

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1068
(Judiciary Committee)
(At the request of the North Dakota Racing Commission)

AN ACT to amend and reenact sections 53-06.2-10.1 and 53-06.2-11 of the North Dakota Century Code, relating to account wagering and payments to the funds administered by the North Dakota racing commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

53-06.2-10.1. Simulcast wagering.

In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast pari-mutuel and account wagering may be conducted in accordance with this chapter or rules adopted by the commission under this chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast pari-mutuel and account wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits pari-mutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast pari-mutuel wagering system under the certificate system. The attorney general may not grant a license denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 2. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-11. (Effective through June 30, 2013) Bet payoff formulas - Uses by licensee of funds in excess of expenses - Payment to general fund.

1. For wagering on live horse racing ~~and simulcast wagering~~:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) One-half of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-half of one percent to the commission to be deposited in the purse fund.
 - (4) One-half of one percent to the commission to be deposited in the racing promotion fund.
 - b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) One-half of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-half of one percent to the commission to be deposited in the purse fund.
 - (4) One-half of one percent to the commission to be deposited in the racing promotion fund.
2. For simulcast and account wagering:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. ~~Of~~Except as limited in subdivision c. of the amount wagered by simulcast and account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:
 - (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.
 - (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.
 - b. ~~Of~~Except as limited in subdivision c. of the amount wagered by simulcast and account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:
 - (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.

- (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.
- c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and thereafter, the licensee may not pay more than four hundred twenty thousand dollars.
3. For all pari-mutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage on the first twenty million dollars wagered in each fiscal year with each service provider, ~~of which twenty percent is to be deposited in the racing promotion fund, thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse fund.~~ The amount received must be deposited in the racing promotion fund.
4. The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.
6. The commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission may receive twenty-five thousand dollars per year or twenty-five percent per year, whichever is greater, from the racing promotion fund for the payment of the commission's operating expenses.

~~(Effective after June 30, 2013) Bet payoff formulas -- Uses by licensee of funds in excess of expenses -- Payment to general fund.~~

1. ~~For wagering on live horse racing and simulcast wagering:~~
- a. ~~In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:~~
- (1) ~~Two percent to the state treasurer to be deposited in the general fund.~~
- (2) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
- (3) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
- (4) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~
- b. ~~In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty five percent of the amount wagered. Of the amount wagered, the licensee shall pay:~~
- (1) ~~Two and one-half percent to the state treasurer to be deposited in the general fund.~~

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

2. For account wagering:

- a. ~~In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered.~~
 - (1) ~~Before eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:~~
 - (a) ~~Two percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~
 - (2) ~~After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:~~
 - (a) ~~One-sixteenth of one percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-sixteenth of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-sixteenth of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.~~
- b. ~~In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered.~~
 - (1) ~~Before eleven million dollars is wagered in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:~~
 - (a) ~~Two and one-half percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~

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

 - (a) ~~One-sixteenth of one percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-sixteenth of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-sixteenth of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.~~
3. ~~For all pari-mutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage on the first twenty million dollars wagered with each service provider, to be deposited in the racing promotion fund.~~
4. ~~The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.~~
5. ~~A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.~~
6. ~~The commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission may receive twenty-five thousand dollars per year or twenty-five percent per year, whichever is greater, from the racing promotion fund for the payment of the commission's operating expenses.~~

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1068.

House Vote: Yeas 54 Nays 39 Absent 1

Senate Vote: Yeas 42 Nays 5 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State