

SENATE BILL NO. 2347

Introduced by

Senators Myrdal, Sorvaag, Thomas

1 A BILL for an Act to create and enact two new sections to chapter 53-06.2 of the North Dakota
2 Century Code, relating to historic horse race wagering and pari-mutuel horse racing; and to
3 amend and reenact sections 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07,
4 53-06.2-08, 53-06.2-10, 53-06.2-10.1, and 53-06.2-11 of the North Dakota Century Code,
5 relating to the authorization of historic horse race wagering and the elimination of simulcast dog
6 racing under the certificate system.

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

8 **SECTION 1. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **53-06.2-01. Definitions.**

11 As used in this chapter:

12 1. "Association" means a person licensed by the racing commission conducting
13 pari-mutuel wagering.

14 2. "Breeders' fund" means a fund, administered by the commission, established to
15 financially reward breeders or owners of North Dakota-bred horses to be paid in
16 accordance with rules as approved by the commission.

17 ~~2-3.~~ "Certificate system" means the system of betting described in section 53-06.2-10.

18 ~~3-4.~~ "Charitable organization" means a nonprofit organization operated for the relief of
19 poverty, distress, or other conditions of public concern in this state and has been so
20 engaged in this state for at least two years.

21 ~~4-5.~~ "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or
22 state organization that is authorized by its written constitution, charter, articles of
23 incorporation, or bylaws to engage in a civic or service purpose in this state and has
24 so existed in this state for at least two years. The term includes a similar local

1 nonprofit organization, not affiliated with a state or national organization, which is so
2 recognized by a resolution adopted by the governing body of the local jurisdiction in
3 which the organization conducts its principal activities, and which has existed in this
4 state for at least two years.

5 ~~5-6.~~ "Commission" means the North Dakota racing commission.

6 ~~6-7.~~ "Equine racing facility" means a horse racing facility that conducts at least eight live
7 horse races in a calendar year and which has a minimum racing infrastructure
8 consisting of:

9 a. A six-furlong [1207.01 meters] dirt track for flat racing;

10 b. Capacity for no fewer than five hundred individuals; and

11 c. Barns with no fewer than fifty permanent stalls.

12 ~~8.~~ "Executive director" means the executive director of the commission.

13 ~~7-9.~~ "Fraternal organization" means a nonprofit organization in this state, which is a
14 branch, lodge, or chapter of a national or state organization and exists for the common
15 business, brotherhood, or other interests of its members, and has so existed in this
16 state for two years. The term does not include a college or high school fraternity.

17 ~~10.~~ "Historic horse race" means any horse race that was previously conducted by a
18 licensed pari-mutuel facility, concluded with official results, and concluded without
19 scratches, disqualifications, and dead-heat finishes.

20 ~~8-11.~~ "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city,
21 and with respect to a site not inside the city limits of a city, the county in which the site
22 is located.

23 ~~9-12.~~ "Other public-spirited organization" means a nonprofit organization recognized by the
24 governing body of the appropriate local jurisdiction by resolution as public-spirited and
25 eligible under this chapter.

26 ~~10-13.~~ "Pari-mutuel wagering" means a method of wagering approved by the commission in
27 which one or more patrons wager on a horse race, whether live, simulcast, or historic
28 horse race.

29 ~~14.~~ "Purse fund" means a fund, administered by the commission, established to
30 supplement and improve purses offered at racetracks within the state.

- 1 ~~41.15.~~ "Racing" means live or simulcast horse racing under the certificate system or
2 simulcast dog racing under the certificate system.
- 3 ~~42.16.~~ "Racing promotion fund" means a fund administered by the commission established to
4 assist in improving and upgrading racetracks in the state, promoting horse racing in
5 the state, and developing new racetracks in the state as necessary and approved by
6 the commission.
- 7 ~~43.17.~~ "Religious organization" means a nonprofit organization, church, body of
8 communicants, or group gathered in common membership for mutual support and
9 edification in piety, worship, and religious observances, and which has been so
10 gathered or united in this state for at least two years.
- 11 ~~44.18.~~ "Veterans' organization" means a congressionally chartered organization in this state,
12 or a branch, lodge, or chapter of a nonprofit national or state organization in this state,
13 the membership of which consists of individuals who were members of the armed
14 services or forces of the United States, and which has so been in existence in this
15 state for at least two years.

