01-09
NORTH DAKOTA BREEDERS FUND**

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69.5-01-09-01. Definitions.

1. "Accredited North Dakota-bred racehorse" means a horse qualifying for and duly registered in the North Dakota breeders fund program. For purposes of awards and purse supplements, such accreditation for horses racing shall continue through the age of twelve years. Awards for breeding mares and stallions shall continue as long as there is progeny racing.
2. "Breeder" means the owner or lessee, or the respective breed-registering organization of the dam at the time of foaling in North Dakota.
3. "Donor mare" means the mare which produces an embryo or an oocyte which, after fertilization, is transferred into the uterus of a recipient mare.
4. "Embryo transfer" means the process of transferring a donor mare embryo into a recipient mare.
5. "North Dakota-bred" means a foal born in North Dakota out of a mare registered as a broodmare under section 69.5-01-9-02 with the North Dakota racing commission prior to the foal's birth, and which mare was in North Dakota:
 - a. On or before February first of the year foaled; or
 - b. Within thirty days after the date of a bona fide purchase or lease transaction, whichever of those dates is the latest, and provided, in either case, that mare remained physically within the boundaries of North Dakota until foaling.
6. "North Dakota-foaled" means a horse born in North Dakota.
7. "Race-horse owner" means the owner or lessee of record with the respective breed-registering organization at the time the horse participates in a race qualifying the horse for breeders fund awards or purse supplements under the provisions of this chapter.
8. "Recipient mare" means the surrogate mare carrying a donor mare's embryo.
9. "Stallion owner" means the owner of a stallion registered as a breeding stallion in the North Dakota breeders fund program. North Dakota breeders fund awards accruing to the owner of a stallion as a result of qualifying race performances by North Dakota-breds sired by a stallion shall be awarded to the owner of the stallion at the time of conception of such progeny.

In a case involving extraordinary circumstances, the North Dakota racing commission or designated registering agency retains the right to allow or disallow the registration of a foal as North Dakota-bred at its sole discretion.

The requirements of this section apply to all breeds.

History: Effective January 1, 1990; amended effective March 1, 2002; July 1, 2011; January 1, 2015; October 1, 2022.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04.1, 53-06.2-11

69.5-01-09-02. Registration and requirements for North Dakota-bred eligibility.

1. The breeder or owner of a North Dakota-bred horse shall register such horse with the North Dakota racing commission before racing to be eligible to receive breeders fund award payments. The commission may contract with and designate an official registering agency to implement the registration of North Dakota-bred horses.
 - a. The original breed registration certificate must be embossed by the commission or official registering agency before the entry into any race eligible for breeders fund awards.
 - b. Failure to have all required paperwork submitted and breed registration certificate embossed before racing shall disqualify a horse from an award or payment from the North Dakota breeders fund.
 - c. The purchaser of a horse is required to have all paperwork submitted and breed registration certificate embossed before racing the horse. Failure to meet these requirements shall disqualify a horse from an award or payment from the North Dakota breeders fund.
2. Broodmare registration. A broodmare must meet the qualifications as outlined in subsection 4 of section 69.5-01-09-01 to be eligible for broodmare award payments based on a percentage of the North Dakota breeders fund program awards earned by accredited North Dakota-bred horses foaled by the mare. In addition, the broodmare must meet the following conditions:
 - a. The North Dakota racing commission or the designated agency must receive or have access to the broodmare's original breed paper or electronic registration certificate for embossing, a completed North Dakota breeders fund program registration application as furnished by the North Dakota racing commission, and a registration fee of thirty dollars.
 - b. Failure to properly register the broodmare, as outlined in section 69.5-01-09-01 and in this section, will disqualify any subsequent claims for North Dakota breeders fund award payments.
 - c. A broodmare may be registered at any time before the time that she delivers a foal.
3. Stallion registration. To be eligible to receive stallion award payments, the following requirements must be met:
 - a. Stallions must physically be in North Dakota and registered with the North Dakota racing commission or official registering agency by February first of the current breeding year. The stallion's original breed registration certification must be received by the North Dakota racing commission or official registering agency for embossing, with a completed North Dakota breeders fund program registration application and a registration fee of thirty dollars. If the stallion is leased, a copy of the lease must accompany the registration application. The lease must include a statement that the lessee is authorized to sign the breeding certificate. A leased stallion must renew its stallion registration each year.

- b. When a stallion is purchased after February first of the current breeding season, the new owner must register the stallion within thirty days after the date of a bona fide purchase with the North Dakota racing commission or official registering agency to be eligible for the North Dakota breeders fund program.
 - c. Stallions must remain in North Dakota for the entire current breeding season from February first to July thirty-first. Stallions registered pursuant to subdivision b must be in North Dakota as of the date of registration and remain in North Dakota through July thirty-first.
 4. Foal registration and certification. For a horse foaled in North Dakota to be registered and subsequently certified as a North Dakota-bred, the following requirements must be met:
 - a. Any time from foaling through December thirty-first of the foaling year that the horse was foaled in North Dakota, the foal must be registered with the North Dakota racing commission or official registering agency. The registration form must be provided by the commission and must contain the date, name, registration number, owner's name of the foaling dam, date the foal was born, and foal owner's statement that the foal was born in North Dakota. The application to register a foal in the North Dakota breeders fund program as a North Dakota-bred must be accompanied by a thirty dollar registration fee.
 - b. Registration applications that meet all other requirements provided in this section, but are received after the December thirty-first deadline, may be processed and approved provided that applications and registration fees received after December thirty-first of the foaling year are accompanied by a late fee of three hundred dollars.
 - c. An investigator appointed by the commission shall have access to the premises on which qualified mares, North Dakota-registered stallions, and North Dakota-bred foals or horses are kept. The investigator may perform random inspections of North Dakota-registered foals as required by the commission.
 - d. The original or electronic breed registration certificate must be embossed by the commission or official registering agency prior to the entry into any restricted race.
 - e. Failure to have the breed registration certificate embossed shall disqualify a horse from entry in a race restricted to, or with preference given to, accredited North Dakota-bred horses, and shall prohibit an award or payment from the North Dakota breeders fund.
 - f. The owner of the dam of a foal submitted to the registering agent or the North Dakota racing commission for registration in the North Dakota breeders fund program must notify the North Dakota racing commission ten days prior to shipping if the dam is to be leaving the state prior to ninety days after foaling.
 - g. The foal of a mare registered in the North Dakota breeders fund program, but owned by an out-of-state individual or corporation, will be required to be inspected by a state-licensed veterinarian and a commission state form veterinarian's certificate verifying that the foal was born in the state of North Dakota submitted with the original foal application paperwork. All of these items are at the expense of the owner.
 5. Embryo transfer. For a resulting foal from an embryo transfer to be eligible for accreditation in the North Dakota-bred program, the donor mare must be accredited in the broodmare registry before foaling.
 - a. If a donor mare is bred in North Dakota, the donor mare may be shipped out of North Dakota to have the embryo removed but must return to North Dakota within thirty days to continue her domicile, or if the donor mare is to be bred in subsequent cycles at an out-of-state location to obtain additional embryos, the broodmare must return to North

Dakota and resume her domicile within thirty days of her final breeding date for that year's breeding season. Nothing in this section would prohibit an accredited broodmare that is serviced out-of-state from producing multiple embryos which are transferred to recipient mares during the period of time she is permitted to be out-of-state for breeding purposes.

- b. Effective January 1, 2023. Before the resulting foal of an embryo transfer is eligible for North Dakota accreditation, the following requirements must be met:
- (1) All recipient mares shall be permanently identified using methods listed on the "recipient mare form" provided by the commission. The "recipient mare form" must be completed by the breeder and returned to the commission by November first of the year before foaling. A "recipient mare form" may not be accepted by the commission after this date.
 - (2) Recipient mares must be domiciled in North Dakota no less than thirty days before the due date indicated on said "recipient mare form" and remain in North Dakota until the foal is born. If a recipient mare is not domiciled in North Dakota at least thirty days before the due date listed on said form, or leaves North Dakota before foaling, the resulting foal is ineligible for entry into the North Dakota-bred program.
 - (3) Any breeder whose "recipient mare form" is on file with the commission shall be responsible to notify the commission in writing, within thirty calendar days, of any changes in domicile location or ownership. In addition, any new owners of said recipient mares, if any, shall notify the commission in writing, within thirty calendar days, regarding the domicile location of the recipient mare.
 - (4) If there is a transfer in ownership of a foal in utero, the new owner shall be responsible to notify the commission in writing, within thirty calendar days, regarding the domicile location of the recipient mare carrying the foal in utero.
 - (5) Failure to comply with these requirements will result in foals being ineligible for entry into the North Dakota-bred program

~~(5)(6)~~ "Recipient mare forms" may not be accepted by the commission after November first of the year before foaling.

~~c. "Recipient mare forms" may not be accepted by the commission after November first of the year before foaling. Any breeder whose "recipient mare form" is on file with the commission shall be responsible to notify the commission in writing, within thirty calendar days, of any changes in domicile location or ownership. In addition, any new owners of said recipient mares, if any, shall notify the commission in writing, within thirty calendar days, regarding the domicile location of the recipient mare. If there is a transfer in ownership of a foal in utero, the new owner shall be responsible to notify the commission in writing, within thirty calendar days, regarding the domicile location of the recipient mare carrying the foal in utero. Failure to comply with these requirements will result in foals being ineligible for entry into the North Dakota-bred program.~~

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-03. Administration of North Dakota breeders fund program.

1. The North Dakota racing commission shall deduct one-half of one percent from each pari-mutuel pool resulting from a licensed race meet or simulcast display for the purpose of providing a North Dakota breeders fund as provided for by North Dakota Century Code section 53-06.2-11. All moneys held in the fund must be deposited with the North Dakota state treasurer in accordance with North Dakota law. All moneys shall remain in the control of the

state treasurer until, upon action of the North Dakota racing commission, funds are transferred to the breeders fund account. The executive director of the racing commission is responsible for the timely deposit of all revenue derived from the breeders fund take-out and shall keep accurate records of deposits and disbursements.

