

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

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**CHAPTER 69.5-01-01
DEFINITIONS**

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 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 and/or pari-mutuel wagering, 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 postrace, 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 ~~chemist~~ person designated by the commission and working for an accredited and licensed lab.
12. "Claiming race" means a race ~~one~~ 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 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 "race day."
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 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 ~~as a jockey.~~

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, which at the time of starting, that has never won a race on the flat in ~~a state or country~~ where racing is
 - (a) supervised by a lawfully established racing commission or board; or ~~and where the races are~~
 - (b) covered by the racing form or official racing publication, (e.g. American quarter horse chart books, the appaloosa horse club chart books, the paint horse chart books, and the Arabian horse chart book).
 - (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 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 official time for a race shall be~~ 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. "Permit" means an authorization by the commission to an association to conduct horse racing and pari-mutuel wagering at a specified place.
41. "Permit_holder" means an association holding a commission permit to conduct racing meetings and pari-mutuel wagering.
42. "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. "Post position" means the position assigned to the horse in the starting gate of a race.
- 44. "Post time" means the time set for the arrival of all horses in a race at the starting gate.
- 45. "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.
- 46. "Purse" means the gross cash portion of the prize for which a race is run.
- 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.
- 48. "Quarter horse" means a horse registered with the American quarter horse association.
- 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.
- 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 horse racing.
- 51. "Rules" means the rules adopted by the commission to regulate the conduct of horse racing.
- 52. "Schooling" means practice races held using actual racing conditions, but in which no wagering is allowed.
- 53. "Scratch" means the act of withdrawing an entered horse from the race after the closing of overnight entries.
- 54. "Scratch time" means the time set by the association for the closing of applications to withdraw from races of that day.
- 55. "Security area" means the area surrounding the security stall delineated by the commission and controlled by it.
- 56. "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.
- 57. "Specimen" means any bodily substance including, but not limited to, blood or urine 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.
- 58. "Stable name" means a name used by an owner or lessee and registered with the commission.
- 59. "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.

60. "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.
61. "Stewards" means the duly appointed racing officials or their deputies serving at a licensed horse racing meeting.
62. "Subscription" means moneys paid for nomination, entry, eligibility, or starting of a horse in a stakes race.
63. "Test level" means the concentration of a foreign substance found in the test sample.
64. "Test sample" means any bodily substance including, but not limited to, blood or urine 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.
65. "Thoroughbred" means a horse registered with the New York ~~jockey club~~ Jockey Club.
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.

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 horseracing laws of this state;
 - (b) ~~to~~ conduct hearings and to impose fines and other penalties as provided by law and these rules; and
 - (c) ~~to~~ 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, ~~social security number~~, 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.

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, stewards or ~~is suspended~~ 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.

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 ~~one~~ two of the three stewards at each horse racing meeting. One of the steward Stewards appointed by the commission must be the chief steward.

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

69.5-01-02-05. 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 ~~located within enclosure of the association grounds~~; 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.

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 email 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. Any person ejected from the grounds of a racetrack must be denied readmittance to said track unless and until permission for readmittance has been obtained from track management. Notwithstanding the foregoing, the commission may exclude any person

ejected from a parimutuel facility in this state from any or all parimutuel facilities upon a finding that the attendance of said person at any or all parimutuel facilities would be adverse to the public interest.

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

69.5-01-02-07. 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 postmortem 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 postmortem 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.

**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. Association Steward, consisting of 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. ~~The clerk~~ Clerk of the Scales.
5. ~~The horse identifier~~ Horse Identifier.
6. ~~Three or more patrol judges~~ Horsemen's Bookkeeper.
7. ~~Jockey room custodian, valets and attendants~~ Room Attendant/Custodian/Valet.
8. ~~The paddock judge~~ Paddock Judge.
9. ~~Gate judge~~ Pari-mutuel Manager.
10. ~~The racing secretary~~ Racing Secretary.
11. Security Manager.
12. ~~The starter~~ Starter.
13. Timer Timers, if needed.
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.

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 ~~not~~ been sufficiently rehabilitated.

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

69.5-01-03-03. 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, or 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~~ wager on the outcome of any race; ~~or~~ 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 to provide information on a horse for betting purposes;
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.

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

69.5-01-03-09. 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 ~~of~~ 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.

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 an 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.

