

CHAPTER 69.5-01-03  
RACING OFFICIALS

69.5-01-03-10. Steward investigations and decisions.

1. **Investigations.** The stewards, upon direction of the commission, shall conduct inquiries and shall recommend to the commission the issuance of subpoenas to compel the attendance of witnesses and the production of reports, books, papers, and documents for any inquiry. The commission stewards have the power to administer oaths and examine witnesses and shall submit to the commission a written report of every such inquiry made by them.
  
2. **Cancel trifecta.** The stewards shall cancel trifecta wagering any time there are fewer than five betting interests unless there is a late scratch.
  
3. **Form reversal.** The stewards shall take notice of any marked reversal of form by any horse and shall conduct an inquiry of the horse's owner, trainer, or other persons connected with said horse including any person found to have contributed to the deliberate restraint or impediment of a horse in order to cause it not to win, be likely to cause it not to win, finish as near as possible to first, or be likely to finish as near as possible to first.
  
4. **Fouls.**
  - a. **Extent of disqualification.** Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and shall place any horse found to be disqualified behind the others in the race with which it interfered or may place the offending horse last in the race.
  
  - b. **Coupled entry.** When a horse is disqualified under this section and where that horse was a part of a coupled entry and, where, in the opinion of the stewards, the act which lead to the disqualification served to unduly benefit the other part of the coupled entry, the stewards may, at their discretion, disqualify the other part of the entry.
  
5. **Stewards to Inquire**
  - a. The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by this chapter to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.
  
  - b. In determining the extent of disqualification, the stewards in their discretion may:

- (1) declare null and void a track record set or equalled by a disqualified horse, or any horses coupled with it as an entry;
- (2) affirm the placing judges' order of finish and hold the jockey responsible if, in the stewards' opinion, the foul riding did not affect the order of finish; or
- (3) disqualify the offending horse and hold the jockey blameless if in the stewards' opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

#### 6. Race Objections

- a. An objection to an incident alleged to have occurred during the running of a race shall be received only when lodged with the clerk of scales, the stewards or their designees, by the owner, the authorized agent of the owner, the trainer or the jockey of a horse engaged in the same race.
- b. An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a fast official procedure is permitted.
- c. The stewards shall make all findings of fact as to all matters occurring during and incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determinations shall be final and may not be appealed.

75. Protests and complaints. The stewards shall investigate promptly and render a decision in every protest and complaint made to them. They shall keep a record of all protests and complaints and any rulings made by the stewards and file such reports daily with the commission.

- a. Protests involving fraud. Protests involving fraud may be made by any person at any time to the stewards.
- b. Protests not involving fraud. Protests, except those involving fraud, may be filed only by the owner of a horse or the owner's authorized agent, the trainer, or the jockey of the horse in the race over which the protest is made. The protest must be made to the clerk of the scales or to the stewards before the race is declared official. If the placement of the starting gate is in error, no protest may be made thereon, unless the protest is entered prior to the time the first horse enters the gate.
- c. Protest to clerk of scales. A jockey who intends to enter a protest to the clerk of scales following the running of any race, and before the race is declared official, shall notify the clerk of scales of this intention immediately upon the arrival of the jockey at the scales.
- d. Prize money of a protested horse. During the time of determination

of a protest, any money or prize won by a horse protested or otherwise affected by the outcome of the race must be paid to and held by the horseman's accountant until the protest is decided.

- e. Protest in writing. A protest, other than one arising out of the actual running of a race, must be in writing, signed by the complainant, and filed with the stewards one hour before post time of the race out of which the protest arises.
- f. Frivolous protests. No person or licensee shall make a frivolous protest nor may any person withdraw a protest without the permission of the stewards.