2. The management procedures, rules, fee schedules, registration forms, publications, and all other instruments necessary to the operation of the North Dakota breeders fund program by the official registering agency are subject to the review and approval of the commission. The commission must be provided copies of the completed registration forms for all horses entered in the North Dakota breeders fund program, or the North Dakota stallion or broodmare registry. The official registering agency shall provide the commission with a financial accounting of the North Dakota breeders fund program by an independent accountant within ninety days of the end of the fiscal year. The costs of administering this program will be funded by the North Dakota breeders fund.
3. The racing industry advisory committee shall be the officially recognized advisory body to the North Dakota racing commission on all matters pertaining to the North Dakota breeders fund program. The actions of the racing industry advisory committee shall be advisory only and shall not be binding upon the North Dakota racing commission. Establishment and membership of the racing industry advisory committee as to number and representative affiliation shall be at the discretion of the North Dakota racing commission.
4. Any person who desires to contest the accuracy of the commission's records or accounting of the North Dakota breeders fund distribution in any one year shall file a written claim with the commission prior to the end of the calendar year. The written claim must state the basis for the claim.

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-04. Registration required for North Dakota-bred eligibility.

Repealed effective March 1, 2002.

69.5-01-09-05. Decision as to eligibility of North Dakota-bred.

Questions as to the registration, eligibility for registration, or breeding of a North Dakota-bred horse must be decided by the North Dakota racing commission or official registering agency. The North Dakota racing commission or the official registering agency may demand and inspect any breed registration certificate or record of a North Dakota breeder and may require affidavits in support of any claim for North Dakota-bred registration. Concerning questions as to parentage, the official registering agency may require testing of the horse in question, as well as its sire and dam. Such testing must be done by an organization approved by the official registering agency. The results of this test may be taken into consideration by the official registering agency in its determination of the horse's parentage. A decision of the official registering agency shall be subject to review by the commission, which retains the right to make the final decision as to any right or liability under this article.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-06. False statement concerning North Dakota-bred registration.

Any person who fails to disclose, or states falsely any information required in the registration process of the North Dakota breeders fund program, may be subject to penalties at the discretion of

the commission. Owners and breeders of ~~accredited~~ North Dakota-bred who receive an owner's bonus, or breeders award, shall refund to the North Dakota breeders fund any amount so received in the event it is later determined that any information provided to the North Dakota racing commission during the ~~accreditation~~ process which formed the basis for ~~accreditation~~ as a North Dakota-bred was incorrect or untrue. Such penalties may also include disqualification and exclusion from the North Dakota breeders fund program of both the horses and persons involved in the dispute.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-07. North Dakota-bred racing program.

Any organization licensed by the commission to conduct a race meeting with pari-mutuel wagering shall provide a North Dakota-bred program and publish such conditions in the condition book prior to the commencement of the race meeting. Prior to publication and distribution of the condition book, the commission shall review and approve the North Dakota-bred racing program. Any changes thereto must be filed with the commission and none may substantially deviate from the conditions previously published, unless approved by the commission.

The racing secretary at each racetrack shall be required to write and offer no less than one race each day for accredited North Dakota-bred horses. If the race meeting being conducted is a mixed-race meeting, there shall be offered no less than one race each day per major breed racing (thoroughbreds and American quarter horses) for accredited North Dakota-bred horses. In the event a race does not fill, a race may be opened with North Dakota-bred horses preferred. For the purposes of this clause, a full gate shall consist of six or more horses. All entries must be publicly posted in the race office whether the race fills or not.

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-08. Change of ownership.

Upon transfer of ownership of a North Dakota-bred horse, it is the responsibility of the current owner (purchaser) to notify the North Dakota breeders fund program registering agency or the North Dakota racing commission of any change by providing a copy of the breed certificate showing record of ownership transfer, the North Dakota racing commission transfer of ownership form.

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-09. Establishment of North Dakota-bred added money and award payments at a race meeting.

The North Dakota racing commission shall establish North Dakota breeders fund program added money and award payment levels for accredited North Dakota-bred maiden, claiming, allowance, and stakes races at commission-licensed race meetings and authorize increases and decreases in those levels as the racing commission deems appropriate with respect to funds available in the North Dakota breeders fund. ~~For this section trials are not considered eligible races for award payments.~~

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-10. Distribution of funds for North Dakota-bred pari-mutuel races.

1. A minimum of seventy-five percent of the previous calendar years' deposits accruing to the North Dakota breeders fund shall be awarded to accredited North Dakota-bred horses who qualify for awards. Any race considered in this category must have a minimum purse of two thousand dollars. All amounts will be determined in United States currency.
2. The North Dakota racing commission shall establish the award level distribution amounts for in-state and out-of-state racing each year. All in-state awards must be paid out no later than December thirty-first each year, while out-of-state awards must be paid out no later than February twenty-eighth each year.
3. The official order-of-finish distribution amounts accredited must be as follows:
 - a. Fifty percent of the total scheduled award payment to a winning accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any;
 - b. Thirty percent of the total scheduled award payment to the placing accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any; and
 - c. Twenty percent of the total scheduled award payment to the showing accredited North Dakota-bred horse and the accredited North Dakota-bred broodmare and sire of such horse, if any.
4. The North Dakota racing commission shall establish a point system assigning monetary values for each win, place, or show by North Dakota-bred horses at licensed race meets within the state and outside the state. The point system will assign values based on the relative moneys available for distribution inside the state and outside the state, and the number of horses that qualify for such awards inside the state and outside the state. The North Dakota racing commission shall award additional points within the system it establishes for qualifying performances by accredited North Dakota-bred horses who win, place, or show in a race at a licensed race meet outside the state where the purse is ten thousand dollars or more as follows:
 - a. Purse of ten thousand dollars or more but less than twenty-five thousand dollars is worth double points.
 - b. Purse of twenty-five thousand dollars or more but less than fifty thousand dollars is worth triple points.
 - c. Purse of fifty thousand dollars or more is worth quadruple points.
5. Distribution points for win, place, or show shall be established by the North Dakota racing commission for such performances by North Dakota-bred horses. Separate pools shall be established for moneys to be awarded to North Dakota-bred horses that earn awards at licensed races outside the state and for North Dakota-bred horses who earn awards at licensed races within the state.
6. The distribution of North Dakota breeders fund award payments must be as follows:
 - a. Sixty percent of the scheduled award payment to owners of accredited North Dakota-breds who earn such awards, provided however, that if either the dam or sire, or both, are not duly registered in the program as broodmares or stallions, that the award percentages that would have accrued to them, had they been in the program, be paid to the owner of the accredited foal up to one hundred percent of the scheduled award.

- b. Thirty percent of the scheduled award payment to the breeder of an accredited North Dakota-bred who earns awards, provided that the dam was registered in the North Dakota breeders fund program as a broodmare at the time the accredited North Dakota-bred was foaled.
 - c. Ten percent of the scheduled award payment to the owner of the sire at the time of conception of an accredited North Dakota-bred who earns awards provided that the sire was registered in the North Dakota breeders fund program as a breeding stallion at the time the foal was conceived.
7. Applications for breeders fund awards of the preceding out-of-state year's races must be postmarked to the North Dakota racing commission office on approved forms by January fifth of the year, following those races.
 8. Award checks must have imprinted on them "This check is void if not cashed within sixty days after date of issuance". This statement is binding and checks not cashed within sixty days of issuance shall revert to the commission to be redeposited in the breeders fund for future distribution awards with the exception that in the event the commission is unable to locate and award the recipient by United States first-class mail, the commission shall be given an additional sixty days beyond the void date of the award check to attempt to locate the payee. If unable to locate the payee within the additional sixty days, any such award shall revert to the commission to be held in the breeders fund for future distribution. Any subsequent claims for such awards by the person or entities not cashing award checks as prescribed or not located as defined by this section shall not be allowed.
 9. In no event may North Dakota breeders fund moneys be used to subsidize restricted races, other than those restricted to North Dakota-breds.
 10. All in-state breeders fund awards must be calculated and paid by December thirty-first each year.
 11. All out-of-state breeders fund awards must be calculated and paid by February twenty-eighth each year.

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2018; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-11. Open company wins awards.

Accredited North Dakota-bred horses that win open races at a North Dakota pari-mutuel track will be eligible to receive owner, breeder, and stallion awards authorized by the commission.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-12. Special interim clause.

Until such time as there exists a major racing facility in the state as described in section 69.5-01-09-13, the provisions of this chapter regarding the division of available breeders fund moneys between races inside the state and races outside the state shall pertain. When such a racing facility exists, or is granted race dates or is licensed by the North Dakota racing commission prior to actual physical completion, the North Dakota racing commission may redefine the allocation of breeders fund

moneys for in-state races and out-of-state races. Regardless of the designation of a major racing facility, all moneys generated via simulcasting may be held by the commission and the percentage of distribution for any one year out of the total in the fund shall remain at the discretion of the commission.

History: Effective January 1, 1990; amended effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-09-13. Guidelines of a major racing facility.

In addition to any other requirements or conditions required by the commission, a major racing facility must:

1. Be recognized annually by the North Dakota racing commission as a major racing facility.
2. Offer minimum purses of no less than five thousand dollars for major breeds racing at this track.
3. Have at least a six-furlong track with properly designed turns and chutes.

History: Effective January 1, 1990; amended effective March 1, 2002; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

**CHAPTER 69.5-01-10
NORTH DAKOTA PURSE FUND**

Section

- 69.5-01-10-01 Deduction From Pari-Mutuel Pool
- 69.5-01-10-02 Administration of North Dakota Purse Fund
- 69.5-01-10-03 Investing the Fund
- 69.5-01-10-04 Deposit of Revenue

69.5-01-10-01. Deduction from pari-mutuel pool.

The North Dakota racing commission shall make deductions from each pari-mutuel pool resulting from a licensed race meet or simulcast display for the purpose of providing a North Dakota purse fund as provided for by North Dakota Century Code section 53-06.2-11.

History: Effective January 1, 1990; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-10-02. Administration of North Dakota purse fund.

The North Dakota purse fund must be administered by the commission and will be used only for the purpose of supplementing horse racing purses at live race meets held within the state of North Dakota.

History: Effective January 1, 1990.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-10-03. Investing the fund.

All moneys held in the North Dakota purse fund must be separately invested and reinvested in any combination of government obligations, certificates of deposit, or bank deposit accounts or trust companies organized under the laws of the United States of America or state thereof, provided that such certificates of deposit must be insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation.

History: Effective January 1, 1990; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-10-04. Deposit of revenue.

The executive director of the racing commission is responsible for the timely deposit of all revenue derived from the purse fund take out and shall keep accurate records of deposits and disbursements.