16 **SECTION 2. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **53-06.2-04. Duties of commission.**

19 The commission shall:

- 20 1. Provide for racing and wagering under the certificate system.
- 21 2. Set racing dates.
- 22 3. Adopt rules for effectively preventing the use of any substance, compound items, or
23 combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which
24 could alter the normal performance of a racehorse, unless specifically authorized by
25 the commission.
- 26 4. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and
27 equipment at all races held for wagering under the certificate system.
- 28 5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and
29 leases on equipment.
- 30 6. Consider all proposed extensions, additions, or improvements to the buildings,
31 stables, or tracks on property owned or leased by a licensee.

- 1 7. Exclude from racetracks or simulcast pari-mutuel wagering facilities any
- 2 ~~person~~individual who violates any rule of the commission or any law.
- 3 8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05
- 4 and require the licensee to pay that cost.
- 5 9. Report biennially to the legislative council regarding the operation of the commission.
- 6 10. Provide notice to the North Dakota horsemen's council of meetings held by the
- 7 commission and permit the North Dakota horsemen's council to participate in the
- 8 meetings through placement of items on the agenda.
- 9 11. Complete, distribute, and post on the commission's website the minutes of each
- 10 commission meeting within thirty days of that meeting or before the next meeting of
- 11 the commission, whichever occurs first.

12 **SECTION 3. AMENDMENT.** Section 53-06.2-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **53-06.2-05. Powers of commission.**

15 The commission may:

- 16 1. Compel the production of all documents showing the receipts and disbursements of
- 17 any licensee and determine the manner in which such financial records are to be kept.
- 18 2. Investigate the operations of any licensee and enter any vehicle or place of business,
- 19 residence, storage, or racing of any licensee on the grounds of a licensed association
- 20 to determine whether there has been compliance with the provisions of this chapter
- 21 and rules adopted under this chapter, and to discover and seize any evidence of
- 22 noncompliance.
- 23 3. Request appropriate state officials to perform inspections necessary for the health and
- 24 safety of spectators, employees, participants, and horses that are lawfully on a
- 25 racetrack.
- 26 4. License all participants in the racing and simulcast pari-mutuel wagering industry and
- 27 require and obtain information the commission deems necessary from license
- 28 applicants. Licensure of service providers, totalizator companies, site operators, and
- 29 ~~organizations~~entities applying to conduct or conducting pari-mutuel wagering must be
- 30 approved by the attorney general. The attorney general may not grant a license
- 31 denied by the commission. The commission may obtain a statewide and nationwide

1 criminal history record check from the bureau of criminal investigation for the purpose
2 of determining suitability or fitness for a license. The nationwide check must be
3 conducted in the manner provided in section 12-60-24. All costs associated with
4 obtaining a background check are the responsibility of the applicant for a license.

5 5. Receive moneys from the North Dakota horse racing foundation for deposit in the
6 purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6
7 of section 53-06.2-11.

8 6. Adopt additional rules for the administration, implementation, and regulation of
9 activities conducted pursuant to this chapter. The commission shall deposit any fees
10 collected under authority of this subsection in the racing commission operating fund.
11 Subject to legislative appropriation, the commission may spend the fees for operating
12 costs of the commission.

13 **SECTION 4. AMENDMENT.** Section 53-06.2-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **53-06.2-06. Organizations eligible to conduct racing and ~~simulecast~~ assist in**
16 **conducting pari-mutuel wagering.**

17 ~~Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and~~
18 ~~other public-spirited~~

19 1. Public-spirited organizations the primary purpose of which is for equine education,
20 community recreation, and economic development may be licensed to ~~conduct racing~~
21 ~~and simulecast~~ assist in conducting pari-mutuel wagering as authorized by this chapter.

22 2. The following types of organizations may be licensed to conduct pari-mutuel wagering
23 under this chapter:

24 a. Civic and service clubs;

25 b. Charitable, fraternal, religious, and veterans' organizations; and

26 c. Other public-spirited organizations.

27 **SECTION 5. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **53-06.2-07. Issuance of racing licenses - Applications.**

- 2 1. On compliance by an applicant with this chapter and the approval of the attorney
3 general, the commission may issue a license to conduct races. ~~The attorney general~~
4 ~~may not grant a license denied by the commission.~~
- 5 2. An application for a license to conduct a racing meet must be signed under oath and
6 filed with the commission. The application must contain at least the following:
- 7 a. The name and post-office address of the applicant.
- 8 b. The location of the racetrack and whether it is owned or leased. If the racetrack is
9 leased, a copy of the lease must be included.
- 10 c. A statement of the applicant's previous history and association sufficient to
11 establish that the applicant is an eligible organization.
- 12 d. The time, place, and number of days the racing meet is proposed to be
13 conducted.
- 14 ~~e. The type of racing to be conducted.~~
- 15 f. Other information the commission requires.
- 16 3. At least thirty days before the commission issues or renews a license to conduct
17 races, the applicant shall deliver a complete copy of the application to the local
18 jurisdiction governing body. The application to the commission must include a
19 certificate verified by a representative of the applicant, indicating delivery of the
20 application copy to the governing body. If the governing body of the local jurisdiction
21 adopts a resolution disapproving the application for license or renewal and so informs
22 the executive director within thirty days of receiving a copy of the application, the
23 license to conduct races may not be issued or renewed.
- 24 4. A licensee, including a totalizator provider or service provider, may not offer bets or
25 wagers on dog races.