**History:** Effective July 1, 1989; amended effective January 1, 2008, amended effective \_\_\_\_\_, 2018.

**General Authority:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

**Law Implemented:** NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

~~69.5-01-03-15. Starter. The starter is responsible to provide a fair start for each race. The starter shall have the following duties:~~

- ~~1. The starter may appoint assistants, but assistants may not handle or take charge of a horse in the starting gate except by the express permission of the starter.~~
- ~~2. The starter shall report violations of these rules occurring in the starting of a race to the stewards.~~
- ~~3. When a door of the starting gate fails to open as the starter dispatches the field, it shall be reported immediately to the stewards by the starter. The stewards shall post the inquiry sign and have the announcer alert the public to hold all mutuel tickets. The stewards shall then decide if the gate or gates failed to open when the starter dispatched the field and rule accordingly.~~
- ~~4. The starter shall supervise the schooling of horses for the starting gate. The starter may require schooling for any horse the starter determines not to be sufficiently trained in starting gate procedures to ensure a fair start. The starter shall maintain a schooling list of horses designated for training, a copy of which must be accessibly posted in the office of the racing secretary.~~
- ~~5. The starter shall maintain a list of every horse ineligible to start because of a determination by the starter that the horse is not sufficiently schooled for starting or is otherwise unable or unfit to start a race.~~
- ~~6. The starter and the starter's assistants are prohibited from striking a~~

~~horse or using abusive language to a jockey.~~

~~7. The starter shall ensure that the horses take their positions in the starting gate in order of post position from the inside rail out.~~

1. The starter shall:

- a. have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;
- b. appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters ;
- c. ensure that at least one assistant starter is available for each horse in a race;
- d. assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions not more than 10 minutes before post time for the race;
- e. assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; and
- f. load horses into the gate in any order deemed necessary to ensure a safe and fair start.
- g. Immediately report to the stewards any false starts, impeded starts or unfair starts.

2. The assistant starters shall not:

- a. handle or take charge of any horse in the starting gate without the expressed permission of the starter;
- b. impede the start of a race;
- c. apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;
- d. slap, boot or otherwise dispatch a horse from the starting gate;
- e. strike or use abusive language to a jockey; or
- f. accept or solicit any gratuity or payment other than his/her regular

salary, directly or indirectly, for services in starting a race.

**History:** Effective July 1, 1989.

**General Authority:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

**Law Implemented:** NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

CHAPTER 69.5-01-05  
LICENSEES

69.5-01-05-29. Jockeys and apprentice jockeys.

1. Eligibility.

a. Jockeys.

- (1) No person under sixteen years of age will be licensed by the commission as a jockey.
- (2) ~~All jockeys must pass physical examinations once a year by a physician approved by the commission.~~ The stewards may require that any jockey ~~be reexamined~~ pass a physical examination and may refuse to allow any jockey to ride until such jockey successfully completes such examination.
- (3) A jockey may not be an owner or trainer of any racehorse.
- (4) A license ~~will~~ may not be granted until the applicant has successfully completed two rides under a provisional license of the commission and has been approved by the starter.
- (5) Whenever a jockey from a foreign country, excluding Mexico and Canada, rides in the United States, such jockey must declare that he or she is a holder of a valid license and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet to the commission. The sheet must state:
  - (a) That the jockey is the holder of a valid license to ride;
  - (b) That the jockey is not currently under suspension; and
  - (c) That the jockey agrees to be bound by the rules of the commission.

This sheet must be retained by the commission and at the conclusion of the jockey's participation in racing, it must be returned to the jockey, properly endorsed by the commission, stating that the jockey has not incurred any penalty or had a fall. If a penalty has been assessed against the jockey, the appropriate racing official shall notify the racing authority issuing the original license to extend the penalty for the same period of time.

b. Apprentice jockeys.

- (1) A contract with a horse owner to provide apprentice jockey services, or an apprentice certificate from the stewards must be presented to the commission to be licensed.
- (2) The conditions in subdivision a of subsection 1 with regard to jockeys also apply to apprentice jockeys.

