

STATE OF NEW YORK

6659

2017-2018 Regular Sessions

IN SENATE

June 9, 2017

Introduced by Sens. KLEIN, BONACIC -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to vendor fees and capital
awards at facilities in Westchester county and the Aqueduct video
lottery gaming facility

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Clause (B) of subparagraph (ii) of paragraph 1 of subdivi-
2 sion b of section 1612 of the tax law, as amended by chapter 174 of the
3 laws of 2013, is amended to read as follows:

4 (B) having one thousand one hundred or more video gaming machines, at
5 a rate of thirty-one percent of the total revenue wagered at the vendor
6 track after payout for prizes pursuant to this chapter[, ~~except for such~~
7 ~~facility located in the county of Westchester, in which case the rate~~
8 ~~shall be thirty percent until March thirty-first, two thousand twelve~~].

9 Notwithstanding the foregoing, not later than [~~April first, two thou-~~
10 ~~sand twelve~~] July first, two thousand seventeen, the vendor fee for such
11 facility located in Westchester county shall become [~~thirty-one~~] thir-
12 ty-two percent and remain at that level thereafter; and except for Aque-
13 duct racetrack, in which case the vendor fee shall be thirty-eight
14 percent of the total revenue wagered at the vendor track after payout
15 for prizes pursuant to this chapter;

16 § 2. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b
17 of section 1612 of the tax law, as amended by section 1 of part QQ of
18 chapter 59 of the laws of 2017, is amended to read as follows:

19 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
20 this subparagraph, the track operator of a vendor track and in the case
21 of Aqueduct, the video lottery terminal facility operator, shall be
22 eligible for a vendor's capital award of up to four percent of the total
23 revenue wagered at the vendor track after payout for prizes pursuant to
24 this chapter, which shall be used exclusively for capital project

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 investments to improve the facilities of the vendor track which promote
2 or encourage increased attendance at the video lottery gaming facility
3 including, but not limited to hotels, other lodging facilities, enter-
4 tainment facilities, retail facilities, dining facilities, events
5 arenas, parking garages and other improvements that enhance facility
6 amenities; provided that such capital investments shall be approved by
7 the division, in consultation with the state racing and wagering board,
8 and that such vendor track demonstrates that such capital expenditures
9 will increase patronage at such vendor track's facilities and increase
10 the amount of revenue generated to support state education programs. The
11 annual amount of such vendor's capital awards that a vendor track shall
12 be eligible to receive shall be limited to two million five hundred
13 thousand dollars, except for a vendor track located in Westchester coun-
14 ty for which there shall be no annual limit and except for Aqueduct
15 racetrack, for which there shall be no annual limit, provided, however,
16 that any such capital award for the Aqueduct video lottery terminal
17 facility operator shall be one percent of the total revenue wagered at
18 the video lottery terminal facility after payout for prizes pursuant to
19 this chapter until the earlier of the designation of one thousand video
20 lottery devices as hosted pursuant to paragraph four of subdivision a of
21 section sixteen hundred seventeen-a of this [~~chapter~~] article or April
22 first, two thousand nineteen and shall then be four percent of the total
23 revenue wagered at the video lottery terminal facility after payout for
24 prizes pursuant to this chapter, provided, further, that such capital
25 award for the Aqueduct video lottery gaming facility operator and the
26 vendor track located in Westchester county shall only be provided pursu-
27 ant to an agreement with the operator to construct an expansion of the
28 facility, hotel, and convention and exhibition space requiring a minimum
29 capital investment of three hundred million dollars for the Aqueduct
30 video lottery terminal gaming facility operator and one hundred eighty
31 million dollars for the vendor track located in Westchester county.
32 Except for tracks having less than one thousand one hundred video gaming
33 machines, and except for a vendor track located west of State Route 14
34 from Sodus Point to the Pennsylvania border within New York, and except
35 for Aqueduct racetrack and except for the vendor track located in West-
36 chester county each track operator shall be required to co-invest an
37 amount of capital expenditure equal to its cumulative vendor's capital
38 award. For all tracks, except for Aqueduct racetrack, the amount of any
39 vendor's capital award that is not used during any one year period may
40 be carried over into subsequent years ending before April first, two
41 thousand eighteen. Any amount attributable to a capital expenditure
42 approved prior to April first, two thousand eighteen and completed
43 before April first, two thousand twenty; or approved prior to April
44 first, two thousand twenty-two and completed before April first, two
45 thousand twenty-four for a vendor track located west of State Route 14
46 from Sodus Point to the Pennsylvania border within New York, shall be
47 eligible to receive the vendor's capital award. In the event that a
48 vendor track's capital expenditures, approved by the division prior to
49 April first, two thousand eighteen and completed prior to April first,
50 two thousand twenty, exceed the vendor track's cumulative capital award
51 during the five year period ending April first, two thousand eighteen,
52 the vendor shall continue to receive the capital award after April
53 first, two thousand eighteen until such approved capital expenditures
54 are paid to the vendor track subject to any required co-investment. In
55 no event shall any vendor track that receives a vendor fee pursuant to
56 clause (F) or (G) of this subparagraph be eligible for a vendor's capi-

1 tal award under this section. Any operator of a vendor track which has
2 received a vendor's capital award, choosing to divest the capital
3 improvement toward which the award was applied, prior to the full depre-
4 ciation of the capital improvement in accordance with generally accepted
5 accounting principles, shall reimburse the state in amounts equal to the
6 total of any such awards. Any capital award not approved for a capital
7 expenditure at a video lottery gaming facility by April first, two thou-
8 sand eighteen shall be deposited into the state lottery fund for educa-
9 tion aid; and
10 § 3. This act shall take effect immediately, except that if this act
11 shall have become a law on or after July 1, 2017 this act shall take
12 effect immediately and shall be deemed to be in full force and effect on
13 and after July 1, 2017.