26 **SECTION 6. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **53-06.2-08. License authorization and fees.**

- 29 1. Each license issued under the certificate system must describe the place, track, or
30 racecourse at which the licensee may hold races. Every license must specify the
31 number of days the licensed races may continue, the hours during which racing may

1 be conducted, and the number of races that may be held each day. Races authorized
2 under this chapter may be held during the hours approved by the commission and
3 within the hours permitted by state law. Wagering on historic horse races may be
4 conducted on any day, regardless of whether live racing or simulcasting is taking
5 place.

6 2. The commission may charge a license fee for racing commensurate with the size and
7 attendance of the race meet.

8 3. Each applicant for a license under this chapter shall give bond or a letter of credit
9 payable to this state with good security as approved by the commission. The bond or
10 letter of credit must be in the amount the commission determines will adequately
11 protect the amount normally due and owing to this state in a regular payment period
12 or, in the case of new or altered conditions, based on the projected revenues.

13 4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers,
14 grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires,
15 service providers, employees of racing associations, and such other persons as
16 determined by the commission. Licensure of service providers, totalizator companies,
17 site operators, and organizations applying to conduct or conducting pari-mutuel
18 wagering must be approved by the attorney general. The attorney general may not
19 grant a license denied by the commission. License fees are as established by the
20 commission.

21 5. The commission may establish the ~~period of time~~term for which licenses issued under
22 this chapter are valid.

23 6. The commission shall deposit all fees collected under this section in the racing
24 commission operating fund. Subject to legislative appropriation, the commission may
25 spend the fees for operating costs of the commission.

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

28 **53-06.2-10. Certificate system - Rules.**

29 The certificate system allows a licensee to receive money from any person present at a
30 live, simulcast, or historic horse race, simulcast horse race, or simulcast dog race who desires
31 to bet on any entry in that race. A person betting on an entry to win acquires an interest in the

1 total money bet on all entries in the race, in proportion to the amount of money bet by that
2 person, under rules adopted by the commission. The licensee shall receive the bets and for
3 each bet on a live or simulcast horse race shall issue a certificate to the bettor on which is at
4 least shown the number of the race, the amount bet, and the number or name of the entry
5 selected by the bettor. A certificate may not be issued for a wager on a historic horse race. The
6 commission may adopt rules for place, show, quinella, combination, or other types of ~~betting~~
7 ~~usually connected with racing~~ pari-mutuel wagering.

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

10 **53-06.2-10.1. Simulcast wagering.**

- 11 1. As used in this section, "account wagering" means a form of pari-mutuel wagering in
12 which an individual deposits money in an account and uses the account balance to
13 pay for pari-mutuel wagers.
- 14 2. In addition to racing under the certificate system, as authorized by this chapter, and
15 conducted upon the premises of a racetrack, simulcast pari-mutuel and account
16 wagering may be conducted in accordance with this chapter or rules adopted by the
17 commission under this chapter in accordance with chapter 28-32.
- 18 3. Any organization qualified under section 53-06.2-06 to conduct racing may ~~make~~
19 ~~written application~~ apply to the commission for the conduct of simulcast pari-mutuel
20 and account wagering on races held at licensed racetracks inside the state or
21 racetracks outside the state, or both.
- 22 4. Licensure of service providers, totalizator companies, site operators, or organizations
23 applying to conduct or conducting simulcast or account wagering must be approved by
24 the attorney general. The attorney general may not grant a license denied by the
25 commission.
- 26 5. Notwithstanding any other provision of this chapter, the commission may authorize any
27 licensee to participate in interstate or international combined wagering pools with one
28 or more other racing jurisdictions. ~~Anytime that~~
 - 29 a. If a licensee participates in an interstate or international combined pool, the
30 licensee, as prescribed by the commission, may adopt the take-out of the host
31 jurisdiction or facility.

