

Administrative Rules Committee and Chairman Fischer

December 12, 2007, 1:00 p.m.

Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

The rules and regulations submitted by the Racing Commission reflect the statutory changes made by the Legislative Assembly. Rules were changed to accommodate any future change in Pari-mutuel taxation. In addition language was added to conform to the Attorney General's authority.

Various rules were changed to meet requirements of HB 1324. The rule making procedure and the public notices given including public hearing are all included in the packets I have provided. The approximate total cost is \$ 8,799.00. A review of the rules and regulations has been completed by the Attorney General which conforms to statutory guidelines. This is also in your packet. The impact on small entities is included as well.

The simulcast and account wagering chapter of the rules were implemented as emergency rules in that interim rules were eliminated by legislative action. This information is provided in your packet as well. Changes made to the rules and regulations, not only meet the needs of North Dakota racing but also conforms to the rules and regulations of other jurisdictions. The Association of Racing Commissioners International (ARCI) has developed Model Rules and many of the rules in this regulation came from these model rules. Several of the rule changes were simply a clarification of an existing rule. Pari-mutuel, simulcast and account wagering rules were concentrated on in an attempt to keep pace with today's technology. Rules with respect to medication conform to surrounding jurisdictions. The terminology used with respect to the racing and breeding of horses conforms to the Glossary of Racing Terms which I have a copy of if you wish to see them.

The rules and regulations clearly reflect the intent of the statutes and meet the needs of the Racing Commission's regulatory authority. Thank you.

ND Racing Commission
500 North 9th Street, Bismarck, ND
Tuesday, October 2, 2007

ND Racing Commission's Consideration
of the September 6, 2007 public hearing comments by four individuals
and to three written comments submitted in
regards to the Administrative Rules changes

69.5-01-02-07 and 69.5-01-05-09

Doug DeMontigny stated there are two sections that need to correlate. 69.5-01-02-07 (subsection 4) requires that to be present in the test barn area at a live race meet an individual has to be 18 years of age. However there is a proposed rule of 69.5-01-05-09 (subsection 2) where we allow an exception to the 18 year age requirement for horse ownership. So we will allow a person younger than 18 years to own a horse but if he wins a race he can't go to the test barn with that horse and those two rules need to correlate.

The Commission decided that in reference to Mr. DeMontigny's concerns that for safety reasons no one under the age of 18 needed to be allowed into the testing area. The trainer and or his representative would be required to witness any samples taken from the runner.

Commissioner Weir made the motion to leave proposed rule change as is. Commissioner Secrest seconded the motion. All voted aye and motion passed.

69.5-01-03-19 Association veterinarian

Scott Horst commented regarding the association veterinarian. I just am little concerned with why they want to nix the veterinarian from seeing the horses on race day. That is the safety of the horse and the jockey.

The Director of Racing stated it was the responsibility of the Commission Veterinarian to advise the stewards if a horse is to receive a veterinarian's scratch. The wording is in place to give the commission veterinarian the authority to assign the responsibility to an association veterinarian if an emergency should occur.

Commissioner Secrest made the motion to leave proposed rule change as is. Commissioner Weir seconded the motion. All voted aye and motion passed.

69.5-01-05-02 Licensing Fees

John Bubel asked what is the justification for raising the fees and where does the money go? He thought the fees should be left as they were.

Scott Horst asked when or if the licensing fees are raised, do they go into the general fund, breeders' fund or into the promotion fund? Do they get split up amongst the three or do they do go all into one?

Doug DeMontigny commented on the proposed increase in fees for all the activities that his position on this was that the increases were excessive and don't know that it is necessary. I am opposed to these drastic fee increases in every aspect of racing.

The Director of Racing stated the fees go directly into the Administrative Fund and that fees haven't been increased in nearly 20 years. In the past five years, nearly \$2,000,000 has been paid to owners and breeders of ND Certified Bred runners and it appears the increased fees would be justified. The state auditor's office in their last audit recommended raising fees.

Commissioner Pladson made the motion to adopt proposed rule as drafted with no additional changes. Commissioner Secrest seconded the motion. All voted aye. Motion passed.

69.5-01-09-01 North Dakota Breeders' Fund

John Bubel commented that on subsection 1 where the items that have been crossed out should be left as was. That was put in for good reason and that should stay there. Subsection 3 should be left as it was. It appears that what they are trying to do is to make it legal to make us register a foal and re-register it as a broodmare which it was never intended to do. If left as it was it works.

