

**CHAPTER 69.5-01-11
SIMULCASTING**

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69.5-01-11-01. Definitions.

1. "Association" means an organization eligible to conduct offtrack wagering pursuant to North Dakota Century Code section 53-06.2-06. Unless otherwise specifically defined, the simulcast site operator shall be defined as the association.
2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, association, simulcast service provider, or simulcast site operator.
3. "Authorized receivers" means simulcast site operators and simulcast service providers.
4. "Combined pari-mutuel pool" means the pari-mutuel wagers received at simulcast sites being contributed into one or more pari-mutuel pools as required by the commission.
5. "Commission" means the North Dakota racing commission.
6. "Decoder" means a device or means to convert encrypted audiovisual signals or data, or both, into a form recognizable as the original content of the signals.
7. "Downlink" means a receiving antenna coupled with an audiovisual signal receiver compatible with and capable of receiving simultaneous audiovisual signals or data emanating from a sending track, and includes the electronic transfer of received signals from the receiving antenna to television monitors within the satellite facility.
8. "Eligible organization" means an organization eligible to conduct offtrack wagering pursuant to North Dakota Century Code section 53-06.2-06.

9. "Encryption" means the scrambling or other manipulation of the audiovisual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal.
10. "Guest association" means the simulcast service provider.
11. "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.
12. "Interstate simulcast wagering" means wagering conducted by a betting system outside the state of North Dakota on the results of one or more races being run at a North Dakota track or wagering conducted by a betting system within the state of North Dakota on the results of one or more races being run at a site outside the state of North Dakota.
13. "Intrastate simulcast wagering" means pari-mutuel wagering at a North Dakota simulcast site on horse races run at a North Dakota track.
14. "Landlord" means the person or other entity owning or operating the physical plant or base business within which the simulcast site is located.
15. "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.
16. "Person" means any person, firm, corporation, association, or organization.
17. "Sending track" means any track from which simulcast signals originate.
18. "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.
19. "Simulcast service provider" means a person engaged in providing simulcasting services to a simulcast 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.

20. "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.
21. "Simulcast site" means the physical premises, structure, and equipment utilized by a simulcast site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.
22. "Simulcast 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.
23. "Totalizator system standards" means the minimum standards for approval and operation of a pari-mutuel wagering system.
24. "Uplink" means an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audiovisual signals or data, or both, on federal communications commission-controlled frequencies, and includes any electronic transfer of the audiovisual signals from within the racing enclosure to the location of the transmitter at the uplink.
25. "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.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-02. General licensing requirements.

1. Any simulcast site operator, simulcast service provider, or totalizator company must be licensed by the commission and approved by the attorney general. Totalizator companies contracting for service within the state and their employees whose principal work address is within the state must be licensed by the commission. Other vendors and their employees may be required to be licensed at the discretion of the commission. Application for a license must include the license fee as prescribed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year. The initial license fee for a simulcast service provider is two thousand five hundred dollars, for a simulcast site operator is one thousand

dollars, and for a totalizator company is two thousand five hundred dollars.

2. The application for renewal of license must be made to the commission by such date as may be prescribed by the commission. If the commission has not specifically set application dates for renewal of the class of license, application must be made no later than thirty days prior to the date of expiration of the license. Application for renewal of license must be made in such form as may be prescribed by the commission. Application for license renewal must include the license fee for a simulcast service provider, one thousand dollars; simulcast site operator, two hundred fifty dollars; and totalizator company, one thousand dollars.
3. Approval or disapproval of an application for simulcast site operator or simulcast service provider license must include consideration by the commission of the following:
 - a. The operator's or provider's general benefit to the state of North Dakota.
 - b. The operator's or provider's general benefit to the state's horse racing industry.
 - c. The operator's or provider's integrity.
 - (1) Individual and corporate conduct and reputation.
 - (2) Criminal history.
 - (3) Betting and gaming industry conduct and reputation.
 - d. The operator's or provider's credibility.
 - (1) Accuracy of feasibility study.
 - (2) Experience and expertise of the operator or provider in the simulcast industry.
 - e. Financial stability.
4. A simulcast service provider cannot operate without an executed contract with a simulcast site operator.
5. The commission may require licensing of any entity or person contracting with or providing services or commodities to any simulcast

site operator, simulcast service provider, or simulcast employee licensed by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-03. Licensing simulcast service providers.