History: Effective January 1, 1990.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

CHAPTER 69.5-01-11
SIMULCASTING AND ACCOUNT DEPOSIT WAGERING

Section

69.5-01-11-01	Definitions
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69.5-01-11-03	Licensing Service Providers and Totalizator Companies
69.5-01-11-04	Duties of Service Providers
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69.5-01-11-10.1	Interstate Common Pool Participation
69.5-01-11-11	Account Wagering [Repealed]
69.5-01-11-11.1	Account Wagering
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69.5-01-11-13	Totalizator System Standards - Facilities and Equipment
69.5-01-11-14	Totalizator System Standards - Operational Requirements
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69.5-01-11-01. Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. "Account wagering" or "account deposit wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. It includes advance deposit wagering.
2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, service provider, or site operator.
3. "Combined pari-mutuel pool" means the pari-mutuel wagers received at sites being contributed into one or more pari-mutuel pools as required by the commission.
4. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering pursuant to North Dakota Century Code section 53-06.2-06.
5. "Independent real-time monitoring system" means a system operated and approved by the commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security data base.
6. "Pari-mutuel manager" means the person responsible for managing the pari-mutuel wagering system, including managing all teller and wagering operations, monitoring tote operations, opening and closing tote, communicating with tote hub, issuing wagering system reports, and maintaining wagering system records.
7. "Sending track" means any track from which signals originate.

8. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast site operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.
9. "Service provider" means a person engaged in providing simulcasting or account wagering services directly to a site operator and establishing, operating, and maintaining the combined pari-mutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders. Sending tracks are also excluded from this definition.
10. "Simulcast services" means services provided to a simulcast site operator including the simulcast signal from a sending track and the operation of the combined North Dakota pari-mutuel pool.
11. "Site" means the physical premises, structure, and equipment utilized by a site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.
12. "Site operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a sending track or to conduct account wagering.
13. "Voucher" means a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.
14. "Entertainment game" means a game, the cash prize of which results from and is determined by the outcome of a pari-mutuel wager processed by an authorized pari-mutuel wagering entity, but is otherwise unrelated to pari-mutuel wagering.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016; April 1, 2018.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-02. General licensing requirements.

1. Any site operator, service provider, or totalizator company must be licensed by the commission and approved by the attorney general. Totalizator companies contracting for service within the state and their employees whose principal work address is within the state must be licensed by the commission. Other vendors and their employees may be required to be licensed at the discretion of the commission. Application for a license must include the license fee as prescribed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year. The initial license fee for a service provider is seven thousand five hundred dollars, for a site operator is one thousand dollars, and for a totalizator company is two thousand five hundred dollars. A service provider is required to pay an additional license fee in accordance with section 69.5- 01-05-02.1 when offering the mad scramble pool.
2. The application for renewal of a license must be made to the commission by such date as may be prescribed by the commission. If the commission has not specifically set application dates for renewal of the class of license, application must be made no later than thirty days prior to the date of expiration of the license. Application for renewal of license must be made in such form as may be prescribed by the commission. Application for license renewal must include

the license fee for a service provider, two thousand five hundred dollars; site operator, two hundred fifty dollars; and totalizator company, one thousand five hundred dollars.

3. Approval or disapproval of an application for site operator, service provider, or totalizator company license must include consideration by the commission of the following:
 - a. The applicant's general benefit to the state of North Dakota.
 - b. The applicant's general benefit to the state's horse racing industry.
 - c. The applicant's integrity.
 - (1) Individual and corporate conduct and reputation.
 - (2) Criminal history.
 - (3) Betting and gaming industry conduct and reputation.
 - d. The applicant's credibility.
 - (1) The feasibility of the applicant's business plan.
 - (2) Experience and expertise of the applicant in the industry.
 - e. Financial stability.
4. A service provider cannot operate without an executed contract with a site operator.
5. The commission may require licensing of any entity or person contracting with or providing services or commodities to any site operator, service provider, or employee licensed by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; October 1, 2012; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-03. Licensing service providers and totalizator companies.

1. Service providers and totalizator companies must be licensed by the commission and approved by the attorney general.
2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:
 - a. The services and equipment to be provided.
 - b. Projected revenue and costs associated with the operations of the applicant.
 - c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.
 - d. A description of the management or management groups responsible for the operation of the service provider or totalizator company, including a list of all officers, directors, partners, and shareholders with a five percent or greater share of ownership or beneficial interest in the service provider or totalizator company.

- e. A complete description of the transmission, totalizator, and data processing equipment to be used.
 - f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.
 - g. Written agreements between the applicant and all parties assisting in providing services.
 - h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.
 - i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the operation and the combined pari-mutuel pool.
 - j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.
 - k. A complete list of licenses held by the applicant, the thoroughbred racing association codes associated with such licenses where applicable and the websites to which the licenses and thoroughbred racing association codes apply.
 - l. A description of the processes and procedures implemented in conjunction with tracks and other industry stakeholders to address possible odds manipulation through placing large bets on small pools, the cancellation of wagers, and other methods.
 - m. The commission may require an audit of the applicant at the expense of the applicant.
 - n. The commission may require totalizator companies to provide documentation of third-party compliance and testing within two years of application.
 - o. The commission may require a background investigation of the applicant to be conducted by the thoroughbred racing protective bureau or another entity approved by the commission, the scope of which shall be at the sole discretion of the commission. The applicant shall be responsible for all costs associated with conducting the background check.
3. The commission may license one or more service providers or totalizator companies concurrently to provide services, as defined by this chapter, to one or more licensed site operators within the state. Fees for such license shall be as prescribed by the commission. Licenses will be for a term of one calendar year. The commission may establish license fees separately for first-time applicants and for renewal of existing licenses in order to recognize additional costs of investigation and analysis required for first-time licenses.
 4. Each applicant for a service provider license shall give a bond or letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-04. Duties of service providers.

1. Service providers shall comply with all state and federal laws, including section 3001, et seq. of title 15 of the United States Code.

2. A service provider intending to make any change in its structure or operations which would alter any of the responses given in its original license application must obtain prior approval of such changes by the commission and must file with the commission a statement including, but not limited to:
 - a. The changes to be made.
 - b. The date and time the service provider intends to commence said changes.
3. A service provider may not be licensed as a site operator.
4. A service provider shall maintain records of all wagering at sites where it provides services. Such records shall be available to the commission for review and shall be retained in safekeeping for periods of time as follows:
 - a. Digital storage for three years.
 - b. Other wagering records as may be required from time to time and are specifically defined by the commission.
5. A service provider shall maintain such security controls over its simulcast, account wagering, and communications system as directed by the commission.
6. A service provider shall provide the commission with a report of its operations as directed by the commission. A summary report detailing handle for each day of wagering, the taxes, and breakage owed to the state of North Dakota, and the amounts owed to one or more site operators shall be provided to the commission on a monthly basis. The report must contain any additional content as directed by the commission.
7. A service provider may only provide simulcast and account wagering services to a site operator licensed by the commission, except that a service provider may provide simulcast services to an Indian tribal entity within the state which may not be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact.
8. A service provider may require compliance by the site operator with contractual provisions necessary to maintain the integrity and proper operation of wagering.
9. A service provider shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.
10. Simulcasting and account wagering may be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a racing commission, racing board, or governmental agency.
11. A service provider shall participate in a combined pari-mutuel pool, ensure the integrity of its participation, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined pari-mutuel pool. Such procedure must include provision for timely reconciliation and settlement of pool accounts by a service provider on behalf of a site operator. Times within which settlement of pool accounts are to be settled must be specified in contracts or service agreements between a service provider and site operators.
12. Payment of taxes and other funds:

- a. A service provider shall pay all pari-mutuel taxes, special fund contributions, and other funds due and owing the state of North Dakota as indicated in the monthly summary report, required in this chapter, directly to the commission.
 - b. Amounts due to North Dakota for pari-mutuel taxes, promotion fund, breeders fund, purse fund, and breakage shall be paid to the commission in monthly payments on or before the last day of the next month succeeding the month in which the pari-mutuel tax or other funds due to North Dakota occurred or accrued.
 - c. A service provider shall submit a report and a corresponding payment of funds owing to the commission for the full amount of outs (unclaimed winning tickets) within fifteen days after the end of the calendar quarter following the calendar quarter in which such wager was made.
 - d. The commission may, when a service provider is delinquent in remittance of taxes or other funds owed to North Dakota, notify the surety providing bond coverage to North Dakota of the delinquent status of such taxes or funds, and may make a claim for payment from the surety.
 - e. If a service provider fails to submit a report of its operations as required, or fails to pay pari-mutuel taxes or other funds due North Dakota within the time required by this section, or if upon audit it is found to owe additional taxes or other funds, a service provider is subject to a late fee of five percent of the amount of tax or other funds due, plus interest of one percent of the tax or other funds due per month or a fraction of a month of delay after the due date for the remittance of the moneys according to this chapter. A service provider with seven of fourteen delinquent payments may be subject to a late fee of ten percent of the moneys due plus interest of one percent of the amounts due per month or a fraction of a month of delinquency. The late fees and interest must be paid to the commission and disposed of in the same manner as other receipts under this chapter.
 - f. The commission may suspend or revoke a license of a service provider for failure to submit a report of its operations as required by law or administrative rule or for failure to pay funds due North Dakota as required by law or administrative rule. The commission may also take such other actions as may be authorized by law.
13. The commission may approve auditors as reasonably necessary for the protection of the public interest. The commission shall be reimbursed on a monthly basis for the salaries, benefit, and travel expenses by the service provider for the auditors assigned to them. Duties of an auditor shall include, but not be limited to, the following when instructed by the commission:
- a. An independent weekly record and report of each race program presented by a service provider. The report must be based on a review of each race contained in a program.
 - b. Reconciliation of all operating exceptions by the service provider and the sites it services that are not within the definitions of this chapter or are departures from normal operating practice. Such reconciliation shall include identification, investigation, reporting, and recommendation for adjustment or disposition directly to the commission.
 - c. Independent review and reporting directly to the director of racing of all actions taken by the service provider or the totalizator company operating under contract with the service provider.
14. A service provider and a totalizator company operating under contract with a site operator shall serve as the designees of the commission to supervise simulcast and account wagering

operations pertaining to pari-mutuel wagering as is reasonably necessary to ensure the public interest.

