

**FIRST ENGROSSMENT
with Senate Amendments**

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1126

Introduced by

Judiciary Committee

(At the request of the North Dakota Racing Commission)

1 A BILL for an Act to create and enact a new subsection to section 53-06.2-01 and three new
2 subsections to section 53-06.2-04 of the North Dakota Century Code, relating to the definition
3 of the racing promotion fund and to the duties of the racing commission; and to amend and
4 reenact subsection 4 of section 53-06.2-05, subsection 1 of section 53-06.2-07, subsection 4 of
5 section 53-06.2-08, sections 53-06.2-10.1 and 53-06.2-11, and subsection 2 of section
6 53-06.2-13 of the North Dakota Century Code, relating to parimutuel wagering.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new subsection to section 53-06.2-01 of the North Dakota Century
9 Code is created and enacted as follows:

10 "Racing promotion fund" means a fund administered by the commission
11 established to assist in improving and upgrading racetracks in the state, promoting
12 horse racing in the state, and developing new racetracks in the state as necessary
13 and approved by the commission.

14 **SECTION 2.** Three new subsections to section 53-06.2-04 of the North Dakota Century
15 Code are created and enacted as follows:

16 Report biennially to the legislative council regarding the operation of the
17 commission.

18 Provide notice to the North Dakota horsemen's council of meetings held by the
19 commission and permit the North Dakota horsemen's council to participate in the
20 meetings through placement of items on the agenda.

1 Complete, distribute, and post on the commission's web site the minutes of each
2 commission meeting within thirty days of that meeting or before the next meeting
3 of the commission, whichever occurs first.

4 **SECTION 3. AMENDMENT.** Subsection 4 of section 53-06.2-05 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 4. License all participants in the racing and simulcast parimutuel wagering industry
7 and require and obtain information the commission deems necessary from license
8 applicants. Licensure of service providers, totalizator companies, site operators,
9 and organizations applying to conduct or conducting parimutuel wagering must be
10 approved by the attorney general. The attorney general may not grant a license
11 denied by the commission. The commission may obtain from the bureau of
12 criminal investigation, without charge, criminal history record information as
13 required in the licensing process.

14 **SECTION 4. AMENDMENT.** Subsection 1 of section 53-06.2-07 of the North Dakota
15 Century Code is amended and reenacted as follows:

- 16 1. On compliance by an applicant with this chapter and the approval of the attorney
17 general, the commission may issue a license to conduct races. The attorney
18 general may not grant a license denied by the commission.

19 **SECTION 5. AMENDMENT.** Subsection 4 of section 53-06.2-08 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 4. The commission may grant licenses to horse owners, jockeys, riders, agents,
22 trainers, grooms, stable foremen, exercise workers, veterinarians, valets,
23 concessionaires, service providers, employees of racing associations, and such
24 other persons as determined by the commission. Licensure of service providers,
25 totalizator companies, site operators, and organizations applying to conduct or
26 conducting parimutuel wagering must be approved by the attorney general. The
27 attorney general may not grant a license denied by the commission. License fees
28 are as established by the commission.

29 **SECTION 6. AMENDMENT.** Section 53-06.2-10.1 of the North Dakota Century Code
30 is amended and reenacted as follows:

1 **53-06.2-10.1. Simulcast wagering.** In addition to racing under the certificate system,
2 as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast
3 parimutuel wagering may be conducted in accordance with this chapter ~~and interim standards~~
4 ~~that need not comply with chapter 28-32~~, or rules adopted by the commission under this
5 chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06
6 to conduct racing may make written application to the commission for the conduct of simulcast
7 parimutuel wagering on races held at licensed racetracks inside the state or racetracks outside
8 the state, or both. Licensure of service providers, totalizator companies, site operators, or
9 organizations applying to conduct or conducting simulcast or account wagering must be
10 approved by the attorney general. The attorney general may not grant a license denied by the
11 commission. Notwithstanding any other provision of this chapter, the commission may
12 authorize any licensee to participate in interstate or international combined wagering pools with
13 one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or
14 international combined pool, the licensee, as prescribed by the commission, may adopt the
15 take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or
16 more of its races or simulcast programs for an interstate or international combined wagering
17 pool at locations outside its jurisdiction and may allow parimutuel pools in other states to be
18 combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or
19 international combined wagering pool. The participation by a licensee in a combined interstate
20 or international wagering pool does not cause that licensee to be considered to be doing
21 business in any jurisdiction other than the jurisdiction in which the licensee is physically located.
22 Parimutuel taxes or commissions may not be imposed on any amounts wagered in an
23 interstate or international combined wagering pool other than amounts wagered within this
24 jurisdiction. The certificate system also permits parimutuel wagering to be conducted through
25 account wagering. As used in this section, "account wagering" means a form of parimutuel
26 wagering in which an individual deposits money in an account and uses the account balance to
27 pay for parimutuel wagers. An account wager made on an account established in this state
28 may only be made through the licensed simulcast service provider approved by the attorney
29 general and authorized by the commission to operate the simulcast parimutuel wagering
30 system under the certificate system. The attorney general may not grant a license denied by
31 the commission. An account wager may be made in person, by direct telephone

communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 7. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-11. ~~(Effective through June 30, 2007)~~ Bet payoff formulas - Uses by licensee of funds in excess of expenses - Payment to general fund.

1. a. ~~For each day of a live race meet or a simulcast day in this state on win, place, and show parimutuel pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. On the first eleven million dollars of total wagering handle in each biennium, two percent must be paid to the state treasurer to be deposited in the general fund. One half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. Breakage must be paid to the North Dakota racing commission to be deposited in the promotion fund.~~
- b. ~~On the wagering handle on win, place, and show wagering pools in excess of eleven million dollars in each biennium, one sixteenth of one percent must be paid to the commission to be deposited in the purse fund; one sixteenth of one percent must be paid to the commission to be deposited in the promotion fund; one sixteenth of one percent must be paid to the commission to be deposited in the breeders' fund; and one sixteenth of one percent must be paid to the state treasurer to be deposited in the general fund.~~

For wagering on live horse racing and simulcast wagering:

- a. In win, place, and show parimutuel polls, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) Two percent to the state treasurer to be deposited in the general fund.

(2) One-half of one percent to the commission to be deposited in the breeders' fund.

(3) One-half of one percent to the commission to be deposited in the purse fund.

(4) One-half of one percent to the commission to be deposited in the racing promotion fund.

b. In daily double, quinella, exacta, trifecta, or other combination parimutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:

(1) Two and one-half percent to the state treasurer to be deposited in the general fund.

(2) One-half of one percent to the commission to be deposited in the breeders' fund.

(3) One-half of one percent to the commission to be deposited in the purse fund.

(4) One-half of one percent to the commission to be deposited in the racing promotion fund.

2. ~~For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty five percent of each wagering pool. Of each wagering dollar, the amounts to be deposited in the general fund and other funds are as follows:~~

a. ~~On the first eleven million dollars of wagering handle in each biennium, one half of one percent must be paid to the commission to be deposited in the purse fund; one half of one percent must be paid to the commission to be deposited in the promotion fund; one half of one percent must be paid to the commission to be deposited in the breeders' fund; and two and one half percent must be paid to the state treasurer to be deposited in the general fund.~~

b. ~~On the wagering handle in excess of eleven million dollars in each biennium, one sixteenth of one percent must be paid to the commission to be deposited~~

1 ~~in the purse fund; one-sixteenth of one percent must be paid to the~~
2 ~~commission to be deposited in the promotion fund; one-sixteenth of one~~
3 ~~percent must be paid to the commission to be deposited in the breeders' fund;~~
4 ~~and one-sixteenth of one percent must be paid to the state treasurer to be~~
5 ~~deposited in the general fund.~~

6 For account wagering:

7 a. In win, place, and show parimutuel pools, the licensee may deduct no more
8 than twenty percent of the amount wagered.

9 (1) Before eleven million dollars is wagered in all parimutuel wagering in
10 each biennium, of the amount wagered by account wagering in win,
11 place, and show parimutuel pools, the licensee shall pay:

12 (a) Two percent to the state treasurer to be deposited in the general
13 fund;

14 (b) One-half of one percent to the commission to be deposited in the
15 breeders' fund.

16 (c) One-half of one percent to the commission to be deposited in the
17 purse fund.

18 (d) One-half of one percent to the commission to be deposited in the
19 racing promotion fund.

20 (2) After eleven million dollars is wagered in all parimutuel wagering in
21 each biennium, of the amount wagered by account wagering in win,
22 place, and show parimutuel pools, the licensee shall pay:

23 (a) One-sixteenth of one percent to the state treasurer to be
24 deposited in the general fund.

25 (b) One-sixteenth of one percent to the commission to be deposited
26 in the breeders' fund.