1. Simulcast service providers must be licensed by the commission and approved by the attorney general.
2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:
 - a. The services and equipment to be provided.
 - b. Projected revenue and costs associated with the operations of the applicant as a simulcast service provider.
 - c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.
 - d. A description of the management or management groups responsible for the operation of the simulcast services company.
 - e. A complete description of the transmission, totalizator, and data processing equipment to be used.
 - f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.
 - g. Written agreements between the applicant and all parties assisting in providing simulcast services.
 - h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.
 - i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the simulcast operation and the combined pari-mutuel pool.
 - j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.

3. The commission may license one or more simulcast service providers concurrently to provide services, as defined by this chapter, to one or more licensed simulcast site operators within the state. Fees for such license shall be as prescribed by the commission. Licenses will be for a term of one calendar year. The commission may establish license fees separately for first-time applicants and for renewal of existing licenses in order to recognize additional costs of investigation and analysis required for first-time licenses.
4. Each applicant for a license shall give bond payable to this state with good security as approved by the commission. The bond 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.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-04. Duties of simulcast service providers.

1. Simulcast service providers shall comply with all state and federal laws, including section 3001, et seq. of title 15 of the United States Code.
2. A simulcast service provider intending to make any change in its structure or operations which would alter any of the responses given in its original license application must obtain prior approval of such changes by the commission and must file with the commission a statement including, but not limited to:
 - a. The changes to be made.
 - b. A statement that the simulcast service provider is in compliance with section 3001, et seq. of title 15 of the United States Code and any other applicable federal laws.
 - c. The date and time the simulcast service provider intends to commence said changes.
3. A simulcast service provider may not be licensed as a simulcast operator.
4. A service provider shall maintain records of all wagering at sites where it provides services. Such records shall be available to the commission for review and shall be retained in safekeeping for periods of time as follows:
 - a. Hard copy of daily computer report - one year and until payment is made to the commission for unclaimed tickets.

- b. Digital storage - three years.
 - c. Summary reports - five years.
 - d. Other wagering records as may be required from time to time and are specifically defined by the commission.
5. A licensed service provider shall initiate testing as provided in section 69.5-01-11-12.
 6. A simulcast service provider shall maintain such security controls over its simulcast and communications system as directed by the commission.
 7. A simulcast service provider shall provide the commission with a certified report of its operations as directed by the commission. The operations summary shall be provided to the commission on a weekly basis, with race weeks ending on Sunday. The report must contain content as directed by the commission. The report of a simulcast service provider may also include information, and may also satisfy the operations report of guest associations required by section 69.5-01-11-12.
 8. A licensed simulcast service provider may only provide simulcast services to a simulcast site operator licensed by the commission, except that a simulcast service provider may provide simulcast services to an Indian tribal entity within the state which may not be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact or to a racing association or simulcast site operator properly licensed by the recognized authority within another state.
 9. A simulcast service provider shall provide access to the simulcast system to all simulcast site operators licensed by the commission on an equal, nondiscriminatory basis. A simulcast service provider may require compliance by the simulcast site operator with contractual provisions necessary to maintain the integrity of the simulcast and pari-mutuel systems and to ensure proper operation of offtrack wagering.
 10. A simulcast service provider shall provide access by the commission or its designated representative to the provider facility and to all records of the provider and any other information as required by the commission or its representative.
 11. Simulcasting may be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a racing commission, racing board, or governmental agency.

