

CHAPTER 69.5-01-11
SIMULCASTING AND ACCOUNT DEPOSIT WAGERING

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69.5-01-11-01. Definitions. For the purposes of this chapter, unless the context otherwise requires:

1. "Account wagering" or "account deposit wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. It includes advance deposit wagering.
2. "Authorized pari-mutuel wagering entity" means a licensed racetrack, service provider, or site operator.
3. "Combined pari-mutuel pool" means the pari-mutuel wagers received at sites being contributed into one or more pari-mutuel pools as required by the commission.
4. "Eligible organization" means an organization eligible to conduct pari-mutuel wagering pursuant to North Dakota Century Code section 53-06.2-06.
5. "Independent real-time monitoring system" means a system operated and approved by the commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in

order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security data base.

6. "Pari-mutuel manager" means the person responsible for managing the pari-mutuel wagering system, including managing all teller and wagering operations, monitoring tote operations, opening and closing tote, communicating with tote hub, issuing wagering system reports, and maintaining wagering system records.
7. "Sending track" means any track from which **simulcast** signals originate.
8. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast site operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.
9. "Service provider" means a person engaged in providing simulcasting or account wagering services **directly** to a site operator and establishing, operating, and maintaining the combined pari-mutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders. **Sending tracks are also excluded from this definition.**
10. "Simulcast services" means services provided to a simulcast site operator including the simulcast signal from a sending track and the operation of the combined North Dakota pari-mutuel pool.
11. "Site" means the physical premises, structure, and equipment utilized by a site operator for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.
12. "Site operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange pari-mutuel tickets on races being simulcast from a sending track or to conduct account wagering.
13. "Voucher" means a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; **amended effective** , 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

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

1. Any site operator, service provider, or totalizator company must be licensed by the commission and approved by the attorney general. Totalizator companies contracting for service within the state and their employees whose principal work address is within the state must be licensed by the commission. Other vendors and their employees may be required to be licensed at the discretion of the commission. Application for a license must include the license fee as prescribed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year. The initial license fee for a service provider is seven thousand five hundred dollars, for a site operator is one thousand dollars, and for a totalizator company is two thousand five hundred dollars. A service provider is required to pay an additional license fee in accordance with section 69.5-01-05-02.1 when offering the mad scramble pool.
2. The application for renewal of a license must be made to the commission by such date as may be prescribed by the commission. If the commission has not specifically set application dates for renewal of the class of license, application must be made no later than thirty days prior to the date of expiration of the license. Application for renewal of license must be made in such form as may be prescribed by the commission. Application for license renewal must include the license fee for a service provider, two thousand five hundred dollars; site operator, two hundred fifty dollars; and totalizator company, one thousand five hundred dollars.
3. Approval or disapproval of an application for site operator, service provider, or totalizator company license must include consideration by the commission of the following:
 - a. The applicant's general benefit to the state of North Dakota.
 - b. The applicant's general benefit to the state's horse racing industry.
 - c. The applicant's integrity.
 - (1) Individual and corporate conduct and reputation.
 - (2) Criminal history.
 - (3) Betting and gaming industry conduct and reputation.

d. The applicant's credibility.

(1) ~~Accuracy of feasibility study~~The feasibility of the applicant's business plan.

(2) Experience and expertise of the applicant in the industry.

e. Financial stability.

4. A service provider cannot operate without an executed contract with a site operator.
5. The commission may require licensing of any entity or person contracting with or providing services or commodities to any site operator, service provider, or employee licensed by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; October 1, 2012; amended effective , 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

69.5-01-11-03. Licensing service providers and totalizator companies.

1. Service providers and totalizator companies must be licensed by the commission and approved by the attorney general.
2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:
 - a. The services and equipment to be provided.
 - b. Projected revenue and costs associated with the operations of the applicant.
 - c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.
 - d. A description of the management or management groups responsible for the operation of the service provider or totalizator company, including a list of all officers, directors, partners and shareholders with a 5% or greater share of ownership or beneficial interest in the service provider or totalizator company.
 - e. A complete description of the transmission, totalizator, and data

processing equipment to be used.

