

**ARTICLE 69.5-02**  
**NORTH DAKOTA HARNESS RACING RULES**

Chapter  
69.5-02-01      Definitions

**CHAPTER 69.5-02-01**  
**DEFINITIONS**

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**69.5-02-01-01. Definitions.**

1. "Act" means North Dakota Century Code chapter 53-06.2.
2. "Added money" means money offered for an event by an association.
3. "Age" of a horse must be reckoned from the first day of January of the year of foaling.
4. "Association" means a person, association, society, or body corporate conducting a race meeting.
5. "Bred" means the place of foaling of a horse.
6. "Breeder" means the owner of the dam of a horse at the time of foaling.
7. "Claiming race" means a race in which every horse racing therein may be claimed in conformity with this regulation.
8. "Day" means twenty-four hours ending at midnight.

9. "Declaration" means an indication in the prescribed form of an intention to start a horse in a race.
10. "Entry" means two or more horses starting in a race when owned in whole or in part, directly or indirectly, by the same person, or trained in the same stable or by the same management.
11. "Extended meeting" means a meeting of ten days or more.
12. "Fair meeting" means a meeting of less than ten days.
13. "Futurity" is a stake race in which the in foal dam of the competing animal, or the animal itself is nominated during the year of the foaling.
14. "Horse" means a horse, mare, colt, filly, or gelding.
15. "Judges' list" means a list of horses that are refused declaration.
16. "Maiden" means a horse that:
  - a. Has never won a heat or race at the gate at which it is entered to start and for which a purse is offered, excluding schooling races;
  - b. Has been awarded a race or purse money after the "official sign" was posted but is not considered as a winning performance; or
  - c. Although having finished first in a race for which a purse was or is offered was or is subsequently disqualified.
17. "Meeting" means the period of time during which races are run consecutively at one racetrack.
18. "Owner" includes a part owner or lessee but does not include a person who has an interest in only the winnings of a horse.
19. "Person" includes a racing association.
20. "Post position" means the position assigned to a horse for the start of the race.
21. "Post time" means the time set for the arrival at the starting point of the horses in a race.
22. "Qualifying list" is a list of horses that are required to go a qualifying race.
23. "Qualifying race" means a race in which a horse must establish its ability to participate at a race meeting consistent with the qualifying standards established for a class of horse.
24. "Racing season" means the period during which races are conducted in North Dakota in any calendar year and includes any meeting commencing in one calendar year and concluding in the next ensuing calendar year.
25. "Rules" means the rules of racing covering harness racing prescribed in this article as amended from time to time, and includes those directives and rulings that may from time to time be made by the commission of horse racing, the executive director for the commission, or the judges with respect to conducting harness horse racing.
26. "Stake" means a race open to all horses, complying with its conditions and in which the nominators of the horses entered contribute to the purse.
27. "Starter" means:
  - a. The person who dispatches a field of horses at a race.

- b. A horse that has passed the fair start pole when the starter dispatches the horses with the word "go".
- 28. "Sustaining fees" includes interim, declaration, and starting fees or payments.
- 29. "Turf authority" means the official regulatory body of racing in a jurisdiction.
- 30. "Walkover" is an event in which the only competitor is one horse or one entry.

**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

**69.5-02-01-02. Duties of racing officials.**

- 1. No person may officiate or be employed as a judge, racing secretary, assistant race secretary, starter, placing judge, clerk of the course, paddock judge, patrol judge, timer, equipment inspector, identifier, horsemen's bookkeeper, program director, or as any other official or employee of an association as the commission may from time to time direct, until the appointment or employment of that official is approved in writing by the commission.
- 2. An association approved to conduct a race meeting shall submit to the commission a list of officials thirty days prior to the commencement of a race meeting.
- 3. No racing official, without the consent of the commission, may occupy or serve in more than one official position and then only if the combined duties can be performed efficiently and adequately and without conflict of responsibility.
- 4. No racing official may engage in any employment or activities at a racetrack during the conduct of an approved race meeting other than the employment and activities for which the racing official has been approved by the commission.
- 5. No person having an interest in the result of a race by reason of ownership in a participating horse, wagering or otherwise, may act in any official capacity in connection with the running of a race.
- 6. No official of the commission, racing official, or security personnel may wager on the outcome of a race.
- 7. No employee or licensee of the commission or employee of an association may give to anyone, directly or indirectly, for reward or for any other consideration, any information or advice that would tend to influence any person in the making of a wager on a horse in a race. This subsection does not apply to an association employee making a selection that appears in the official program, an association publication, or a newspaper or is broadcast over the radio or television.

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

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

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

**69.5-02-01-03. Duties of judges.**

- 1. The commission shall appoint or approve the appointment of judges to be called the "board of judges", who shall enforce the carrying out and observance of this regulation, and any rules or conditions established under the act.

2. In the performance of their duties, the judges shall exercise reasonable control over and have unrestricted access to all buildings, stables, rooms, and all other places within the grounds of an association.
3. The board of judges shall interpret the rules and decide all questions according to the usages of the turf and in the best interests of racing whether specifically covered by the rules or not.
4. The board of judges, subject to final confirmation by the board, shall approve or deny all applications for licenses under the rules.
5. At any meeting or hearing of the board of judges a majority of the board of judges constitutes a quorum, and a majority of the judges present determines any questions.
6. If the judges are an even number, the supervisor, or an assistant supervisor of racing, may participate and cast a deciding vote.
7. The board of judges shall supervise all declarations and scratches and at least one judge must be present at the race secretary's office at the closing and during the drawing of declarations.
8. The judges' may conduct an investigation into any matter within the judges' jurisdiction and may demand a statutory declaration or other form of proof from any person under the judges' jurisdiction and having knowledge of the matter under investigation, and at any time order a veterinarian's examination of any horse.
9. The board of judges may refuse the declaration of a horse for any reasons they consider proper, and a horse so refused:
  - a. Must be posted on the judge's list; and
  - b. May subsequently be reinstated by removal from that list by the judges.
10. The board of judges may place a horse in the temporary charge of a trainer they select.
11. The board of judges may excuse a horse from starting for any reason they consider proper whether before or after it has been accepted by the paddock judge.
12. The association, with the approval of the board of judges, may fill any casual or emergency vacancy of an official position subject to subsequent approval of the commission.
13. Except where the circumstances require the board of judges to render an immediate decision without a hearing under the rules or in the best interests of racing, the judges shall, whenever they suspect that there has been a violation of this article, or any rules or directives of the commission, or of any proper order or direction of a judge or judges.

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

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

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

**69.5-02-01-04. Starter duties.**

1. An association conducting a race meeting shall appoint a starter who shall have the authority to give orders necessary to ensure a fair start.
2. The starter's decision as to the validity of a start is final except when otherwise ordered by the board of judges.

3. The starter shall maintain a starter's list and horses must be schooled in starting if and when required by the starter or a judge, and must be denied declaration until removed from that list.
4. A horse that is unmanageable at the starting gate or refuses to start properly may be refused declaration until the starter is satisfied that the horse's conduct has been corrected.
5. The starter shall have control over the horses and drivers from the formation of the parade until the word "go" is given and shall notify the judges of any violation of the rules.

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

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

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

#### **69.5-02-01-05. Paddock judge duties.**

1. An association conducting a race meeting shall appoint one or more paddock judges.
2. The paddock judge shall:
  - a. Keep a record, as specified by the judges, of equipment required to be carried by each horse in each race and may not permit any change in that equipment unless authorized by a judge.
  - b. Require all horses be checked and properly identified in each race.
  - c. Immediately report to the board of judges the absence or ineligibility of, or any other irregularity with respect to, a horse, its equipment, or the judge's inability to make a positive identification of a horse.
  - d. Immediately report to the board of horse racing veterinarian any unsoundness of any horse.
  - e. Notify the board of judges of the reason for any horse returning to the paddock after having entered the track for the postparade and before the start of the race.
  - f. Report any violation of the rules.
3. The paddock judge may authorize any person to be admitted to the paddock in addition to the members of the commission, racing officials, owners, trainers, drivers, and grooms having horses in the paddock.

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

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

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

#### **69.5-02-01-06. General licensing provisions.**

1. No person may act as an owner, a trainer, driver, veterinarian, veterinarian assistant, authorized agent, stable employee, farrier or plater, parade marshal, or such other racing trade or calling as the commission may designate unless the person is the holder of an existing license issued by the commission.
2. In dealing with an application for license, the personal character and ability of the applicant must be considered by the commission, but in no case may a person be licensed who is currently under suspension by any turf authority.
3. The commission by directive, may require that any persons employed or engaged in the conduct of a race meeting who are designated by the commission must be registered with the

association conducting the race meeting in lieu of being licensed by the commission, and those persons so registered must be deemed to be licensed by the commission and subject to the rules of the commission covering such licensed persons.