12. A simulcast service provider shall participate in a combined pari-mutuel pool, ensure the integrity of its participation, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined pari-mutuel pool. Such procedure must include provision for timely reconciliation and settlement of pool accounts with simulcast site operators serviced by a simulcast service provider. Times within which settlement of pool accounts are to be settled must be specified in contracts or service agreements between a simulcast service provider and host associations or simulcast site operators.
13. Payment of taxes and other funds:
 - a. A simulcast service provider shall pay all pari-mutuel taxes, special fund contributions, and other funds due and owing the state of North Dakota as indicated in the certified report of its operations, required in this chapter, directly to the racing commission.
 - b. Amounts due to the state of North Dakota for pari-mutuel taxes, promotion fund, breeders' fund, and breakage shall be paid to the racing commission in monthly payments on or before the last day of the next month succeeding the month in which the pari-mutuel tax or other funds due to the state of North Dakota occurred or accrued.
 - c. A simulcast service provider shall submit a report and a corresponding payment of funds owing to the racing commission for the full amount of outs (unclaimed winning tickets) within fifteen days after the end of the calendar quarter following the calendar quarter in which such wager was made. A simulcast service provider shall also submit a report and a corresponding payment of funds to the racing commission for the full amount of all breakage retained by a simulcast service provider. Breakage shall be calculated by deducting odd cents over any multiple of five cents of winnings per dollar from the portion of the pari-mutuel pool to be redistributed.
 - d. The racing commission may, when a simulcast service provider is delinquent in remittance of taxes or other funds owed to the state, notify the surety providing bond coverage to the state of the delinquent status of such taxes or funds, and may make a claim for payment from the surety.
 - e. If a simulcast service provider fails to submit a report of its operations as required, or fails to pay pari-mutuel taxes or other funds due the state within the time required by this section, or if upon audit it is found to owe additional taxes or other funds, a simulcast service provider is subject to a late fee of five percent of the amount of tax or other funds due, plus interest of one percent of the tax or other funds due per month or a fraction of a month of

delay after the due date for the remittance of the moneys according to this chapter. A simulcast service provider with seven of fourteen delinquent payments may be subject to a late fee of ten percent of the moneys due plus interest of one percent of the amounts due per month or a fraction of a month of delinquency. The late fees and interest must be paid to the racing commission and disposed of in the same manner as other receipts under this chapter.

- f. The racing commission may suspend or revoke a license of a simulcast service provider for failure to submit a report of its operations as required by law or administrative rule or for failure to pay funds due the state as required by law or administrative rule. The racing commission may also take such other actions as may be authorized by law.
14. The commission may appoint stewards as reasonably necessary for the protection of the public interest. The commission shall be reimbursed on a monthly basis for the salaries, benefit, and travel expenses by the simulcast service provider for the auditors and stewards assigned to them. Duties of a steward or auditor shall include the following:
- a. An independent weekly record and report of each race program presented by a simulcast service provider. The report must be based on a review of each race contained in a program.
 - b. Reconciliation of all operating exceptions by the simulcast service provider and the sites it services that are not within the definitions of this chapter or are departures from normal operating practice. Such reconciliation shall include identification, investigation, reporting, and recommendation for adjustment or disposition directly to the commission.
 - c. Independent review and reporting directly to the director of the commission of all actions taken by the simulcast service provider or the totalizator company operating under contract with the simulcast service provider.
 - d. The steward or auditor shall have authority as presiding official at any time the steward or auditor is on the premises of a simulcast service provider. In the absence of the steward or auditor, the representative or a simulcast service provider shall be the designee of the commission as presiding official.
15. A simulcast service provider and a totalizator company operating under contract with a simulcast service provider shall serve as the designees of the commission to supervise simulcast operations pertaining to pari-mutuel wagering as is reasonably necessary to ensure the public interest.

16. All reports must be signed by the presiding official and filed with the commission. The presiding official shall take immediate emergency actions as necessary to assure the continued operation and integrity of the simulcast system. All such actions shall be reported to the commission. The presiding official shall, when such acts are not, in the official's judgment an emergency, report to the commission prior to acting.
17. A licensed simulcast service provider shall adopt and adhere to emergency operating procedures as follows. Totalizator system operations will be maintained by a service provider hub. Wagering data will be transferred from the simulcast wagering site to the hub via data transmission lines or electronic transmission. Wagering will be conducted in ontrack pools. The hub will transfer all wagering data from simulcast wagering site to the ontrack totalizator system. The locking procedure for the purpose of locking all teller windows at post time will be initiated by an ontrack official; the lock will be electronically conducted through the totalizator system to lock all tellers windows at the simulcast wagering site. Back-up locking procedures will be maintained by the presiding official, the hub pari-mutuel operator and the hub totalizator system operator. In the event of a lock procedure failure, in which one or more windows fail to lock at the designated time, wagers shall be refunded. In the event of a locking procedure failure, a report will be submitted to the commission. Included will be computer reports reflecting all wagering activity.
 - a. In the event of an interruption of the audiovisual satellite signal from the host racetrack, the hub pari-mutuel operator must:
 - (1) Notify the host track of the loss of signal.
 - (2) Maintain telephone contact with host track pari-mutuel department. The simulcast service provider licensee may continue to accept wagering on the balance of the program.
 - (3) In the event the hub totalizator system fails to transfer the data to the ontrack totalizator system, the totalizator hub pari-mutuel operator must notify ontrack totalizator system representative of the problem and request additional time prior to the start of the race to allow for a transmission of the data.
 - (4) A simulcast service provider licensee's hub pari-mutuel operator shall prepare a report indicating that the transfer of data could not be completed electronically. The report shall also include all the following:
 - (a) A copy of the totalizator report prior to the failure of the transfer of data.