- f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.
 - g. Written agreements between the applicant and all parties assisting in providing services.
 - h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.
 - i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the operation and the combined pari-mutuel pool.
 - j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.
 - k. A complete list of licenses held by the applicant, the TRA codes associated with such licenses where applicable and the websites to which the licenses and TRA codes apply.
 - l. A description of the processes and procedures implemented in conjunction with tracks and other industry stakeholders to address possible odds manipulation through placing large bets on small pools, the cancellation of wagers, and other methods.
 - km. The commission may require an audit of the applicant at the expense of the applicant.
 - ln. The commission may require totalizator companies to provide documentation of third-party compliance and testing within two years of application.
 - o. The commission may require a background investigation of the applicant to be conducted by the Thoroughbred Racing Protective Bureau or another entity approved by the commission, the scope of which shall be at the sole discretion of the commission. The applicant shall be responsible for all costs associated with conducting the background check.
3. The commission may license one or more service providers or totalizator companies concurrently to provide services, as defined by this chapter, to one or more licensed site operators within the state. Fees for such license shall be as prescribed by the commission. Licenses will be for a term of one calendar year. The commission may establish license fees separately for first-time applicants and for renewal of existing licenses in

order to recognize additional costs of investigation and analysis required for first-time licenses.

4. Each applicant for a service provider license shall give a bond or letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; amended effective , 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

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

~~6. Summary reports for five years.~~

- ~~db.~~ Other wagering records as may be required from time to time and are specifically defined by the commission.
5. A service provider shall maintain such security controls over its simulcast, account wagering, and communications system as directed by the commission.
 6. A service provider shall provide the commission with a report of its operations as directed by the commission. ~~The A operations~~ summary report detailing handle for each day of wagering, the taxes and breakage owed to the State of North Dakota, and the amounts owed to one or more site operators shall be provided to the commission on a ~~weekly~~ monthly basis; ~~with race weeks ending on Sunday~~. The report must contain any additional content as directed by the commission.
 7. A service provider may only provide simulcast and account wagering services to a site operator licensed by the commission, except that a service provider may provide simulcast services to an Indian tribal entity within the state which may not be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact.
 8. A service provider may require compliance by the site operator with contractual provisions necessary to maintain the integrity and proper operation of wagering.
 9. A service provider shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.
 10. Simulcasting and account wagering may be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a racing commission, racing board, or governmental agency.
 11. A service provider shall participate in a combined pari-mutuel pool, ensure the integrity of its participation, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined pari-mutuel pool. Such procedure must include provision for timely reconciliation and settlement of pool accounts by a service provider with on behalf of a site operators ~~serviced by a service provider~~. Times within which settlement of pool accounts are to be settled must be specified in contracts or service agreements between a service provider and site operators.
 12. Payment of taxes and other funds:

- a. A service provider shall pay all pari-mutuel taxes, special fund contributions, and other funds due and owing the state of North Dakota as indicated in the certified monthly summary report ~~of its operations~~, required in this chapter, directly to the commission.
- b. Amounts due to North Dakota for pari-mutuel taxes, promotion fund, breeders' fund, purse fund, and breakage shall be paid to the commission in monthly payments on or before the last day of the next month succeeding the month in which the pari-mutuel tax or other funds due to North Dakota occurred or accrued.
- c. A service provider shall submit a report and a corresponding payment of funds owing to the commission for the full amount of outs (unclaimed winning tickets) within fifteen days after the end of the calendar quarter following the calendar quarter in which such wager was made. ~~A service provider shall also submit a report and a corresponding payment of funds to the commission for the full amount of all breakage retained by a service provider. Breakage shall be calculated by deducting odd cents over any multiple of five cents of winnings per dollar from the portion of the pari-mutuel pool to be redistributed.~~
 - d. The commission may, when a service provider is delinquent in remittance of taxes or other funds owed to North Dakota, notify the surety providing bond coverage to North Dakota of the delinquent status of such taxes or funds, and may make a claim for payment from the surety.
 - e. If a service provider fails to submit a report of its operations as required, or fails to pay pari-mutuel taxes or other funds due North Dakota within the time required by this section, or if upon audit it is found to owe additional taxes or other funds, a service provider is subject to a late fee of five percent of the amount of tax or other funds due, plus interest of one percent of the tax or other funds due per month or a fraction of a month of delay after the due date for the remittance of the moneys according to this chapter. A service provider with seven of fourteen delinquent payments may be subject to a late fee of ten percent of the moneys due plus interest of one percent of the amounts due per month or a fraction of a month of delinquency. The late fees and interest must be paid to the commission and disposed of in the same manner as other receipts under this chapter.
 - f. The commission may suspend or revoke a license of a service provider for failure to submit a report of its operations as required by law or administrative rule or for failure to pay funds due North Dakota as required by law or administrative rule. The commission may also take such