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 not 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, according to the following table, when weights are not stated in the condition of the race:

a. Scale of weights for age:

The NDRC has adopted the Association of Racing Commissioners International's Model Rules of Racing for all Scale of Weights criteria.

Distance	Age	Jan./	Mar./	May	June	July	Aug.	Sept.	Oct.	Nov./
		Feb.	Apr.							Dec.
One-half Mile	2						105	108	111	114
	3	117	119	121	123	125	126	127	128	129
	4	130	130	130	130	130	130	130	130	130
	5 & up	130	130	130	130	130	130	130	130	130
Six Furlongs	2						102	105	108	111
	3	114	117	119	121	123	125	126	127	128
	4	129	130	130	130	130	130	130	130	130
	5 & up	130	130	130	130	130	130	130	130	130
One Mile	2							96	99	102
	3	107	111	113	115	117	119	121	122	123
	4	127	128	127	126	126	126	126	126	126
	5 & up	128	128	127	126	126	126	126	126	126
One Mile and a Quarter	2									
	3	101	107	111	113	116	118	120	121	122
	4	125	127	127	126	126	126	126	126	126
	5 & up	127	127	127	126	126	126	126	126	126
One Mile and a Half	2									
	3	98	104	108	111	114	117	119	121	122
	4	124	126	126	126	126	126	126	126	126
	5 & up	126	126	126	126	126	126	126	126	126
Two Miles	3	96	102	106	109	112	114	117	119	120
	4	124	126	126	126	126	125	125	124	124
	5 & up	126	126	126	126	126	125	125	124	124

b. ~~Sex allowances. In all races except handicaps and races where the conditions expressly state to the contrary, two-year-old fillies are allowed three pounds [1.36 kilograms]; mares three-years-old and upward are allowed five pounds [2.27 kilograms] before September first and three pounds [1.36 kilograms] thereafter.~~

c. ~~No sex allowance is permitted in quarter horse races.~~

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 gross earnings.
- 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.

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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69.5-01-04-02. 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. ~~Each office shall be equipped with telephone and internet hookups.~~ The office shall have appropriate connections for the live and replay capabilities for each race. The office space provided shall include heating, cooling, electricity, refrigerator, and lighting. A separate private office shall be provided for the stewards to conduct investigations and hearings.

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

69.5-01-04-03. Ejections.

Associations are obligated to honor commission exclusions and to immediately ~~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.

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 attempt to 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 the track before each race. Exemptions may be allowed by the Chief Steward or Safety Committee.

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 performance for approval.

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

69.5-01-04-08. 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~~ Commission's Executive Director or Chief 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.

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 ~~one week~~ 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 Chief State Steward.

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

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

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

69.5-01-04-12. Video VTR and VCR equipment.

Every association shall furnish for each race a complete videotape recording of the race. The equipment and video tape 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 tapes of any race in which there were lodged objections, inquiries, or reports of accidents for one year from the date of the ~~tape race~~ and make such videos tapes available for inspection by officials of the association and 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

69.5-01-04-13. Photograph posted.

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

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 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 enough 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.

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, mosquitos, and other insects always.
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 ~~maintained in approved sanitary condition at all times~~ always maintained in approved sanitary condition; 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.

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, ~~feedrooms~~ feed rooms, and under the sheds.
2. Sleeping in ~~feedrooms~~ 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.

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. No persons may smoke in a stall, barn or an area where feed is kept on the grounds of association property.
6. No person may 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 NDRC Safety Committee, Chief Steward, State Veterinarian or Executive Director.
6. No person may 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 NDRC Safety Committee, Chief Steward, State Veterinarian or Executive Director.

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, concessionaire and contract holder and the owner or general manager of same, pari-mutuel, or racing official, and all other persons, ~~except concessionaire employees~~, 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 re-photographed periodically as the commission may require.

