

Introduced by

Judiciary Committee

(At the request of the Racing Commission)

1 A BILL for an Act to amend and reenact sections 53-06.2-01, 53-06.2-03, and 53-06.2-04,  
2 subsection 3 of section 53-06.2-07, and sections 53-06.2-10, 53-06.2-10.1, 53-06.2-11, and  
3 53-06.2-15 of the North Dakota Century Code, relating to pari-mutuel wagering events and  
4 requiring the racing commission to adopt model rules and standards.

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

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

8 **53-06.2-01. Definitions.**

9 As used in this chapter:

10 1. "Arena" means any venue where an event may be held either indoors or outdoors.

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

14 ~~2-3.~~ "Certificate system" means the system of betting described in section 53-06.2-10.

15 ~~3-4.~~ "Charitable organization" means a nonprofit organization operated for the relief of  
16 poverty, distress, or other conditions of public concern in this state and has been so  
17 engaged in this state for at least two years.

18 ~~4-5.~~ "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or  
19 state organization that is authorized by its written constitution, charter, articles of  
20 incorporation, or bylaws to engage in a civic or service purpose in this state and has  
21 so existed in this state for at least two years. The term includes a similar local  
22 nonprofit organization, not affiliated with a state or national organization, which is so  
23 recognized by a resolution adopted by the governing body of the local jurisdiction in

1           which the organization conducts its principal activities, and which has existed in this  
2           state for at least two years.

3     ~~5-6.~~ "Commission" means the North Dakota racing commission.

4     ~~6-7.~~ "Event" means a race, contest, game, or competition in which a wager can legally be  
5           made in the jurisdiction the wager is made.

6     ~~8.~~ "Director~~Executive director~~" means the director of the commission.

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

11    ~~8-10.~~ "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city,  
12          and with respect to a site not inside the city limits of a city, the county in which the site  
13          is located.

14    ~~9-11.~~ "Other public-spirited organization" means a nonprofit organization recognized by the  
15          governing body of the appropriate local jurisdiction by resolution as public-spirited and  
16          eligible under this chapter.

17    ~~10-12.~~ "Purse fund" means a fund, administered by the commission, established to  
18          supplement and improve purses offered at racetracks within the state.

19    ~~11-13.~~ "Racing" means a live or simulcast horse racing event under the certificate system ~~or~~  
20          simulcast dog racing under the certificate system.

21    ~~12-14.~~ "Racing promotion fund" means a fund administered by the commission established to  
22          assist in improving and upgrading racetracks in the state, promoting horse racing in  
23          the state, and developing new racetracks in the state as necessary and approved by  
24          the commission.

25    ~~13-15.~~ "Religious organization" means a nonprofit organization, church, body of  
26          communicants, or group gathered in common membership for mutual support and  
27          edification in piety, worship, and religious observances, and which has been so  
28          gathered or united in this state for at least two years.

29    ~~14-16.~~ "Veterans' organization" means a congressionally chartered organization in this state,  
30          or a branch, lodge, or chapter of a nonprofit national or state organization in this state,  
31          the membership of which consists of individuals who were members of the armed

1 services or forces of the United States, and which has so been in existence in this  
2 state for at least two years.

3 **SECTION 2. AMENDMENT.** Section 53-06.2-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **53-06.2-03. ~~Director~~Executive director of racing - Appointment - Qualifications -**  
6 **Salary - Duties - Other personnel.**

- 7 1. The commission shall appoint ~~a~~an executive director of racing. The commission shall  
8 establish the executive director's qualifications and salary.
- 9 2. The executive director shall devote such time to the duties of the office as the  
10 commission may prescribe. The executive director is the executive officer of the  
11 commission and shall enforce the rules and orders of the commission. The executive  
12 director shall perform other duties the commission prescribes.
- 13 3. The executive director may employ other persons as authorized by the commission.

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

16 **53-06.2-04. Duties of commission.**

17 The commission shall:

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

- 1       8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05  
2       and require the licensee to pay that cost.
- 3       9. Report biennially to the legislative council regarding the operation of the commission.
- 4       10. Adopt by rule model rules and standards, such as the association of racing  
5       commissioners international's model rules and standards.
- 6       11. 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.~~12. 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 4. AMENDMENT.** Subsection 3 of section 53-06.2-07 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14       3. At least thirty days before the commission issues or renews a license to conduct  
15       races, the applicant shall deliver a complete copy of the application to the local  
16       jurisdiction governing body. The application to the commission must include a  
17       certificate verified by a representative of the applicant, indicating delivery of the  
18       application copy to the governing body. If the governing body of the local jurisdiction  
19       adopts a resolution disapproving the application for license or renewal and so informs  
20       the executive director within thirty days of receiving a copy of the application, the  
21       license to conduct races may not be issued or renewed.

22       **SECTION 5. AMENDMENT.** Section 53-06.2-10 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **53-06.2-10. Certificate system - Rules.**

25       The certificate system allows a licensee to receive money from any person present at a live  
26 horse race, simulcast horse race, or ~~simulcast dog race~~event who desires to bet on any entry in  
27 that ~~race~~event. A person betting on an entry to win acquires an interest in the total money bet  
28 on all entries in the ~~race~~event, in proportion to the amount of money bet by that person, under  
29 rules adopted by the commission. The licensee shall receive the bets and for each bet shall  
30 issue a certificate to the bettor on which is at least shown the number of the race, the amount  
31 bet, and the number or name of the entry selected by the bettor. The commission may adopt

1 rules for place, show, quinella, combination, or other types of betting usually connected with  
2 racing.

