

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1443

Introduced by

Representatives Headland, Beadle, Blum, Howe, Lefor, Mitskog, Nathe

Senators Davison, Heckaman, Meyer, Poolman, Wanzek

1 A BILL for an Act to create and enact a new subsection to section 53-06.1-11 and section
2 53-06.2-10.2 of the North Dakota Century Code, relating to historic horse race wagering and
3 rent limits; and to amend and reenact sections 53-06.2-01, 53-06.2-04, 53-06.2-05, and
4 53-06.2-06, subsection 1 of section 53-06.2-08, and sections 53-06.2-10, 53-06.2-10.1, and
5 53-06.2-11 of the North Dakota Century Code, relating to the regulation of historic horse racing.

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

7 **SECTION 1.** A new subsection to section 53-06.1-11 of the North Dakota Century Code is
8 created and enacted as follows:

9 For a site where historic horse racing is conducted, the total monthly rent may not
10 exceed one hundred fifty dollars per machine for the first five machines in the same
11 venue. For each additional machine in the same venue beyond five, the monthly rent
12 may not exceed an additional seventy-five dollars per machine up to a maximum of
13 three thousand dollars per month.

14 **SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **53-06.2-01. Definitions.**

17 As used in this chapter:

- 18 1. "Breeders' fund" means a fund, administered by the commission, established to
19 financially reward breeders or owners of North Dakota-bred horses to be paid in
20 accordance with rules as approved by the commission.
21 2. "Certificate system" means the system of betting described in section 53-06.2-10.
22 3. "Charitable organization" means a nonprofit organization operated for the relief of
23 poverty, distress, or other conditions of public concern in this state and has been so
24 engaged in this state for at least two years.

- 1 4. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or
2 state organization that is authorized by its written constitution, charter, articles of
3 incorporation, or bylaws to engage in a civic or service purpose in this state and has
4 so existed in this state for at least two years. The term includes a similar local
5 nonprofit organization, not affiliated with a state or national organization, which is so
6 recognized by a resolution adopted by the governing body of the local jurisdiction in
7 which the organization conducts its principal activities, and which has existed in this
8 state for at least two years.
- 9 5. "Commission" means the North Dakota racing commission.
- 10 6. "Director" means the director of the commission.
- 11 7. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering
12 under this chapter.
- 13 8. "Fraternal organization" means a nonprofit organization in this state, which is a
14 branch, lodge, or chapter of a national or state organization and exists for the common
15 business, brotherhood, or other interests of its members, and has so existed in this
16 state for two years. The term does not include a college or high school fraternity.
- 17 8-9. "Historic horse race" means any horse race previously conducted by a licensed
18 pari-mutuel facility, concluded with official results, and concluded without scratches,
19 disqualifications, and dead-heat finishes.
- 20 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city,
21 and with respect to a site not inside the city limits of a city, the county in which the site
22 is located.
- 23 9-11. "Other public-spirited organization" means a nonprofit organization recognized by the
24 governing body of the appropriate local jurisdiction by resolution as public-spirited and
25 eligible under this chapter.
- 26 10-12. "Purse fund" means a fund, administered by the commission, established to
27 supplement and improve purses offered at racetracks within the state.
- 28 11-13. "Racing" means live or, simulcast, or historic horse racing under the certificate system
29 or simulcast dog racing under the certificate system.
- 30 12-14. "Racing promotion fund" means a fund administered by the commission established to
31 assist in improving and upgrading racetracks in the state, promoting horse racing in

the state, and developing new racetracks in the state as necessary and approved by the commission.

~~13.15.~~ "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.

~~14.16.~~ "Service provider" means a person engaged in providing simulcasting, account wagering services, or historic horse race wagering services directly to a site operator and engaged in establishing, operating, and maintaining the combined pari-mutuel pool. The term does not include:

- a. Persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders; and
- b. Sending tracks.

17. "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, to conduct account wagering, or to offer wagers on historic horse races.

18. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

SECTION 3. AMENDMENT. Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-04. Duties of commission.

The commission shall:

1. Provide for racing and wagering under the certificate system.
2. Set racing dates.
3. Adopt rules for effectively preventing the use of any substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, unless specifically authorized by the commission.

- 1 4. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and
2 equipment ~~at all races held~~ for all wagering under the certificate system.
- 3 5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and
4 leases on equipment and governing historic horse race wagering.
- 5 6. Consider all proposed extensions, additions, or improvements to the buildings,
6 stables, or tracks on property owned or leased by a licensee.
- 7 7. Exclude from racetracks or simulcast pari-mutuel wagering facilities any person who
8 violates any rule of the commission or any law.
- 9 8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05
10 and require the licensee to pay that cost.
- 11 9. Report biennially to the legislative council regarding the operation of the commission.
- 12 10. Provide notice to the North Dakota horsemen's council of meetings held by the
13 commission and permit the North Dakota horsemen's council to participate in the
14 meetings through placement of items on the agenda.
- 15 11. Complete, distribute, and post on the commission's website the minutes of each
16 commission meeting within thirty days of that meeting or before the next meeting of
17 the commission, whichever occurs first.