27 (c) One-sixteenth of one percent to the commission to be deposited
28 in the purse fund.

29 (d) One-sixteenth of one percent to the commission to be deposited
30 in the racing promotion fund.

b. In daily double, quinella, exacta, trifecta, or other combination parimutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered.

(1) Before eleven million dollars is wagered in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination parimutuel pools, the licensee shall pay:

(a) Two and one-half percent to the state treasurer to be deposited in the general fund.

(b) One-half of one percent to the commission to be deposited in the breeders' fund.

(c) One-half of one percent to the commission to be deposited in the purse fund.

(d) One-half of one percent to the commission to be deposited in the racing promotion fund.

(2) After eleven million dollars is wagered in all parimutuel wagering in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination parimutuel pools, the licensee shall pay:

(a) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.

(b) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.

(c) One-sixteenth of one percent to the commission to be deposited in the purse fund.

(d) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

3. ~~Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new~~

~~racetracks in the state as necessary and approved by the commission.~~

~~Notwithstanding this section, the commission may receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission. For wagering handle in excess of eleven million dollars in each biennium, breakage must be divided, one-third to the North Dakota racing commission to be deposited in the promotion fund, one-third to the charity operating the site where the wagers are placed, and one-third to the service provider. For all parimutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage to be deposited in the racing promotion fund.~~

4. The licensee conducting a wagering on live race meet or racing, simulcast ~~program~~ wagering, or account wagering shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under ~~subsection 2 of section 53-06.1-11~~ 53-06.1-11.1.
6. The ~~racing~~ commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in ~~three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund.~~ Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission. The commission, upon approval of the emergency commission, may receive no more than twenty-five percent of the racing promotion fund for the payment of the commission's operating expenses.

~~(Effective after June 30, 2007) Bet payoff formulas—Uses by licensee of funds in excess of expenses—Payment to general fund.~~

- ~~1. For each day of a live race meet or a simulcast day in this state on win, place, and show parimutuel pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. One half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. On the first thirty five million five hundred thousand dollars of total wagering handle in each biennium, two percent must be paid to the state treasurer to be deposited in the general fund. On the total wagering handle in excess of thirty five million five hundred thousand dollars in each biennium, one half of one percent must be paid to the state treasurer to be deposited in the general fund.~~
- ~~2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty five percent of each wagering pool. Of each wagering dollar, the amounts to be deposited in the general fund and other funds are as follows:~~
 - ~~a. On the first one hundred two million four hundred thousand dollars of wagering handle in each biennium, one half of one percent must be paid to the commission to be deposited in the purse fund; one half of one percent must be paid to the commission to be deposited in the promotion fund; one half of one percent must be paid to the commission to be deposited in the breeders' fund; and two and one half percent must be paid to the state treasurer to be deposited in the general fund.~~
 - ~~b. On the wagering handle in excess of one hundred two million four hundred thousand dollars in each biennium, one half of one percent must be paid to the commission to be deposited in the purse fund; one half of one percent must be paid to the commission to be deposited in the promotion fund; one half of one percent must be paid to the commission to be deposited in the~~

breeders' fund; and one fourth of one percent must be paid to the state
treasurer to be deposited in the general fund.

3. ~~Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may receive no more than twenty five percent of this fund for the purpose of payment of operating expenses of the commission.~~
4. ~~The licensee conducting a live race meet or simulcast program shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.~~
5. ~~A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 2 of section 53-06.1-11.~~
6. ~~The racing commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission.~~

SECTION 8. AMENDMENT. Subsection 2 of section 53-06.2-13 of the North Dakota

Century Code is amended and reenacted as follows:

The attorney general may audit and investigate licensed service providers
and affiliated companies authorized by the commission to operate the
simulcast parimutuel wagering system, totalizator companies, site operators,
or organizations applying to conduct or conducting parimutuel wagering. The
attorney general may:

- (1) Inspect all sites in which parimutuel wagering is conducted.
- (2) Inspect all parimutuel wagering equipment and supplies.
- (3) Seize, remove, or impound any parimutuel equipment, supplies, or
books and records for the purpose of examination and inspection.
- (4) Inspect, examine, photocopy, and audit all books and records.

b. The commission shall reimburse the attorney general for ~~all services~~
~~rendered to the racing commission~~ auditing and investigation. Payment for
~~the services~~ auditing and investigation must be deposited in the attorney
general's operating fund.