- (b) A copy of the totalizator report.
 - (c) A brief statement as to where the failure occurred, when the ontrack officials were notified.
- b. The ontrack pari-mutuel manager must be notified of the system failure.
- c. In the event that the ontrack totalizator system experiences a complete failure, the hub pari-mutuel operator may pay ontrack prices or refund amounts wagered.
- d. In the event any emergency arises in connection with the operation of the pari-mutuel system not provided for by these rules, then the hub pari-mutuel operator shall make an immediate decision and render a full report to the North Dakota racing commission.
- e. The hub pari-mutuel operator is responsible during the simulcast racing operating hours for the reporting of any problems or delays to the wagering site. The wagering site is responsible for reporting any problems or delays to the public.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-05. Licensing simulcast site operators.

1. Before the commission may grant a license to a simulcast site operators, it shall review and approve a plan of operation submitted by an applicant including, but not limited to, the following information:
 - a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such facility. The feasibility study must include:
 - (1) The number of races to be simulcast.
 - (2) The types of wagering to be offered.
 - (3) The level of attendance expected and the area from which such attendance will be drawn.
 - (4) The level of anticipated wagering activity.
 - (5) The source and amount of revenue expected from other than pari-mutuel wagering.

- (6) The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs.
 - b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.
 - c. The description of the management groups responsible for the operation of the simulcast facility.
 - d. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues, and the accounting of costs relative to the simulcast operation.
 - e. The location of each simulcast site and a copy of the lease or site agreement.
 - f. All written agreements or letters of consent between parties to the operation of the simulcast system, including a licensed service provider.
 - g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.
 - h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a simulcast site operator.
 - i. Support or nonsupport of the local jurisdictional government.
 - j. Proof of adequate experience and knowledge necessary to conduct simulcasting and pari-mutuel wagering operations.
2. The license fee shall be as prescribed by the commission. Simulcast site operators may apply for a license and may operate one or more sites at the fees prescribed by the commission. Licenses will be for a term of one calendar year.
 3. Licenses to simulcast site operators may be granted as follows:
 - a. Organizations eligible under North Dakota Century Code section 53-06.2-06.
 - b. Indian tribal entities within the state which may be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact with the state.

- C. No simulcast service providers may be licensed as site operators.
4. Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond 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.
5. No simulcasting or pari-mutuel wagering may be conducted at a simulcast site not approved by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-06. Duties of simulcast site operators.

1. A simulcast site operator shall conduct the pari-mutuel wagering at a simulcast site approved by the commission.
2. A simulcast site operator shall provide access to the commission or its designated representative to the simulcast site and to all records of the operator and any other information as required by the commission or its designated representative.
3. If a licensee or an applicant for a live horse race meet license requests a shutdown of a simulcast site, the commission may require such simulcast site to shut down during the hours that the live race meet is run.
4. A simulcast site operator is responsible for cash shortages which occur at a simulcast site.
5. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting and offtrack pari-mutuel wagering. A simulcast site operator shall establish a system of accounts to facilitate and to make record of compliance with this section. Such accounts must provide for timely payoffs to winning patrons either through immediate cash payments or by vouchers payable upon demand as soon as necessary funds transfer can be made through the clearing process of the banking system. Such accounts must also provide for timely transfer to the simulcast site operator's service provider of all funds owing to the state. These shall include pari-mutuel taxes, breakage, unclaimed tickets, purse fund contributions, breeders' fund contributions, and promotion fund contributions. The simulcast site operator's service agreement with its service provider must include provision for such timely transfer of these funds.

6. A simulcast site operator may only take a signal from a service provider licensed by the commission.
7. All wagers are made on the official results of the sending track.
8. Only a licensed employee of a simulcast site operator may conduct simulcast or pari-mutuel wagering on behalf of a simulcast site operator, except where valid pari-mutuel tickets are issued by a pari-mutuel ticket machine which is an automated ticket machine. A simulcast site operator may use such automated ticket machines only with the prior approval of the commission. When automated teller machines are used by a simulcast site operator, the operator may contract with persons other than employees whose activities on behalf of the simulcast site operators must be limited to the following:
 - a. To collect and account for cash receipts extracted from a voucher-issuing machine.
 - b. To pay out cash for winning ticket vouchers issued by an automated teller machine.
 - c. To maintain a record of such cash-handling activities using a record keeping system devised by the site operators and approved by the commission.