18 **SECTION 4. AMENDMENT.** Section 53-06.2-05 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **53-06.2-05. Powers of commission.**

21 The commission may:

- 22 1. Compel the production of all documents showing the receipts and disbursements of
23 any licensee and determine the manner in which such financial records are to be kept.
- 24 2. Investigate the operations of any licensee and enter any vehicle or place of business,
25 residence, storage, or racing of any licensee on the grounds of a licensed association
26 to determine whether there has been compliance with the provisions of this chapter
27 and rules adopted under this chapter, and to discover and seize any evidence of
28 noncompliance.
- 29 3. Request appropriate state officials to perform inspections necessary for the health and
30 safety of spectators, employees, participants, and horses that are lawfully on a
31 racetrack.

- 1 4. License all participants in the racing and, simulcast, advance deposit wagering, and
2 historic horse race pari-mutuel wagering industry and require and obtain information
3 the commission deems necessary from license applicants. Licensure of service
4 providers, totalizator companies, site operators, and organizations applying to conduct
5 or conducting pari-mutuel wagering must be approved by the attorney general. The
6 attorney general may not grant a license denied by the commission. The commission
7 may obtain a statewide and nationwide criminal history record check from the bureau
8 of criminal investigation for the purpose of determining suitability or fitness for a
9 license. The nationwide check must be conducted in the manner provided in section
10 12-60-24. All costs associated with obtaining a background check are the
11 responsibility of the applicant for a license. The commission shall use its best efforts to
12 ensure a robust and competitive marketplace of service providers to ensure a fair
13 marketplace for site operators and eligible organizations.
- 14 5. Receive moneys from the North Dakota horse racing foundation for deposit in the
15 purse fund, breeders' fund, or racing promotion fund in accordance with ~~subsection 6-~~
16 ~~of~~ section 53-06.2-11.
- 17 6. ~~Adopt~~Establish fees and adopt additional rules for the administration, implementation,
18 and regulation of activities conducted pursuant to this chapter. The commission shall
19 deposit any fees collected under authority of this subsection in the racing commission
20 operating fund. Subject to legislative appropriation, the commission may spend the
21 fees for operating costs of the commission. For historic horse race wagering, the
22 commission shall impose a per machine fee for operating costs related to the
23 regulation and oversight of historic horse race wagering. The amount collected from
24 this fee may be used only for the regulation and oversight of historic horse race
25 wagering and may not exceed six hundred twenty-five thousand dollars per biennium.

26 **SECTION 5. AMENDMENT.** Section 53-06.2-06 of the North Dakota Century Code is
27 amended and reenacted as follows:

1 **53-06.2-06. Organizations eligible to conduct racing and, simulcast, advance deposit**
2 **wagering, and historic horse race pari-mutuel wagering.**

3 Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and
4 other public-spirited organizations may be licensed to conduct racing and, simulcast, advance
5 deposit wagering, and historic horse race pari-mutuel wagering as authorized by this chapter.

6 **SECTION 6. AMENDMENT.** Subsection 1 of section 53-06.2-08 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. Each license issued under the certificate system must describe the place, track, or
9 racecourse at which the licensee may hold races. Every license must specify the
10 number of days the licensed races may continue, the hours during which racing may
11 be conducted, and the number of races that may be held each day. Races authorized
12 under this chapter may be held during the hours approved by the commission and
13 within the hours permitted by state law. Wagering on historic horse races may be
14 conducted on any day, regardless of whether live racing or simulcasting also is taking
15 place.

16 **SECTION 7. AMENDMENT.** Section 53-06.2-10 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **53-06.2-10. Certificate system - Rules.**

19 The certificate system allows a licensee to receive money from any person ~~present at~~ on a
20 live horse race, simulcast horse race, or simulcast dog race ~~who desires to bet on any entry in~~
21 ~~that, or historic horse~~ race. A person betting on an entry to win acquires an interest in the total
22 money bet on all entries in the race less any amounts deducted as permitted by law, inclusive of
23 any guaranteed pool minimum as specified in advance by the licensee, in proportion to the
24 amount of money bet by that person, under rules adopted by the commission. The licensee
25 shall receive the bets and for each bet on a live or simulcast race shall issue a certificate to the
26 bettor on which is at least shown the number of the race, the amount bet, and the number or
27 name of the entry selected by the bettor. A certificate may not be issued for a wager on a
28 historic horse race. The commission may adopt rules for place, show, quinella, combination, or
29 other types of ~~betting usually connected with racing~~ wagering on live, simulcast, or historic horse
30 races.