**2. Jockeys' fees.**

- a. Track management shall have the authority to set the jockey mount fee.
- b. Schedule. The minimum fee to jockeys must be in all races as follows:

Purse	Win	2nd	3rd	Unplaced
\$400 and under	\$27	\$19	\$17	\$16
\$500	30	20	17	16
\$600	36	22	17	16
\$700 - \$900	10%	25	22	20
\$1,000 - \$1,400	10%	30	25	22
\$1,500 - \$1,900	10%	35	30	28
\$2,000 - \$3,400	10%	45	35	33
\$3,500 - \$4,900	10%	55	45	35
\$5,000 - \$9,900	10%	65	50	40
\$10,000 - \$14,900	10%	5%	5%	45
\$15,000 - \$24,900	10%	5%	5%	50
\$25,000 - \$49,900	10%	5%	5%	60
\$50,000 - \$99,900	10%	5%	5%	75
\$100,000 and up	10%	5%	5%	100

- c. Entitlement. Any apprentice or contract jockey is entitled to the regular jockey fees, except when riding a horse owned in part or solely by such jockey's contractholder. An interest in the winnings only (such as trainer's percent) does not constitute ownership.
- d. Fee earned. A jockey's fee must be considered earned when the jockey is weighed out by the clerk of scales. The fee may not be considered earned if the jockey, of the jockey's own free will, takes himself or herself off of the jockey's mount, where injury to

the horse or rider is not involved. Any conditions or considerations not covered by the above ruling must be at the discretion of the stewards.

- e. Multiple engagements. If any owner or trainer engages two or more jockeys for the same race, the owner or trainer is required to pay each of the jockeys whether the jockey rides in the race or not.
  - f. Dead heats. Jockeys finishing a race in a dead heat shall divide equally the totals they individually would have received had one jockey won the race alone. The owners of the horses finishing in the dead heat shall pay equal shares of the jockey fees.
3. **Apprentice subject to jockey rules.** Unless excepted under these rules, apprentice jockeys are subject to all commission rules governing the conduct of jockeys and racing.
4. **Apprentice allowances.**
- a. An apprentice jockey shall ride with a five-pound weight allowance beginning with the apprentice jockey's first mount and for one full year from the date of the apprentice jockey's fifth winning mount.
  - b. If after riding one full year from the date of the apprentice jockey's fifth winning mount, the apprentice jockey has failed to ride a total of forty winners from the date of the apprentice jockey's first winning mount, the apprentice jockey shall continue to ride with a five-pound weight allowance for one more year from the date of the apprentice jockey's fifth winning mount or until the apprentice jockey has ridden a total of forty winners, whichever comes first.
  - c. If an apprentice jockey is unable to ride for a period of fourteen consecutive days or more after the date of the apprentice jockey's fifth winning mount because of service in the armed forces of the United States of America, or because of physical disablement, the commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride.
5. **Conduct.**
- a. Clothing and appearance. A jockey shall wear the standard colors for the post position of the horse the jockey is riding, except as otherwise ordered or permitted by the commission or stewards, and shall also wear the number of the saddlecloth corresponding to the number given in the racing program. A jockey shall maintain a neat and clean appearance while engaged in the jockey's duties on association premises and shall wear a clean jockey costume, cap, helmet (as approved by commission), a jacket, breeches, and top

boots.

- b. Competing against contractor. No jockey may ride in any race against a starting horse belonging to the jockey's contract employer unless the jockey's mount and the contract employer's horse are both trained by the same trainer.
  - c. Competing against spouse. No jockey may compete in any race against any horse which is owned or trained by the jockey's spouse.
  - d. Confined to jockey room. A jockey who is engaged to ride a race shall report to the scaleroom on the day of the race at the time designated by association officials. The jockey shall then report the jockey's engagements and any overweight to the clerk of scales. Thereafter, the jockey may not leave the jockey room except by permission of the stewards, until all of the jockey's riding engagements of the day have been fulfilled. Once a jockey has fulfilled the jockey's riding assignments for the day and has left the jockey's quarters, the jockey may not be readmitted to the jockey's quarters until after the entire racing program for that day has been completed, except upon permission of the stewards. A jockey is not allowed to communicate with anyone but the trainer or the jockey's agent while the jockey is in the room during the performance except with approval of stewards. On these occasions, the jockey should be accompanied by a security guard.
  - e. Jockey betting. A jockey may only be allowed to wager on a race in which the jockey is riding if:
    - (1) The jockey's owner or trainer makes the wager for the jockey; and
    - (2) The jockey only wagers on his or her own mount to win or in combination with other horses in multiple bets.
  - f. Whip prohibited. No jockey may use a whip on a two-year-old horse before April first of each year.
  - g. Spurs prohibited. No jockey may use spurs.
  - h. Possessing drugs or devices. No jockey may have in the jockey's care, control, or custody any drugs or prohibited substances or any electrical or mechanical device that could affect a horse's racing performance.
6. **Jockey effort.** A jockey shall exert every effort to ride the jockey's horse to the finish in the best and fastest run of which the horse is capable. No jockey may ease up or coast to a finish, without adequate cause, even if the horse has no apparent chance to win prize money.

