

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2221

Introduced by

Senators Armstrong, Burckhard, Casper

Representatives Beadle, K. Koppelman, Nathe

1 A BILL for an Act to create and enact section 53-06.2-10.2 of the North Dakota Century Code,
2 relating to historic horse race wagering; and to amend and reenact sections 50-06-22,
3 53-06.2-01, 53-06.2-04, 53-06.2-05, and 53-06.2-06, subsection 1 of section 53-06.2-08, and
4 sections 53-06.2-10, 53-06.2-10.1, and 53-06.2-11 of the North Dakota Century Code, relating
5 to the compulsive gambling prevention and treatment fund and the regulation of historic horse
6 racing.

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

8 **SECTION 1. AMENDMENT.** Section 50-06-22 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **50-06-22. Compulsive gambling prevention and treatment fund - Continuing**
11 **appropriation.**

12 Funds deposited in the compulsive gambling prevention and treatment fund ~~under section~~
13 ~~53-12.1-09~~ are appropriated to the department on a continuing basis for the purpose of
14 providing the services under section 50-06-21.

15 **SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **53-06.2-01. Definitions.**

18 As used in this chapter:

- 19 1. "Breeders' fund" means a fund, administered by the commission, established to
20 financially reward breeders or owners of North Dakota-bred horses to be paid in
21 accordance with rules as approved by the commission.
- 22 2. "Certificate system" means the system of betting described in section 53-06.2-10.

- 1 3. "Charitable organization" means a nonprofit organization operated for the relief of
2 poverty, distress, or other conditions of public concern in this state and has been so
3 engaged in this state for at least two years.
- 4 4. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or
5 state organization that is authorized by its written constitution, charter, articles of
6 incorporation, or bylaws to engage in a civic or service purpose in this state and has
7 so existed in this state for at least two years. The term includes a similar local
8 nonprofit organization, not affiliated with a state or national organization, which is so
9 recognized by a resolution adopted by the governing body of the local jurisdiction in
10 which the organization conducts its principal activities, and which has existed in this
11 state for at least two years.
- 12 5. "Commission" means the North Dakota racing commission.
- 13 6. "Director" means the director of the commission.
- 14 7. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering
15 under this chapter.
- 16 8. "Fraternal organization" means a nonprofit organization in this state, which is a
17 branch, lodge, or chapter of a national or state organization and exists for the common
18 business, brotherhood, or other interests of its members, and has so existed in this
19 state for two years. The term does not include a college or high school fraternity.
- 20 8-9. "Historic horse race" means any horse race that was previously conducted by a
21 licensed pari-mutuel facility, concluded with official results, and concluded without
22 scratches, disqualifications, and dead-heat finishes.
- 23 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city,
24 and with respect to a site not inside the city limits of a city, the county in which the site
25 is located.
- 26 9-11. "Other public-spirited organization" means a nonprofit organization recognized by the
27 governing body of the appropriate local jurisdiction by resolution as public-spirited and
28 eligible under this chapter.
- 29 10-12. "Purse fund" means a fund, administered by the commission, established to
30 supplement and improve purses offered at racetracks within the state.

- 1 ~~41.13.~~ "Racing" means live or simulcast, or historic horse racing under the certificate system
2 or simulcast dog racing under the certificate system.
- 3 ~~42.14.~~ "Racing promotion fund" means a fund administered by the commission established to
4 assist in improving and upgrading racetracks in the state, promoting horse racing in
5 the state, and developing new racetracks in the state as necessary and approved by
6 the commission.
- 7 ~~43.15.~~ "Religious organization" means a nonprofit organization, church, body of
8 communicants, or group gathered in common membership for mutual support and
9 edification in piety, worship, and religious observances, and which has been so
10 gathered or united in this state for at least two years.
- 11 ~~44.16.~~ "Service provider" means a person engaged in providing simulcasting, account
12 wagering services, or historic horse race wagering services directly to a site operator
13 and engaged in establishing, operating, and maintaining the combined pari-mutuel
14 pool. "Service provider" does not include:
- 15 a. Persons authorized by the federal communications commission to provide
16 telephone service or space segment time on satellite transponders; and
- 17 b. Sending tracks.
- 18 17. "Site operator" means an eligible organization licensed by the commission to offer,
19 sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a
20 sending track, to conduct account wagering, or to offer wagers on historic horse races.
- 21 18. "Veterans' organization" means a congressionally chartered organization in this state,
22 or a branch, lodge, or chapter of a nonprofit national or state organization in this state,
23 the membership of which consists of individuals who were members of the armed
24 services or forces of the United States, and which has so been in existence in this
25 state for at least two years.