1 **SECTION 8. AMENDMENT.** Section 53-06.2-10.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **53-06.2-10.1. Simulcast wagering.**

4 1. In addition to racing under the certificate system, as authorized by this chapter, and
5 conducted upon the premises of a racetrack, simulcast pari-mutuel and account
6 wagering may be conducted in accordance with this chapter or rules adopted by the
7 commission under this chapter in accordance with chapter 28-32.

8 2. Any organization qualified under section 53-06.2-06 to conduct racing may make
9 written application to the commission for the conduct of simulcast pari-mutuel and
10 account wagering on races held at licensed racetracks inside the state or racetracks
11 outside the state, or both.

12 3. Licensure of service providers, totalizator companies, site operators, or organizations
13 applying to conduct or conducting simulcast or account wagering must be approved by
14 the attorney general. The attorney general may not grant a license denied by the
15 commission.

16 4. Notwithstanding any other provision of this chapter, the commission may authorize any
17 licensee to participate in interstate or international combined wagering pools with one
18 or more other racing jurisdictions. ~~Anytime that~~

19 a. ~~If~~ a licensee participates in an interstate or international combined pool, the
20 licensee, as prescribed by the commission, may adopt the take-out of the host
21 jurisdiction or facility.

22 b. The commission may permit a licensee to use one or more of its races or
23 simulcast programs for an interstate or international combined wagering pool at
24 locations outside its jurisdiction and may allow pari-mutuel pools in other states to
25 be combined with pari-mutuel pools in its jurisdiction for the purpose of
26 establishing an interstate or international combined wagering pool.

27 c. The participation by a licensee in a combined interstate or international wagering
28 pool does not cause that licensee to be considered to be doing business in any
29 jurisdiction other than the jurisdiction in which the licensee is physically located.

1 d. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered
2 in an interstate or international combined wagering pool other than amounts
3 wagered within this jurisdiction.

4 e. Breakage for interstate or international combined wagering pools must be
5 calculated in accordance with the statutes or rules of the host jurisdiction and
6 must be distributed among the participating jurisdictions in a manner agreed to
7 among the jurisdictions.

8 5. The certificate system also permits pari-mutuel wagering to be conducted through
9 account wagering.

10 a. As used in this section, "account wagering" means a form of pari-mutuel
11 wagering in which an individual deposits money in an account and uses the
12 account balance to pay for pari-mutuel wagers.

13 b. An account wager made on an account established in this state may only be
14 made through the licensed simulcast service provider approved by the attorney
15 general and authorized by the commission to operate the simulcast pari-mutuel
16 wagering system under the certificate system. The attorney general may not
17 grant a license denied by the commission.

18 c. An account wager may be made in person, by direct telephone communication,
19 or through other electronic communication in accordance with rules adopted by
20 the commission. ~~Breakage for interstate or international combined wagering~~
21 ~~pools must be calculated in accordance with the statutes or rules of the host~~
22 ~~jurisdiction and must be distributed among the participating jurisdictions in a~~
23 ~~manner agreed to among the jurisdictions.~~

24 6. Any organization licensed to conduct simulcast pari-mutuel and account wagering may
25 conduct wagering on historic horse racing at its simulcast facility in accordance with
26 section 53-06.2-10.2.

27 **SECTION 9.** Section 53-06.2-10.2 of the North Dakota Century Code is created and
28 enacted as follows:

29 **53-06.2-10.2. Historic horse race wagering.**

30 1. In accordance with pari-mutuel wagering under the certificate system, and if
31 conducted at a simulcast facility, pari-mutuel wagering on historic horse races may be

1 conducted in accordance with this chapter or rules adopted by the commission. Any
2 service provider licensed to conduct simulcast pari-mutuel and account wagering
3 under this chapter may offer wagering on historic horse races on electronic gaming
4 devices if:

5 a. The wagers are offered in conjunction with simulcast wagering at a simulcast
6 facility;

7 b. All wagers use the pari-mutuel method of wagering;

8 c. A licensee at all times maintains at least two terminals offering the same type of
9 wager on historic horse races;

10 d. The terminal makes available true and accurate past performance information on
11 each historic horse race before a patron makes selections;

12 e. The terminal displays the official results of each race;

13 f. The identity of each race is revealed to the patron after the patron has placed a
14 wager;

15 g. The software residing on the terminals has been tested by an independent
16 testing laboratory to ensure integrity and proper working order; and

17 h. Each terminal has the ability to display the pari-mutuel pool amounts or the
18 guaranteed minimum pool amounts as specified by the licensee in advance;

19 i. A single wager does not exceed twenty-five dollars.

20 2. The terminal may display the wager and its outcome as part of an entertaining display
21 or game, provided the wager functions according to the pari-mutuel wagering pool
22 specifications as approved by the commission. The outcome of any wager presented
23 as part of an entertaining display or game must be determined solely by the outcome
24 of the historic horse race or races associated with the wager placed by the bettor.