15. The pari-mutuel manager shall take immediate emergency actions as necessary to assure the continued operation and integrity of the simulcast or account wagering system. All such actions shall be reported to the commission. The pari-mutuel manager shall, when such acts are not, in the manager's judgment an emergency, report to the commission prior to acting.
16. A service provider shall adopt and adhere to emergency operating procedures as follows. Totalizator system operations will be maintained by a service provider hub. Wagering data will be transferred from the wagering site to the hub via data transmission lines or electronic transmission. Wagering will be conducted in ontrack pools. The hub will transfer all wagering data from the wagering site to the ontrack totalizator system. The locking procedure for the purpose of locking all teller windows at post time will be initiated by an ontrack official; the lock will be electronically conducted through the totalizator system to lock all tellers windows at the wagering site. Back-up locking procedures will be maintained by the pari-mutuel manager, the hub pari-mutuel operator and the hub totalizator system operator. In the event of a lock procedure failure, in which one or more windows fail to lock at the designated time, wagers shall be refunded. In the event of a locking procedure failure, a report will be submitted to the commission. Included will be computer reports reflecting all wagering activity.
 - a. In the event of an interruption of the audiovisual satellite signal or the direct wagering and information dissemination connection from the host racetrack, the pari-mutuel manager must:
 - (1) Notify the host track of the loss of signal.
 - (2) Maintain telephone contact with host track pari-mutuel department. The service provider may continue to accept wagering on the balance of the program.
 - (3) In the event the hub totalizator system fails to transfer the data to the ontrack totalizator system, the totalizator hub pari-mutuel operator must notify ontrack totalizator system representative of the problem and request additional time prior to the start of the race to allow for a transmission of the data.
 - (4) A service provider's pari-mutuel manager shall prepare a report indicating that the transfer of data could not be completed electronically. The report shall also include all the following:
 - (a) A copy of the totalizator report prior to the failure of the transfer of data.
 - (b) A copy of the totalizator report.
 - (c) A brief statement as to where the failure occurred, when the ontrack officials were notified.
 - b. The ontrack pari-mutuel manager must be notified of the system failure.
 - c. In the event that the ontrack totalizator system experiences a complete failure, the pari-mutuel manager may pay ontrack prices or refund amounts wagered.
 - d. In the event any emergency arises in connection with the operation of the pari-mutuel system not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.

- e. The ontrack pari-mutuel manager is responsible during the simulcast racing operating hours for the reporting of any problems or delays to the wagering site. The wagering site is responsible for reporting any problems or delays to the public.
17. No service provider may commence wagering or utilize a totalizator system which has not been previously disclosed to the commission without notifying the commission of its intent to begin conducting wagering and receiving written commission approval. The foregoing does not prohibit a service provider from engaging in test wagering if such test wagering does not involve the exchange of real currency.
18. A service provider shall provide its players with contact information for no less than one problem gambling program. The problem gambling program utilized by the service provider shall be clearly identified on the service provider's application and be subject to approval by the commission. The commission may designate changes to the methods employed in displaying contact information as necessary to support the accessibility of the information.
 - a. On any website utilized for account wagering a link to problem gambling program contact information shall be prominently displayed on the main page of the website.
 - b. At any simulcast facility problem gambling program contact information shall be prominently displayed so as to be clearly visible in each room of the facility.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

69.5-01-11-04.1. Independent auditing services.

1. The commission may appoint an independent auditor responsible for providing reports of amounts due to the state of North Dakota from all site operators and service providers for pari-mutuel taxes, promotion fund, breeders fund, purse fund, unclaimed tickets, and breakage.
2. The independent auditor shall obtain wagering data directly from the totalizator company used by the service provider. Each service provider shall cooperate fully to provide the independent auditor with complete access to all wagering data held by the service provider and their totalizator company.
3. In the event of a discrepancy between reports provided by a service provider and the independent auditor, the service provider shall work directly with the independent auditor and take all reasonable steps to identify the error or discrepancy and provide a complete reconciliation to the commission not later than thirty days after the service provider is notified of the discrepancy. The commission may grant an extension of this deadline.
4. If the discrepancy between reports provided by a service provider and the independent auditor is the result of an error in the systems or procedures utilized by the service provider, the service provider shall file a report detailing the cause of the error and a proposed course of action to correct the error. The error must be corrected and a final report filed detailing the correction no later than sixty days after the service provider is notified of the error. The commission may grant an extension of this deadline.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

69.5-01-11-04.2. Thoroughbred racing association codes and account deposit wagering websites.

1. A service provider may conduct wagering under its North Dakota license only through thoroughbred racing association codes, simulcast sites, and websites specifically identified to the commission in writing. All simulcast sites and websites must be identified in the service provider application by their corresponding thoroughbred racing association code. These requirements may be waived by the commission in the event that thoroughbred racing association codes are not used in wagering into international jurisdictions or thoroughbred racing association codes are no longer used as part of industry standards. If the commission finds that providing a waiver for the use of thoroughbred racing association codes would affect the security or integrity of the wagering to be conducted, the commission may not issue the waiver.
2. A service provider shall notify the commission prior to the use of any new thoroughbred racing association code under its North Dakota license and must specify in each notification the simulcast site or website with which the thoroughbred racing association code is associated.
3. The service provider shall be responsible for retiring any thoroughbred racing association codes no longer in use and notifying the commission of such retirement in writing. A service provider may not use a thoroughbred racing association code for any purpose other than the purpose described in its service provider application without notifying the commission. The commission may require confirmation from the entity regulating thoroughbred racing association codes of a change in thoroughbred racing association code description if applicable.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

69.5-01-11-05. Licensing site operators.

1. Before the commission may grant a license to a site operators, it shall review and approve a plan of operation submitted by an applicant including, but not limited to, the following information:
 - a. A feasibility study denoting the revenue earnings expected from the facility and the costs expected to operate such facility. The feasibility study must include:
 - (1) The number of races to be simulcast.
 - (2) The types of wagering to be offered.
 - (3) The level of attendance expected and the area from which such attendance will be drawn.
 - (4) The level of anticipated wagering activity.
 - (5) The source and amount of revenue expected from other than pari-mutuel wagering.
 - (6) The cost of operating the facility and the identification of costs to be amortized and the method of amortization of such costs.
 - b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.

- c. The description of the management groups responsible for the operation of the facility.
 - d. The system of accounts to maintain a separate record of revenues collected by the facility, the distribution of such revenues, and the accounting of costs relative to the operation.
 - e. The location of each site and a copy of the lease or site agreement.
 - f. All written agreements or letters of consent between parties to the operation of the system, including a licensed service provider.
 - g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.
 - h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a site operator.
 - i. Support or nonsupport of the local jurisdictional government.
 - j. Proof of adequate experience and knowledge necessary to conduct simulcasting and pari-mutuel wagering operations.
2. The license fee shall be as prescribed by the commission. Site operators may apply for a license and may operate one or more sites at the fees prescribed by the commission. Licenses will be for a term of one calendar year.
 3. Licenses to site operators may be granted as follows:
 - a. Organizations eligible under North Dakota Century Code section 53-06.2-06.
 - b. Indian tribal entities within the state which may be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact with the state.
 - c. No service providers may be licensed as site operators.
 4. Each applicant for a license under this chapter shall give a bond or letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.
 5. No simulcasting or pari-mutuel wagering may be conducted at a site not approved by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-06. Duties of site operators.

1. A site operator shall conduct the pari-mutuel wagering at a site approved by the commission.
2. A site operator shall provide access to the commission or its designated representative to the site and to all records of the site operator and any other information as required by the commission or its designated representative.
3. A site operator is responsible for cash shortages which occur at a simulcast site.

4. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting and account wagering. A site operator shall establish a system of monitoring and supervising accounts to facilitate and to make record of compliance with this section. Such supervision of accounts must provide for timely payoffs to winning patrons either through immediate cash payments or by vouchers payable upon demand as soon as necessary funds transfer can be made through the clearing process of the banking system by the service provider. Such accounts must also provide for timely transfer of all funds owing to North Dakota. These shall include pari-mutuel taxes, breakage, unclaimed tickets, purse fund contributions, breeders fund contributions, and promotion fund contributions. The site operator's service agreement with its service provider must include provision for such timely transfer of these funds and systems of monitoring and supervising accounts.
5. A site operator may only take a signal or conduct account wagering from a service provider licensed by the commission.
6. All wagers are made on the official results of the sending track.
7. Only a licensed employee of a site operator may conduct simulcast or pari-mutuel wagering on behalf of a site operator, except a service provider may conduct pari-mutuel wagering on behalf of a site operator through a self-service device, electronically, telephonically, or through the internet only with the prior approval of the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

69.5-01-11-06.1. Claims for payment from pari-mutuel pool.

1. At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by a site operator or service provider in any case where the site operator or service provider has withheld payment, not placed a wager requested by a customer, or has refused to cash a pari-mutuel wager. The site operator or service provider's full written report on the matter in accordance with the requirements of section 69.5-01-08-21 (complaints pertaining to pari-mutuel operations) shall be forwarded to the commission within forty-eight hours of the commission's request.
2. In the case of a claim made for payment of a mutilated pari-mutuel ticket, the site operator or service provider shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

69.5-01-11-07. Licensing of employees.

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission. If the individual is already licensed to engage in the same type of employment related to pari-mutuel wagering in another jurisdiction that has the same or similar licensing requirements and standards, the commission may waive any administrative background check and fees. This exception does not apply to the principals and supervisory personnel of a service provider as identified by the commission.

2. The employment of an unlicensed person by a site operator or service provider is prohibited. Upon discharge of a licensed simulcast employee, the site operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge.
3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.
4. The initial license fee and the renewal fee shall be prescribed by the commission. For each change of employment, name change, or replacement of a lost or destroyed license, a fee may be assessed as prescribed by the commission. The term of licenses shall be one calendar year.
5. Maintenance and administrative representatives of service providers and their vendors or suppliers must have current North Dakota racing commission licenses available for presentation prior to requesting admittance to restricted areas of sites. If such representatives are not licensed by the commission, they must be accompanied by a licensed representative or have the prior identification and endorsement of a licensed representative.
6. Each simulcast employee shall wear a valid license at all times while working in a simulcast site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.
7. No employee or agent of a service provider may be employed by a site operator. No employee of a site operator may be employed by a service provider.
8. No simulcast employee may wager at a site while on duty. For purposes of this section, a simulcast employee taking a temporary break is still considered on duty.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-08. North Dakota tracks offering extended wagering.