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

28 **53-06.2-04. Duties of commission.**

29 The commission shall:

- 30 1. Provide for racing and wagering under the certificate system.
31 2. Set racing dates.

- 1 3. Adopt rules for effectively preventing the use of any substance, compound items, or
2 combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which
3 could alter the normal performance of a racehorse, unless specifically authorized by
4 the commission.
- 5 4. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and
6 equipment ~~at all races held~~ for all wagering under the certificate system.
- 7 5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and
8 leases on equipment and governing historic horse race wagering.
- 9 6. Consider all proposed extensions, additions, or improvements to the buildings,
10 stables, or tracks on property owned or leased by a licensee.
- 11 7. Exclude from racetracks or simulcast pari-mutuel wagering facilities any person who
12 violates any rule of the commission or any law.
- 13 8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05
14 and require the licensee to pay that cost.
- 15 9. Report biennially to the legislative council regarding the operation of the commission.
- 16 10. Provide notice to the North Dakota horsemen's council of meetings held by the
17 commission and permit the North Dakota horsemen's council to participate in the
18 meetings through placement of items on the agenda.
- 19 11. Complete, distribute, and post on the commission's website the minutes of each
20 commission meeting within thirty days of that meeting or before the next meeting of
21 the commission, whichever occurs first.

22 **SECTION 4. AMENDMENT.** Section 53-06.2-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **53-06.2-05. Powers of commission.**

25 The commission may:

- 26 1. Compel the production of all documents showing the receipts and disbursements of
27 any licensee and determine the manner in which such financial records are to be kept.
- 28 2. Investigate the operations of any licensee and enter any vehicle or place of business,
29 residence, storage, or racing of any licensee on the grounds of a licensed association
30 to determine whether there has been compliance with the provisions of this chapter

- 1 and rules adopted under this chapter, and to discover and seize any evidence of
2 noncompliance.
- 3 3. Request appropriate state officials to perform inspections necessary for the health and
4 safety of spectators, employees, participants, and horses that are lawfully on a
5 racetrack.
- 6 4. License all participants in the racing ~~and, simulcast, advance deposit wagering, and~~
7 historic horse race pari-mutuel wagering industry and require and obtain information
8 the commission deems necessary from license applicants. Licensure of service
9 providers, totalizator companies, site operators, and organizations applying to conduct
10 or conducting pari-mutuel wagering must be approved by the attorney general. The
11 attorney general may not grant a license denied by the commission. The commission
12 may obtain a statewide and nationwide criminal history record check from the bureau
13 of criminal investigation for the purpose of determining suitability or fitness for a
14 license. The nationwide check must be conducted in the manner provided in section
15 12-60-24. All costs associated with obtaining a background check are the
16 responsibility of the applicant for a license.
- 17 5. Receive moneys from the North Dakota horse racing foundation for deposit in the
18 purse fund, breeders' fund, or racing promotion fund in accordance with subsection ~~67~~
19 of section 53-06.2-11.
- 20 6. Adopt additional rules for the administration, implementation, and regulation of
21 activities conducted pursuant to this chapter. The commission shall deposit any fees
22 collected under authority of this subsection in the racing commission operating fund.
23 Subject to legislative appropriation, the commission may spend the fees for operating
24 costs of the commission.