- 1 **b.** The commission may permit a licensee to use one or more of its races or
2 simulcast programs for an interstate or international combined wagering pool at
3 locations outside its jurisdiction and may allow pari-mutuel pools in other states to
4 be combined with pari-mutuel pools in its jurisdiction for the purpose of
5 establishing an interstate or international combined wagering pool.
- 6 **c.** The participation by a licensee in a combined interstate or international wagering
7 pool does not cause that licensee to be considered to be doing business in any
8 jurisdiction other than the jurisdiction in which the licensee is physically located.
- 9 **d.** Pari-mutuel taxes or commissions may not be imposed on any amounts wagered
10 in an interstate or international combined wagering pool other than amounts
11 wagered within this jurisdiction.
- 12 **e.** Breakage for interstate or international combined wagering pools must be
13 calculated in accordance with the statutes or rules of the host jurisdiction and
14 must be distributed among the participating jurisdictions in a manner agreed to
15 among the jurisdictions.
- 16 **6.** The certificate system also permits pari-mutuel wagering to be conducted through
17 account wagering. ~~As used in this section, "account wagering" means a form of~~
18 ~~pari-mutuel wagering in which an individual deposits money in an account and uses~~
19 ~~the account balance to pay for pari-mutuel wagers. An account wager made on an~~
20 account established in this state may ~~only~~ be made only through the licensed
21 simulcast service provider approved by the attorney general and authorized by the
22 commission to operate the simulcast pari-mutuel wagering system under the certificate
23 system. The attorney general may not grant a license denied by the commission. An
24 account wager may be made in person, by direct telephone communication, or
25 through other electronic communication in accordance with rules adopted by the
26 commission. ~~Breakage for interstate or international combined wagering pools must be~~
27 ~~calculated in accordance with the statutes or rules of the host jurisdiction and must be~~
28 ~~distributed among the participating jurisdictions in a manner agreed to among the~~
29 ~~jurisdictions.~~

30 **SECTION 9.** A new section to chapter 53-06.2 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Historic horse race wagering.**

- 2 1. In accordance with pari-mutuel wagering under the certificate system, and if
3 conducted at an equine racing facility, pari-mutuel wagering on historic horse races
4 may be conducted in accordance with this chapter or rules adopted by the
5 commission. Any equine racing facility under this chapter may offer wagering on
6 historic horse races on electronic devices if:
- 7 a. Wagering is conducted within an equine racing facility, using the pari-mutuel
8 method of wagering;
- 9 b. A licensee maintains no fewer than two terminals offering the same type of wager
10 on historic horse races;
- 11 c. The terminal used for conducting a historic horse race:
- 12 (1) Provides true and accurate past performance information on each historic
13 horse race before a patron makes selections;
- 14 (2) Displays the official results of each race;
- 15 (3) Has been tested by an independent testing laboratory to ensure integrity
16 and proper working order; and
- 17 (4) Displays pool amounts that patron will receive for a winning wager; and
- 18 d. The identity of each race is revealed to the patron after the patron has placed a
19 wager.
- 20 2. The terminal used for conducting a historic horse race may display a photographic
21 recording or digital simulation or recreation of a portion of the race.
- 22 3. Notwithstanding any other provision of this chapter, in addition to any bond provided to
23 the attorney general as security for other licensed activity pursuant to section
24 53-06.2-08, each licensed service provider approved by the commission to offer
25 wagering on historic horse races shall post a bond of five hundred thousand dollars
26 payable to the state. A licensed service provider posting a bond under this section is
27 not required to post more than one bond in the amount of five hundred thousand
28 dollars, regardless of the number of simulcast facilities at which it offers wagers on
29 historic horse races.

30 **SECTION 10.** A new section to chapter 53-06.2 of the North Dakota Century Code is
31 created and enacted as follows:

1 **Pari-mutuel horse wagering.**

2 For pari-mutuel horse wagering:

- 3 1. Wagers must be placed in one or more wagering pools.
- 4 2. Wagers on different races or sets of races may be pooled together.
- 5 3. Patrons may establish odds or payouts.
- 6 4. Winning patrons share in amounts wagered, including carryover amounts plus
7 amounts provided by an association less any deductions required, as approved by the
8 commission.
- 9 5. Pools may be paid out incrementally as approved by the commission.

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

12 **53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses -**
13 **Payment to general fund.**

- 14 1. For wagering on live horse racing:
- 15 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
16 twenty percent of the amount wagered. Of the amount wagered, the licensee
17 shall pay:
- 18 (1) One-half of one percent to the state treasurer to be deposited in the general
19 fund.
- 20 (2) One-half of one percent to the commission to be deposited in the breeders'
21 fund.
- 22 (3) One-half of one percent to the commission to be deposited in the purse
23 fund.
- 24 (4) One-half of one percent to the commission to be deposited in the racing
25 promotion fund.
- 26 b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools,
27 the licensee may deduct no more than twenty-five percent of the amount
28 wagered. Of the amount wagered, the licensee shall pay:
- 29 (1) One-half of one percent to the state treasurer to be deposited in the general
30 fund.

