

# STATE OF NEW YORK

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4068--A

Cal. No. 345

2017-2018 Regular Sessions

## IN SENATE

February 2, 2017

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Introduced by Sens. MARCHIONE, KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to video gaming machines and disposition of revenues

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

1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision  
2 b of section 1612 of the tax law, as amended by section 1 of part  
3 QQ of chapter 59 of the laws of 2017, is amended to read as follows:  
4 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
5 this subparagraph, the track operator of a vendor track and in the case  
6 of Aqueduct, the video lottery terminal facility operator, shall be  
7 eligible for a vendor's capital award of up to four percent of the total  
8 revenue wagered at the vendor track after payout for prizes pursuant to  
9 this chapter, which shall be used exclusively for capital project  
10 investments to improve the facilities of the vendor track which promote  
11 or encourage increased attendance at the video lottery gaming facility  
12 including, but not limited to hotels, other lodging facilities, entertainment  
13 facilities, retail facilities, dining facilities, events  
14 arenas, parking garages and other improvements that enhance facility  
15 amenities; provided that such capital investments shall be approved by  
16 the division, in consultation with the [~~state racing and wagering board~~  
17 gaming commission], and that such vendor track demonstrates that such  
18 capital expenditures will increase patronage at such vendor track's  
19 facilities and increase the amount of revenue generated to support state  
20 education programs. The annual amount of such vendor's capital awards

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

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1 that a vendor track shall be eligible to receive shall be limited to two  
2 million five hundred thousand dollars, except for Aqueduct racetrack,  
3 for which there shall be no annual limit, provided, however, that any  
4 such capital award for the Aqueduct video lottery terminal facility  
5 operator shall be one percent of the total revenue wagered at the video  
6 lottery terminal facility after payout for prizes pursuant to this chap-  
7 ter until the earlier of the designation of one thousand video lottery  
8 devices as hosted pursuant to paragraph four of subdivision a of section  
9 sixteen hundred seventeen-a of this chapter or April first, two thousand  
10 nineteen and shall then be four percent of the total revenue wagered at  
11 the video lottery terminal facility after payout for prizes pursuant to  
12 this chapter, provided, further, that such capital award shall only be  
13 provided pursuant to an agreement with the operator to construct an  
14 expansion of the facility, hotel, and convention and exhibition space  
15 requiring a minimum capital investment of three hundred million dollars.  
16 Except for tracks having less than one thousand ~~one~~ nine hundred video  
17 gaming machines, and except for a vendor track located west of State  
18 Route 14 from Sodus Point to the Pennsylvania border within New York,  
19 and except for Aqueduct racetrack each track operator shall be required  
20 to co-invest an amount of capital expenditure equal to its cumulative  
21 vendor's capital award. For all tracks, except for Aqueduct racetrack,  
22 the amount of any vendor's capital award that is not used during any one  
23 year period may be carried over into subsequent years ending before  
24 April first, two thousand eighteen. Any amount attributable to a capital  
25 expenditure approved prior to April first, two thousand eighteen and  
26 completed before April first, two thousand twenty; or approved prior to  
27 April first, two thousand twenty-two and completed before April first,  
28 two thousand twenty-four for a vendor track located west of State Route  
29 14 from Sodus Point to the Pennsylvania border within New York, shall be  
30 eligible to receive the vendor's capital award. In the event that a  
31 vendor track's capital expenditures, approved by the ~~[division]~~ gaming  
32 commission prior to April first, two thousand eighteen and completed  
33 prior to April first, two thousand twenty, exceed the vendor track's  
34 cumulative capital award during the five year period ending April first,  
35 two thousand eighteen, the vendor shall continue to receive the capital  
36 award after April first, two thousand eighteen until such approved capi-  
37 tal expenditures are paid to the vendor track subject to any required  
38 co-investment. In no event shall any vendor track that receives a vendor  
39 fee pursuant to clause (F) or (G) of this subparagraph be eligible for a  
40 vendor's capital award under this section. Any operator of a vendor  
41 track which has received a vendor's capital award, choosing to divest  
42 the capital improvement toward which the award was applied, prior to the  
43 full depreciation of the capital improvement in accordance with general-  
44 ly accepted accounting principles, shall reimburse the state in amounts  
45 equal to the total of any such awards. Any capital award not approved  
46 for a capital expenditure at a video lottery gaming facility by April  
47 first, two thousand eighteen shall be deposited into the state lottery  
48 fund for education aid; and

49 § 2. This act shall take effect immediately.