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

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.	Multiple owner	\$75.00
6. <u>5.</u>	Owner (partnership, corporation)	\$75.00
7. <u>6.</u>	Jockey/Driver	\$35.00
8. <u>7.</u>	Jockey Apprentice	\$35.00
9. <u>8.</u>	Jockey Agent	\$35.00 <u>\$50.00</u>
10. <u>9.</u>	Authorized Agent	\$25.00 <u>\$50.00</u>
11. <u>10.</u>	Stable Name	\$25.00
12. <u>11.</u>	Pari-mutuel Manager	\$35.00
13. <u>12.</u>	Auditor	\$15.00 <u>\$35.00</u>
14.	Calculator operator	\$10.00
15. <u>13.</u>	Totalizator Operator	\$15.00
16. <u>14.</u>	Track tote fee	\$35.00
17. <u>15.</u>	Pari-mutuel Employee	\$15.00
18. <u>16.</u>	Racing Secretary	\$35.00
19. <u>17.</u>	Association Veterinarian	\$100.00
20. <u>18.</u>	Assistant Veterinarian	\$25.00
21. <u>19.</u>	Chief of Security	\$10.00
22. <u>20.</u>	Director of Racing/Speed	\$35.00
23. <u>21.</u>	Horse Identifier	\$35.00
24. <u>22.</u>	Paddock Judge	\$35.00
25. <u>23.</u>	Patrol judge <u>Concessions Owner/Manager</u>	\$35.00 <u>\$10.00</u>
26. <u>24.</u>	Racing Secretary Assistant	\$15.00
27. <u>25.</u>	<u>Association Steward</u>	\$35.00
28. <u>26.</u>	Starter	\$35.00
29. <u>27.</u>	Track superintendent <u>Manager</u>	\$35.00 <u>\$50.00</u>
30. <u>28.</u>	Custodian Jockey Room	\$15.00
31. <u>29.</u>	Clerk of Scales	\$35.00
32. <u>30.</u>	Handicapper	\$10.00
33.	Placing judge	\$15.00
34.	Patrol judge	\$15.00
35. <u>31.</u>	Timer	\$15.00

36-32. Announcer	\$15.00
37-33. Exercise Person	\$20.00
38-34. Groom	\$10.00
39-35. Valet	\$15.00
40-36. Attendant	\$15.00
41-37. Photo/Video Manager	\$25.00
42-38. Outrider	\$15.00
43-39. Pony Person	\$20.00
44-40. <u>Tip sheet seller</u> <u>Track Concessions Employee</u>	\$10.00
45-41. Gate Admission Seller	\$10.00
46-42. Starting Gate attendant Assistant	\$10.00
47-43. Hot walker	\$10.00
48-44. Office Personnel	\$15.00
49-45. Photo/Video Employee	\$10.00
50-46. Security Employee	\$10.00
51-47. Stable Foreman	\$15.00
52-48. Others not listed (e.g., track maintenance)	\$10.00
53-49. Duplicate license issued to same person or entity during same year	\$10.00
54-50. Farrier	\$50.00
55-51. Site operator	New \$1,000.00 Renew \$250.00
56-52. Service provider	New \$7,500.00 Renew \$2,500.00
57-53. Totalizator companies	New \$2,500.00 Renew \$1,500.00

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

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 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 permit holder 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

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

~~All applicants for licenses not described in the foregoing sections, and including stable and track facility employees, must submit with their application to the commission the prior recommendation of the supervisor of track security.~~

~~**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. 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.
6. 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.
7. Has been denied patron privileges by order of the commission and has not been reinstated.
8. Supplies false information in the application.
9. Is not of good moral character.

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

69.5-01-05-13. 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 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 ~~for identification~~ under the upper lip or electronically chipped or any other approved means of identification. A horse which is not ~~tattooed~~ 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 chief steward.
 - b. Before post time the horse is inspected by the chief steward and the commission veterinarian.
 - c. Before post time the 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 ~~so as~~ to be heard by another or offer such prohibited conduct to any

representative of the commission or the association.

~~20. Possession, carrying or exhibiting a deadly weapon, or otherwise disturbing the peace on the premises of any permittee. This rule does not prohibit the carrying of a weapon by any duly authorized law enforcement officer or licensed security personnel engaged in their duties.~~

~~21-20.~~ Possessing in any pari-mutuel wagering area of any association any alcoholic beverage in any pari-mutuel wagering area of any association public areas unless the beverage is purchased on the premises.

~~22-21.~~ 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.
- 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.

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 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.

b.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 intoxilyzer 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. No Racing Official may 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-e.~~ For a subsequent violation such licensee or employee may be subject to procedures following positive chemical analysis, as set out in subsection 3.

~~d.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 the track physician or subject the licensee or employee to the taking of a blood sample or other body fluids by the ~~track physician or other duly licensed physician trained~~ authorized racing commission staff appointed by the commission.

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 sample 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.

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, and 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.