4. No person who is the holder of an existing license issued by the commission may have in the person's employ, or offer to employ at the racetrack, a person who is required to be licensed but is not the holder of an existing license issued by the commission.
5. An employer is required to submit to the commission and keep current, an employee roster with the name of each employee and the employee's license number and shall promptly inform the commission of the name and license number of any employee leaving the employer's employ, and of any new employee.
6. The license fee payable by an association must be the sum for each day upon which racing is to be conducted by the association that the commission may from time to time prescribe.
7. Licensees other than an association shall pay the fees that the commission may from time to time fix by directive.
8. The commission may grant a duplicate license on receipt of satisfactory proof of loss of an original license and on payment of a fee determined by the commission from time to time.
9. A license becomes invalid if the licensee ceases to be employed or to act in the capacity named in the license and that license must be surrendered to and retained by the commission.
10. No applicant may be granted a license until the applicant has been identified and photographed by the commission staff, unless that requirement is waived by the commission.
11. A licensed trainer may apply for a license on behalf of any owner that the trainer represents by signing the application for the owner's license and permission to race may be granted for fourteen calendar days.

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

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

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

**69.5-02-01-07. License provisions for owners, partnerships.**

1. An applicant for an owner's license may be required to satisfy the commission of financial responsibility.
2. Upon the suspension or revocation of the license of an owner, all horses of the owner become ineligible to race.
3. All declarations of joint ownership or partnership or changes therein must be registered with the racing association concerned.
4. A declaration of partnership, syndicate, joint venture, or other group must contain the following information:
  - a. Name and address of every person having an interest in the horses provided.
  - b. The relative portion of each person's interest.
  - c. To whom the winnings are payable.
  - d. In whose name the horse shall race.

- e. With whom the power of declaration rests.
- f. The terms of any contingency, lease, or other similar arrangement.
- g. If a company is a joint owner or partner, the names, permanent address, and occupations of:
  - (1) All officers, directors, and persons having at any time and from time to time, any interest in the shares of the company, reported in the manner prescribed by the commission from time to time and containing the information in a format acceptable to the commission; and
  - (2) The company's appointed authorized agent who has been licensed by the commission.
- 5. A lease of the racing properties of a horse must be filed with the racing association and must state to whom the winnings are payable.
- 6. The terms of a lease must be bona fide, specific, and substantial, and must be approved by the commission of judges.
- 7. An owner, other than a company, may appoint an authorized agent who must be licensed by the commission to act on the owner's behalf.
- 8. A shareholder of a company licensed as an owner, upon application, may be licensed as an owner.
- 9. If there are more than four owners, a stable name must be registered.

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

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

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

**69.5-02-01-08. Stable names provisions.**

- 1. No person may use a stable name unless that name and any changes in that name are registered with:
  - a. The United States trotting association.
  - b. The board of horse racing; and
  - c. The association.
- 2. No person may use, directly or indirectly, more than one stable name at the same time.
- 3. A person may disassociate himself from a stable name by giving notice to the commission and the United States trotting association.
- 4. When a company holds a license, its corporate name is deemed to be the stable name of the company and of each of its shareholders.
- 5. When a partnership, syndicate, joint venture, or other group holds a license, the name in which the license is issued is deemed to be the stable name of the group and of each member of the group.
- 6. A member of a licensed corporation or a licensed group may apply for a member's license permitting the holder access to the barn area and paddock of a racetrack if the president of the corporation or manager of the group:

- a. Cosigns the application;
  - b. Certifies that the applicant is a member; and
  - c. Personally undertakes to be responsible for all the acts of the applicant in the barn and paddock area as though they were his own.
7. The commission may not, under subsection 6, issue more than ten member's licenses per corporation or group per year.

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

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

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

**69.5-02-01-09. Stake races provisions.**

1. Conditions for stakes that conflict with the rules, are vague, or inconsistent may not be published and, if published, are of no effect insofar as they so conflict.
2. Conditions for stakes must be approved by the commission prior to publication and must include the following information:
  - a. The categories of horses that are eligible to be nominated;
  - b. The amount to be added to the purse by the association;
  - c. The dates and amounts of nomination and sustaining payments;
  - d. Whether the event will be:
    - (1) Raced in divisions; or
    - (2) Conducted in elimination heats if more horses than the maximum allowed to compete in one division are declared; and
  - e. The percentage distribution of the purse to the money winners in each heat or dash, and the formula for calculating the distribution if the number of starters is less than the number of premiums advertised.
3. The date and place where stakes will be raced must be announced as soon as that information is determined.
4. Conditions may not be changed after nominations have been received except with the approval of the commission.
5. All nominations to stakes must:
  - a. Be made in writing.
  - b. Be signed by the owner, trainer, or his authorized agent.
  - c. State the name and address of the bona fide owner or lessee, or both, as the case may be.
  - d. Identify by age, name, color, sex, sire, and dam each horse nominated.
  - e. Name the event or events for which the horse is being nominated.
  - f. Be made at least five days prior to the race for which the nomination is made.

6. No deductions may be made for clerical or any other expenses from nomination or sustaining payments or from added money.
7. The dates for the closing of nominations must be:
  - a. For stakes nominating yearlings, not later than May fifteenth.
  - b. For stakes nominating other than yearlings, the fifteenth day of the month.
  - c. For futurities, not later than July fifteenth of the year of foaling.
8. Nominations for stakes on races for two-year-olds may not be taken prior to February fifteenth.
9. Sustaining payments for stakes are payable on the fifteenth day of a month, but no stake sustaining fee becomes due prior to February fifteenth of the year in which the horses nominated become two years of age.
10. If the day of closing of nomination or sustaining payment falls on a Sunday or legal holiday, the day of closing must be the next business day.
11. Declaration fees become due and payable when a horse is properly declared.
12. When a horse has been properly declared its declaration fee may not be refunded..
13. Unless otherwise specified by the association or sponsor of a race, conditions are invalid that have the effect of eliminating horses nominated to an event or adding horses that have not been nominated to an event because of the performance of those horses after the closing of nomination.
14. The eligibility of the horse nominated is not affected by the sale of the horse after its nomination has been accepted unless the contrary is specified in the conditions.
15. An association shall provide a list of nominations to each nominator and to the commission in all stakes within a month after the date on which payments were due, including a resume indicating the current financial status of the event by listing the number of horses remaining eligible and the amounts of nomination and sustaining payments received.
16. Nomination fees to futurities are not refundable.
17. No deductions are permitted from the purse for any event that is allotted to "consolation" races.
18. An association has the right to require at least five separate interests to start in all stakes but if less horses than required are declared to start, the race may be declared off and in that case the total of nomination and sustaining payments received must be divided equally in respect to the horses declared to start without being credited as purse winning.
19. Futurities must be contested if one or more horses are declared to start.
20. If no declarations are made, the total of nomination and sustaining payments must be divided equally and awarded in respect to the horses remaining eligible after payment of the last sustaining payment, without being credited as purse winnings.
21. When a stake is split into divisions:
  - a. The added money, nomination, and interim fees must be divided equally among the divisions; and

- b. The declaration and starting fees must be divided in proportion to the number of horses starting in each division.
22. Unless otherwise specified in the conditions, if more horses than are allowed in one field are declared, the race must be conducted in divisions or eliminations and in accordance with the following provisions:
- a. For stakes conducted in divisions:
    - (1) Starts must be divided by lot;
    - (2) All divisions must be raced on the same day; and
    - (3) The association shall contribute to each division additional added money so that portion of the purse equals at least seventy-five percent of the original amount.
  - b. For stakes conducted in elimination:
    - (1) Starters must be divided by lot with sixty percent of the total purse to be divided equally among the elimination heats, and the final heat to be contested for forty percent of the total purse;
    - (2) Eliminating heats and the final heat must be raced on the same day, unless conditions provide otherwise, and in that case elimination heats must be contested not more than ten days prior to the date of the final heat;
    - (3) The winner of the final heat must be the winner of the stake;
    - (4) If there are two elimination heats, the first four finishers in each heat shall qualify for the final heat and if there are three or more elimination heats, not more than three horses from each elimination heat shall qualify for the final heat; and
    - (5) Judges shall draw by lot the post positions for the final heat to determine which of the two elimination heat winners shall have the pole and the second position and which of the two horses that were second shall start in the third and fourth positions, and shall in that manner determine all of the positions for the final heat.
23. In all cases, the number of horses allowed to start in the final heat may not exceed the maximum number permitted to start.
24. A horse that is on the qualifying, veterinarian, starter, or judges' list may be nominated but is not eligible to declare or start in a stake unless it is removed from those lists before the time of declaration or starting.