7. **Duty to fulfill engagements.** Every jockey shall fulfill such jockey's duly scheduled riding engagements, unless excused by the stewards. No jockey may be forced to ride a horse the jockey believes to be unsound, nor over a racing strip the jockey believes to be unsafe, but if the stewards find a jockey's refusal to fulfill a riding engagement is based on personal belief unwarranted by the facts and circumstances, such jockey may be subject to disciplinary action. The jockey is responsible to the jockey's agent for any engagements previously secured by said agent.

8. **Riding interference.**

- a. Interference. When the way is clear in a race, a horse may be ridden to any part of the course, but may not weave nor cross in front of other contenders so as to interfere with their course or threaten their safety.
- b. Jostling. No jockey may jostle another horse or jockey. No jockey may strike another horse or jockey or ride so carelessly as to cause injury or possible injury to another horse in the race.
- c. Partial fault - Third party interference. If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the infraction was wholly caused by the fault of some other horse or jockey.

9. **Jockey weighed out.**

- a. A jockey must wear a safety vest when riding in any official race. A safety vest shall weigh no more than two pounds [.907 kilogram] and be designed to provide shock-absorbing protection to the upper body of at least a rating of five as defined by the British equestrian trade association.
- b. Each jockey must be weighed for his or her assigned horse not more than thirty minutes before the time fixed for the race. Any jockey weighing more than four pounds over the highest weight stated in the published conditions may be weighed only once prior to the first scheduled race.
- c. A jockey's weight must include his or her clothing, saddle, girth, pad, and saddle cloth.
- d. A jockey's weight does not include the number cloth, whip, head number, bridle, bit or reins, blinkers, helmet, tongue strap, tongue tie, muzzle, hood, noseband, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

10. **Overweight limited.** No jockey may weigh more than two pounds [0.91 kilograms] over the weight the jockey's horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of the scales at least forty-five minutes before the start of the race. ~~The scale of weights has been adjusted to allow the writing of conditions or assignments by the racing secretary up to a maximum of one hundred thirty-eight pounds [65.65 kilograms] or fourteen pounds [6.35 kilograms], whichever is less, over the weight stated in the published conditions.~~ All weights over published conditions must be posted in the pari-mutuels area announced to the public.
  
11. **Weigh in - Unsaddling.** Upon completion of a race, each jockey shall ride promptly to the winners circle and dismount. The jockey shall then present himself or herself to the clerk of scales to be weighed in. If a jockey is prevented from riding his or her mount to the winner's circle because of accident or illness either to the jockey or to the jockey's horse, the jockey may walk or be carried to the scales unless excused by the stewards.
  - a. **Unsaddling.** Each jockey upon completion of a race shall return to the winner's circle and shall unsaddle his or her horse, unless excused by the stewards.
  - b. **Removing horse's equipment.** No person except the valet-attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in, each jockey shall carry to the scales all pieces of equipment with which the jockey weighed out. Thereafter, the jockey may hand the equipment to the valet-attendant.
  - c. **Underweight.** When any horse places first, second, or third in a race, or is coupled in any form of multiple exotic wagering, and thereafter the horse's jockey is weighed in short by more than two pounds [0.91 kilograms] of the weight of which the jockey was weighed out, the jockey's mount may be disqualified and all purse moneys forfeited.
  - d. **Overweight.** No jockey may be weighed in more than two pounds [0.91 kilograms] over the jockey's declared weight, but consideration must be given for excess weight caused by rain or mud. If the jockey is overweight, the jockey's mount may be disqualified and all purse moneys forfeited.

