# CHAPTER 69.5-01-02
# THE COMMISSION

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## 69.5-01-02-01. General authority.

1. The commission has the authority, upon its own action or upon referral from the stewards, to charge any licensee or permittee for a violation of these rules or of the pari-mutuel horse racing laws of this state; to conduct hearings and to impose fines and other penalties as provided by law and these rules; and to suspend, revoke, or encumber through conditions of probation licenses or permits. The commission will include in its rulings against licensees the licensee's full name, social security number, and date of birth.

2. The commission, upon application therefore and for good cause shown, may temporarily waive or modify any rule or permit any activity otherwise lawful but not specifically authorized by these rules when, in the opinion of the commission, such circumstances exist that without such waiver, modification, or activity the health or safety of any person or horse is adversely affected or the due conduct or best interest of pari-mutuel horse racing of North Dakota is adversely impaired.

3. Whenever a situation arises in connection with a quarter horse meeting which is not covered by these rules, the American quarter horse association rules shall govern.

   Where a conflict exists between the rules of the commission and the American quarter horse association, the commission's rules shall govern. Any rule covered by both a commission and American quarter horse association rule must be interpreted so that the commission rule modifies or supersedes the American quarter horse association rule.

**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

## 69.5-01-02-02. Suspensions.

1. When any license is suspended by the commission or is suspended by the racing regulatory agency of another state recognized by the commission, then the suspended licensee is prohibited from participating in any pari-mutuel activity regulated by the commission.

2. The suspension shall, in addition, render ineligible for entry or starting, every horse in which the suspended licensee has any ownership interest or trainer responsibility. Eligibility for affected horses in such cases may be restored by transfer of the suspended licensee's interest or responsibilities to another licensed person, if approved by the stewards of the meeting.

**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

**69.5-01-02-03. Racing dates and permit.**

1. Racing dates must be granted by the commission. The application for racing dates and the application for a license to conduct a race meeting must be filed with the commission over the signature of an executive officer of each association and on a form approved and provided by the commission. All applications must be filed within the timeframe established by the commission and associations shall post bonds as required by the commission before a racing license may be issued.

2. The commission, after receiving an application, may request further information in writing from the applicant or may request a representative or representatives of an association to appear in person before the commission to supply any additional information that the commission may require. Licenses must be granted by the commission after the permittee has complied with all legal requirements.

**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

**69.5-01-02-04. Commission stewards.**

The commission shall appoint one of the three stewards at each horse racing meeting. The steward appointed by the commission must be the chief steward.

**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

**69.5-01-02-05. Search and inspection.**

The commission, through its employees or agents, or through employees of the association, so authorized by the commission, may search and inspect for prohibited medication, drugs, drug paraphernalia, or any electrical or mechanical equipment usable to affect the condition or racing condition of a horse or any item prohibited by these rules, at any time without notice. Such search and inspection may be made of the following:

1. Association stables, receiving barns, the paddock, jockeys' room, supply rooms, blacksmith, and similar service shops or areas, including living quarters or private vehicles located within enclosure of the association grounds; and

2. The person, employee, or agent of any licensee while upon the association grounds in the prescribed areas described in subsection 1.

**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

**69.5-01-02-06. Exclusion of patrons.**

1. **Offenses.** The commission may exclude from the licensed premises a patron who has been convicted of any of the offenses listed in this subsection, if the commission determines that the circumstances of the offense giving rise to the conviction make the patron's presence a hazard to the reputation and conduct of racing and pari-mutuel wagering, or may reasonably undermine the public confidence in the integrity of racing:

    a. Offenses related to drugs or controlled substances;

b. Offenses related to arranging the outcome of a race, or to any fraud or deception while participating in racing or pari-mutuel wagering activities;

c. Offenses related to representations made about any horse, ownership interest in a horse, or lease or sale of any horse;

d. Any felony of which the patron has been convicted; or

e. Any offense related to gaming or gambling.

2. **Notification.** In all cases where the commission excludes a person from any or all pari-mutuel facilities in this state, the commission will attempt to notify said person of the facts or conduct which warrant exclusion and provide said person with a postexclusion hearing.

3. **Ejection.** Nothing in this rule precludes an association from exercising its right to eject persons from the premises.

**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

**69.5-01-02-07. Commission veterinarian.**

1. The commission may employ or contract with a veterinarian or veterinarians who are authorized to:

   a. Maintain and operate a barn for the detention and testing of horses after each race;

   b. Collect specimens for analysis to determine the presence of prohibited substances in any entered horse;

   c. Examine any horse entered in any race and, upon a determination of unfitness to run, may recommend to the stewards that they scratch the horse; and

   d. Delegate the veterinarian's duties to the veterinarian appointed by the licensed association subject to the supervision of the commission veterinarian and the approval of the commission.

2. Every horse entered to race may be subjected to a veterinary examination for racing soundness and health on a race day, not later than two hours prior to official post time for the first race.

3. Testing of horses entering a race will occur as follows:

   a. After each race, the winner of each race and any other horse designated by the stewards must be taken directly to the enclosure for such testing as the commission representative may require. Blood samples may be taken only by a veterinarian. All other body fluid samples must be taken by a veterinarian or under a veterinarian's supervision.

   b. Each horse to be tested must be accompanied by its owner, trainer, or the representative of either who shall remain during the testing and sign as a witness on the sample marking tag which will be detached and safeguarded by the commission representative before the sample is forwarded to the laboratory.

   c. Samples taken must be marked for identification by a two-part tag initialed by the commission representative that includes on both parts an identical number, and the date of the sample, and on the commission part the name of the horse and its owners or trainer. The numbered part must be delivered under the seal of the commission to the

testing laboratory. The identified part must be retained by the commission veterinarian until the results are obtained from the laboratory at which time the sample tag must be filed with the commission.

d. The laboratory shall ensure the integrity of samples and sample containers.

e. The commission has the authority to direct the official laboratory to retain and preserve by freezing, samples for future analysis.

f. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on association grounds under the jurisdiction of the commission, shall undergo a post mortem examination at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. The cost of such post mortem examination shall be assessed to the owner of the horse.

4. A track security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of eighteen years old, be currently licensed by the commission, display their commission identification badge, and have a legitimate reason for being in the test barn area.

**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