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

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

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

**69.5-02-01-10. Qualifying races.**

- 1. Declarations at an extended race meeting must be governed by the following:
  - a. A horse that has not raced previously at the gait chosen shall perform in a qualifying race under the supervision of a judge, but no horse may be permitted to race at an extended race meeting if it does not have at least one satisfactory charted line at the gait chosen and in order to provide complete and accurate chart information on time and beaten lengths, a standard photofinish must be in use.

- b. A horse that does not show a charted line within the last six starts shall perform in a qualifying race, and for that purpose an uncharted race contested in heats of more than one dash and consolidated must be considered to be a start.
- c. A horse that has not raced within thirty days before or during an extended race meeting shall perform in a qualifying race, except that a horse that raced in North Dakota during the current calendar year may start during the first thirty days of the next season without qualifying, and a horse entered and in to go in a race that is programmed and postponed but after postponement is reinstated and subsequently raced must be considered to be eligible.
- d. If a horse has raced at meetings at which races are not charted, the information from the uncharted races must be summarized, including each start, and consolidated in favor of charted lines that must carry date, place, time, driver, finish, track conditions, and, if the race is not at one mile [1.61 kilometers], distance.
- e. A horse that is on a qualifying list must be required to perform in a satisfactory qualifying race or races before being removed from that list.
- f. A horse that chokes or bleeds during a warmup or a race must be required to perform in a satisfactory qualifying race before it can be declared to an overnight event.
- g. The judges may permit a preferred or invitational horse to qualify by means of a timed workout consistent with the time of the races in which it will compete.
- h. The judges may institute standards or guidelines relating to an individual horse's performance to establish if the horse will qualify.
- i. A horse:
  - (1) Habitually wearing hobbles in a race other than a qualifying race may qualify without them.
  - (2) Habitually racing without hobbles may qualify with them.
  - (3) That is not on a qualifying list and is habitually wearing hobbles, or habitually not wearing hobbles, and may make one start in a qualifying race with or without hobbles, and its performance at that race shall not affect its eligibility to race with or without hobbles in a subsequent event to which it is declared.
- j. If a race is conducted for the purpose of qualifying drivers and not horses, the race need not be charted, timed, or recorded, but this clause does not apply to races qualifying both horses and drivers.
- k. A horse that has made breaks in two immediately preceding consecutive races entered on fast tracks shall perform a qualifying race.
- l. A horse distanced once on a fast track may be required to perform in a qualifying race.
- m. The placing of a horse on a "qualifying list" may not be recorded on its eligibility certificate.
- n. No horse may be permitted to obtain a win race record in a qualifying race unless an approved urine or blood test has been taken in respect to it either immediately before or after the race.

2. General qualifying standards must be established by the race secretary and those standards and any changes to them must be approved by the judges and posted so that they are available for inspection by participants at all times.
3. Owners and trainers or owners or trainers of horses placed on a qualifying list must be advised by the judges of the placement by written notice posted in an area of the race office.
4. Qualifying races must be held at least one full week prior to the opening of any racing season and must be scheduled at least twice a week during the period set aside for them.
5. Qualifying races must be scheduled twice a week during meetings having four or more racing days per week, and once a week during meetings having less than four racing days per week.

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

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

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

**69.5-02-01-11. General provisions types of races permitted, declarations, and drawing of post positions.**

1. The racing secretary, exclusively, shall schedule the following types of races:
  - a. Overnight events, including:
    - (1) Conditioned races.
    - (2) Claiming races.
    - (3) Preferred, invitational, handicap, open, or free-for-all races.
    - (4) Schooling races.
    - (5) Matinee races.
  - b. Stakes.
  - c. Match races.
2. Substitute races may be provided for each race program and must be so designated in condition sheets and may be used when a regularly scheduled race is not run because of lack of entries.
3. Regularly scheduled races or substitute races may, if necessary, be divided.
4. When a race is divided, starting horses must, unless otherwise specified in the conditions of the race, be determined by lot after preference has been applied.
5. Conditions may not be written in such a way that a horse is deprived of an opportunity to race in a normal preference cycle.
6. Not more than three also eligible conditions may be used in writing conditions for overnight events.
7. For the purpose of eligibility, a racing season or racing year must be the calendar year.
8. When recording winnings, gross dollar winnings must be used and cents must be disregarded.
9. No time records or bars may be used as an element of eligibility.

10. Horses eligible at the time of declaration shall remain eligible for that race regardless of winnings accrued after such declaration.
11. To participate in mixed races, trotting, and pacing, a horse must be eligible under the conditions for the gait stated for it in its declaration.
12. The word "start" in a condition includes only those performances in a purse race and each dash or heat must be considered as a separate "start" for the purpose of condition races.
13. Preferred, invitation, junior invitation, handicap, open, and free-for-all races are those limited to the fastest horses competing at the meeting and with respect to those races:
  - a. Horses must be posted in the office of the race secretary and listed with the board of judges, prior to closing declarations;
  - b. Horses so posted are not eligible to conditioned races unless the conditions specifically include horses posted to any or all such races;
  - c. A horse must be removed from the lists not later than the day following the start that caused it to be removed; and
  - d. No two-year-old horse is eligible to be placed on the lists to race against older horses until it has won seven races, unless requested by the owner or authorized agent, but the owner or authorized agent may withdraw a request after the owner or agent has made it.
14. The maximum size of fields for all races must be determined by allowing eight feet [2.44 meters] per horse to the starters in the front tier and not more than two trailers.
15. No horse may be permitted to be declared to race unless:
  - a. A valid eligibility certificate has been granted or validated for that horse by the United States trotting association.
  - b. The registration papers and a valid eligibility certificate have been filed with the association.
  - c. If leased:
    - (1) A copy of the lease is on file with the board of judges and the associations; and
    - (2) The horse races in the name of the lessee.
  - d. The horse has qualified.
  - e. The horse has been lip tattooed.
  - f. The horse is at least two years of age to race at any meeting but not older than:
    - (1) Fourteen years of age to race at extended meetings; or
    - (2) Seventeen years of age to race at nonextended, matinee, or fair meetings.
  - g. A negative "coggins test" certificate issued by a laboratory approved by the United States department of agriculture or the North Dakota board of veterinary medicine has been presented to the race secretary properly identifying the horse and certifying that within the current racing season in North Dakota the horse has been tested negative.

- h. If it is a spayed mare, that fact is noted on the program, registration certificate, eligibility certificate, and the list of such horses on the horsemen's bulletin board, and if part of an entry, that fact has been disclosed on the declaration.
16. An association shall publish the time for closing of declaration on the condition sheets.
  17. A declaration received after the specified time of closing may not be accepted, except if it was omitted in error or because of negligence by an official or employee of the association.
  18. An association shall provide a box into which declarations must be deposited.
  19. The same horse may not be declared to compete in races scheduled for the same day at different tracks.
  20. A horse that is on the qualifying list, starter's schooling list, judges' list, or veterinarian's list and not removed from the appropriate list may not be declared.
  21. A declaration made by mail, telegraph, or telephone is acceptable, if:
    - a. The mail, telegraphic, or telephone declaration states the name of the horse, the event it is to be declared to, and is signed by the person who received and deposited it; and
    - b. Evidence of the declaration is deposited, in the declaration box before the time specified by the race secretary or the race secretary's licensed delegate for declarations to close, and adequate program information is furnished by the declarer.
  22. In the case of telephone declaration, a properly signed declaration must also be deposited with the race secretary at least twenty-four hours prior to post time of the race concerned.
  23. Before opening the declaration box for the draw, the race secretary or the race secretary's licensed delegate shall take control of the declaration box and the race secretary or delegate may open the box prior to the time of closing to provide an opportunity to process declarations but no information as to the names of horses declared may be given by any person to any other person prior to the drawing of declarations.
  24. No owner of a horse or the owner's agent may be denied the privilege of being present at the closing and drawing of declarations.
  25. Declarations must be listed, the eligibility verified, preference ascertained, starters selected, and post position drawn at such times as are determined by the association.
  26. If it is necessary to reopen any race, a public announcement must be made at least twice and the declaration box reopened at a specified time.
  27. Starting horses and also eligible horses for overnight events must be drawn by lot from horses properly declared to start, and preference must be given according to a horse's last previous start at the gait declared for it in a purse race.
  28. Preference dates are not applicable to horses racing in schooling races.
  29. Preference must be governed by the following:
    - a. If more than the required number of horses are declared in to a race with same preference date, the previous preference dates apply.
    - b. When a horse is racing for the first time at the gait declared for it, it shall have preference over other horses regardless of their preference dates.