12. **Contracts.**

- a. **Jockey contracts.** A jockey may contract with an owner or trainer

to furnish jockey services whenever the owner shall require, and in that event a jockey may not ride or agree to ride in any race for any other person without the consent of the owner or trainer to whom the jockey is under contract.

b. **Apprentice contracts and transfers.**

(1) Owners or trainers and apprentices who are parties to contracts for apprentice jockey services shall file a copy of the contract with the commission, upon forms approved by the commission, and shall, upon any transfer, assignment, or amendment of the contract, immediately furnish a copy thereof to the commission.

(2) No apprentice jockey may ride for a licensed owner or agent unless with the consent of the apprentice's contract employer.

c. **Contract condition.** No person other than an owner, trainer, jockey agent, or authorized agent of an owner in good standing may make engagements for an apprentice jockey or jockey. However, a jockey not represented by an agent may make his or her own engagements.

13. **Jockey fines and forfeitures.** A jockey shall pay any fine or forfeiture from the jockey's own funds within forty-eight hours of the imposition of the fine or forfeiture. No other person may pay jockey fines or forfeitures for the jockey.

14. **Competing claims.** Whenever two or more licensees claim the services of one jockey for a race, first call shall have priority and any dispute must be resolved by the stewards.

15. **Jockey suspension.**

a. **Offenses involving fraud.** Suspension of a licensee for an offense involving fraud or deception of the public or another participant in racing shall begin immediately after the ruling unless otherwise ordered by the stewards or commission.

b. **Offenses not involving fraud.** Suspension for an offense not involving fraud or deception of the public or another participant in racing shall begin on the third day after the ruling.

c. **Withdrawal of appeal.** Withdrawal by the appellant of a notice of appeal filed with the commission whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the commission must be deemed a frivolous appeal and referred to the commission for further disciplinary action in the event

the appellant fails to show good cause to the stewards why such withdrawal should not be deemed frivolous.

16. **Association valet-attendant.** No jockey may have a valet-attendant except one provided and paid for by the association.
17. **Jockey agent.**
  - a. No jockey may have more than one agent.
  - b. All engagements to ride other than those for the jockey's contract employer must be made by the agent.
  - c. No revocation of a jockey's agent authority is effective until the jockey notifies the stewards in writing of the revocation of the agent's authority.

**History:** Effective July 1, 1989; amended effective January 1, 2008.

**General Authority:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

**Law Implemented:** NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

CHAPTER 69.5-01-07  
CONDUCT OF RACES

69.5-01-07-16. Race procedures.

1. **Full weight.** Each horse shall carry the full weight assigned for that race from the paddock to the starting point, and shall parade past the stewards' stand, unless excused by the stewards.
2. **Touching and dismounting prohibited.** After the horses enter the track, no jockey may dismount nor entrust the jockey's horse to the care of an attendant unless, because of an accident occurring to the jockey, the horse, or the equipment, and then only with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the hands of the jockey or the assistant starter or an outrider on a lead pony may touch the horse before the start of the race.
3. **Outriders.** Two licensed outriders shall be mounted and on duty during racing hours and one licensed outrider during training hours. They shall be approved by and work under the direction of the stewards.
4. **Jockey injury.** If a jockey is seriously injured on the way to the post, the jockey's horse must be returned to the paddock and a replacement jockey obtained. In such an event both the injured jockey and the replacement jockey will be paid by the owner.
5. **Twelve-minute-parade limit.** After entering the track, all horses shall proceed to the starting post in not more than twelve minutes unless approved by the stewards. After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner. Once at the post, the horses must be started without unnecessary delay. All horses shall participate in the parade carrying their weight and equipment from the paddock to the starting post and any horse failing to do so may be disqualified by the stewards. No lead pony leading a horse in the parade shall obstruct the public's view of the horse entered in the race that the lead pony is leading except with permission of the stewards.
6. **Striking a horse prohibited.** In assisting the start of a race, no person other than the jockey, the starter, the assistant starter, or the veterinarian shall strike a horse or use any other means to assist the start.

~~7. Loading of horses. Horses shall take their position at the post (in the starting gate) in post position order (the order in which their names have been drawn, beginning from the inside rail).~~

78. **Delays prohibited.** No person may obstruct or delay the movement of a horse to the starting post.