3 **SECTION 6. AMENDMENT.** Section 53-06.2-10.1 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **53-06.2-10.1. Simulcast wagering.**

6 In addition to racing under the certificate system, as authorized by this chapter, and  
7 conducted upon the premises of a racetrack, simulcast pari-mutuel and account wagering may  
8 be conducted in accordance with this chapter or rules adopted by the commission under this  
9 chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06  
10 to conduct racing may make written application to the commission for the conduct of simulcast  
11 pari-mutuel and account wagering on ~~race~~events held at licensed ~~racetracks~~arenas inside the  
12 state or ~~racetracks~~arenas outside the state, or both. Licensure of service providers, totalizator  
13 companies, site operators, or organizations applying to conduct or conducting simulcast or  
14 account wagering must be approved by the attorney general. The attorney general may not  
15 grant a license denied by the commission. Notwithstanding any other provision of this chapter,  
16 the commission may authorize any licensee to participate in interstate or international combined  
17 wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates  
18 in an interstate or international combined pool, the licensee, as prescribed by the commission,  
19 may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee  
20 to use one or more of its races or simulcast programs for an interstate or international combined  
21 wagering pool at locations outside its jurisdiction and may allow pari-mutuel pools in other  
22 states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an  
23 interstate or international combined wagering pool. The participation by a licensee in a  
24 combined interstate or international wagering pool does not cause that licensee to be  
25 considered to be doing business in any jurisdiction other than the jurisdiction in which the  
26 licensee is physically located. Pari-mutuel taxes or commissions may not be imposed on any  
27 amounts wagered in an interstate or international combined wagering pool other than amounts  
28 wagered within this jurisdiction. The certificate system also permits pari-mutuel wagering to be  
29 conducted through account wagering. As used in this section, "account wagering" means a form  
30 of pari-mutuel wagering in which an individual deposits money in an account and uses the  
31 account balance to pay for pari-mutuel wagers. An account wager made on an account

1 established in this state may only be made through the licensed simulcast service provider  
2 approved by the attorney general and authorized by the commission to operate the simulcast  
3 pari-mutuel wagering system under the certificate system. The attorney general may not grant a  
4 license denied by the commission. An account wager may be made in person, by direct  
5 telephone communication, or through other electronic communication in accordance with rules  
6 adopted by the commission. Breakage for interstate or international combined wagering pools  
7 must be calculated in accordance with the statutes or rules of the host jurisdiction and must be  
8 distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

9 **SECTION 7. AMENDMENT.** Section 53-06.2-11 of the North Dakota Century Code is  
10 amended and reenacted as follows:

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

13 1. For wagering on live horse racing or events:

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

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

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

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

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

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

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

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

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

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

5           2. For simulcast and account wagering:

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

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

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

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

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

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

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

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

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

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

29           c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than  
30           four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and

1                   thereafter, the licensee may not pay more than four hundred twenty thousand  
2                   dollars.

3           3. For all pari-mutuel wagering the licensee shall pay to the commission the amount due  
4           for all unclaimed tickets and all breakage on the first twenty million dollars wagered in  
5           each fiscal year with each service provider. The amount received must be deposited in  
6           the racing promotion fund.

7           4. The licensee conducting wagering on live racing, simulcast wagering, or account  
8           wagering events shall retain all other money in the pari-mutuel pool and pay it to  
9           bettors holding winning tickets as provided by rules adopted by the commission.

10          5. A licensee may not use any of the portion deducted for expenses under subsections 1  
11          and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel  
12          racing under the certificate system. After paying qualifying expenses, the licensee  
13          shall use the remainder of the amount so withheld only for eligible uses allowed to  
14          charitable gambling organizations under section 53-06.1-11.1.

15          6. The commission shall deposit the moneys received pursuant to subsections 1, 2, and  
16          3 and from the North Dakota horse racing foundation pursuant to subsection 5 of  
17          section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion  
18          fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and  
19          racing promotion fund are appropriated to the commission on a continuing basis to  
20          carry out the purposes of those funds under this chapter and must be administered  
21          and disbursed in accordance with rules adopted by the commission. The commission  
22          may not transfer money among the funds. The commission shall distribute in-state  
23          awards and payment supplements from the breeders' fund in the same calendar year  
24          the money was earned by the recipient. The commission shall distribute out-of-state  
25          awards and payment supplements from the breeders' fund, if made available by the  
26          commission, within two months of the end of the calendar year the money was earned  
27          by the recipient. The commission shall distribute payments awarded to qualified  
28          owners and breeders from the breeders' fund without requiring owners and breeders  
29          to apply for the payments. The commission may receive twenty-five thousand dollars  
30          per year or twenty-five percent per year, whichever is greater, from the racing  
31          promotion fund for the payment of the commission's operating expenses.

1       **SECTION 8. AMENDMENT.** Section 53-06.2-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **53-06.2-15. Revocation, suspension, fine - Procedure.**

4       The commission, on proof of violation by a licensee, its agents or employees, of this chapter  
5 or any rule adopted by the commission may, on reasonable notice to the licensee and after  
6 giving the licensee an opportunity to be heard, fine the licensee or revoke or suspend the  
7 license. If the license is revoked, the licensee is not eligible to receive another license within  
8 twelve months from the date of revocation. Every decision or order of the commission must be  
9 made in writing and filed with the executive director for preservation as a permanent record of  
10 the commission. The decision must be signed by the chairman, attested by the executive  
11 director, and dated.