- c. If a declaration is made for a horse that has already been drawn to start in a race that has not yet been contested, the date of that uncontested race must be its preference date.
  - d. If a horse has been scratched, the date of the race from which it was scratched must be its preference date.
  - e. If a race has been reopened for additional declarations, preference must be given those horses eligible and declared at the time declarations closed originally.
  - f. If conditions so specify, preference can be given to two-year-olds, regardless of preference date.
30. Not more than two horses may be drawn as "also eligibles" in accordance with the following provisions:
- a. Also eligibles must be drawn from horses having the best preference.
  - b. No horse may be added to the race as an also eligible unless it was drawn as an also eligible at the time declarations closed for that race.
  - c. No horse may be barred from another race to which it is eligible and has preference because it has been drawn as an also eligible.
  - d. Also eligibles moved into races must be posted in the office of the race secretary and their owners or trainers must immediately be so notified by the race secretary.
  - e. Also eligibles not moved into a race by 10:00 a.m. of the day of the race must be released.
  - f. If an also eligible is moved into a race it must be scratched from any subsequent race for which it has been drawn, unless preference otherwise allows.
31. Horses must be coupled as an entry, if:
- a. One person is the owner of two or more horses in a race;
  - b. The spouse of a person who is the owner of one horse in a race is the owner of another horse in that race;
  - c. The spouse of the driver of one of the horses in a race is the owner or trainer of another horse in that race; or
  - d. The trainer of one of the horses in a race is the owner, trainer, or driver of another horse in that race.
32. Any horse may be coupled as an entry by the board of judges when the board considers it in the public interest to do so.
33. If a race is split into divisions or elimination heats, horses coupled as an entry must be seeded in separate divisions or elimination heats insofar as possible:
- a. By owners;
  - b. By trainers; and
  - c. By stables, but the divisions or elimination heats in which they are to compete and their post positions shall be determined by lot.

34. When there is conclusive evidence that a horse was properly declared to an overnight event, but omitted from a program due to error or negligence by an official or employee of the association, the horse so omitted may be added to the race and given the last post position, if the error is found prior to the printing of the official program and its addition does not result in more than the maximum number of starters allowed in a single field, but if the program has been printed, the horse may not be permitted to start.
35. If a horse omitted as described in subsection 34 was nominated or declared to a stake, it must be added to the race and given the last post position, and in that case, if its addition results in more than the maximum number of starters allowed in a single field the event must be divided and the starters in each division and their post positions must be redrawn by lot.
36. If one or more horses are excused from a race by the judges, the also eligible replacement horse or horses shall race and take the post position drawn for the replaced horse or horses except in a handicap race in which case the also eligible replacement horse or horses shall take the place of the replaced horse or horses so long as the handicap is the same, but if the handicap is different:
  - a. The also eligible replacement horse or horses shall take the position on the outside of horses with a similar handicap; or
  - b. When a trailing horse is scratched, the also eligible horse shall take the trailing position, regardless of the handicap scratched.
37. A horse properly declared may not be withdrawn or scratched from the race without permission of the judges.
38. After having been drawn to start, or as an also eligible horse in a race, the horse may not be sold prior to the particular race and trainers may only be changed with the permission of the judges.
39. Drivers must be named not later than the time to permit their names to be published in the official track race program.
40. The deadline for naming of drivers must be set by the association, and no driver may be changed after that deadline without the permission of the judges.
41. The race secretary, with the approval of the board of judges, may reject the declaration to an overnight event of any horse that has a past performance that indicates that it would be below the competitive level of other horses declared to the particular event.

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

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

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

#### **69.5-02-01-12. Scratches.**

1. A horse that is scratched from a race cannot be reinstated to participate in that race.
2. A horse scratched by the commission or association veterinarian may not be allowed to declare for a minimum of seventy-two hours from the time it was scratched and then only if it has been approved for entry by the commission or association veterinarian.

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

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

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

### **69.5-02-01-13. Postponement and cancellation.**

1. An association or board of judges, after consultation with the horsemen's representatives, may for just cause postpone or cancel races.
2. In stakes that have not been started before being canceled, all nomination and sustaining fees must be divided equally among the owners of horses remaining eligible at the time of cancellation.
3. In stakes that have been started but remain unfinished before being canceled, the allotted shares of the remaining nomination, sustaining, and starting fees must be distributed equally to the owners of all horses remaining eligible at the time of cancellation.
4. Unless otherwise provided in the conditions, stakes may only be transferred to another meeting with the unanimous consent from an association and all owners having eligible horses in the event.
5. Overnight events that are not raced within two days of being postponed must be canceled.
6. If track conditions are questionable, the board of judges shall meet with a representative of the association and the duly elected representatives of the horsemen to consider the matter and the following shall apply:
  - a. If the meeting results in a unanimous decision that track conditions are safe for racing, no withdrawals will be allowed.
  - b. If the meeting results in a decision other than a unanimous decision that track conditions are safe for racing, an owner or trainer may scratch a horse after depositing an amount equal to ten percent of the total purse to be raced for with the board of judges.
  - c. The board of judges shall direct that money deposited under subsection b must be retained by the board or returned to the owner or trainer.
  - d. If the number of withdrawals reduces the field to less than five, the association may postpone a stake or cancel an overnight event.
7. If the board of judges is unable to judge the running or finish of a race because of insufficient lighting, adverse weather conditions, or any other circumstances, they may declare the race "no contest".
8. If a decision is made by the board of judges that races are postponed or canceled, an appropriate announcement must be made by the board of judges to the horsemen as soon as that decision is made.

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

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

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

### **69.5-02-01-14. Paddock provisions.**

1. An association conducting a race meeting shall;
  - a. Provide and maintain a paddock or receiving barn that must be policed;
  - b. Maintain records of all person entering a paddock or receiving barn clearly showing the name of each person who entered and the time of entering; and

- c. Provide and maintain in the paddock or receiving barn, washroom facilities, hot and cold running water, and proper lighting in accordance with the standards approved by the commission.
2. Horses must be in paddock at least one hour prior to post time of the race in which they are to compete.
  3. Except for warmup trips, no horse may leave the paddock until called to post.
  4. Drivers shall report to the paddock judge and sign the drivers' register at least one hour before post time of any race in which they are programmed to drive, unless excused by the judges.
  5. When programmed to drive in any race that is part of a feature pool, drivers must be in the paddock at least one hour before post time of the race which comprises the first part of the feature pool, unless excused by the judges.
  6. Drivers programmed to drive in races where advanced wagering takes place on any feature betting race shall make their presence known to the paddock judge prior to commencement of the advanced wagering.
  7. Persons entitled to admission to the paddock are:
    - a. Owners, trainers, drivers, and grooms of horses that:
      - (1) Are competing on the date of the race; and
      - (2) Are in the paddock;
    - b. Members of the commission and race officials; and
    - c. Any other person authorized by the paddock judge.
  8. No person except an official or an owner, who has another horse racing in a later race, may return to the paddock until all races of that program have been completed.
  9. No more than two members of a registered stable, except with the permission of the judges, are entitled to be in the paddock on any racing day.
  10. An association, during racing hours, shall provide the services of a blacksmith within the paddock.
  11. An association, during racing hours, shall provide to the equipment inspector any suitable extra equipment in the paddock that may be necessary in emergencies to prevent unnecessary delay during the conduct of racing.
  12. The paddock and licensees in the paddock must be under the supervision of the paddock judge.