other actions as may be authorized by law.

13. The commission may approve auditors as reasonably necessary for the protection of the public interest. The commission shall be reimbursed on a monthly basis for the salaries, benefit, and travel expenses by the service provider for the auditors assigned to them. Duties of an auditor shall include, but not be limited to, the following when instructed by the commission:
 - a. An independent weekly record and report of each race program presented by a service provider. The report must be based on a review of each race contained in a program.
 - b. Reconciliation of all operating exceptions by the service provider and the sites it services that are not within the definitions of this chapter or are departures from normal operating practice. Such reconciliation shall include identification, investigation, reporting, and recommendation for adjustment or disposition directly to the commission.
 - c. Independent review and reporting directly to the director of racing of all actions taken by the service provider or the totalizator company operating under contract with the service provider.
 - ~~d. The auditor shall have authority as presiding official at any time the auditor is on the premises of a service provider. In the absence of the auditor, the representative of a service provider shall be the designee of the commission as presiding official.~~
14. A service provider and a totalizator company operating under contract with a service providersite operator shall serve as the designees of the commission to supervise simulcast and account wagering operations pertaining to pari-mutuel wagering as is reasonably necessary to ensure the public interest.
15. ~~All reports must be signed by the presiding official and filed with the commission.~~ The presiding officialpari-mutuel manager shall take immediate emergency actions as necessary to assure the continued operation and integrity of the simulcast or account wagering system. All such actions shall be reported to the commission. The presiding officialpari-mutuel manager shall, when such acts are not, in the officialmanager's judgment an emergency, report to the commission prior to acting.
16. A service provider shall adopt and adhere to emergency operating procedures as follows. Totalizator system operations will be maintained by a service provider hub. Wagering data will be transferred from the wagering

site to the hub via data transmission lines or electronic transmission. Wagering will be conducted in ontrack pools. The hub will transfer all wagering data from the wagering site to the ontrack totalizator system. The locking procedure for the purpose of locking all teller windows at post time will be initiated by an ontrack official; the lock will be electronically conducted through the totalizator system to lock all tellers windows at the wagering site. Back-up locking procedures will be maintained by the ~~presiding official~~ pari-mutuel manager, the hub pari-mutuel operator and the hub totalizator system operator. In the event of a lock procedure failure, in which one or more windows fail to lock at the designated time, wagers shall be refunded. In the event of a locking procedure failure, a report will be submitted to the commission. Included will be computer reports reflecting all wagering activity.

- a. In the event of an interruption of the audiovisual satellite signal or the direct wagering and information dissemination connection from the host racetrack, the pari-mutuel manager must:
 - (1) Notify the host track of the loss of signal.
 - (2) Maintain telephone contact with host track pari-mutuel department. The service provider may continue to accept wagering on the balance of the program.
 - (3) In the event the hub totalizator system fails to transfer the data to the ontrack totalizator system, the totalizator hub pari-mutuel operator must notify ontrack totalizator system representative of the problem and request additional time prior to the start of the race to allow for a transmission of the data.
 - (4) A service provider's pari-mutuel manager shall prepare a report indicating that the transfer of data could not be completed electronically. The report shall also include all the following:
 - (a) A copy of the totalizator report prior to the failure of the transfer of data.
 - (b) A copy of the totalizator report.
 - (c) A brief statement as to where the failure occurred, when the ontrack officials were notified.
- b. The ontrack pari-mutuel manager must be notified of the system failure.
- c. In the event that the ontrack totalizator system experiences a

complete failure, the pari-mutuel manager may pay ontrack prices or refund amounts wagered.