**History:** Effective July 1, 1989; amended effective January 1, 2008.

**General Authority:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10

**Law Implemented:** NDCC 53-06.2-01, 53-06.2-04, 53-06.2-05, 53-06.2-10

**CHAPTER 69.5-01-11  
SIMULCASTING AND ACCOUNT DEPOSIT WAGERING**

Section

69.5-01-11-01	Definitions
69.5-01-11-02	General Licensing Requirements
69.5-01-11-03	Licensing Service Providers and Totalizator Companies
69.5-01-11-04	Duties of Service Providers
69.5-01-11-04.1	Independent Auditing Services
69.5-01-11-04.2	Thoroughbred Racing Association Codes and Account Deposit Wagering Websites
69.5-01-11-05	Licensing Site Operators
69.5-01-11-06	Duties of Site Operators
69.5-01-11-06.1	Claims for Payment From the Pari-Mutuel Pool
69.5-01-11-07	Licensing of Simulcast Employees
69.5-01-11-08	North Dakota Tracks Offering Extended Wagering
69.5-01-11-09	Denial, Suspension, and Revocation of Licenses
69.5-01-11-10	Pari-Mutuel Wagering
69.5-01-11-10.1	Interstate Common Pool Participation
69.5-01-11-11	Account Wagering [Repealed]
69.5-01-11-11.1	Account Wagering
69.5-01-11-11.2	Totalizator System General Provisions
69.5-01-11-12	Totalizator System Standards [Repealed]
69.5-01-11-13	Totalizator System Standards - Facilities and Equipment
69.5-01-11-14	Totalizator System Standards - Operational Requirements
69.5-01-11-15	Totalizator System Standards - Reporting and Log Requirements

**69.5-01-11-01. Definitions.**

For the purposes of this chapter, unless the context otherwise requires:

1. "Account wagering" or "account deposit 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. It includes advance deposit wagering.
2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, service provider, or site operator.
3. "Combined pari-mutuel pool" means the pari-mutuel wagers received at sites being contributed into one or more pari-mutuel pools as required by the commission.
4. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering pursuant to North Dakota Century Code section 53-06.2-06.
5. "Independent real-time monitoring system" means a system operated and approved by the commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security data base.
6. "Pari-mutuel manager" means the person responsible for managing the pari-mutuel wagering system, including managing all teller and wagering operations, monitoring tote operations, opening and closing tote, communicating with tote hub, issuing wagering system reports, and maintaining wagering system records.
7. "Sending track" means any track from which signals originate.

8. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast site operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.
9. "Service provider" means a person engaged in providing simulcasting or account wagering services directly to a site operator and establishing, operating, and maintaining the combined pari-mutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders. Sending tracks are also excluded from this definition.
10. "Simulcast services" means services provided to a simulcast site operator including the simulcast signal from a sending track and the operation of the combined North Dakota pari-mutuel pool.
11. "Site" means the physical premises, structure, and equipment utilized by a site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.
12. "Site operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a sending track or to conduct account wagering.
13. "Voucher" means a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.
14. "Entertainment Game" means a game, the cash prize of which results from and is determined by the outcome of a pari-mutuel wager processed by an authorized pari-mutuel wagering entity, but is otherwise unrelated to pari-mutuel wagering.

**History:** Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; April 1, 2016.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

#### **69.5-01-11-11.1. Account wagering.**

The requirements for account wagering are as follows:

1. A site operator may offer a system of account wagering to its players in which wagers are debited and payouts credited to a sum of money, deposited in an account by the player, that may be held by a service provider. The service provider shall notify the player, at the time of opening the account, of any rules the site operator or service provider has made concerning reporting, monitoring, changes of awards, account activity (deposits or withdrawals), user fees, or any other aspect of the operation of the account. The service provider shall notify the player and the site operator whenever the rules governing the account are changed. The notification must occur prior to or at the time when the new rules are applied to the account. Notification shall be posted on the website utilized for account wagering or by mailing to the player at the player's last-known address. The player shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The site operator and service provider shall present the method of account wagering to the commission for review and approval.
2. To establish an account with the service provider, the player must be approved through a process developed by the service provider and shared with the site operator and commission.
3. The information each player submits must be subject to electronic verification. The verification must identify clients and obtain information with respect to name, principal residence address, date of birth, and verification of information through testing criteria established by electronic verification pertinent to doing financial business with them. The service provider must verify that