25 **SECTION 5. AMENDMENT.** Section 53-06.2-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **53-06.2-06. Organizations eligible to conduct racing ~~and, simulcast, advance deposit~~**
28 **wagering, and historic horse race pari-mutuel wagering.**

29 Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and
30 other public-spirited organizations may be licensed to conduct racing ~~and, simulcast, advance~~
31 deposit wagering, and historic horse race pari-mutuel wagering as authorized by this chapter.

1 **SECTION 6. AMENDMENT.** Subsection 1 of section 53-06.2-08 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. Each license issued under the certificate system must describe the place, track, or
4 racecourse at which the licensee may hold races. Every license must specify the
5 number of days the licensed races may continue, the hours during which racing may
6 be conducted, and the number of races that may be held each day. Races authorized
7 under this chapter may be held during the hours approved by the commission and
8 within the hours permitted by state law. Wagering on historic horse races may be
9 conducted on any day, regardless of whether live racing or simulcasting also is taking
10 place.

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

13 **53-06.2-10. Certificate system - Rules.**

14 The certificate system allows a licensee to receive money from any person ~~present at on~~ a
15 live horse race, simulcast horse race, or simulcast dog race ~~who desires to bet on any entry in~~
16 ~~that, or historic horse~~ race. A person betting on an entry to win acquires an interest in the total
17 money bet on all entries in the race, in proportion to the amount of money bet by that person,
18 under rules adopted by the commission. The licensee shall receive the bets and for each bet on
19 a live or simulcast race shall issue a certificate to the bettor on which is at least shown the
20 number of the race, the amount bet, and the number or name of the entry selected by the
21 bettor. A certificate may not be issued for a wager on a historic horse race. The commission
22 may adopt rules for place, show, quinella, combination, or other types of ~~betting usually~~
23 ~~connected with racing~~ wagering on live, simulcast, or historic horse races.

24 **SECTION 8. AMENDMENT.** Section 53-06.2-10.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **53-06.2-10.1. Simulcast wagering.**

27 1. In addition to racing under the certificate system, as authorized by this chapter, and
28 conducted upon the premises of a racetrack, simulcast pari-mutuel and account
29 wagering may be conducted in accordance with this chapter or rules adopted by the
30 commission under this chapter in accordance with chapter 28-32.

- 1 2. Any organization qualified under section 53-06.2-06 to conduct racing may make
2 written application to the commission for the conduct of simulcast pari-mutuel and
3 account wagering on races held at licensed racetracks inside the state or racetracks
4 outside the state, or both. The commission may not authorize more than ten simulcast
5 pari-mutuel facilities.
- 6 3. Licensure of service providers, totalizator companies, site operators, or organizations
7 applying to conduct or conducting simulcast or account wagering must be approved by
8 the attorney general. The attorney general may not grant a license denied by the
9 commission.
- 10 4. Notwithstanding any other provision of this chapter, the commission may authorize any
11 licensee to participate in interstate or international combined wagering pools with one
12 or more other racing jurisdictions. ~~Anytime that~~
- 13 a. If a licensee participates in an interstate or international combined pool, the
14 licensee, as prescribed by the commission, may adopt the take-out of the host
15 jurisdiction or facility.
- 16 b. The commission may permit a licensee to use one or more of its races or
17 simulcast programs for an interstate or international combined wagering pool at
18 locations outside its jurisdiction and may allow pari-mutuel pools in other states to
19 be combined with pari-mutuel pools in its jurisdiction for the purpose of
20 establishing an interstate or international combined wagering pool.
- 21 c. The participation by a licensee in a combined interstate or international wagering
22 pool does not cause that licensee to be considered to be doing business in any
23 jurisdiction other than the jurisdiction in which the licensee is physically located.
- 24 d. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered
25 in an interstate or international combined wagering pool other than amounts
26 wagered within this jurisdiction.
- 27 e. Breakage for interstate or international combined wagering pools must be
28 calculated in accordance with the statutes or rules of the host jurisdiction and
29 must be distributed among the participating jurisdictions in a manner agreed to
30 among the jurisdictions.