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

69.5-01-05-27. 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:
 - (1) Passing a written examination and interview administered by the stewards.
 - ~~(2) Passing of a "barn test" administered by a horsemen's representative under the supervision of 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.
 - d. Has applied for a trainer's license in the trainer's legal name, and not under any fictitious or stable name.
2. The commission₁ in considering whether to license a trainer in this state₁ 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. ~~A report, by a laboratory approved by the commission, is prima facie~~ and evidence of the presence of a permitted drug, medication, or substance in excess of 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.
- a. 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.

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.

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 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 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 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. ~~Thereafter, the jockey may not leave the jockey room except by permission of the stewards, until all of the jockey's riding engagements of the day have been fulfilled. Once a jockey has fulfilled the jockey's riding assignments for the day and has left the jockey's quarters, the jockey may not be readmitted to the jockey's quarters until after the entire racing program for that day has been completed, except upon permission of the stewards. A jockey is not allowed to communicate with anyone but the trainer or the jockey's agent~~

~~while the jockey is in the room during the performance except with approval of stewards. On these occasions, the jockey should be accompanied by a security guard.~~

- 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 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 [.907 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 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 [0.91 kilograms] 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 winner's 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 [0.91 kilograms] 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 [0.91 kilograms] 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.

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 69.6-01-06
PATRONS**

Section

~~69.5-01-06-01~~ — Ejections From Track

~~69.5-01-06-01. Ejections from track.~~

~~Any person ejected from the grounds of a racetrack must be denied readmittance to said track unless and until permission for readmittance has been obtained from track management. Notwithstanding the foregoing, the commission may exclude any person ejected from a parimutuel facility in this state from any or all parimutuel facilities upon a finding that the attendance of said person at any or all parimutuel facilities would be adverse to the public interest. In addition, the commission may exclude any person as set forth in section 69.5-01-02-06.~~

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 69.5-01-07 CONDUCT OF RACES

Section

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69.5-01-07-19	<u>Horseracing Safety Integrity Act</u>

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, ~~or~~ 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/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.

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. Valuation of ~~p~~Purse moneyMoney.

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.

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 fair start.
 - 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 pari-mutuel

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 crop
- a. Although the use of a riding crop is not required, any jockey who uses a riding crop 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 crop, 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 crop only may be used for safety, correction, and encouragement.
 - e. All riders should comply with the following when using a riding crop:

- (1) Showing the horse the riding crop and giving it time to respond before hitting it;
 - (2) Having used the riding crop, giving the horse a chance to respond before using it again; and
 - (3) Using the riding crop in rhythm with the horse's stride.
 - f. Prohibited use of the riding crop 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 crop; 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 nonstarter 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.

- I. 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 nonqualifier 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

69.5-01-07-18. 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 most current ~~version 2.4~~.
 - b. The association of racing ~~commissioners~~commissioner's international uniform classification guidelines for foreign substances and recommended penalties most current ~~version 7.00~~.
 - 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 5.6~~ most current version.
 - d. Any required Horseracing Integrity Safety Act rules that are required to be enforced in North Dakota.
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 his/her 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 his/her 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 his/her 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 his/her 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 and/or commission security supervision 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 his/her 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 and/or commission security surveillance 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 PO SID.
 - c. Rantidine (Zantac®) - 8 mg/kg PO BID.

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

69.5-01-07-19 Horseracing Safety Integrity Act

Any required Horseracing Integrity Safety Act rules that are required to be enforced in North Dakota.

History: Effective , 2022.

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

Law Implemented: NDCC 53-06.2-04, NDCC 53-06.2-04

CHAPTER 69.5-01-08
PARI-MUTUEL WAGERING SYSTEMS

Section

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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 ~~version 6.0, rules~~ ARCI-004-105 part I, A through X, and pari-mutuel plus, pick 1-2-3, pick 1-2-3-4-5, 123 racing 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. **General.** The only pari-mutuel wagering pools permitted are, those designated in the association of racing commissioners international model rules of racing ~~version 6.0, rules~~ ARCI-004-105 part I, A through X, and pari-mutuel plus, pick 1-2-3, pick 1-2-3-4-5, 123 racing 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.
3. **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.
4. **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.

5. **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.

6. **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
 - (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.
- o. 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.

7. 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 ticket holders.
- 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.

8. 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 show selection.
 - (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.
9. **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.

10. **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.
11. **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.

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

69.5-01-08-08. Betting explanation.

Each association shall publish ~~cause to be published~~ 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.