- d. In the event any emergency arises in connection with the operation of the pari-mutuel system not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.
- e. The ontrack pari-mutuel manager is responsible during the simulcast racing operating hours for the reporting of any problems or delays to the wagering site. The wagering site is responsible for reporting any problems or delays to the public.

17. Information concerning wager transactions and account wagering customers provided to the commission shall be considered proprietary and shall not be disclosed publicly except as may be required pursuant to statute, court order or part of the official record of any proceeding before the commission. This shall not prevent the sharing of this information for investigative purposes with other pari-mutuel regulatory authority or law enforcement agencies.

18. No service provider may commence wagering or utilize a totalizator system which has not been previously disclosed to the commission without notifying the commission of its intent to begin conducting wagering and receiving written commission approval. The foregoing does not prohibit a service provider from engaging in test wagering if such test wagering does not involve the exchange of real currency.

19. A service provider shall provide its players with contact information for no less than one problem gambling program. The problem gambling program utilized by the service provider shall be clearly identified on the service provider's application and be subject to approval by the commission. The commission may designate changes to the methods employed in displaying contact information as necessary to support the accessibility of the information.

a. On any website utilized for account wagering a link to problem gambling program contact information shall be prominently displayed on the main page of the website.

b. At any simulcast facility problem gambling program contact information shall be prominently displayed so as to be clearly visible in each room of the facility.

amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

69.5-01-11-04.1. Independent Auditing Services

1. The commission may appoint an independent auditor responsible for providing reports of amounts due to the state of North Dakota from all site operators and service provider for pari-mutuel taxes, promotion fund, breeders' fund, purse fund, unclaimed tickets and breakage.
2. The independent auditor shall obtain wagering data directly from the totalizator company used by the service provider. Each service provider shall cooperate fully to provide the independent auditor with complete access to all wagering data held by the service provider and their totalizator company.
3. In the event of a discrepancy between reports provided by a service provider and the independent auditor, the service provider shall work directly with the independent auditor and take all reasonable steps to identify the error or discrepancy and provide a complete reconciliation to the commission not later than 30 days after the service provider is notified of the discrepancy. The commission may in its sole discretion grant an extension of this deadline.
4. In the event that the discrepancy between reports provided by a service provider and the independent auditor is the result of an error in the systems or procedures utilized by the service provider, the service provider shall file a report detailing the cause of the error and a proposed course of action to correct the error. The error shall be corrected and a final report filed detailing the correction no later than 60 days after the service provider is notified of the error. The commission may in its sole discretion grant an extension of this deadline.

History: Effective _____, 2014.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

69.5-01-11-04.2. TRA Codes and Account Deposit Wagering Websites

1. A service provider may conduct wagering under its North Dakota license only through TRA codes, simulcast sites, and websites specifically identified to the commission in writing. All simulcast sites and websites must be identified in the service provider application by their corresponding TRA code. These requirements may be waived by the commission in the event that TRA codes are not used in wagering into international jurisdictions or TRA codes are no longer used as part

of industry standards. If the commission finds that providing a waiver for the use of TRA codes would affect the security or integrity of the wagering to be conducted, the commission may not issue the waiver.

2. A service provider shall notify the commission prior to the use of any new TRA code under its North Dakota license and must specify in each notification the simulcast site or website with which the TRA code is associated.
3. The service provider shall be responsible for retiring any TRA codes no longer in use and notifying the Commission of such retirement in writing. A service provider may not use a TRA code for any purpose other than the purpose described in its service provider application without notifying the commission. The commission may require confirmation from the entity regulating TRA codes of a change in TRA code description if applicable.