1. Subject to commission approval, a North Dakota track may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided the North Dakota track files with the commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the North Dakota track for use of its simulcast, and of any agreements required by chapter 57, including section 3001, et seq. of title 15 of the United States Code.
2. Every North Dakota sending track simulcasting its racing program shall contract with a simulcast service provider for the purpose of providing authorized users with its simulcast.
3. The North Dakota sending track is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events.
4. Unless otherwise permitted by the commission, the sending track simulcast will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

History: Effective March 1, 1990; amended effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-09. Denial, suspension, and revocation of licenses.

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:
 - a. Any action or attempted action by a person contrary to anylaw.
 - b. Corrupt practices, which include:
 - (1) Prearranging or attempting to prearrange the order of finish of a race.
 - (2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - (3) Falsifying or manipulating the odds on any entrant in a race.
 - c. Any violation of the rules of racing, simulcasting, or account wagering adopted by the commission.
 - d. Willful falsification or misstatement of facts in an application for a license.
 - e. Material false statement to a racing official or to the commission.
 - f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.
 - g. Continued failure or inability to meet financial obligations.
 - h. Failure or inability to properly maintain a simulcast system, site, combined pari-mutuel pool, or account wagering system.
 - i. Failure to fulfill contractual obligations.
 - j. The suspension or revocation of racing or pari-mutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.
 - k. Failure to meet the considerations of subsection 3 of section 69.5-01-11-02.
2. The procedures to be followed in denial, suspension, or revocation of licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

History: Effective March 1, 1990; amended effective January 1, 2008; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-10. Pari-mutuel wagering.

The North Dakota racing commission has taken separate action to adopt and incorporate the model rules of the association of racing commissioners international, inc., in whole or in part as soon as adoption and incorporation is practically possible.

History: Effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-10.1. Interstate common pool participation.

1. A service provider shall participate in common pool wagering by accepting wagers placed in other jurisdictions or by offering wagers on races run in other jurisdictions. The rules for a pari-mutuel pools established in the state of the live event pari-mutuel pool host apply.
2. All contracts submitted to the commission must be fully executed by all parties thereto and must include all attachments, addendums, and other documentation that constitute part of the contract. A service provider may submit only an addendum to a contract which increases the term of that contract if a copy of the original contract of which the addendum is part is currently on file with and has been approved by the commission. A service provider shall resubmit any contract, or any portion thereof, at the request of the commission.

History: Effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10, 53-06.2-10.1

69.5-01-11-11. Account wagering.

Repealed effective July 1, 2011.

69.5-01-11-11.1. Account wagering.

The requirements for account wagering are as follows:

1. A site operator may offer a system of account wagering to its players in which wagers are debited and payouts credited to a sum of money, deposited in an account by the player, that may be held by a service provider. The service provider shall notify the player, at the time of opening the account, of any rules the site operator or service provider has made concerning reporting, monitoring, changes of awards, account activity (deposits or withdrawals), user fees, or any other aspect of the operation of the account. The service provider shall notify the player and the site operator whenever the rules governing the account are changed. The notification must occur prior to or at the time when the new rules are applied to the account. Notification shall be posted on the website utilized for account wagering or by mailing to the player at the player's last-known address. The player shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The site operator and service provider shall present the method of account wagering to the commission for review and approval.
2. To establish an account with the service provider, the player must be approved through a process developed by the service provider and shared with the site operator and commission.
3. The information each player submits must be subject to electronic verification. The verification must identify clients and obtain information with respect to name, principal residence address, date of birth, and verification of information through testing criteria established by electronic verification pertinent to doing financial business with them. The service provider must verify that the customer is not on the specially designated nationals list, maintained by the United States department of the treasury, or the designated foreign terrorist organizations list, maintained by the United States department of state. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above, or, if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. The information secured by the service provider must be documented and available to the site operator and commission upon request. If a player wagers more than ten percent of the monthly amount wagered with the service provider, the service provider shall perform additional identity

verification, which must be proportionate to the possible risks and the resources available. The service provider may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information that was used to open an account was false or that the account has been used in violation of law or rules.

4. For entertainment games where the customer has not deposited more than one hundred dollars in aggregate of all transactions:
 - a. The information obtained by the service provider may be limited to name, date of birth, and electronic mail address or phone number.
 - b. The service provider may delay verification of information until the customer has wagered more than one hundred dollars.
 - c. If verification of information is delayed, the service provider shall:
 - (1) Identify the location of the player through geolocation or other equivalent services.
 - (2) Obtain or confirm date of birth of the customer from a third-party business using methodology that can be demonstrated to be reasonably reliable. Methods of obtaining or confirming this data must be approved in advance by the commission.
5. The player shall maintain an account balance established by the service provider and identified in the contract with the site operator. In no event shall the service provider allow wagering on an account with a negative balance.
6. The service provider may offer to players:
 - a. Accounts that are operational for any performance offered by the service provider, whereby wagers are placed by the player at a self-service terminal or by any electronic means.
 - b. The service provider may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.
 - c. The service provider shall provide, for each player, a confidential account number or user name and password or personal identification number to be used by the player to access the player's account or, at the service provider's option, confirm validity of every account transaction.
7. Deposits may be made in the manner provided by the site operator or service provider. Holding periods will be determined by the service provider, and the player will be informed of this period. A receipt for the deposit may be issued electronically to the player by the service provider.
8. The service provider may only debit an account as follows:
 - a. Upon receipt by the service provider of information needed to place a wager. The service provider shall only debit the account in the amount of the wager at the time the wager is placed.
 - b. For fees for service or other transaction-related charges by the service provider.
 - c. Authorized withdrawal from an account when the player sends to the service provider a properly identifiable request for a withdrawal. The service provider will honor the request contingent on funds being available in the account and subject to funds being collected from the host track and approved by the commission. If the funds are not sufficient to cover the withdrawal, the player will be notified, and the funds that are available may be

made available for withdrawal. These transactions will be completed in accordance with financial institutions funds availability schedules.

9. Each player shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance set by the service provider.
10. When a player is entitled to a payout or refund, said moneys will be credited to the respective account, thus increasing the balance. It is the responsibility of the player to verify proper credits, and, if in doubt, notify the service provider within the time frame identified by the service provider.
11. The service provider shall maintain complete records of every deposit, withdrawal, wager, and winning payment for each player account. These records shall be made available to the commission and site operator upon request.
 - a. Except for entertainment games, any account wagering system shall provide for the player's review and finalization of a wager before it is accepted by the service provider. Neither the player nor the service provider shall change a wager after the player has reviewed and finalized the wager.
 - b. For wagers made telephonically or electronically the service provider shall make a voice or electronic recording of the entire transaction and shall not accept any such wager if the voice or electronic recording system is not operable. The voice and electronic recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.
12. The service provider may close any account when the player attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission or the site operator. In either case the service provider shall refund the remaining balance of the account to the player within thirty days.
13. The service provider shall provide upon request of the commission direct access to the databases and computer systems used by the service provider in the monitoring and control of wagering and account activity.
14. The service provider shall establish with the site operator the minimum amount due to the site operator as negotiated by each entity. This information should be filed with the commission. In the event of any disagreement or inquiry regarding the amounts due to the site operator which are based on a percentage of handle, the commission may review reports of wagering activity to determine the amounts due and render a report to the service provider and site operator.

History: Effective July 1, 2011; amended effective April 1, 2016; April 1, 2018.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10.1, 53-06.2-14

69.5-01-11-11.2. Totalizator system general provisions.

1. Pari-mutuel wagering utilizes a totalizator to pool wagers. The totalizator system may be located at a site, or may, subject to compliance with applicable law and rules, reside at another location other than within the state of North Dakota.
2. Wagering, subject to commission approval and compliance with applicable law and rules, may be accepted by separate totalizator systems in this or other jurisdictions and combined via communication between totalizator systems.

3. The commission may, without specific reference in these rules, utilize a designee for the purposes of certification, verification, inspection, testing, and investigation. A commission designee may be another commission or equivalent regulatory authority, a multijurisdictional group of regulatory authorities, association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons.
4. The commission may enter into multijurisdictional agreements with other regulatory authorities to facilitate certification of compliance with requirements by, and licensing of, service providers and totalizator companies. Such agreements shall, at a minimum, ensure certification and licensing requirements comparable to this jurisdiction.
5. In the event that any daily electronic files or other totalizator data provided to the commission or a third-party auditor designated by the commission for receipt of such information is found to be inaccurate, the totalizator shall provide to the commission or its third-party auditor any data files or other data in whatever form that is requested.
6. A totalizator company shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.

History: Effective July 1, 2011; amended effective April 1, 2016.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-12. Totalizator system standards.

Repealed effective July 1, 2011.

69.5-01-11-13. Totalizator system standards - Facilities and equipment.

1. Facility requirements.

- a. Onsite totalizator room. An authorized pari-mutuel wagering entity may provide a totalizator room to house the main computing and communications equipment and the operator's terminal at the authorized pari-mutuel wagering entity facility. The room must include all of the following:
 - (1) Air-conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer.
 - (2) A master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency.
 - (3) A smoke and fire alarm system that sounds locally and is tied into the authorized pari-mutuel wagering entity master alarm system.
 - (4) Fire extinguishers to address minor electrical fires.
 - (5) An internal communications system connecting the totalizator operator with all of the following:
 - (a) For racetracks only, the stewards and racing judges.
 - (b) The pari-mutuel manager.
 - (c) Each betting line.

- (d) The commission office onsite, if any.
 - (6) A private outside line for communication with supervisors, programmers, or totalizator personnel at other sites.
 - (7) Fire resistant, locking storage cabinets to hold removable data storage devices and documents necessary for operating the system.
 - b. Totalizator room at a central processing location. An authorized pari-mutuel wagering entity may contract with a totalizator that uses a central processing location off the authorized pari-mutuel wagering entity's grounds. The totalizator company shall ensure all of the following:
 - (1) That the totalizator central processing location satisfies the requirements of subdivision a of subsection 1.
 - (2) That the totalizator central processing location has a communications system connecting the central processing location operator with all of the following:
 - (a) The totalizator operator at the authorized pari-mutuel wagering entity.
 - (b) A private outside line for communication with supervisors, programmers, or totalizator personnel at other locations.
- 2. Totalizator room security.** The totalizator room housing the computer processing unit that processes wagers made at an authorized pari-mutuel wagering entity facility must be secured. Annually, on a date established by the commission, the totalizator company shall submit to the commission for approval a security plan for the totalizator room housing the computer processing unit that processes wagers made at the authorized pari-mutuel wagering entity's facility. The security plan must include all of the following:
- a. A security system covering the totalizator room and any other related service room, electrical room, or equipment room that consists of locking closed doors and detecting unauthorized entry.
 - b. A system of controlled entry to the totalizator room and other related rooms using all of the following:
 - (1) Locking devices on all doors or entry points.
 - (2) Control over distribution of keys or codes necessary to unlock the doors.
 - (3) A sign-in log for visitors escorted by authorized personnel.
 - (4) A system that identifies and records each person entering and leaving the room.
- 3. Hardware requirements.**
- a. Cash/sell system. A totalizator company shall use a cash/sell totalizator system. The system must comply with these rules regardless of the location of the central processing unit for the system.
 - (1) A totalizator system must be a multi-computer or multi-processor system with independence in the transaction processing and system control functions distributed among the computers as specified in the contract with the authorized pari-mutuel wagering entity. At least one computer shall be independent, sharing no loads or processing functions with the master computer. The computers must be configured

so that, if one computer actively tracking events fails, another computer will take over all functions of the failed computer on a timely basis.