Such contractors must be licensed by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-07. Licensing of simulcast employees.

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission.
2. The employment of an unlicensed person by a simulcast site operator or simulcast service provider is prohibited. Upon discharge of a licensed simulcast employee, the operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge.
3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.
4. The initial license fee and the renewal fee shall be prescribed by the commission. For each change of employment, name change, or replacement of a lost or destroyed license, a fee may be assessed

as prescribed by the commission. The term of licenses shall be one calendar year.

5. Maintenance and administrative representatives of simulcast service providers and their vendors or suppliers must have current North Dakota racing commission licenses available for presentation prior to requesting admittance to restricted areas of simulcast sites. If such representatives are not licensed by the North Dakota racing commission, they must be accompanied by a licensed representative or have the prior identification and endorsement of a licensed representative.
6. Each simulcast employee shall wear a valid license at all times while working in a simulcast site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.
7. No employee or agent of a simulcast service provider may be employed by a simulcast site operator. No employee of a simulcast operator may be employed by a service provider.
8. No simulcast employee may wager at a simulcast site while on duty. For purposes of this section, a simulcast employee taking a temporary break is still considered on duty.

History: Effective March 1, 1990; amended effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-08. North Dakota tracks offering extended wagering.

1. A North Dakota track may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided the North Dakota track files with the commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the North Dakota track for use of its simulcast, and of any agreements required by chapter 57, including section 3001, et seq. of title 15 of the United States Code.
2. Every North Dakota sending track simulcasting its racing program shall contract with a simulcast service provider for the purpose of providing authorized users with its simulcast.
3. The North Dakota sending track is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events.

4. Unless otherwise permitted by the commission, the sending track simulcast will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

History: Effective March 1, 1990.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-09. Denial, suspension, and revocation of simulcast licenses.

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:
 - a. Any action or attempted action by a person contrary to any law.
 - b. Corrupt practices, which include:
 - (1) Prearranging or attempting to prearrange the order of finish of a race.
 - (2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - (3) Falsifying or manipulating the odds on any entrant in a race.
 - c. Any violation of the rules of racing or simulcasting adopted by the commission.
 - d. Willful falsification or misstatement of facts in an application for simulcasting privileges or a license.
 - e. Material false statement to a racing or simulcast official or to the commission.
 - f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.
 - g. Continued failure or inability to meet financial obligations connected with the operation of any part of a simulcast system or simulcast site.
 - h. Failure or inability to properly maintain a simulcast system, simulcast site, or combined pari-mutuel pool.

- i. Failure to fulfill contractual obligations to other facets of the simulcast system.
 - j. The suspension or revocation of racing or pari-mutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.
2. The procedures to be followed in denial, suspension, or revocation of simulcast licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

History: Effective March 1, 1990; amended effective January 1, 2008.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-10. Pari-mutuel wagering. The North Dakota racing commission has taken separate action to adopt and incorporate the model rules of the association of racing commissioners international, inc., in whole or in part as soon as adoption and incorporation is practically possible.

History: Effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-11. Account wagering. The requirements for account wagering are as follows:

1. The simulcast site operator may offer a system of account wagering to its patrons whereby wagers are debited and payouts credited to a sum of money, deposited in an account by the patron, that is held by the association. The simulcast site operator shall notify the patron, at the time of opening the account, of any rules the association has made concerning deposits, withdrawals, average daily balance, user fees, interest payments, and any other aspect of the operation of the account. The simulcast site operator shall notify the patron whenever the rules governing the account are changed, such notification occurring thirty days before the new rules are applied to the account and including the opportunity for the patron to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The simulcast site operator shall request authorization from the commission before a system of account wagering is offered.
2. To establish an account with the association an application form must be signed or otherwise authorized in a manner approved by the commission and include all the following information about the applicant:
 - a. Full legal name.