- 1 (2) One-half of one percent to the commission to be deposited in the breeders'
2 fund.
- 3 (3) One-half of one percent to the commission to be deposited in the purse
4 fund.
- 5 (4) One-half of one percent to the commission to be deposited in the racing
6 promotion fund.
- 7 2. For simulcast and account wagering:
- 8 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
9 twenty percent of the amount wagered. Except as limited in subdivision c, of the
10 amount wagered by simulcast and account wagering in win, place, and show
11 pari-mutuel pools, the licensee shall pay:
- 12 (1) One-sixteenth of one percent to the state treasurer to be deposited in the
13 general fund.
- 14 (2) One-sixteenth of one percent to the commission to be deposited in the
15 breeders' fund.
- 16 (3) One-sixteenth of one percent to the commission to be deposited in the
17 purse fund.
- 18 (4) One-sixteenth of one percent to the commission to be deposited in the
19 racing promotion fund.
- 20 b. Except as limited in subdivision c, of the amount wagered by simulcast and
21 account wagering in daily double, quinella, exacta, trifecta, or other combination
22 pari-mutuel pools, the licensee shall pay:
- 23 (1) One-sixteenth of one percent to the state treasurer to be deposited in the
24 general fund.
- 25 (2) One-sixteenth of one percent to the commission to be deposited in the
26 breeders' fund.
- 27 (3) One-sixteenth of one percent to the commission to be deposited in the
28 purse fund.
- 29 (4) One-sixteenth of one percent to the commission to be deposited in the
30 racing promotion fund.

- 1 c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than
2 four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and
3 thereafter, the licensee may not pay more than four hundred twenty thousand
4 dollars.
- 5 3. For historic horse race wagering, the licensee may deduct no more than twenty-five
6 percent of the amount wagered. Of the amount wagered, the licensee shall pay:
- 7 a. One-fourth of one percent to the state treasurer to be deposited in the general
8 fund.
- 9 b. One-sixth of one percent to be deposited in the breeder's fund.
- 10 c. One-sixth of one percent to be deposited in the purse fund.
- 11 d. One-sixth of one percent to be deposited in the racing promotion fund.
- 12 e. One-fourth of one percent to be deposited in the treasury of the county in which
13 wagering on historic horse racing takes place.
- 14 f. One-fourth of one percent to be deposited in the treasury of the city in which
15 wagering on historic horse racing takes place.
- 16 4. For all pari-mutuel wagering the licensee shall pay to the commission the amount due
17 for all unclaimed tickets and all breakage on the first twenty million dollars wagered in
18 each fiscal year with each service provider. The amount received must be deposited in
19 the racing promotion fund.
- 20 4.5. The licensee conducting wagering on live racing, simulcast horse racing wagering,
21 historic horse racing, or account wagering shall retain all other money in the
22 pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules
23 adopted by the commission.
- 24 5.6. A licensee may not use any of the portion deducted for expenses under subsections 1
25 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel
26 raeingwagering under the certificate system. After paying qualifying expenses, the
27 licensee shall use the remainder of the amount so withheld only for eligible uses
28 allowed to charitable gambling organizations under section 53-06.1-11.1.
- 29 6.7. The commission shall deposit the moneys received pursuant to subsections 1, 2, ~~and~~
30 3, ~~and~~ 4 and from the North Dakota horse racing foundation pursuant to subsection 5
31 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion

1 fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and
2 racing promotion fund are appropriated to the commission on a continuing basis to
3 carry out the purposes of those funds under this chapter and must be administered
4 and disbursed in accordance with rules adopted by the commission. The commission
5 may not transfer money among the funds. The commission shall distribute in-state
6 awards and payment supplements from the breeders' fund in the same calendar year
7 the money was earned by the recipient. The commission shall distribute out-of-state
8 awards and payment supplements from the breeders' fund, if made available by the
9 commission, within two months of the end of the calendar year the money was earned
10 by the recipient. The commission shall distribute payments awarded to qualified
11 owners and breeders from the breeders' fund without requiring owners and breeders
12 to apply for the payments. The commission may receive twenty-five thousand dollars
13 per year or twenty-five percent per year, whichever is greater, from the racing
14 promotion fund for the payment of the commission's operating expenses.