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

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

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

**69.5-02-01-15. Claiming provisions.**

1. In claiming races, any horse may be claimed for its declared claiming price, plus allowances, by:
  - a. A licensed owner who has a horse on the grounds registered to race at the meeting where the claim is to be made;

- b. A licensed owner:
    - (1) Who does not, at the time actually own a horse registered to race because of fire, other misfortune or claim; or
    - (2) Who has no horse on the grounds registered to race, and who has obtained a claim certificate issued by the board of judges after the expiration of three clear days from the date of receipt of the owner's application for a claim certificate; and
  - c. A person whose application for an owner's license has been approved and who has received a claim certificate issued by the board of judges, after the expiration of three clear days from the date of the receipt of the person's application for an owner's license.
2. A claim certificate is valid only for the current racing season.
  3. No owner may claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account.
  4. If there are two or more owners of a horse through which a claim is made, all must sign the claim, unless one is appointed in writing as the authorized agent to make the claim for the partnership or group, and no part owner may claim solely for himself unless that part owner has acquired a claim certificate under subdivision c of subsection 1.
  5. An owner may make a claim for his account through his authorized agent.
  6. No person may take more than one claim in any one race.
  7. No person may claim a horse that is trained or driven by the person in that particular race.
  8. No authorized agent, although representing several owners, may submit more than one claim for any one race.
  9. Only one claim for owners having the same trainer may be entered in any one race.
  10. No person other than an authorized agent acting for his principal may claim a horse for or on behalf of any other person and, for the purposes of this section, a person making a claim by merely executing that claim declares that he is claiming on his own account.
  11. No person may:
    - a. Offer to, or enter into agreement to, claim or not to claim a horse;
    - b. Attempt to prevent a claim from being made; or
    - c. By intimidation or otherwise prevent a horse from being raced in a claiming race.
  12. When a claim has been lodged with an association the claim is not revocable and is made at the sole risk of the claimant.
  13. The claimant is responsible for determining the sex of the horse claimed.
  14. To be eligible for a claim, a horse shall start in the event to which it was declared.
  15. A horse that started in a claiming race but is declared ineligible to the race by the judges is not eligible to be claimed.
  16. If a horse is declared to start in a claiming race, but is scratched, the scratch must be noted on its eligibility certificate and if a declaration is made within a period of thirty calendar days before its next start, that horse is subject to claim in its next start, regardless of the type or

conditions of the race or ownership, at a claiming price not greater than the amount for which it could have been claimed in the race from which it was scratched.

17. A horse shall race for the account of the owner in whose name it starts, but the title to the horse, whether the horse finishes safely or injured or otherwise or dies before, at, or after the finish, is vested in the successful claimant from the moment that horse becomes a starter.
18. Claims must be made in writing on the proper claim blank form supplied by the association.
19. No person may make a claim unless he has the amount of the claim on deposit with the horsemen's bookkeeper, and obtains a claiming credit note from the horsemen's bookkeeper covering the current balance in the claimant's account.
20. A claim blank, claiming credit note, and claim certificate, properly completed, shall if necessary, all be placed in the claim envelope provided by the association for the purpose, and the envelope must be sealed, the date and number of the race written on it, and the envelope delivered to the horsemen's bookkeeper or another person designated for that purpose by the association, at least thirty minutes before post time of the race in respect to which the claim is being made, the bookkeeper or other person shall certify by automatic time clock on the outside of the envelope the time it was received.
21. The horsemen's bookkeeper shall cause all claims to be delivered to the judges before the running of each race.
22. The judge may not open any claim until the race in respect to which it is made is on the racetrack.
23. The judges, after approving a claim and determining that the claimant has the required amount on deposit with the horsemen's bookkeeper, shall issue a delivery order for the claimed horse to the original owner who shall immediately make delivery, to the claimant in the paddock or test barn without altering or removing the claimed horse's shoes.
24. If more than one person enters a claim for the same horse, the successful claimant must be determined by lot by the judges, or other racing officials designated by the judges.
25. No claim may be made of a horse that has the same trainer as other horses of the claimant.
26. If an owner or trainer refuses to deliver a claimed horse, the owner, or the trainer and the horse must be suspended.
27. The certificate of registration of a claimed horse, upon completion of the claim procedure prescribed in this section, must be transferred to the claimant by the association.
28. If a horse is claimed:
  - a. The horse or any partial interest in it may not be sold or transferred to anyone, for a period of thirty days from the date of claim, except in a claiming race, nor may it, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for that period; and
  - b. It may not race outside of North Dakota except in a stake race until after the expiration of thirty days, or until after the conclusion of the current racing season, whichever first occurs.
29. The new owner or trainer of a claimed horse must be allowed to scratch the horse out of any race in which it had been entered by its former owner.
30. Any claim made in contravention of this regulation may be declared voidable by the judges.

31. If a horse is claimed at a meeting under rules of another turf authority, title to and entry restrictions with respect to that horse must be recognized in North Dakota in accordance with the rules of the other turf authority.
32. Spayed mares may not receive any sex allowance.

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

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

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

**69.5-02-01-16. Provisions for winners, dead heats, walkovers, and not betting races.**

1. When horses finish in a dead heat, the dead heat may not be run off.
2. When two or more horses finish in a dead heat for first place, the prizes allocated for first and second finishing horses shall, if possible, and subject to subsection 5 be divided equally between those horses that finished in dead heat, and the same principle applies to:
  - a. A division of prizes between whatever may be the number of horses that finish in dead heats; and
  - b. Whatever is the finish position in which the dead heat occurs.
3. Each horse that finishes in a dead heat and in respect to which a share of prize money for first place is paid, must be deemed a winner of that race and of the amount it actually received.
4. If a horse that finishes in front of the dead heat is disqualified, the horses that finished in the dead heat must be deemed to have finished the race in the position in which the disqualified horse finished before its disqualification.
5. If a nonmonetary prize cannot be divided equally or otherwise among persons entitled to it, the board of judges may decide the matter by drawing lots for the prize.
6. In a "walkover" by a horse:
  - a. The owner of that horse is entitled to one-half of added money offered, together with all stakes fees;
  - b. The other one-half added money offered accrues to the sponsor;
  - c. To claim the purse, the horse must start and complete the course; and
  - d. If the "walkover" is the result of an arrangement between owners or trainers engaged, no portion of the added money, nor any other prize, need be given.
7. In a nonbetting race each horse in the money shall receive:
  - a. Its proportionate share of the total stakes fees, depending on the place of finish of that horse and the total number of horses that finished; and
  - b. Its designated percentage of added money, and the sponsor.

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

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

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

#### **69.5-02-01-17. Placing and money distribution.**

1. Unless otherwise provided in the conditions, all purses must be distributed on the cash basis, with money being awarded according to a horse's position in each separate dash or heat of the race.
2. Purse money distributed must be limited to the first five finishing positions.
3. Unless otherwise specified in the conditions, purse money distribution in dashes must be fifty percent for the first, twenty-five percent for the second, twelve percent for the third, eight percent for the fourth, and five percent for the fifth finishing positions.
4. If there are less than five starters in a stake:
  - a. Each horse in the money shall receive:
    - (1) Its proportionate share of the total stakes fees, depending on the place of finish of that horse and the total number of horses that finished; and
    - (2) Its designated percentage of added money; and
  - b. The balance of added money must be returned to the sponsor.
5. In overnight events, if there are less than five starters, the premiums for the positions for which there are no starters may be retained by the association or sponsor, as the case may be, but any premiums so retained by the association may not be included in the overall purse structure in any agreement between the association and any horsemen's association.
6. If premiums apply with respect to any horses that start but were unable to finish due to an accident or otherwise, all unoffending horses that did not finish shall share equally in those premiums.
7. If premiums apply with respect to any horses that start but were unable to finish under circumstances to which subsection 6 does not apply, the premiums may be retained by the association or sponsor.
8. Every heat is a race and the purse must be distributed as in dash races with nothing being required to be set aside for the race winner.
9. If an ineligible horse is permitted to race, that horse is disqualified from winning any portion of the purse.

