CHAPTER 53-06.2
PARI-MUTUEL HORSE RACING

53-06.2-01. Definitions.

As used in this chapter:

1. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the commission.
2. "Certificate system" means the system of betting described in section 53-06.2-10.
3. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
4. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
5. "Commission" means the North Dakota racing commission.
6. "Director" means the director of the commission.
7. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.
8. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
9. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
10. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
11. "Racing" means live or simulcast horse racing under the certificate system or simulcast dog racing under the certificate system.
12. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
13. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
14. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

53-06.2-02. Racing commission - Members - Appointment - Term - Qualifications - Compensation.

1. A North Dakota racing commission is established consisting of the chairman and four other members appointed by the governor. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the

state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission. For purposes of this section, a person has a financial interest in racing if that person has an ownership interest in horses running at live or simulcast meets conducted or shown in this state subject to this chapter or rules of the commission, is required to be licensed under this chapter or the rules of the commission, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the commission.
3. Commission members are entitled to seventy-five dollars per day for compensation, and mileage and expense reimbursement as allowed to other state employees.

53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.

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

53-06.2-04. Duties of commission.

The commission shall:

1. Provide for racing under the certificate system.
2. Set racing dates.
3. Adopt rules for effectively preventing the use of any substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, unless specifically authorized by the commission.
4. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held under the certificate system.
5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.
6. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.
7. Exclude from racetracks or simulcast pari-mutuel wagering facilities any person who violates any rule of the commission or any law.
8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05 and require the licensee to pay that cost.
9. Report biennially to the legislative council regarding the operation of the commission.

10. Provide notice to the North Dakota horsemen's council of meetings held by the commission and permit the North Dakota horsemen's council to participate in the meetings through placement of items on the agenda.
11. Complete, distribute, and post on the commission's website the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first.

53-06.2-04.1. North Dakota-bred registry.

The commission shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The administrative cost must be paid from the breeders' fund.

53-06.2-05. Powers of commission.

The commission may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.
3. Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.
4. License all participants in the racing and simulcast pari-mutuel wagering industry and require and obtain information the commission deems necessary from license applicants. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting pari-mutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.
5. Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6 of section 53-06.2-11.
6. Adopt additional rules for the administration, implementation, and regulation of activities conducted pursuant to this chapter. The commission shall deposit any fees collected under authority of this subsection in the racing commission operating fund. Subject to legislative appropriation, the commission may spend the fees for operating costs of the commission.

53-06.2-06. Organizations eligible to conduct racing and simulcast pari-mutuel wagering.

Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and other public-spirited organizations may be licensed to conduct racing and simulcast pari-mutuel wagering as authorized by this chapter.

53-06.2-07. Issuance of licenses - Applications.

1. On compliance by an applicant with this chapter and the approval of the attorney general, the commission may issue a license to conduct races. The attorney general may not grant a license denied by the commission.
2. An application for a license to conduct a racing meet must be signed under oath and filed with the commission. The application must contain at least the following:

a. The name and post-office address of the applicant.
b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
d. The time, place, and number of days the racing meet is proposed to be conducted.
e. The type of racing to be conducted.
f. Other information the commission requires.

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

53-06.2-08. License authorization and fees.

1. Each license issued under the certificate system must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the commission and within the hours permitted by state law.
2. The commission may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. Each applicant for a license under this chapter shall give bond or a letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.
4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, service providers, employees of racing associations, and such other persons as determined by the commission. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting pari-mutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. License fees are as established by the commission.
5. The commission may establish the period of time for which licenses issued under this chapter are valid.
6. The commission shall deposit all fees collected under this section in the racing commission operating fund. Subject to legislative appropriation, the commission may spend the fees for operating costs of the commission.

53-06.2-09. Allotment of racing days.

If an applicant is eligible to receive a license under this chapter, the commission shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets.

53-06.2-10. Certificate system - Rules.

The certificate system allows a licensee to receive money from any person present at a live horse race, simulcast horse race, or simulcast dog race who desires to bet on any entry in that race. A person betting on an entry to win acquires an interest in the total money bet on all entries in the race, in proportion to the amount of money bet by that person, under rules

adopted by the commission. The licensee shall receive the bets and for each bet shall issue a certificate to the bettor on which is at least shown the number of the race, the amount bet, and the number or name of the entry selected by the bettor. The commission may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

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.

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

1. For wagering on live horse racing:
   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. 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. 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. 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.

53-06.2-12. Audits and investigations by state auditor.

On request of the commission, the state auditor shall conduct audits and investigate the operations of any licensee. The commission shall reimburse the state auditor for all services rendered.

53-06.2-13. Duty of attorney general to participate in certain hearings and to conduct investigations - Employment of private counsel by commission.

1. The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of this chapter. The attorney general may require payment for any services rendered to the racing commission. Payment for the services must be deposited in the attorney general's operating fund. The commission may employ private counsel for adoption of rules and to ensure that its hearings are conducted fairly.
2. a. The attorney general may audit and investigate service providers, totalizator companies, site operators, or organizations applying to conduct or conducting pari-mutuel wagering. The attorney general may:
   (1) Inspect all sites in which pari-mutuel wagering is conducted.
   (2) Inspect all pari-mutuel wagering equipment and supplies.
   (3) Seize, remove, or impound any pari-mutuel equipment, supplies, or books and records for the purpose of examination and inspection.
   (4) Inspect, examine, photocopy, and audit all books and records.

   b. The commission shall reimburse the attorney general for auditing and investigation. Payment for auditing and investigation must be deposited in the attorney general's operating fund.

53-06.2-14. Denial, suspension, and revocation of licenses - Reasons.

The commission may deny, suspend, or revoke licenses under the certificate system and privileges granted by it, and it may terminate racing privileges for just cause. Actions constituting just cause include:

1. Any action or attempted action by a person contrary to any law.
2. Corrupt practices, which include:
   a. Prearranging or attempting to prearrange the order of finish of a race.
   b. Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
   c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the commission.
4. Willful falsification or misstatement of fact in an application for racing privileges.
5. Material false statement to a racing official or to the commission.
6. Willful disobedience of a commission order or of a lawful order of a racing official other than a commission member.
7. Continued failure or inability to meet financial obligations connected with racing meets.
8. Failure or inability to properly maintain a racetrack.

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

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

53-06.2-16. Prohibited acts - Penalties.

1. No person may conduct a pari-mutuel horse race unless that person is licensed by the commission. Violation of this subsection is a class A misdemeanor.
2. No person may prearrange or attempt to prearrange the order of finish of a race. Violation of this subsection is a class C felony.