- (2) The schematic chart, required pursuant to subdivision b of subsection 3, must be submitted to the commission at least two weeks before the scheduled date for system installation and testing.
- b. Schematic chart. The totalizator company must provide to the commission an overview of the equipment in the totalizator system. The overview must be a detailed schematic chart showing each piece of hardware and the network interconnections. The chart must indicate, where appropriate, the part of the database each terminal can access as well as the amount and degree of access each terminal has to the application and operating system programs. User assignments must be determined by access, and the schematic chart must also reflect the usual and potential user types assigned to each terminal. If the totalizator company changes any component in the hardware or the network layout, the company must revise the schematic chart and submit it to the commission within seven days.
 - c. Peripherals. A totalizator system must include all of the following peripherals:
 - (1) A log printer for each computer if the system is unable to reproduce the logs upon request.
 - (2) A master control terminal that allows the operator to execute routine maintenance and operational functions based on individual operator identification and authentication.
 - (3) User terminals that allow restricted system access for the stewards or racing judges to allow the order of finish to be input.
 - (4) Wagering information screen displays.
 - (5) Data storage devices to record necessary system data.
 - (6) Backup devices capable of recording complete system information on removable media for storage and restoration.
 - d. Stop wagering devices. The totalizator company shall install two separate devices that activate the stop wagering function of the totalizator system in a manner consistent with stop wagering procedures approved by the commission. The primary device must be located in or near the stewards or racing judges, in a location approved by the commission, to issue the stop wagering command during normal operations and activate the "off bell". The secondary "backup" device must be installed in the totalizator room to allow the totalizator operator to issue the stop wagering command if a totalizator malfunction or human error prevents the totalizator system from activating the stop wagering function at the appropriate time. The totalizator company shall ensure that stop wagering occurs. The totalizator company, for good reason, may request from the commission additional or alternative stop wagering devices.
 - e. Tote board. Unless otherwise approved by the commission, the tote board must do all of the following:
 - (1) Update the odds on each betting interest in the win pool at intervals of not more than sixty seconds, or at more frequent intervals expressly directed by the commission.

- (2) Allow the stewards or racing judges or designee of the stewards or racing judges to post the times, running order, order of finish, the official sign, inquiry sign, objection sign, or dead heat sign.
- f. Uninterruptible power supply. The computer system must be supported by an uninterruptible power supply to allow for system shutdown if a power failure occurs. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced. The uninterruptible power supply must be able to supply even power to the totalizator system, for a minimum of fifteen minutes, when a power surge or drop occurs. An alarm associated with the uninterruptible power supply must be readily recognizable by the totalizator operator from inside the totalizator room.
- g. Wagering devices. Wagering devices (cash/sell terminals) in a network are not required to be intelligent but must have identities. A program related to the production or verification of the wager identification number printed on a mutuel ticket or assigned by the main computer may not reside in a wagering device. A wagering device may not access the wagering database except to conduct the wagering or cashing functions necessary for a teller to serve the public. Wagering shall not occur in the totalizator room.
- h. Maintenance. A totalizator company shall provide preventative maintenance to a totalizator system to ensure the system hardware will provide a high degree of reliability. Maintenance must include physical cleaning of system components and peripherals and testing the uninterruptible power supply for batter life and power stability.
- i. Common pooling.
 - (1) A totalizator company shall use a totalizator system that operates in either a tote-to-tote network or a wagering device to tote network. The totalizator system must, without regard to the location of the central processing unit, use all of the following:
 - (a) The current version of inter-tote systems protocol recognized by the standard prescribed by the commission.
 - (b) The standard track codes recognized by the association of racing commissioners international.
 - (2) A totalizator company may common pool if all equipment used is of an approved type and in an approved location.
 - (3) The pari-mutuel pool host must provide a totalizator system that meets all of the following requirements:
 - (a) It directs each totalizator system involved with the common pool regarding the pools offered, live and scratched betting interest, common pool totals, network and guest authorized pari-mutuel wagering entity specific odds and probable payouts, start and stop wagering commands, official orders of finish, and deduction and payout calculations.
 - (b) It produces reports showing the amount wagered on each betting interest and pool from each site, in accordance with the current inter-tote systems protocol or other inter-tote communication standard prescribed by the commission.
 - (4) An authorized pari-mutuel wagering entity and the totalizator company must file with the commission, at the time of license application, a disaster recovery plan that will

ensure that the authorized pari-mutuel wagering entity may continue to conduct pari-mutuel wagering within a reasonable period of time.

- (5) The totalizator company utilizing inter-tote systems protocol shall follow a method of progressive scanning for those wagers including pick (n) with four or more legs and superfecta or other method approved by the commission.
- j. Emergency procedures.
- (1) The totalizator system must be supported by an uninterruptible power supply as described in subdivision f.
 - (2) A totalizator company must have emergency procedures to address a totalizator system failure. The procedures will apply whether the system is operating as a stand-alone wagering site for separate pool wagering or as a satellite in a common pool network.
 - (3) If a hardware problem, excluding routine repair of wagering terminals, occurs, the totalizator company may make an emergency fix to the totalizator system. No later than twenty-four hours after the fix has been made to the totalizator system, the totalizator company shall file a written report with the commission stating the situation that caused the need for the fix and the corrective changes made.
- k. Remote access. The totalizator company shall use a monitoring server that records keystrokes for all users accessing the tote system.
- l. Independent monitoring system. The totalizator system shall transmit data in real-time to an independent real-time monitoring system approved by the commission. This system is to provide information in a read only format. The system must meet all of the following requirements:
- (1) The system shall verify all transactions performed by the totalizator.
 - (2) Access to the independent monitoring system shall be provided to the commission and the authorized pari-mutuel wagering entity for monitoring activity.
 - (3) If the system detects a discrepancy in the totalizator operation or with the independent monitoring system, the system shall automatically notify the authorized pari-mutuel wagering entity's pari-mutuel manager or duly appointed representative. The pari-mutuel manager shall determine the cause of the error and require any necessary repairs or adjustments to be made pursuant to the rules.
 - (4) Notification of discrepancies shall be made to the commission no later than twenty-four hours after each occurrence.

4. Software requirements.

a. General requirements.

- (1) The totalizator system program must be able to do all of the following:
 - (a) Sell, calculate, cash, and refund according to the pool profile, current rules, and number of races.
 - (b) Produce the required reports and logs and other reports and logs the commission may prescribe.
 - (c) Network with the remote wagering sites.

- (d) Offer simultaneous wagering cards.
 - (e) Allow access to program functions and identification of each user based on the user identifications and passwords provided from the operating system or program login, in the case of administrative terminals, or by physical connection to the computer system, in the case of wagering devices.
 - (f) Automatically maintain all carryover data required for the next performance on a rotating basis, including system date and time, without operator intervention.
 - (g) Be subject to modification only by authorized individuals holding specific user identifications that allow gateways to the operating system.
 - (h) Document changes to programs, including who made the change and when the change was made. This log is to be made available to the commission upon request.
 - (i) Provide software or hardware restrictions that eliminate the capability of printing duplicate tickets.
 - (j) Provide software or hardware restrictions that prevent invalid claims on unclaimed funds.
 - (k) Be able to detect abnormal system operation and the cause, such as a validation problem, communication difficulty, and computer downtime, and immediately notify the totalizator operator.
 - (l) Generate, within the approved time frame, data usable across two major revisions, and within all minor revisions, or retrieve archived data reports as requested by the commission.
 - (m) Contain a utility program that backs up the totalizator system and schedules these backups at regular intervals.
 - (n) Provide a utility or application that writes requested pari-mutuel wagering data on media readable by the commission. The totalizator company must also provide documentation about the structure of the data.
 - (o) Have the ability to close remote sites before the post time if the commission requires.
- (2) The operating system must be separated from the application program. The operating system must maintain auditable records of transactions.
 - (3) The totalizator company must upon request make available to the commission an inventory of all totalizator system programs included in the system.
 - (4) A totalizator system must be able to produce a copy of all historical data necessary to recreate the wagering activity of any race performance within a three-year period that the commission requests.
- b. Documentation. Software documentation, using computer software industry accepted methods, must be available to the commission upon request and must provide all of the following:
- (1) Documentation of modules or sections within the source code, detailing the function of the module or section, the definition of all variables used within the module or

section, the source of all variables passed to the module, and the method of passing variables, for example, passed by reference or by value.

- (2) Complete documentation of all program functions as seen by the end user of the program.
 - (3) Complete inventory of all programs contained on the system, their purpose, the date and time of their last modification, and the size, in bytes, of each file.
 - (4) Clarification of differences between major and minor revisions of the totalizator software. This clarification must include a complete history of all revisions, the intended reasons for and differences between major and minor revisions, the date of implementation, and a listing of the current revision number.
 - (5) Any change in software requiring the assignment of either a new major or minor revision number.
- c. Backup. Before beginning operations, the totalizator company shall submit a backup procedure plan to the commission for approval and should include all of the following:
- (1) Full system backups made at weekly intervals. Full system backups must include all data files contained on the totalizator system.
 - (2) Incremental system backups made at daily intervals. Incremental system backups must include all data files that were changed since either the last full system or incremental backup.
 - (3) Backups stored at an offsite storage area in a disaster-resistant environment.
- d. Change to totalizator software.
- (1) All changes to the software on the central site computers, peripherals, or firmware changes downloaded to terminals may be subject to the approval of the commission.
 - (2) The totalizator company is responsible to notify the commission at least thirty days prior to any major revisions.
 - (3) A major revision to the software may not be initialized or operated during wagering until tested and approved by the commission. The daily computer log must show all of the following:
 - (a) When a change was loaded into the totalizator system.
 - (b) The time the work commenced and the time the work was completed.
 - (c) When the old software was removed from the system.
 - (4) If a software problem occurs, the programmers may make an emergency fix to the totalizator software. No later than twenty-four hours after the fix has been made to the software, the totalizator company shall file a written report with the commission that stating the situation that caused the need for the fix, the corrective changes the programmers made, and the new revision number.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-14. Totalizator system standards - Operational requirements.