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

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

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

#### **69.5-02-01-18. Racing provisions.**

1. An association shall establish the post time for each race and the judges shall call the horses on the track at that time to prevent excessive delay after the completion of one or two scores.
2. The time between separate heats of a single race may not be less than forty minutes.
3. Horses called for a race have the exclusive right to occupy the course, and all other horses shall vacate the course as soon as possible.
4. Sulkies may only be permitted to be used in a race if they are of the conventional dual-shaft and dual-hitch type as follows:

- a. They shall have two shafts that must be parallel to, and securely hitched on each side of the horse;
  - b. No point of hitch and no part of a shaft of a sulky may be above a horizontal level equal to the lowest point of a horse's back;
  - c. They must be equipped with mud guards at any race meetings at which the judges require them; and
  - d. They must be equipped with wheel discs approved by the commission.
5. Drivers shall wear distinguishing colors and may not be permitted to drive in a race or other public performance unless, in the opinion of the judges, they are properly dressed, their driving outfits are clean and they are well groomed, and during inclement weather conditions, they shall wear rain suits or winter suits, either of their usual distinguishing colors or made of a transparent material through which their colors can be distinguished.
  6. Horses are permitted to take one or two scores before going to the post, and upon completion of the last score, the horses must be gathered by the starter and immediately moved into their appropriate starting positions behind the gate.
  7. Horses may be held on the backstretch while awaiting post time, but not more than two minutes, except when delayed by an emergency.
  8. If there are two tiers of horses at the start, the withdrawing of a horse that has drawn or earned a position in the front tier does not affect the position of the horses that have drawn or earned positions in the second tier, except as provided for in handicap claiming races.
  9. When a horse is withdrawn from any tier, horses on the outside move in to fill the vacancy.
  10. If there is only one trailer, he may start from any position in the second tier.
  11. If there are more trailers than one, they shall start from inside any horse with a higher post position.
  12. All races must be started with a mobile starting gate of a design approved by the board.
  13. No person except the starter, his driver, and a patrol judge, shall ride in a starting gate without the permission of the judges.
  14. The starting gate must be equipped with two-way communications to the judges' stand and a mechanical loudspeaker for communicating instructions to drivers and no other persons.
  15. The starter shall have control of the horses from the formation of the parade until a fair start has been determined.
  16. The determination of a fair start is symbolized by the word "go" announced by the starter at the starting point.
  17. The horses must be brought to the starting gate as nearly one quarter of a mile [0.40 kilometers] before the start as the track will permit.
  18. The starter shall cause the gate to move towards the starting point, gradually increasing the speed of the gate to maximum speed.
  19. When maximum speed has been reached in the course of a start there may be no decrease, except in the case of a recall.

20. The starting point is a point that must be marked on the inside rail a distance of not less than two hundred feet [60.96 meters] from the first turn.
21. After the determination by the starter of a fair start, all the horses shall race the course, except in the case of an occurrence that in the opinion of the board of judges makes it impossible for the horses to race the course.
22. If, in the opinion of the board of judges or the starter, a horse is unmanageable or liable to cause an accident or injury to another horse or to a driver, it may be scratched by the board of judges.
23. In case of a recall:
  - a. A light plainly visible to the drivers must be flashed and a recall sounded;
  - b. If possible, the starter shall leave the wings of the starting gate open and gradually slow the speed of the gate to assist in stopping and turning the field; and
  - c. Drivers shall take up their horses and return, without delay, to the point where the field is gathered for starts.
24. There may be no recall after the word "go" has been given to signal a fair start.
25. The starter shall endeavor to get all horses away in position and on gait.
26. The starter shall sound a recall for the following reasons:
  - a. A horse starts ahead of the starting gate.
  - b. There is interference before the word "go" is given.
  - c. A horse has broken equipment, which the starter notices.
  - d. A horse falls before the word "go" is given.
27. The starter, at any time before the word "go" is given, may order a recall and restart the race, and if a second recall is sounded because of the same horse in the same race, that horse must be scratched.
28. The fair start pole is a pole erected at the point approximately ten feet [3.05 meters] nearer the starting point than the pole one-sixteenth of a mile [0.10 kilometers] before the start, and must be yellow in color and must protrude at least two feet [0.61 meters] above the inner rail.
29. When a horse has not reached the "fair start pole" when the word "go" is given, the starter may sound a recall.
30. If the starter fails to sound a recall when required, the judge shall cause the "inquiry" sign to be displayed immediately.
31. No horse or driver may:
  - a. Delay a start;
  - b. Pass the inside or the outside wing of the gate;
  - c. Come to the starting gate in the wrong position;
  - d. Cross over before reaching the starting point;

- e. Interfere with another horse or driver during the start;
  - f. Fail to come up into position and on the gate;
  - g. Change course or position, swerve in or out, or bear in or out during any part of the race in a manner that will compel another horse to shorten its stride or cause another driver to change course, take his horse back, or pull his horse out of its stride;
  - h. Impede the progress of another horse or cause it to break from its gait;
  - i. Cross over too sharply in front of another horse or horses;
  - j. Crowd another horse by "putting a wheel under him";
  - k. Carry another horse out; or
  - l. Strike or hook wheels with another sulky.
32. No driver may:
- a. Fail to obey the starter's instructions;
  - b. Willfully "back off" the starting gate after having been in position;
  - c. Allow another horse to pass needlessly on the inside, or commit any other act that helps another horse to improve its position;
  - d. Take up or slow abruptly in front of other horses to cause confusion or interference among the trailing horses;
  - e. Lay off a normal pace and leave a hole when it is well within the driver's horse's capacity to keep the hole closed;
  - f. Drive in a careless, reckless, or unsatisfactory manner;
  - g. Fail to set or maintain a pace comparable to the class in which the driver is racing, considering track conditions, weather, and circumstances in the race;
  - h. Fail to properly contest an excessively slow pace;
  - i. Back off from any position and subsequently come on when challenged;
  - j. Fail to report any interference or any other infraction that occurred during a race and was noticed by the driver;
  - k. Lodge a claim of foul, violation of the rules, objection, or complaint which the judges consider that is frivolous;
  - l. Drive a horse in a manner that prevents the driver from winning a race;
  - m. Drive a horse to perpetrate or aid in a fraud or corrupt practice;
  - n. Drive a horse in an inconsistent manner;
  - o. Use a whip exceeding four feet [1.22 meters] in length, plus a snapper that is longer than eight inches [203.20 millimeters] in length;
  - p. Use the driver's whip or crop in a brutal manner, butt end, punch, jab, or kick a horse or use a whip to interfere with or cause disturbance to any other horse or driver in a race;

- q. Whip under the arch of the sulky; or
  - r. Strike a wheel disc with the driver's whip.
33. At the conclusion of a race, each driver shall return in his sulky to be dismissed by the board of judges or the judges' designated replacement.
  34. A driver who desires to enter a claim of foul, violation of the rules, or other complaint shall notify the nearest patrol judge accordingly and shall proceed forthwith to the paddock telephone to communicate immediately with the board of judges.
  35. A complaint by a driver of any foul, violation of the rules, or other misconduct during a race must be made immediately after the race to which it relates, unless the driver is prevented from doing so by an accident or injury, or other reasonable excuse.
  36. Where no communication facilities to the board of judges are available, drivers desiring to lodge claims of foul, violation of the rules, or other complaints shall so indicate to the board of judges when being dismissed and, without delay, shall proceed to the judges' stand.
  37. The judges may not cause the official sign to be posted until the matter of a claim of foul, violation of the rules, or other complaint has been dealt with by the board of judges.
  38. If a horse that is part of an entry has been disqualified, any other horse that is part of the same entry may also be disqualified.
  39. The judges may determine the extent of the disqualification in the case of a foul and may place the offending horse:
    - a. Behind the horses that in the judges' judgment were interfered with; or
    - b. Last in the field.
  40. If a horse chokes or bleeds during a race, the driver of that horse is required to report that choking or bleeding to the commission or association veterinarian immediately after the race and that information must be entered into the official past performance line of that horse.
  41. If in the opinion of the board of judges a driver, for any reason, is unfit or incompetent to driver or refuses to comply with the directions of the judges, or is reckless in the driver's conduct or may endanger the safety of horses or other drivers in the race, the board of judges may at any time, order, or if necessary cause, that driver to be removed and another driver substituted.
  42. All broken equipment must be reported by the driver concerned to the paddock judge, who shall make an examination to verify the allegation.
  43. A driver must be mounted in the driver's sulky from the start to the finish of the race or the horse the driver is driving may be disqualified.
  44. After the word "go" is given, barring mishap, both feet must be kept in the stirrups until the race has been completed.
  45. No horse habitually:
    - a. Wearing hobbles may start in a race other than a qualifying race, without those hobbles unless it has qualified to do so; or
    - b. Racing free-legged, may start in a race other than a qualifying race, wearing hobbles unless it has qualified to do so.

46. No horse may be permitted to wear a head pole protruding more than four inches [101.60 millimeters] beyond its nose.
47. When a horse breaks from its gait, the driver shall:
  - a. Take the horse to the outside of other horses where clearance exists;
  - b. Properly attempt to pull the horse to its gait; and
  - c. Drop back from the field while on the break.
48. If there has been no violation of subsection 47, the horse may not be set back unless a competing horse on its gait is lapped on the hind quarter of the breaking horse at the finish.
49. No driver may allow the driver's horse to break for the purpose of losing a race.
50. Judges shall call out each break made and have each break duly recorded in the official race reports.
51. No major equipment changes shall be allowed after 10:00 a.m. on the day of the race.
52. The board of judges must cause to be posted or announced any major equipment changes.