Scott Horst, commented on #1, to continue through the age of six years, I would like to put up to eight years old on that for the Thoroughbred people. Not over eight years just because of some of these guys that run their horses two or three races, certain races, till they are age 15 referring to trotters.

Richard Nevins, representing the ND Quarter Horse Racing Association, commented that they want the words to stay the same in subsection 1, "For the purposes of awards and purse supplements, such accreditation for horses racing shall continue through the age of six."

Richard Nevins, commented on subsection 3, we want to leave the word "Mare" and not change it to "Broodmare".

Written comments were received by Angie Cameron that the ND Breed Fund to be left as it is. Don and Karen Cameron's written comment was also that the ND Breed Fund to be left as it is.

Concerning John Bubel's comments under subsection #1, Chairman Clement wanted to leave the rule as proposed to encourage the breeders and owners to be able to continue racing Certified Bred as long as they were competitive.

Concerning Scott Horst's comments under subsection #1, the commissioners stated that breeders should be rewarded for raising horses that are capable of competing as the runners get older. All breeds should be considered equal and the proposed rules regarding age restriction treats all equally. Horses should be allowed to receive breeders' awards if they have the ability to continue racing successfully.

Regarding subsection #1 "Accredited North Dakota-bred horse", Commissioner Secrest made the motion to leave proposed rule change as is and no change due to comments. Commissioner Pladson seconded the motion. All voted aye. Motion passed.

In regards to subsection #3, it was determined by the majority of the commissioners that the term broodmare clearly defines that the mare is being used for breeding. The hand out provided to the commissioners explained in the racing industry's glossary of racing terms, a broodmare is a mare used for breeding purposes.

Regarding subsection #3 "North Dakota-bred", Commissioner Pladson made the motion to adopt the proposed rule change as drafted with no changes made due to comments. Commissioner Secrest seconded the motion. Pladson-Y, Clement-N, Weir-Y, Secrest-Y, Frederick-N. Motion carried.

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

John Bubel commented on regarding #2, Broodmare registration, would like added "a broodmare is defined as a mare and or foal registered with the ND Racing Commission". When you register a horse with AQHA they don't ask to register it as a foal it is registered as a mare or a stallion. The ND Racing Commission could be the same as one of the major breed organization is, they don't register them as a foal. On 2a the registration fee of twenty dollars could stay at ten dollars. If the money is going into the breed fund that is one thing but if it is not that is totally another.

#2b. John Bubel commented that the new part could just be left out because once they are in the system they should always be a broodmare. They are always a mare. The new part should not be put in there.

#3a Stallion registration. John Bubel commented that "or the registration renewed" taken out because you have already put that horse in once when it was born and no reason to put it back in.

#4 Foal registration - John Bubel commented the word foal could be eliminated and just be registration and certification. When it is born it is a horse.

Richard Nevins commented on subsection 2, Broodmare registration. "A broodmare is defined as a mare" is what we would like to have put in there.

Scott Horst commented that currently there is a ten dollar fee to register your foal before the age of 1, age 1 to age 2 it is \$1,000 to register as ND foal, after that they are no longer eligible to receive bred point money or run in restricted races. I would like to go from age 2 to 3 for at least a \$2,000 fee. Let these horses if they are there to run in these races. I would like for just add on of "a \$2,000 fee for ages 2 – 3 to stamp as ND certified".

John Bubel commented he would like the registration fees for foals, broodmare and stallions to stay as they were.

The Director of Racing stated that by the glossary of racing terms a broodmare is a mare used for breeding purposes. If the industry is going to allow breeders to live in other states and raise Certified ND Breds then we need to have documentation verifying where the broodmares are located and what they are being used for. Other states require similar registration requirements, as was indicated in the handout provided to the commissioners for the state of Minnesota's broodmare registration requirements.

Commissioner Pladson stated that this matter was dealt with at the previous commission meeting with a motion that clarified the definition of North Dakota-bred which means a foal born in North Dakota out of a broodmare registered as a broodmare with the North Dakota racing commission.

Commissioner Pladson made the motion to adopt the 69.5-01-09-02 rule as drafted with no changes. Commissioner Secrest seconded the motion. Secrest-Y, Pladson-Y, Weir-Y, Clement-N, Frederick-N. Motion carried.