History: Effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14

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

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

- b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.
 - c. The description of the management groups responsible for the operation of the facility.
 - d. The system of accounts to maintain a separate record of revenues collected by the facility, the distribution of such revenues, and the accounting of costs relative to the operation.
 - e. The location of each site and a copy of the lease or site agreement.
 - f. All written agreements or letters of consent between parties to the operation of the system, including a licensed service provider.
 - g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.
 - h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a site operator.
 - i. Support or nonsupport of the local jurisdictional government.
 - j. Proof of adequate experience and knowledge necessary to conduct simulcasting and pari-mutuel wagering operations.
2. The license fee shall be as prescribed by the commission. Site operators may apply for a license and may operate one or more sites at the fees prescribed by the commission. Licenses will be for a term of one calendar year.
 3. Licenses to site operators may be granted as follows:
 - a. Organizations eligible under North Dakota Century Code section 53-06.2-06.
 - b. Indian tribal entities within the state which may be licensed pursuant to the provision of an existing racing addendum to a tribal gaming compact with the state.
 - c. No service providers may be licensed as site operators.
 4. Each applicant for a license under this chapter shall give a bond or letter of credit payable to this state with good security as approved by the

commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

5. No simulcasting or pari-mutuel wagering may be conducted at a site not approved by the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

1. A site operator shall conduct the pari-mutuel wagering at a site approved by the commission.
2. A site operator shall provide access to the commission or its designated representative to the site and to all records of the site operator and any other information as required by the commission or its designated representative.
3. A site operator is responsible for cash shortages which occur at a simulcast site.
4. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting and account wagering. A site operator shall establish a system of monitoring and supervising accounts to facilitate and to make record of compliance with this section. Such supervision of accounts must provide for timely payoffs to winning patrons either through immediate cash payments or by vouchers payable upon demand as soon as necessary funds transfer can be made through the clearing process of the banking system by the service provider. Such accounts must also provide for timely transfer of all funds owing to North Dakota. These shall include pari-mutuel taxes, breakage, unclaimed tickets, purse fund contributions, breeders' fund contributions, and promotion fund contributions. The site operator's service agreement with its service provider must include provision for such timely transfer of these funds and systems of monitoring and supervising accounts.
5. A site operator may only take a signal or conduct account wagering from a service provider licensed by the commission.
6. All wagers are made on the official results of the sending track.

7. Only a licensed employee of a site operator may conduct simulcast or pari-mutuel wagering on behalf of a site operator, except a service provider may conduct pari-mutuel wagering on behalf of a site operator through a self-service device, electronically, telephonically, or through the internet only with the prior approval of the commission.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

69.5-01-11-06.1. Claims for Payment from Pari-Mutuel Pool.

1. At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by a site operator or service provider in any case where the site operator or service provider has withheld payment, not placed a wager requested by a customer, or has refused to cash a pari-mutuel wager. The site operator or service provider's full written report on the matter in accordance with the requirements of Section 69.5-01-08-21 (Complaints Pertaining to Pari-Mutuel Operations) shall be forwarded to the Commission within 48 hours of the Commission's request.
2. In the case of a claim made for payment of a mutilated pari-mutuel ticket, the site operator or service provider shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

History: Effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-14

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

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission. Notwithstanding the foregoing, employees of a service provider shall not be required to obtain a license from the commission if they are already licensed to engage in the same type of employment related to pari-mutuel wagering in another jurisdiction which has the same or similar licensing requirements and standards. This exception shall not apply to the principals and supervisory personnel of a service provider

as identified by the commission.