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

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

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

#### **69.5-02-01-19. Time and records.**

1. The fastest time raced by a horse in a heat or dash which it won, or in a performance against time, must be its record.
2. A standard record is a record of 2.20 or faster for two-year-olds and 2.15 or faster for all other ages.
3. The time of each heat or dash must be accurately timed and placed in the record in minutes, seconds, and fifths of seconds, and upon the decision of each heat, the time of that heat must be publicly announced or admitted to the record, unless the timers failed to time, in which case no time may be announced or recorded.
4. In the case of an alleged error in the record, announcement, or publication of the time made by a horse, the time questioned may not be changed to favor that horse or its owner, except if so directly by the board of judges and timers who officiated at the race.
5. Every association shall file with the board the certificate of a civil engineer or land surveyor that he has measured the racetrack from wire to wire three feet [0.91 meters] out from the rail or inside hub rail of the track, and certifying to the nearest foot the result of each measurement. If any changes or relocation of the hub rail are made at a track, that track must be measured and recertified.
6. The leading horse must be timed and his time only may be announced.
7. No horse may obtain a win-race record because of the disqualification of another horse unless that horse is declared the winner because the other horse was disqualified as a breaking horse on which he was lapped.
8. No horse may obtain a win-race record in a qualifying race unless that horse in the race in which it competed was subjected to and passed a urine test or other officially recognized test.

9. The judges shall note on the official race reports for each qualifying race whether or not the race was subject to a urine test or other officially recognized test.
10. In case of a dead heat for win, the time constitutes a record for the horses making the dead heat.
11. The time must be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the wire.
12. Time trial performances are permitted subject to the following:
  - a. Urine tests are required for all horses.
  - b. An approved electric timer is required.
  - c. If a timing device fails during the progress of a time trial performance, no time trial performance record will be obtained.
  - d. Time trial performances are permitted only during the course of a regular meeting with the regular officials in the judges' stand.
  - e. Time trial performances are limited to two-year-olds who equal or beat 2.10, and three-year-olds and over who equal or beat 2.05.
  - f. Time trial performances must be designated by preceding the time with two capital "T"s.
  - g. A horse may have other horses accompany it in a time trial performance but not to precede it, or be harnessed with it or in any way attached to it.
  - h. A break during a time trial performance results in no time being given to the breaking horse.

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

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

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

#### **69.5-02-01-20. Protests.**

1. Protests may be made by an owner, authorized agent, trainer, or driver of one of the competing horses not later than forty-eight hours following competing in the race to which the protest applies and must be made in writing, sworn in the form of an affidavit, and must contain at least one specific charge which, if true, will prevent the horse protested from winning purse money or competing in the race.
2. Every protest must be determined by the board of judges and decided by them and if a protest is not decided prior to the race, the horse protested must be allowed to race under protest.
3. A protest that has been duly made may not be withdrawn or surrendered without the approval of the board of judges.
4. If the placings of a race are altered as a result of a protest, purse money for the race must be distributed according to the decision made on the protest.
5. The eligibility of horses involved in protests that may participate in subsequent races pending a decision on the protest is not affected.
6. Decisions on protests that affect purse money or order of finish after a race is declared official have no effect on the distribution of parimutuel pools.

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

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

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

**69.5-02-01-21. General rules - Others.**

1. A driver shall wear an approved protective helmet with the chinstrap properly fastened at all times when racing, jogging, training, or when warming up a horse on the premises of an association.
2. A licensee who fails to meet his financial obligations for services, supplies, or wages required for or in connection with this racing activity may have his entries refused and may be suspended until the time that those obligations are discharged, or until arrangements suitable to the complainant, for the discharge of the debt have been made.
3. No person may associate or consort with a bookmaker, a tout, or a licensee whose license from a turf authority has been revoked or suspended and whose privileges at the grounds of an association have been denied.
4. Husband and wife, unless legally separated, must be considered as a single entity, and any ruling that applies to one applies to the other.
5. No person, between the hours of 8:00 a.m. and 11:00 a.m., may "lead" horses on the premises of an association.
6. A driver shall drive when programmed unless the driver has been excused by the judges.
7. A person driving a horse may not smoke on the racetrack after one hour prior to post time of the first race on a program.
8. A person driving a horse shall wear silks and white pants when warming up a horse prior to racing.
9. A person driving a horse shall have the proper head number and saddlecloth on a horse when warming up for a race.
10. A driver shall participate in a post parade and may not be late without permission of the judges.
11. Before the first race of any race meeting is contested:
  - a. The racing officials and drivers shall meet at a time and place to be designated by the board of judges; and
  - b. The drivers shall attend that meeting unless excused by the board of judges.
12. The board of judges shall keep an attendance record of the meeting referred to in subsection 11.
13. A driver may not be permitted to drive unless the driver has attended the meeting referred to in subsection 11 or has otherwise met with and received permission to drive from the board of judges.
14. No persons may smoke in a stall or an area where feed is kept on the grounds of an association.

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

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

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

**69.5-02-01-22. Breath analysis.**

1. Judges, drivers, starters, and starting gate drivers may be required to submit to blood, breath, saliva, or urine analysis tests at each program at which they officiate or participate.
2. A person showing a blood alcohol concentration of more than three one-hundredths of one percent by weight must:
  - a. If a judge, be relieved of the judge's duties immediately and referred to the commission;
  - b. If a starter or starting gate driver, be relieved of his duties immediately and a fine, suspension, or both may be imposed on him by the board of judges', and
  - c. If a driver, be prohibited from driving in any races scheduled for that day and a fine may be imposed on him by the board of judges.
3. A driver showing a blood alcohol concentration of more than five one-hundredths of one percent by weight shall be prohibited from driving in any races scheduled for that day and a fine, suspension, or both may be imposed on the driver by the board of judges.
4. A licensee who is in the paddock, when directed by the judges, shall submit to a blood, breath, saliva, or urine analysis test and if the licensee shows a blood alcohol concentration of more than five one-hundredths of one percent by weight may have a fine, suspension, or both imposed on the licensee by the board of judges.
5. A person who refuses to submit to a breath analysis under this section may have a fine, suspension, or both imposed on the person by the board of judges.

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

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

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

**69.5-02-01-23. Offenses.**

1. No person may:
  - a. Commit any corrupt or fraudulent act in relation to a race or racing, nor attempt to enrich himself or his associates or gain an advantage through unfair, unlawful, or dishonest behavior in connection with the racing of horses.
  - b. Threaten any racing official, owner, trainer, driver, or any other person for the purpose of influencing the result of a race or any other reason.
  - c. Give, offer, or promise, directly or indirectly, a bribe in any form to any racing official, owner, trainer, driver, or any other person having access to, or in charge of a racehorse, for the purpose of influencing the result of a race or any other reason.
  - d. Accept, or offer to accept, any bribe in any form.
  - e. Enter or start a horse that is known to the person to be ineligible to the particular race in which it is entered or started.
  - f. Willfully or negligently start, or cause to start, a horse in a race other than the horse named in the entries.

- g. Conspire with any other person to commit or connive with any other person to commit, any corrupt or fraudulent act in relation to a race or racing.
- h. Offer or give a driver money or any other benefit, except an official prize, in relation to a race unless it is done as or on behalf of the owner or trainer of the horse driven in a race by that driver. If the person is approached with any offer or promise of a bribe, or a wager, or with a request or suggestion for a bribe, or for any corrupt or fraudulent act in relation to racing, or to conduct a race other than fairly and honestly, the person shall report details of the matter on which the person was approached immediately to the board of judges.
- i. Provide inaccurate information about the performance of a horse, or attempt to have misleading information given in a program.
- j. Tamper with an eligibility certificate for the purpose of obtaining unauthorized changes or entries.
- k. Unduly agitate or otherwise abuse a horse by chaining, whipping, or otherwise.
- l. Possess or apply any electrical, mechanical device, spurs, goading device, or other expedient designed to increase or decrease the speed of a horse or intended to do so, other than the ordinary whip at any time on the grounds of an association during a meeting whether in a race or otherwise.
- m. Attempt to or conspire with another or others to stimulate or depress a horse through the administration of any drug, controlled substance, stimulant, depressant, local anesthetic or analgesic that may affect the performance of a horse in a race.
- n. Unless such person is a registered veterinarian, have within the grounds of a racetrack or the stable area thereof, in such person's possession or in such person's effects or in the premises occupied by such person, any controlled substance or drug, as defined in subsection 4, or any hypodermic syringe or needles.
- o. Within the grounds of racetrack where racehorses are lodged or kept, have in such person's possession, or in or upon the premises such person occupies, any medicine or vitamin preparations used for the treatment of horses unless it is contained in a properly marked and numbered container, or the name of the veterinarian who prescribed and the name of the druggist who dispensed the medication and the veterinarians' and the druggists' addresses.
- p. Refuse to permit a horse to be tested in a saliva, blood, urine, or other test as required.
- q. Enter or start a horse:
  - (1) That is not in a serviceably sound condition.
  - (2) That has been trachea tubed.
  - (3) That is totally blind.
  - (4) That has been nerved, unless it is a horse that has had a posterior digital neurectomy, the operation is recorded on the registration certificate, and the board of judges and the commission or association veterinarian is satisfied that the loss of sensation by that horse will not endanger the safety of that horse or any other horse or any driver and the board of judges upon the recommendation of the commission or association veterinarian permits the entry of that horse.