1. General management requirements.

a. Programming.

- (1) A totalizator company shall develop and maintain written procedure manuals that outline structured programming methods used by the programmers. The manuals must give the programmers sufficient information to understand the programming methodologies, base operating systems, and maintenance procedures.
- (2) The totalizator company shall develop and maintain a written systems development life cycle that requires signoffs at pertinent checkpoints. It must address all the following or the equivalent as acceptable to the commission;
 - (a) A procedure for accepting written requests for systems design or major program changes from users and a method for handling and recording these requests.
 - (b) The feasibility study stage.
 - (c) The general systems design stage.
 - (d) Detailed systems specification.
 - (e) Program testing.
 - (f) System testing.
 - (g) Conversion.
 - (h) Systems acceptance by the totalizator company.
- (3) A totalizator company must develop and follow procedures to manage all program changes without regard to the complexity of the modification. The procedures must do all of the following:
 - (a) Establish controls to prevent unauthorized and potentially inaccurate program changes from being incorporated into the production environment.
 - (b) Regulate both scheduled and emergency changes to ensure the integrity of the computer system.
 - (c) Permit revisions of computer programs submitted on a sequentially numbered basis.
 - (d) Require program changes to be developed, tested, and compiled only in a test environment that is not connected to an online totalizator network.
 - (e) Require all program changes to be thoroughly tested, reviewed, and approved pursuant to procedures adopted by the totalizator company before being placed into operation.
 - (f) Maintain a written or electronic log, to be made available to the commission upon request, when programmers have physical access to the totalizator room or electronic access to the operation environment.
- (4) Before a totalizator company may place a major programming revision into production or transfer any data affected by the revision from the test environment to

the production environment, the totalizator company must follow the procedures required by subdivision d of subsection 4 of section 69.5-01-11-13.

- b. Totalizator operations. A totalizator company shall maintain a written operations manual for the totalizator system. The manual must clarify the authority, duties, responsibilities, and lines of communication. The manual must contain sufficient detail to ensure totalizator personnel understand their job duties. The operations manual must include complete documentation for operation of the totalizator system and its software, including all of the following:
 - (1) The duties described in subsection 2.
 - (2) Clearly defined restrictions for totalizator room access.
 - (3) General block diagrams of program options (menu tree) available to totalizator operations.
 - (4) A glossary of terms used in reports, including formulas for calculating the displayed results.
 - (5) The relationship, if any, between information contained in reports.
 - (6) Startup and shutdown procedures.
 - (7) General operating procedures.
 - (8) Restart and recovery procedures.
 - (9) Emergency procedures, including a list of individuals to notify if a system requires an emergency revision.

2. Personnel requirements.

- a. General requirements.
 - (1) A totalizator company must provide necessary personnel to perform the duties described in the rules. The totalizator company shall employ a sufficient number of personnel to ensure an adequate segregation of duties to avoid collusion. The totalizator company may use job titles different from those in the rules.
 - (2) All totalizator personnel assigned to work on totalizator operations in North Dakota must be licensed by the commission.
 - (3) The totalizator company shall have procedures and documentation that show the verification of totalizator position applicants' experience and education as indicated on their job applications. The totalizator company must prescribe and maintain job descriptions containing the experience, education, and organization training requirements for all of the following totalizator positions, if necessary:
 - (a) Network manager.
 - (b) Programmer or software engineer.
 - (c) Systems analyst.
 - (d) Totalizator operator.
 - (e) Technicians.

- (4) The totalizator company must certify in writing annually that its personnel are properly trained to program, manage, operate, and maintain the totalizator system. The totalizator company must provide ongoing training to its personnel and document the training.
 - (5) The totalizator company is responsible for the actions of its personnel relating to the operations and use of the totalizator system. The totalizator company shall designate an individual to act as a point of contact for communications between the commission and the totalizator company.
 - (6) A totalizator company employee may not hold a position of programmer and totalizator operator simultaneously unless approved by the commission.
 - (7) A totalizator company employee is prohibited from wagering at any time at any location where the company provides service.
 - (8) The totalizator company shall have a policy of mandatory time away from the job for each totalizator personnel within each calendar year.
- b. Network manager. The duties of a network manager shall include all of the following:
- (1) Coordinate the totalizator company's totalizator systems operating in North Dakota or at a specific site in North Dakota.
 - (2) Ensure each totalizator operator follows proper procedures when operating the totalizator system.
 - (3) Determine the onsite and offsite storage locations for the backup media.
 - (4) Provide information and prepare any report requested by the authorized pari-mutuel wagering entity, the commission, or the tax commissioner, if appropriate.
 - (5) Ensure a current list of personnel is maintained, all totalizator operators are qualified, and the appropriate pari-mutuel information is maintained within the operating system and application programs.
- c. Totalizator operator. The duties of a totalizator operator shall include all of the following:
- (1) Maintain the communication links and ensure data is transmitted accurately.
 - (2) Consult with the pari-mutuel manager and the commission or duly appointed representative, if available, when a problem occurs in determining a pool or calculation, and suggest alternatives for continued operation, including possible temporary restrictions on or suspension of the communication links.
 - (3) Perform necessary daily performance testing, system initialization, monitoring of wagering operations, and system shutdown.
 - (4) Execute established procedures to shut down system software and hardware in emergency situations including loss of communication between computers or peripheral devices, power surges or failures, operating with a partial system, and restarting the system during a performance.
 - (5) Perform necessary system maintenance.
 - (6) Perform daily backups required by subdivision c of subsection 4 of section 69.5-01-11-13.

- (7) Ensure information is entered in the tote maintenance log detailing all repairs or modifications to the totalizator system.
- (8) Provide to the commission an initial incident report within twenty-four hours of the incident, with a final report submitted as necessary, detailing each unusual occurrence during totalizator system operations, including a description of the probable cause of the occurrence and the corrective action taken.
- (9) Maintain a copy of the incident report or enter information about each unusual occurrence in the system incident log.
- (10) Consult with the commission or duly appointed representative regarding any other operational issues encountered.

d. Technicians. The duties of technicians shall include all of the following:

- (1) Service and maintain the totalizator.
- (2) Perform maintenance on wagering devices and the tote board.
- (3) Record in the totalizator maintenance log all maintenance and repair activities performed.

3. Totalizator network. Common pools must be merged and calculated at the site the totalizator company designates as the network computing center. In a tote-to-tote network or at remote sites, the totalizator company must use the inter-tote system protocol endorsed by the association of racing commissions international or another inter-tote communication protocol prescribed by the commission.

4. Data transmission protocols. An authorized pari-mutuel wagering entity using a wagering device-to-tote network may use whatever communications protocol it wishes. A remote site is considered part of a tote-to-tote network and is subject to the requirements of subsection 3 of section 69.5-01-11-13. If the failure to compile pools or payout winning prices is isolated to a remote site, the stopping of wagering or the manual cashing and accounting of tickets need only occur at the affected site. The relevant information must be transmitted between the central processing location and the remote site through the established communication links or facsimile machine and must be verified.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-15. Totalizator system standards - Reporting and log requirements.

1. General requirements.

- a. A totalizator system must be able to produce reports and logs necessary to audit pari-mutuel activity and to recreate any given day of wagering in its entirety in a format prescribed by the commission.
- b. A totalizator company shall retain the information needed to produce these reports and logs on storage devices for at least three years after the end of the calendar year during which the reports and logs were created, unless otherwise released by the commission.
- c. A totalizator company shall provide a report or log requested by the commission within forty-eight hours, unless required otherwise, after the totalizator company receives the

request. A printed report must have consecutively numbered pages. Each page of the report must be headed with all of the following:

- (1) The name of the racetrack.
- (2) The date and time, in hours, minutes, and seconds, the report was produced.
- (3) The performance number, if applicable.
- (4) The wagering sites to which the report refers.
- (5) The version of software in use.

2. Pre-race reports. If requested by the commission, before starting wagering each day, the totalizator operator shall print all of the following reports:

a. System initialization report showing all of the following:

- (1) The date and time the system was initialized.
- (2) The identity of the totalizator operator initializing the system.
- (3) The software version in use.

b. Configuration parameter report showing all of the following:

- (1) The pools that may be offered as well as those that are currently operational in the totalizator system.
- (2) The display cycle frequency, pools, any minimum pool required, minimum wagers, and means of display of any approximate odds or will-pays produced.
- (3) The minimum and maximum value of wagers for every pool that a wagering device may accept.
- (4) Which wagering devices are activated, including a listing of all terminals operational that session or day.
- (5) Which remote sites may input into the totalizator system.
- (6) The split percentages and payout parameters for each multi-leg pool offered.
- (7) Verification of all operational locking devices.
- (8) The amount of delay between locking switch activation and actual stop betting or canceling.
- (9) The canceling parameters for regular and supervisory wagering devices.
- (10) Configurations placed on each wagering device.
- (11) The method of breakage and rounding used in calculating the payout.
- (12) Takeout percentages for each host site and for the live races, including takeout percentages for each association, state, and other statutory takeouts used in price calculations, including net pool pricing calculations.
- (13) Federal tax withholding rates and parameters.
- (14) Required currency conversion tables.