2. The employment of an unlicensed person by a site operator or service provider is prohibited. Upon discharge of a licensed simulcast employee, the site operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge. Notwithstanding the foregoing, employees of a site operator not engaged in or responsible for supervision of activities related to pari-mutuel wagering or live racing shall not require a license from the commission unless otherwise indicated by the commission.
3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.
4. The initial license fee and the renewal fee shall be prescribed by the commission. For each change of employment, name change, or replacement of a lost or destroyed license, a fee may be assessed as prescribed by the commission. The term of licenses shall be one calendar year.
5. Maintenance and administrative representatives of service providers and their vendors or suppliers must have current North Dakota racing commission licenses available for presentation prior to requesting admittance to restricted areas of sites. If such representatives are not licensed by the commission, they must be accompanied by a licensed representative or have the prior identification and endorsement of a licensed representative.
6. Each simulcast employee shall wear a valid license at all times while working in a simulcast site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.
7. No employee or agent of a service provider may be employed by a site operator. No employee of a site operator may be employed by a service provider.
8. No simulcast employee may wager at a site while on duty. For purposes of this section, a simulcast employee taking a temporary break is still considered on duty.

History: Effective March 1, 1990; amended effective August 1, 2007; July 1, 2011; amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

1. Subject to commission approval, Aa North Dakota track may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided the North Dakota track files with the commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the North Dakota track for use of its simulcast, and of any agreements required by chapter 57, including section 3001, et seq. of title 15 of the United States Code.
2. Every North Dakota sending track simulcasting its racing program shall contract with a simulcast service provider for the purpose of providing authorized users with its simulcast.
3. The North Dakota sending track is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events.
4. Unless otherwise permitted by the commission, the sending track simulcast will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

History: Effective March 1, 1990; amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

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

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:
 - a. Any action or attempted action by a person contrary to any law.
 - b. Corrupt practices, which include:
 - (1) Prearranging or attempting to prearrange the order of finish of a race.
 - (2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - (3) Falsifying or manipulating the odds on any entrant in a race.

- c. Any violation of the rules of racing, simulcasting, or account wagering adopted by the commission.
 - d. Willful falsification or misstatement of facts in an application for a license.
 - e. Material false statement to a racing official or to the commission.
 - f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.
 - g. Continued failure or inability to meet financial obligations.
 - h. Failure or inability to properly maintain a simulcast system, site, combined pari-mutuel pool, or account wagering system.
 - i. Failure to fulfill contractual obligations.
 - j. The suspension or revocation of racing or pari-mutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.
 - k. Failure to meet the considerations of subsection 3 of section 69.5-01-11-02.
2. The procedures to be followed in denial, suspension, or revocation of licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

History: Effective March 1, 1990; amended effective January 1, 2008; July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-05, 53-06.2-07, 53-06.2-08, 53-06.2-10.1, 53-06.2-14

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

History: Effective August 1, 2007.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10.1

69.5-01-11-10.1. Interstate Common Pool Participation.

1. A service provider shall participate in Common Pool Wagering by accepting wagers placed in other jurisdictions or by offering wagers on

racas run in other jurisdictions. The rules for a pari-mutuel pools established in the state of the live event pari-mutuel pool host shall apply.

2. All contracts submitted to the Commission shall be fully executed by all parties thereto and shall include all attachments, addendums and other documentation which constitute part of the contract. A service provider may submit only an addendum to a contract which increases the term of that contract if a copy of the original contact of which the addendum is a part is currently on file with and has been approved by the Commission. A service provider shall resubmit any contract or any portion thereof at the request of the Commission.

History: Effective _____, 2015.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-10, 53-06.2-10.1

69.5-01-11-11. Account wagering. Repealed effective July 1, 2011.

69.5-01-11-11.1. Account wagering. The requirements for account wagering are as follows:

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

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

4. The player shall maintain an account balance established by the service provider and identified in the contract with the site operator. In no event shall the service provider allow wagering on an account with a negative balance.
5. The service provider may offer to players:
 - a. Accounts that are operational for any performance offered by the service provider, whereby wagers are placed by the player at a self-service terminal or by any electronic means.
 - b. The service provider may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.
 - c. The service provider shall provide, for each player, a confidential account number or user name and password or personal identification number to be used by the player to access the player's account or, at the service provider's option, confirm validity of every account transaction.
6. Deposits may be made in the manner provided by the site operator or service provider. Holding periods will be determined by the service provider, and the player will be informed of this period. A receipt for the deposit may be issued electronically to the player by the service provider.