- b. Principal residence physical address.
 - c. Principal residence mailing address, if different than physical address.
 - d. Telephone number.
 - e. Social security number.
 - f. Proper identification or certification demonstrating that the applicant for the amount is at least eighteen years of age, if a resident of North Dakota, or twenty-one years of age, if not a North Dakota resident.
 - g. Any other information required by the commission.
3. The information each applicant submits may be subject to electronic verification of the name, principal residence address, date of birth and social security number, individual reference service company, or other technology approved by the commission. If there is a discrepancy, then the applicant for an account will be contacted by the advance deposit wagering facility and given instructions as to how to resolve the matter.
 4. The principal residence address provided in writing by the accountholder at the time of application is deemed to be the proper address for all mailing, including checks, statements of account, account withdrawals, notices, or other correspondence unless the accountholder has provided the association with a change of principal residence address. The mailing of checks or other correspondence to the address given by the accountholder shall be the sole risk of the accountholder.
 5. The accountholder shall maintain the minimum account balance established in the association operating plan. No wager may be made or accepted that would lower the account balance below the minimum balance.
 6. The simulcast site operator may offer to open for its patrons:
 - a. Accounts that are operational for any performance offered by the association, whereby wagers are placed by the accountholder at a self-service terminal or by telephone or any other electronic means.
 - b. The simulcast site operator may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.

- c. The simulcast site operator shall provide, for each accountholder, a confidential account number and password to be used by the patron to confirm validity of every account transaction.
- 7. Deposits may be made in cash, check, or electronic transfer. Holding periods will be determined by the association and the accountholder shall be informed of this. A receipt for the deposit may be issued to the accountholder by the association but does not need to reflect the current account balance.
- 8. The simulcast site operator may only debit an account as follows:
 - a. Upon receipt by the association of information needed to place a wager, the association 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 site operator.
 - c. Authorized withdrawal from an account when one of the following exists:
 - (1) The accountholder of an account appears personally at the simulcast site operator licensee's location and provides all the following:
 - (a) Proper identification.
 - (b) The correct secure personal identification code.
 - (c) A properly completed and signed withdrawal slip.
 - (2) The accountholder sends to the simulcast site operator, a properly completed and signed withdrawal slip or e-mail signature the association shall, within five business days of its receipt, send a check by certified mail with return receipt requested to the accountholder if there are sufficient funds in the account to cover the withdrawal. The check shall be payable to the accountholder and in the amount of the requested withdrawal. If funds are not sufficient to cover the withdrawal, the accountholder will be notified in writing and those funds in the account will be withdrawn and sent to the accountholder within the five-day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the accountholder and the simulcast site operator in accordance with financial institution funds availability schedules.

9. Each accountholder 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 as set by the simulcast site operator. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.
10. When an accountholder is entitled to a payout or refund, said monies will be credited to the respective account, thus increasing the balance. It is the responsibility of the accountholder to verify proper credits and, if in doubt, notify the association within the agreed-upon timeframe for consideration. Unresolved disputes may be forwarded to the commission. No claim will be considered by the commission, unless submitted in writing by the simulcast site operator, or the accountholder, and accompanied by supporting evidence.
11. The simulcast site operator shall maintain complete records of every deposit, withdrawal, wager, and winning payout for each account. These records shall be made available to the commission upon request.
 - a. Any account wagering system shall provide for the accountholder's review and finalization of a wager before it is accepted by the association. Neither the accountholder nor the simulcast site operator shall change a wager after the accountholder has reviewed and finalized the wager.
 - b. For wagers made by voice telephone, the simulcast site operator shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel system.
12. The simulcast site operator may close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period determined by the commission. In either case, the simulcast site operator shall refund the remaining balance of the account to the accountholder within thirty days.

History: Effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-12. Totalizator system standards.

1. Facility requirements. For onsite totalizator rooms an authorized pari-mutuel wagering entity shall provide a totalizator room to house the main computing and communications equipment and the operator's

terminal at the authorized pari-mutuel wagering entity's facility. The room must include all of the following:

- a. Air-conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer.
 - b. A master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency.
 - c. A smoke and fire alarm system that sounds locally and is tied into the authorized pari-mutuel wagering entity's master alarm system.
 - d. Fire extinguishers to deal with minor electrical fires.
 - e. An internal communication system connecting the totalizator operator with all of the following:
 - (1) The stewards or racing judges (for racetracks only).
 - (2) The mutuel manager.
 - (3) Each betting line.
 - (4) The commission's office onsite if any.
 - f. A private outside line for communication with supervisors, programmers, or totalizator personnel at other sites.
 - g. Fire-resistant, locking storage cabinets to hold removable data storage devices and documents necessary for operating the system.
2. For totalizator room at a central processing location, the authorized pari-mutuel wagering entity may contract with a totalizator service that uses a central processing location off the authorized pari-mutuel wagering entity's grounds. The authorized pari-mutuel wagering entity shall do all the following:
- a. Provide an onsite totalizator room that satisfies the requirements in subsection 1.
 - b. Ensure the totalizator central processing location satisfies the requirements of an onsite totalizator room as set forth in subsection 1.