1 5. The certificate system also permits pari-mutuel wagering to be conducted through
2 account wagering.

3 a. As used in this section, "account wagering" means a form of pari-mutuel
4 wagering in which an individual deposits money in an account and uses the
5 account balance to pay for pari-mutuel wagers.

6 b. An account wager made on an account established in this state may only be
7 made through the licensed simulcast service provider approved by the attorney
8 general and authorized by the commission to operate the simulcast pari-mutuel
9 wagering system under the certificate system. The attorney general may not
10 grant a license denied by the commission.

11 c. An account wager may be made in person, by direct telephone communication,
12 or through other electronic communication in accordance with rules adopted by
13 the commission. ~~Breakage for interstate or international combined wagering~~
14 ~~pools must be calculated in accordance with the statutes or rules of the host~~
15 ~~jurisdiction and must be distributed among the participating jurisdictions in a~~
16 ~~manner agreed to among the jurisdictions~~

17 6. Any organization licensed to conduct simulcast pari-mutuel and account wagering may
18 conduct wagering on historic horse racing at its simulcast facility in accordance with
19 section 53-06.2-10.2.

20 **SECTION 9.** Section 53-06.2-10.2 of the North Dakota Century Code is created and
21 enacted as follows:

22 **53-06.2-10.2. Historic horse race wagering.**

23 1. In accordance with pari-mutuel wagering under the certificate system, and if
24 conducted at a simulcast facility, pari-mutuel wagering on historic horse races may be
25 conducted in accordance with this chapter or rules adopted by the commission. Any
26 service provider licensed to conduct simulcast pari-mutuel and account wagering
27 under this chapter may offer wagering on historic horse races on electronic gaming
28 devices if:

29 a. The wagers are offered in conjunction with simulcast wagering at a simulcast
30 facility;

31 b. All wagers use the pari-mutuel method of wagering;

- 1 c. A licensee at all times maintains at least two terminals offering the same type of
- 2 wager on historic horse races;
- 3 d. The terminal makes available true and accurate past performance information on
- 4 each historic horse race before a patron makes selections;
- 5 e. The terminal displays the official results of each race;
- 6 f. The identity of each race is revealed to the patron after the patron has placed a
- 7 wager;
- 8 g. The terminals have been tested by an independent testing laboratory to ensure
- 9 integrity and proper working order;
- 10 h. Each terminal displays pool amounts that patron will receive for a winning wager;
- 11 and
- 12 i. No single wager exceeds twenty-five dollars.
- 13 2. The terminal used for conducting a historic horse race may display a photographic
- 14 recording or digital simulation or recreation of a portion of the race.
- 15 3. Notwithstanding any other provision of this chapter, in addition to any bond provided to
- 16 the commission as security for other licensed activity pursuant to section 53-06.2-08,
- 17 each licensed service provider approved by the commission to offer wagering on
- 18 historic horse races shall post a bond of five hundred thousand dollars payable to the
- 19 state. A licensed service provider posting a bond under this section may not be
- 20 required to post more than one bond in the amount of five hundred thousand dollars,
- 21 regardless of the number of simulcast facilities at which it offers wagers on historic
- 22 horse races.

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

25 **53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses -**
26 **Payment to general fund.**

- 27 1. For wagering on live horse racing:
 - 28 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
 - 29 twenty percent of the amount wagered. Of the amount wagered, the licensee
 - 30 shall pay:

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- 1 (1) One-half of one percent to the state treasurer to be deposited in the general
2 fund.
- 3 (2) One-half of one percent to the commission to be deposited in the breeders'
4 fund.
- 5 (3) One-half of one percent to the commission to be deposited in the purse
6 fund.
- 7 (4) One-half of one percent to the commission to be deposited in the racing
8 promotion fund.
- 9 b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools,
10 the licensee may deduct no more than twenty-five percent of the amount
11 wagered. Of the amount wagered, the licensee shall pay:
- 12 (1) One-half of one percent to the state treasurer to be deposited in the general
13 fund.
- 14 (2) One-half of one percent to the commission to be deposited in the breeders'
15 fund.
- 16 (3) One-half of one percent to the commission to be deposited in the purse
17 fund.
- 18 (4) One-half of one percent to the commission to be deposited in the racing
19 promotion fund.
- 20 2. For simulcast and account wagering:
- 21 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
22 twenty percent of the amount wagered. Except as limited in subdivision c, of the
23 amount wagered by simulcast and account wagering in win, place, and show
24 pari-mutuel pools, the licensee shall pay:
- 25 (1) One-sixteenth of one percent to the state treasurer to be deposited in the
26 general fund.
- 27 (2) One-sixteenth of one percent to the commission to be deposited in the
28 breeders' fund.
- 29 (3) One-sixteenth of one percent to the commission to be deposited in the
30 purse fund.

- 1 (4) One-sixteenth of one percent to the commission to be deposited in the
2 racing promotion fund.
- 3 b. Except as limited in subdivision c, of the amount wagered by simulcast and
4 account wagering in daily double, quinella, exacta, trifecta, or other combination
5 pari-mutuel pools, the licensee shall pay:
- 6 (1) One-sixteenth of one percent to the state treasurer to be deposited in the
7 general fund.
- 8 (2) One-sixteenth of one percent to the commission to be deposited in the
9 breeders' fund.
- 10 (3) One-sixteenth of one percent to the commission to be deposited in the
11 purse fund.
- 12 (4) One-sixteenth of one percent to the commission to be deposited in the
13 racing promotion fund.
- 14 c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than
15 four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and
16 thereafter, the licensee may not pay more than four hundred twenty thousand
17 dollars.
- 18 3. For historic horse race wagering:
- 19 a. For wagers on historic horse races the licensee may deduct no more than
20 twenty-five percent of the amount wagered. Of the amount wagered, the licensee
21 shall pay:
- 22 (1) One-fourth of one percent to the state treasurer to be deposited in the
23 general fund.
- 24 (2) One-half of one percent must be allocated in the following manner:
- 25 (a) One-third to be deposited in the breeders' fund;
- 26 (b) One-third to be deposited in the purse fund; and
- 27 (c) One-third to be deposited in the racing promotion fund.
- 28 (3) One-fourth of one percent to be deposited in the treasury of the county in
29 which wagering on historic horse racing takes place.
- 30 (4) One-fourth of one percent to be deposited in the treasury of the city in which
31 wagering on historic horse racing takes place.

1 (5) One-fourth of one percent to be deposited in the compulsive gambling
2 prevention and treatment fund under 50-06-22.

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

7 4.5. The licensee conducting wagering on live racing, simulcast wagering, historic horse
8 racers, or account wagering shall retain all other money in the pari-mutuel pool and pay
9 it to bettors holding winning tickets as provided by rules adopted by the commission.

10 5.6. A licensee may not use any of the portion deducted for expenses under subsections 1
11 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel
12 racingwagering under the certificate system. After paying qualifying expenses, the
13 licensee shall use the remainder of the amount so withheld only for eligible uses
14 allowed to charitable gambling organizations under section 53-06.1-11.1.

15 6.7. The commission shall deposit the moneys received pursuant to subsections 1, 2, ~~and~~
16 3, and 4 and from the North Dakota horse racing foundation pursuant to subsection 5
17 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion
18 fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and
19 racing promotion fund are appropriated to the commission on a continuing basis to
20 carry out the purposes of those funds under this chapter and must be administered
21 and disbursed in accordance with rules adopted by the commission. The commission
22 may not transfer money among the funds. The commission shall distribute awards and
23 payment supplements from the breeders' fund in the same calendar year the money
24 was earned by the recipient. The commission shall distribute payments awarded to
25 qualified owners and breeders from the breeders' fund without requiring owners and
26 breeders to apply for the payments. The commission may receive twenty-five
27 thousand dollars per year or twenty-five percent per year, whichever is greater, from
28 the racing promotion fund for the payment of the commission's operating expenses.