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**

Section

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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 indefinitely 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.
- 3-5. "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.
- 4-6. "North Dakota-foaled" means a horse foaled born in North Dakota.
- 5-7. "Racehorse 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.
- 6-9. "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.

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 prior to 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 prior to the entry into any race eligible for breed fund awards.
 - b. Failure to have all required paperwork submitted and breed registration certificate embossed prior to 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 prior to 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:
 - c. 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 ~~ten~~ thirty dollars.
 - d. 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.
 - e. A broodmare may be registered at any time prior to 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 ~~or the registration renewed~~ 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 ~~twenty~~ 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 it's 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 ~~ten dollar~~ 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 ~~but prior to December thirty-first of the yearling year~~ are accompanied by a late fee of ~~one thousand 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 NDRC 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.
 - h. 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 prior to foaling. 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 (30) 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 (30) 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. Before the resulting foal of an embryo transfer is eligible for North Dakota Accreditation, the following requirements shall be met: Effective January 1, 2023 All Recipient Mares shall be permanently identified using methods listed on the "Recipient Mare Form" provided by the Commission. Recipient Mares shall be domiciled in North Dakota no less than 30 days prior to 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 30 days prior to the due date listed on said form, or leaves North Dakota before foaling, the resulting foal shall be ineligible for entry into the North Dakota Bred Program. The "Recipient Mare Form" must be completed by the breeder and returned to the Commission by November 1st of the year prior to foaling. "Recipient Mare Forms" shall not be accepted by the Commission after this date. Any breeder, whose "Recipient Mare Form" is on file with the Commission shall be responsible to notify the Commission in writing, within thirty (30) 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 (30) calendar days, regarding the domicile location of the recipient mare. In the event 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 (30) 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.

"Recipient Mare Forms" shall not be accepted by the Commission after this date. Any breeder, whose "Recipient Mare Form" is on file with the Commission shall be responsible to notify the Commission in writing, within thirty (30) 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 (30) calendar days, regarding the domicile location of the recipient mare. In the event 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 (30) 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.

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 breeder's fund account of the fund administrator. ~~The Executive Director of racing~~ 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 calendar fiscal year. ~~Costs of administering this program will be funded by a deduction of no more than five percent of the yearly accumulated 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.

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, ~~or standardbreds~~) for accredited North Dakota-bred horses. In the event a race does not fill, a race may be opened up 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.

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.

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.

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~~ Sixty percent of the deposits accruing to the North Dakota breeders' fund shall be awarded to accredited North Dakota-bred horses who qualify for awards. ~~the state and forty percent shall be awarded to accredited North Dakota-bred horses who win awards at licensed races within the state.~~ Any race considered in this category must have a minimum purse of two thousand dollars. ~~and, if a claiming race, must have a minimum claiming price of two thousand five hundred dollars.~~ All amounts' minimums will be determined in United States currency.
2. The North Dakota Racing Commission shall establish the award levels distribution amounts for in-state and out of state racing each year. All in state awards will be paid out no later than December 31st each year, while out of state awards will be paid out no later than February 28th 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. ~~No more than a total of ten race awards per horse will be permitted. The owner may select the ten races (win, place, or show) for breeders' fund awards. Applications for breeders' fund awards of the preceding out-of-state year's races must be received postmarked to the in the North Dakota Racing Commission office on approved forms by January fifteenth-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 back 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 ~~broodmare and stallion in-state breeders fund~~ awards must be calculated and paid by December 31st each year. at the end of the year for distribution
 11. All ~~owner's out of state breeders fund awards~~ awards may be distributed with purse distribution or, ~~until such a time as sufficient criteria is established, may be calculated at yearend for distribution~~ must be calculated and paid by February 28th of each year.
 12. ~~No breeders' fund moneys will be payable to the owner or owners of the sire or dam unless the owner or owners of the runner makes application for and receives an award.~~

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

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 ~~one Five Thousand two hundred~~ dollars for major breeds racing at this track.
3. Have at least a ~~five~~six-furlong track with properly designed turns and chutes.

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

**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

69.5-01-10-03. 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, ~~or in any combination 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.

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

Law Implemented: NDCC 53-06.2-11

**CHAPTER 69.5-01-12
NORTH DAKOTA PROMOTION FUND**

Section	
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

69.5-01-12-02. 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.

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 ~~racing~~ 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.

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

Law Implemented: NDCC 53-06.2-11