the customer is not on the specially designated nationals list, maintained by the United States department of the treasury, or the designated foreign terrorist organizations list, maintained by the United States department of state. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above, or, if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. The information secured by the service provider must be documented and available to the site operator and commission upon request. If a player wagers more than ten percent of the monthly amount wagered with the service provider, the service provider shall perform additional identity verification, which must be proportionate to the possible risks and the resources available. The service provider may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information that was used to open an account was false or that the account has been used in violation of law or rules.

4. For entertainment games where the customer has not deposited more than one hundred dollars in aggregate of all transactions:

- a. The information obtained by the service provider may be limited to name, date of birth, and email address or phone number.
- b. The service provider may delay verification of information until the customer has wagered more than one hundred dollars.
- c. If verification of information is delayed, the service provider shall:
  - (1) Identify the location of the player through geolocation or other equivalent services.
  - (2) Obtain or confirm date of birth of the customer from a third-party business using methodology that can be demonstrated to be reasonably reliable. Methods of obtaining or confirming this data must be approved in advance by the commission.

4.5. The player shall maintain an account balance established by the service provider and identified in the contract with the site operator. In no event shall the service provider allow wagering on an account with a negative balance.

5.6. The service provider may offer to players:

- a. Accounts that are operational for any performance offered by the service provider, whereby wagers are placed by the player at a self-service terminal or by any electronic means.
- b. The service provider may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.
- c. The service provider shall provide, for each player, a confidential account number or user name and password or personal identification number to be used by the player to access the player's account or, at the service provider's option, confirm validity of every account transaction.

6.7. Deposits may be made in the manner provided by the site operator or service provider. Holding periods will be determined by the service provider, and the player will be informed of this period. A receipt for the deposit may be issued electronically to the player by the service provider.

7.8. The service provider may only debit an account as follows:

- a. Upon receipt by the service provider of information needed to place a wager. The service provider shall only debit the account in the amount of the wager at the time the wager is placed.
- b. For fees for service or other transaction-related charges by the service provider.

- c. Authorized withdrawal from an account when the player sends to the service provider a properly identifiable request for a withdrawal. The service provider will honor the request contingent on funds being available in the account and subject to funds being collected from the host track and approved by the commission. If the funds are not sufficient to cover the withdrawal, the player will be notified, and the funds that are available may be made available for withdrawal. These transactions will be completed in accordance with financial institutions funds availability schedules.

~~89.~~ Each player shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance set by the service provider.

~~9.10.~~ When a player is entitled to a payout or refund, said moneys will be credited to the respective account, thus increasing the balance. It is the responsibility of the player to verify proper credits, and, if in doubt, notify the service provider within the timeframe identified by the service provider.

~~10.11.~~ The service provider shall maintain complete records of every deposit, withdrawal, wager, and winning payment for each player account. These records shall be made available to the commission and site operator upon request.

- a. Except for entertainment games, Any account wagering system shall provide for the player's review and finalization of a wager before it is accepted by the service provider. Neither the player nor the service provider shall change a wager after the player has reviewed and finalized the wager.

- b. For wagers made telephonically or electronically the service provider shall make a voice or electronic recording of the entire transaction and shall not accept any such wager if the voice or electronic recording system is not operable. The voice and electronic recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.

~~11.12.~~ The service provider may close any account when the player attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission or the site operator. In either case the service provider shall refund the remaining balance of the account to the player within thirty days.

~~12.13.~~ The service provider shall provide upon request of the commission direct access to the databases and computer systems used by the service provider in the monitoring and control of wagering and account activity.

~~13.14.~~ The service provider shall establish with the site operator the minimum amount due to the site operator as negotiated by each entity. This information should be filed with the commission. In the event of any disagreement or inquiry regarding the amounts due to the site operator which are based on a percentage of handle, the commission may review reports of wagering activity to determine the amounts due and render a report to the service provider and site operator.

**History:** Effective July 1, 2011; amended effective April 1, 2016.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10.1, 53-06.2-14