- c. Ensure the totalizator central processing location has a communications system connecting the central processing location operator with all the following:
 - (1) The totalizator operator at the authorized pari-mutuel wagering entity's facility.
 - (2) A private outside line for the communication with supervisors, programmers, or totalizator personnel at other sites.
- 3. The commission may require that the computer system be supported by an uninterruptible power supply, to allow for system shutdown if a power failure occurs, meeting all the following requirements:
 - a. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced.
 - b. The uninterruptible power supply must be able to supply even power to the totalizator system, for a minimum of fifteen minutes, when a power surge or drop occurs.
 - c. An alarm associated with the uninterruptible power supply must be readily recognizable by the totalizator operator from inside the totalizator room.
- 4. The commission may require the totalizator system to transmit data in real time to an independent real-time monitoring system approved by the commission. This system is to provide information in a read-only format.
 - a. At a minimum the system shall verify all transactions performed by the totalizator.
 - b. Access to the independent monitoring system shall be provided to the commission and the authorized pari-mutuel wagering entity for monitoring activity.
 - c. In the case where the system detects a discrepancy in the totalizator operation or with the independent monitoring system, or both, the system shall automatically notify the authorized pari-mutuel wagering entity's mutuel manager or duly appointed representative. The mutuel manager is to determine the cause of the error and to require any necessary repairs or adjustments to be made pursuant to the rules.
 - d. Notification of discrepancies identified pursuant to subdivision c shall be made to the commission's director no later than twenty-four hours after each occurrence.

5. For each race day offered, the totalizator system must be capable of producing all the following reports and have them available for review by the mutuel manager, the commission, or both:
 - a. The balance report showing for every wagering device operated on that day, including all the following:
 - (1) The teller's name or identification number, if applicable.
 - (2) The total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets.
 - (3) The total amount of money drawn from the money room, including the beginning draws.
 - (4) The total amount of money returned to the money room.
 - (5) A listing of adjustments made to each wagering device balance after each wagering device has been individually balanced.
 - b. The wagering summary report showing all the following:
 - (1) By wagering site, the amount wagered, refunded, and added for every pool and for each race.
 - (2) The time of day each race's pools closed.
 - (3) The commissions deducted, breakage calculated, and amount paid out for every pool in each race.
 - (4) The total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total.
 - (5) The total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total.
 - c. The system balance report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations.

- d. The money room balance report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions.
 - e. The internal revenue service report showing the winner's social security number, the ticket number, amount won, and taxes withheld for each transaction requiring a form W2-G.
6. Other standard and special reports.
- a. A totalizator company shall produce any of the following standard reports requested by the commission within seventy-two hours, unless otherwise directed, after receiving the request:
 - (1) An odds progression report showing each successive line of odds for the win pool and the time it was displayed to the public.
 - (2) A ticket and transaction history report showing the appropriate portion of the ticket history log for the requested ticket identification numbers.
 - (3) A terminal history report showing the portion of the terminal log requested.
 - (4) An outstanding ticket report showing all the following information for uncashed winning tickets retained in the totalizator system:
 - (a) The ticket identification number.
 - (b) The wagers on the ticket.
 - (c) The date and performance for which the ticket is outstanding.
 - (d) The value of the winning wagers.
 - (e) The wagering device location and number.
 - (5) An outstanding tickets cashed report, for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the outstanding ticket report, including the identity of the wagering device that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
 - (6) A manually cashed tickets report, for a performance, race, or pool, showing every ticket cashed that day in the form of the

ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.