- (5) In the current tracing season, including any meeting commencing in the current calendar year but extending into the next ensuing calendar year, a horse that has bled during or following a "warmup" or a race, after having previously bled during or following a "warmup" or a race.
- r. Give instructions to a driver to handle a horse for any purpose other than to win.
2. No owner, trainer, driver, agent, employee, or groom may, unless it is for a feature wagering event in which an owner, trainer, driver, agent, employee, or groom may bet, or cause any other person to bet on his behalf, on combinations, in which his horse or entry is selected in the win position, have parimutuel tickets in his possession, or bet or cause any other person to bet on his behalf, on any other horse in any race in which a horse is owned, trained, or driven, or in which he in any way represents or handles, is a starter.
3. For the purpose of this section, the following designations apply:
  - a. "Analgesic" means a drug that may alleviate pain by lessening the excitability of nerves or nerve centers.
  - b. "Controlled substance" means any substance specified in North Dakota Century Code chapter 19-03.1.
  - c. "Depressant" means a drug that may exert or exerts a soothing influence by diminishing pain, depressing vital activity, or tranquilizing normal muscular movement.
  - d. "Drug" means a drug as defined in the United States Food and Drug Act, or as defined by the directive of the commission, or the United States department of agriculture and includes a high steroid, polyethylene glycol, or any other substance that prevents or interferes with the detection or identification by an official chemist of any other drug in an official sample.
  - e. "Local anesthetic" means a drug that may prevent or diminish perception to stimuli by the periphery terminations of sensory nerves.
  - f. "Stimulant" means a drug that may exert or exerts an increase or excitation of the functions of a part or organ of a animal.
4. In this section, a "positive test" means that the drug or drugs found must be considered to have the therapeutic effect classification designated in officially recognized pharmaceutical reference books.
5. The detection of any drug in any official sample by the official chemist constitutes prima facie evidence that the performance of the horse was affected by the detected drug and that the drug was administered to the horse in which it was detected by the person or persons having the care and custody of that horse.
6. All horses entered into races held under the rules, at any time before or after a race, may be subjected to any tests or inspections that the commission veterinarian may consider necessary or desirable, including the taking of body fluids.
7. After each race, blood or urine samples, or both, must:
  - a. Be obtained from those horses that the judges designate;
  - b. Be obtained, handled, and analyzed in the manner prescribed in the conditions and rules governing the blood and urine service of the United States department of agriculture; and
  - c. Be designated as official samples.

8. When urine or blood samples, or both, are to be taken from a horse after a race, nothing may be administered or given to the horse, except on the express permission of the judges and in the presence of the board veterinarian, other than pure drinking water, until the official samples have been taken.
9. Any horse from which a positive test is obtained must be disqualified and the order of finish in the race must be revised by the judges accordingly.
10. The horse money of each race may not be paid until at least seventy-two hours have elapsed after the concluding time of the race.
11. The owner of a horse that is disqualified for a positive test on the official samples shall pay the owner's driver on the basis of the actual, not revised, order of finish.
12. A list of all horses that have had a posterior digital neurectomy must be kept posted by the commission veterinarian.

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

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

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

#### **69.5-02-01-24. Penalties, hearings, and appeals.**

1. If the board of judges finds that a person has been in violation of the rules or of the directives of the board, or any proper order or direction of a judge or judges, the board of judges may, with respect to that person:
  - a. Impose a fine not exceeding one thousand dollars;
  - b. Suspend a license for a period not exceeding two years;
  - c. Suspend a license indefinitely and refer the matter to the commission;
  - d. Refer any disciplinary matter to the commission, with or without recommendations for penalty;
  - e. Direct the forfeiture or return of purses won;
  - f. Disqualify a horse in whole or in part; and
  - g. Declare a race to be no contest.
2. Any person affected by a decision of the board of judges may appeal such decision to the commission.
3. A person who desires to appeal a decision or ruling under subsection 1 shall give notice of intent to appeal to a judge or to the commission within forty-eight hours of receipt of notice of the decision or ruling being appealed.
4. A statement of appeal must be filed with the judges or the commission within eight days of filing the notice of intent to appeal, stating the grounds of appeal.
5. The appellant shall in respect to the applicant's appeal deposit with the commission the sum of fifty dollars to be refundable if the appeal is allowed and to be forfeited to the commission if the applicant's appeal is disallowed.
6. An appeal from a decision or ruling of the board of judges does not operate as a stay of that decision or ruling unless so directed by the commission.

7. A person who is dissatisfied with a decision of the commission that was made without a hearing refusing to grant a license, suspending or revoking a license, and in respect to conduct the board considers to be contrary to the public interest, may request a hearing and review by the commission.
8. In the case of:
  - a. A referral under subdivision c or d of subsection 1;
  - b. An appeal under subsection 2;
  - c. A request under subsection 7; or
  - d. A hearing called at the insistence of the commission,the commission shall set a time and place for the hearing, and give notice of the time and place set to the affected party or parties.
9. With regard to such hearing, the commission shall follow the provisions of North Dakota Century Code chapter 28-32.
10. Notice, for purposes of a board of judges hearing, must be deemed to have been given when:
  - a. A person has been notified in person; or
  - b. A written notice to the person's permanent address on the person's license application has been posted and five days have elapsed.
11. If a person, upon being notified under subsection 10 fails to appear at a hearing, the person's absence must be construed as a waiver by the person of the person's rights to a hearing.
12. If the commission finds that a person has been in violation of the rules or of directives of the commission, or any proper order or direction of a judge or judges, the commission may, with respect to that person:
  - a. Impose a fine not exceeding five thousand dollars.
  - b. Refuse to grant, suspend, or revoke the license.
  - c. Direct the forfeiture or return of any purses won.
  - d. Disqualify a horse in whole or in part.
  - e. Declare a race to be no contest.
  - f. Expel the person from horse racing.
  - g. Deny the person admission to the grounds of an association conducting a meeting.
  - h. In the case of a referral or an appeal from the board of judges, vary, revoke, or confirm the decision and vary, revoke, or confirm any penalties imposed.
13. If the commission dismisses an appeal, it may order the appellant to pay all or that portion of the costs of the appeal that the commission may reasonably direct, and if the costs ordered to be paid remain unpaid, the appellant must be automatically suspended until the costs are paid in full.
14. The suspension of a driver for an offense not involving a corrupt or fraudulent act becomes effective not later than on the third racing day after the ruling.

15. A suspension for a corrupt or fraudulent act must be made immediately upon the discovery of the corrupt or fraudulent act or takes effect immediately after the ruling, as the case may be.
16. No person may make false statements concerning any racing official or licensee or other person employed in racing, use profane or indecent language, carry deadly or dangerous weapons, or disturb the peace on any racing premises governed by this article.
17. No person, on the grounds of an association, may carry on or engage in gambling or related offense as set out in North Dakota Century Code chapter 12.1-28 or gaming as set out in North Dakota Century Code chapter 53-06.1.
18. No person, on the grounds of an association, may carry on bookmaking or the taking of bets or solicit bets from any other person in any manner except as provided in this article.
19. No person may permit a dog to enter the stable area of an association during the progress of a race meeting.
20. If a fine has been imposed and remains unpaid upon the expiration of ninety-six hours after its imposition, the violator is automatically suspended until the fine is paid in full.

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

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

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