- c. Race information report showing, for each race to be offered, all of the following:
 - (1) The pools to be opened, indicating totals starting at zero and totals starting with money from advance wagering.
 - (2) Pool summaries of all advance wagering.
 - (3) Money added due to overages.
 - (4) Underpayments or money added due to carryovers, miss pools, or any other reasons.
 - (5) The betting interest for each race, showing entries and scratches.
 - d. Odd report showing the opening line of odds for the win pool.
 - e. Wagering device report listing the teller's identity assigned to each wagering device for that session or day, if applicable.
- 3. Race-by-race reports.** For each race offered, the totalizator system must be capable of printing all of the following reports and have them available to review by the pari-mutuel manager and as requested by the commission:
- a. Scratch report showing the time each late scratch was entered into the totalizator system and the amount of money to be refunded in each pool.
 - b. Betting report produced immediately on activation of the stop betting command and final merge of wagering information from all sites showing all of the following:
 - (1) The amount wagered and to be refunded for each betting interest or combination in each pool offered and the net amount for each pool to be used for calculating the payout.
 - (2) The final dollar odds for the win pool.
 - (3) Time of stop betting and time of each pool transmission.
 - c. Calculating price report, produced before each race is declared official, showing all of the following for each pool:
 - (1) The winning betting interests or combinations.
 - (2) The winning moneys in total and for imported hubs.
 - (3) The minimum payout prices.
 - (4) The breakage.
 - (5) The amount payable to the public.
 - (6) The total amount wagered.
 - (7) The total amount refunded.
 - (8) The amount added to the pool.
 - (9) The actual pool total.
 - (10) The takeout in total dollars.

- d. Probable payout report showing the payouts for multiple and exotic pools, subject to scratches, cancellations, and dead heats.
 - e. Scan report for multi-leg pools of four or more legs, showing all of the following:
 - (1) The total wagered in the pool.
 - (2) The amounts of any carryover.
 - (3) The winners of completed legs.
 - (4) The amount of possible winning, based on paying the winner of completed legs combined with every betting interest entered in subsequent legs.
 - (5) Late scratches in each leg.
 - f. Race summary report, produced before and after the race results are official, showing, as the sum for all pools paid out in that race, all of the following:
 - (1) The amount wagered.
 - (2) The amount refunded.
 - (3) The net amount to be used for calculating the payout.
 - (4) Any money added to the pool.
 - (5) The actual pool total.
 - (6) The total commission.
 - (7) The breakage.
 - (8) The amount paid to the public.
 - (9) The carryover balances.
 - (10) The liabilities (due to/due from).
 - (11) The daily summary report showing the cumulative totals, for each pool and for all pools combined, of the items listed under the race summary report.
- 4. End-of-day reports.** For each race offered, the totalizator system must be capable of producing all of the following reports, and have them available for review by the pari-mutuel manager and as requested by the commission:
- a. Balance report showing for every wagering device operated on that day, including all of the following:
 - (1) The teller's name or identification number, if applicable.
 - (2) The total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets.
 - (3) The total amount of money drawn from the money room, including the beginning draws.
 - (4) The total amount of money returned to the moneyroom.

- (5) A listing of adjustments made to each wagering device balance after each wagering device has been individually balanced.
- b. Wagering summary report showing all of the following:
 - (1) By wagering site, the amount wagered, refunded, and added for every pool and for each race.
 - (2) The time of day each race's pools closed.
 - (3) The commissions deducted, breakage calculated, and amount paid out for every pool in each race.
 - (4) The total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total.
 - (5) The total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total.
 - c. System balance report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations.
 - d. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions. Money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions.
 - e. Internal revenue service report showing the winner's social security number, the ticket number, amount won, and taxes withheld for each transaction requiring a form W2-G.

5. Other standard and special reports.

- a. A totalizator company shall produce any of the following standard reports requested by the commission no later than seventy-two hours, unless otherwise directed, after receiving the request:
 - (1) Odds progression report showing each successive line of odds for the win pool and the time it was displayed to the public.
 - (2) Ticket and transaction history report showing the appropriate portion of the ticket history log for the requested ticket identification numbers.
 - (3) Terminal history report showing the portion of the terminal log requested.
 - (4) Outstanding ticket report showing all the following information for uncashed winning tickets retained in the totalizator system:

- (a) The ticket identification number.
 - (b) The wagers on the ticket.
 - (c) The date and performance for which the ticket is outstanding.
 - (d) The value of the winning wagers.
 - (e) The wagering device location and number.
- (5) Outstanding tickets cashed report for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the outstanding ticket report, including the identity of the wagering device that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
 - (6) Manually cashed tickets report for a performance, race, or pool, showing every ticket cashed that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.
 - (7) Canceled tickets report for a performance or race, showing each ticket canceled that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.
 - (8) Network balance report summarizing the activity and liabilities for each site within a tote-to-tote network.
 - (9) Teller inquiry report showing the time of each cash balance inquiry made by each teller.
 - (10) Wagering report required for multi-leg pools, four legs or more, showing the amount bet on every combination of the pool and total amount bet.
 - (11) Account history report showing all activity for each account.
 - (12) Inter-track wagering report for a card showing the separate or consolidated report for wagers made at participating tracks, including all money wagered on each runner or combination of runners in each pool for each race. Separate or consolidated reports for the host track and each satellite track and the combined totals are required and any additional reports, as determined by the commission.
 - (13) Ticket history report and terminal history report in the case of a wagering device to totalizator network failure for specific locations and time periods in order to determine what wagers have been recorded in the totalizator from the remote site, including any advance bets.
 - (14) Pool transmission report listing time of each pool transmission.
- b. The totalizator system must be able to produce a special report that filters data by all of the following:
 - (1) Performance.
 - (2) Race.

- (3) Pool.
- (4) Betting interest.
- (5) Wagering device.
- (6) Sites.
- (7) Any combination of paragraphs 1 through 6.

6. Logs.

- a. Online logs. The totalizator operator shall produce a daily log to the commission on request. The totalizator system must produce all the following logs in a format prescribed by the commission:
 - (1) Teller or machine history log showing for every wagering device operated during a performance all of the following:
 - (a) Each time the wagering device was opened and closed.
 - (b) For each wagering transaction, the wagers made, tickets issued, and total value of the transaction.
 - (c) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out.
 - (d) For each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
 - (e) The amount of each cash draw and return.
 - (f) Any special function, including teller balance, accessed through the wagering device.
 - (g) The times of day each of the transactions listed were made.
 - (2) Ticket history log showing all of the following for every ticket issued:
 - (a) The identification number of each cashed or canceled ticket.
 - (b) The wagering device location and number.
 - (c) The wagers and their values.
 - (d) The cashing or canceling machine location and number.
 - (e) The amount paid out.
 - (f) The time of day each transaction occurred.
 - (g) An indication as to whether each transaction was manual or automatic.
 - (3) User terminal log showing the time of day of each entry for all of the following:
 - (a) Each terminal other than a wagering device operating during a day, including all of the following:
 - [1] Each logon or logoff and the operator's identification code.

- [2] Each command or transaction entered.
 - [3] Each stop-betting, order of finish, official, and sales open command and the device that issued it.
 - [4] Each occurrence of loss or restoration of communication between computers or sites.
 - [5] Each occurrence of discrepancy between computers or sites when comparing databases.
- (b) Each wagering device operated during a performance, including all of the following:
- [1] Each logon or logoff and the teller's identification code, if applicable.
 - [2] Each instance of loss or restoration of communication and the wagering device.
- (4) System error log showing the date and time of each error.
- (5) System journal log, including date and time of each entry, including remote access, showing all of the following for every day the system is operated for wagering, maintenance, or other purpose:
- (a) System shutdown commands, the device from which they were issued, and the user identification of the individual issuing the commands.
 - (b) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the operating system.
 - (c) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the application programs.
 - (d) All commands that affect the operating environments issued from the operating system command line.
 - (e) All commands issued from within the application program in an attempt to access the operating system.
 - (f) A listing of every operational or operating terminal during computer operation.
- (6) Account history log showing all of the following for every account:
- (a) The identification number of the account.
 - (b) Each time the account was accessed, the location and time of each access point.
 - (c) For each wagering transaction, the amount, time, betting interest selected, type of wagers made, the wagering device used to make the wager, and total value of the transaction.
 - (d) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the location, time, and value of the wagers paid out.
 - (e) For each withdrawal and deposit the amount, location, and time.

- b. Offline log. In addition to the computer-generated reports and logs, the totalizator personnel must maintain all of the following logs for review by the commission or duly appointed representative:
- (1) System incident log showing a description of each incident involving the totalizator system, including system failures, their causes, and corrective action taken.
 - (2) Totalizator room access log of all authorized persons entering and leaving the totalizator central computer room. This includes entries of date, time, and user identification of each person entering and leaving the room.
 - (3) Totalizator maintenance log of all maintenance work completed on wagering devices and the main totalizator computers or printers showing all of the following:
 - (a) The name of the person performing the work.
 - (b) The date and time of day when the maintenance was performed.
 - (c) The type of maintenance job performed.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

**CHAPTER 69.5-01-12
NORTH DAKOTA PROMOTION FUND**

69.5-01-12-01	Definition
69.5-01-12-02	Deduction From Exotic Wagers, Unclaimed Tickets, and Breakage
69.5-01-12-03	Administration of the North Dakota Promotion Fund
69.5-01-12-04	Application Deadline Dates
69.5-01-12-05	Deposit of Revenue

69.5-01-12-01. Definition.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 53-06.2, except "promotion fund" means a special fund administered by the commission, established to assist in improving and upgrading racetracks in the state, for the promotion of live and simulcast horse racing within the state, and for developing new racetracks in the state as necessary and approved by the commission.

History: Effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-12-02. Deduction from exotic wagers, unclaimed tickets, and breakage.

The North Dakota racing commission shall make deductions from exotic wagers and, in addition, shall receive all amounts from unclaimed tickets and breakage resulting from a licensed race meet or simulcast display for the purpose of providing a North Dakota promotion fund as provided for by North Dakota Century Code section 53-06.1-11.

History: Effective March 1, 2002; amended effective January 1, 2008; October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-12-03. Administration of the North Dakota promotion fund.

The North Dakota promotion fund must be administered by the commission and will be used only for assisting in improving and upgrading racetracks in the state; promotion of live and simulcast horse racing within the state; developing, promoting, and assisting in the operation of racetracks in the state; and affiliation of North Dakota racing with a national association as necessary and approved by the commission.

History: Effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-12-04. Application deadline dates.

Application for promotion fund awards must be received in the North Dakota racing commission office by October first of the year preceding the year in which the award is to be received. The commission, in its discretion, may grant exceptions to this requirement in rare circumstances.

History: Effective March 1, 2002.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11

69.5-01-12-05. Deposit of revenue.

The executive director of the racing commission is responsible for the timely deposit of all revenue derived from the promotion fund take-out and shall keep accurate records of deposits and disbursements.

History: Effective March 1, 2002; amended effective October 1, 2022.

General Authority: NDCC 53-06.2-04, 53-06.2-05

Law Implemented: NDCC 53-06.2-11