7. The service provider may only debit an account as follows:
 - a. Upon receipt by the service provider of information needed to place a wager. The service provider shall only debit the account in the amount of the wager at the time the wager is placed.
 - b. For fees for service or other transaction-related charges by the service provider.
 - c. Authorized withdrawal from an account when the player sends to the service provider a properly identifiable request for a withdrawal. The service provider will honor the request contingent on funds being available in the account and subject to funds being collected from the host track and approved by the commission. If the funds are not sufficient to cover the withdrawal, the player will be notified, and the funds that are available may be made available for withdrawal. These transactions will be completed in accordance with financial institutions funds availability schedules.
8. Each player shall be deemed to be aware of the status of that account at all times. Wagers will not be accepted which would cause the balance of the account to drop below the minimum account balance set by the service provider.
9. When a player is entitled to a payout or refund, said moneys will be credited to the respective account, thus increasing the balance. It is the responsibility of the player to verify proper credits, and, if in doubt, notify the service provider within the timeframe identified by the service provider.
10. The service provider shall maintain complete records of every deposit, withdrawal, wager, and winning payment for each player account. These records shall be made available to the commission and site operator upon request.
 - a. Any account wagering system shall provide for the player's review and finalization of a wager before it is accepted by the service provider. Neither the player nor the service provider shall change a wager after the player has reviewed and finalized the wager.
 - b. For wagers made telephonically or electronically the service provider shall make a voice or electronic recording of the entire transaction and shall not accept any such wager if the voice or electronic recording system is not operable. The voice and electronic recording of the transaction shall be deemed to be the actual wager regardless of what was recorded by the pari-mutuel

system.

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

~~12. The service provider shall provide upon request of the commission direct access to the databases and computer systems used by the service provider in the monitoring and control of wagering and account activity.~~

~~123. The service provider shall establish with the site operator the minimum amount due to the site operator as negotiated by each entity. This information should be filed with the commission. In the event of any disagreement or inquiry regarding the amounts due to the site operator which are based on a percentage of handle, the commission may review reports of wagering activity to determine the amounts due and render a report to the service provider and site operator.~~

~~a. The service provider shall provide real-time monitoring of all accounts to the site operator and the commission.~~

~~b. Service providers shall notify site operators of proposed rebate programs thirty days before implementation and receive authorization from site operators before implementation.~~

~~c. Service providers shall provide reports of account wagering activity to the site operator for their review.~~

History: Effective July 1, 2011; amended effective _____, 2015.

General Authority: NDCC 53-06.2-05

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

69.5-01-11-11.2. Totalizator system general provisions.

1. Pari-mutuel wagering utilizes a totalizator to pool wagers. The totalizator system may be located at a site, or may, subject to compliance with applicable law and rules, reside at another location other than within the state of North Dakota.

2. Wagering, subject to commission approval and compliance with applicable law and rules, may be accepted by separate totalizator systems in this or other jurisdictions and combined via communication between totalizator systems.

3. The commission may, without specific reference in these rules, utilize a designee for the purposes of certification, verification, inspection, testing, and investigation. A commission designee may be another commission or equivalent regulatory authority, a multijurisdictional group of regulatory authorities, association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons.
4. The commission may enter into multijurisdictional agreements with other regulatory authorities to facilitate certification of compliance with requirements by, and licensing of, service providers and totalizator companies. Such agreements shall, at a minimum, ensure certification and licensing requirements comparable to this jurisdiction.
5. In the event that any daily electronic files or other totalizator data provided to the commission or a third party auditor designated by the commission for receipt of such information is found to be inaccurate, the totalizator shall provide to the commission or its third party auditor any data files or other data in whatever form that is requested.
6. A totalizator company shall provide access by the commission or its designated representative to its facility, records, and any other information as required by the commission or its representative.

History: Effective July 1, 2011.

General Authority: NDCC 53-06.2-05

Law Implemented: NDCC 53-06.2-04, 53-06.2-05, 53-06.2-08, 53-06.2-10.1, 53-06.2-14