25 3. The terminal used for conducting a historic horse race must display a photographic
26 recording or digital simulation or recreation of a portion of the race. The terminal must
27 display the official results of each race.

28 4. Notwithstanding any other provision of this chapter, in addition to any bond provided to
29 the commission as security for other licensed activity pursuant to section 53-06.2-08,
30 each licensed service provider approved by the commission to offer wagering on
31 historic horse races shall post a bond of five hundred thousand dollars payable to the

1 state. A licensed service provider posting a bond under this section may not be
2 required to post more than one bond in the amount of five hundred thousand dollars,
3 regardless of the number of simulcast facilities at which it offers wagers on historic
4 horse races.

5 5. a. A licensee shall provide to the racing commission the rules of each historic horse
6 race wager that the licensee seeks to offer, which may include:

7 (1) The mathematical model, configuration of pools, and pool payout
8 methodology described in game specification documentation;

9 (2) A detailed breakdown of the amounts wagered into the pools;

10 (3) Which games, denominations, and networked terminals constitute a
11 commingled pool;

12 (4) The amount retained for commissions;

13 (5) Seed pool contributions; and

14 (6) The full distribution of winnings across major and minor consolation payouts
15 from each respective pool.

16 b. A licensee shall identify any confidential information contained in the
17 documentation and mark the documentation with appropriate references to
18 section 44-04-17.1.

19 **SECTION 10. AMENDMENT.** Section 53-06.2-11 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses -**
22 **Payment to general fund.**

23 1. For wagering on live horse racing:

24 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
25 twenty percent of the amount wagered. Of the amount wagered, the licensee
26 shall pay:

27 (1) One-half of one percent to the state treasurer to be deposited in the general
28 fund.

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

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

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

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

8 (1) One-half of one percent to the state treasurer to be deposited in the general
9 fund.

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

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

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

16 2. For simulcast and account wagering:

17 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
18 twenty percent of the amount wagered. Except as limited in subdivision c, of the
19 amount wagered by simulcast and account wagering in win, place, and show
20 pari-mutuel pools, the licensee shall pay:

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

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

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

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

29 b. Except as limited in subdivision c, of the amount wagered by simulcast and
30 account wagering in daily double, quinella, exacta, trifecta, or other combination
31 pari-mutuel pools, the licensee shall pay:

- 1 (1) One-sixteenth of one percent to the state treasurer to be deposited in the
2 general fund.
- 3 (2) One-sixteenth of one percent to the commission to be deposited in the
4 breeders' fund.
- 5 (3) One-sixteenth of one percent to the commission to be deposited in the
6 purse fund.
- 7 (4) One-sixteenth of one percent to the commission to be deposited in the
8 racing promotion fund.
- 9 c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than
10 four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and
11 thereafter, the licensee may not pay more than four hundred twenty thousand
12 dollars.
- 13 3. For historic horse race wagering:
- 14 a. For wagers on historic horse races the licensee may deduct no more than twelve
15 percent of the amount wagered. Of the amount wagered, the licensee shall pay:
- 16 (1) Three-tenths of one percent to the state treasurer to be deposited in the
17 general fund.
- 18 (2) One percent must be allocated in the following manner:
- 19 (a) One-third to be deposited in the breeders' fund;
- 20 (b) One-third to be deposited in the purse fund; and
- 21 (c) One-third to be deposited in the racing promotion fund.
- 22 (3) An additional two-tenths of one percent to the commission to be deposited
23 in the purse fund, the full amount of such deposits to be distributed no later
24 than the last day of each calendar year in the following manner:
- 25 (a) One-half distributed equally between the North Dakota quarter horse
26 racing association and the North Dakota thoroughbred association;
27 and
- 28 (b) One-half distributed equally between live racing licensees in the state.
- 29 4. For all pari-mutuel wagering the licensee shall pay to the commission the amount due
30 for all unclaimed tickets and all breakage on the first twenty million dollars wagered in

each fiscal year with each service provider. The amount received must be deposited in the racing promotion fund.

~~4.5.~~ The licensee conducting wagering on live racing, simulcast wagering, historic horse races, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.

~~5.6.~~ 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 pari-mutuel ~~racing~~wagering 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 section 53-06.1-11.1.

~~6.7.~~ The commission shall deposit the moneys received pursuant to subsections 1, 2, ~~and 3, and 4~~ and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in 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 may not transfer money among the funds. The commission shall distribute in-state awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute out-of-state awards and payment supplements from the breeders' fund, if made available by the commission, within two months of the end of the calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission may receive twenty-five thousand dollars per year or twenty-five percent per year, whichever is greater, from the racing promotion fund for the payment of the commission's operating expenses.