In regards to Scott Horst's request to allow a foal to be registered as a 2-3 year old at an increased fee of \$2,000, the commission determined the breeders at the present time have ample opportunity to certify a foal.

Commissioner Secrest made the motion to adopt the rule change as drafted regarding the registration fees for a foal. Commissioner Pladson seconded the motion. All voted aye. Motion passed.

69.5-01-09-03 Administration of North Dakota breeders' fund program
John Bubel requested #2 to be left as it was.

Richard Nevins commented we would like it left as is in subsection #1, and in subsection #2, we would like to leave in the wording, "the official registering agency shall provide the commission". That way we are not doing double reporting for whoever is going to do the bred points, the foal registration and stuff, the commission shouldn't have to go back and redo it.

69.5-01-09-03 (Breeders Fund), 69.5-01-10-01 (Purse Fund), 69.5-01-12-02 (Promotion Fund)

Doug DeMontigny commented on the taxation on the three special funds. They all say the same and they all make the same change in language. The racing commission shall make deduction of from each pari-mutuel pool rather than specifying the percentage. This allows for differentiation between walk ups taxation and game room volume betting. Another change is that the equal consideration among the three funds goes away. I would like to see the language remain in place that would require equal treatment

among the three funds as before and the actual percentage left up to the racing commission and they would assign whatever the market would bear in terms of taxation.

The Director of Racing pointed out that the new law specifically provides the amount to be put in each fund. The changes stated in the rules declare deductions shall be made as provided by the ND Century Code. The commission does not have any discretion in the amount to deduct as the deduction is determined according to the law. We did not see the need to be redundant by putting it in the rule as well.

Commissioner Secrest made the motion to leave the rule as drafted and Commissioner Pladson seconded the motion. All voted aye. Motion passed.

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

John Bubel stated they would like to have scratched the new part that is written "in trials" because we have had a minimum purse of \$1,000 and we have seen highs and lows in amount of money available for purses and we feel that everything should just stay at \$1,000 and the "in trials, fifteen hundred dollars in all other races" should not be put in. We feel very strongly that the new part "in races restricted to certified North Dakota bred horses" be left out.

Scott Horst commented on #1 "in races restricted to certified North Dakota bred horses, where the purse for such race is funded by the breeder's fund", there we are talking about breeders' fund money, funding races, which I am strongly against, and no additional points, right there so they want to use breeders' fund money to fund your race and then not give you any points. I strongly disagree on this. According to this there will not be any breed points given out at the end of the year.

John Bubel commented on subsection 6, which the whole section was struck out, we would like to see that whole section stay in. We would like the last line left out where it says January 15th of the year, following these races.

Richard Nevins commented in the bottom line of subsection #1 "In race's restricted to certified North Dakota bred horses, where the purse for such race is funded by the breeder's fund, no additional points will be paid to the owners of runners in such races", we would like that taken out of there.

Richard Nevins commented on subsection 6, we would like that left in there, "no more than a total of ten race awards per horse will be permitted."

John Bubel's written comments were an overall review of his statements given at the hearing regarding all the rules.

Doug DeMontigny commented I am endorsing John Bubel's comments in areas that he did comment on.

In regards to John Bubel's comments, for breeders' awards a minimum purse of \$1,000 in trials and \$1,500 in other races, the above comments were previously addressed and agreed upon at an open meeting.

In regards to John Bubel, Richard Nevis, Doug DeMontigny and Scott Horst's comments regarding subsection #1, after lengthy discussion by Chairman Clement and Commissioners Secrest, Pladson, and Weir, it was determined by the majority of the commissioners that since breed fund money is used to fund the purse for certified ND Bred races, the owners of those runners would receive their share of the breeders award from the purse at the time the race was run.

In regards to John Bubel and Richard Nevins' comments on subsection #6, the majority of the commissioners decided if a horse was deserving of the awards allow them to receive the awards.

Commissioner Pladson made the motion to approve the rule 69.5-01-09-10 change as drafted. Commissioner Secrest seconded the motion. Clement-N, Frederick-N, Secrest-Y, Pladson-Y, Weir-Y. Motion carried.

Commissioner Secrest made the motion to adopt the proposed administrative rules as drafted with no additional changes. Commissioner Pladson seconded the motion. All vote aye. Motion passed.