- (7) A canceled tickets report, for a performance or race, showing each ticket canceled that day in the form of the ticket history report, the identity of the wagering device that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read as well as a subtotal for each wagering device.
 - (8) A network balance report summarizing the activity and liabilities for each site within a tote-to-tote network.
 - (9) A teller inquiry report showing the time of each cash balance inquiry made by each teller.
 - (10) A wagering report required for multi-leg pools four legs or more, showing the amount bet on every combination of the pool and total amount bet.
 - (11) An account history report showing all activity for each account.
 - (12) Inter-track wagering report for a card showing the separate or consolidated report for wagers made at participating tracks, including all money wagered on each runner or combination of runners in each pool for each race. Separate or consolidated reports for the host track and each satellite track and the combined totals are required and any additional reports, as determined by the commission.
 - (13) Ticket history report and terminal history report, in the case of a wagering device to totalizator network failure, for specific locations and time periods in order to determine what wagers have been recorded in the totalizator from the remote site, including any advance bets.
 - (14) Pool transmission report listing time of each pool transmission.
- b. The totalizator system must be able to produce a special report that filters data by all the following:
- (1) Performance.
 - (2) Race.

- (3) Pool.
 - (4) Betting interest.
 - (5) Wagering device.
 - (6) Sites.
7. The totalizator operator shall produce a daily log to the commission on request. The totalizator system must produce at a minimum all the following logs in a format prescribed by the commission:
- a. Teller machine history log showing all of the following for every wagering device operated during a performance:
 - (1) Each time the wagering device was opened and closed.
 - (2) For each wagering transaction, the wagers made, tickets issued, and total value of the transaction.
 - (3) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out.
 - (4) For each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read.
 - (5) The amount of each cash draw and return.
 - (6) Any special function, including teller balance, accessed through the wagering device.
 - (7) The times of day each of the transactions listed in this subdivision were made.
 - b. A ticket history log showing all of the following for every ticket issued:
 - (1) The identification number of each cashed and canceled ticket.
 - (2) The wagering device location and number.
 - (3) The wagers and their values.
 - (4) The cashing and canceling machine location and number.
 - (5) The amount paid out.

- (6) The time of day each transaction occurred.
 - (7) An indication as to whether each transaction was manual or automatic.
- c. A user terminal log showing the time of day of each entry for:
- (1) Each terminal other than a wagering device operating during a day:
 - (a) Each logon and logoff and the operator's identification code.
 - (b) Each command or transaction entered.
 - (c) Each stop betting, order of finish, official, and sales open command and the device that issued it.
 - (d) Each occurrence of loss and restoration of communication between computers or sites.
 - (e) Each occurrence of discrepancy between computers or sites when comparing data bases.
 - (2) Each wagering device operated during a performance.
 - (a) Each logon and logoff and the teller's identification code, if applicable.
 - (b) Each instance of loss and restoration of communication and the wagering device.
- d. A system error log showing the date and time of each error.
- e. System journal log, including date and time of each entry, including remote access, showing for every day the system is operated for wagering, maintenance, or other purpose:
- (1) System shutdown commands, the device from which they were issued, and the user identification of the individual issuing the commands.
 - (2) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the operating system.
 - (3) The individual user identification used and the originating device for every attempt, successful or unsuccessful, to access the application programs.

- (4) All commands that affect the operating environments issued from the operating system command line.
 - (5) All commands issued from within the application program in an attempt to access the operating system.
 - (6) A listing of every operational or operating terminal during computer operation.
- f. An account history log showing all of the following for every account:
- (1) The identification number of the account.
 - (2) Each time the account was accessed, the location and time of each access point.
 - (3) For each wagering transaction, the amount, time, betting interest selected and type of wagers made, the wagering device used to make the wager, and total value of the transaction.
 - (4) For each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, the location and time, and the value of the wagers paid out.
 - (5) For each withdrawal and deposit the amount, the location, and time.
8. In addition to the computer-generated reports and logs, the totalizator personnel must maintain at a minimum all the following logs for review by the commission or duly appointed representative:
- a. The totalizator operator must maintain a system incident log and make it available on request for review by the commission. The system incident log must include a description of each incident involving the totalizator system, including system failures, their causes, and corrective actions taken.
 - b. Totalizator room access log of all authorized persons entering and leaving the totalizator central computer room. This includes entries of date, time, and user identification of each person entering and leaving the room.
 - c. Totalizator maintenance log of all maintenance work completed on wagering devices and the main totalizator computers or printers showing all the following:

- (1) The name of the person performing the work.
- (2) The date and time of day when the maintenance was performed.
- (3) The type of maintenance jobs performed.

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