

STATE OF NEW YORK

6525

2019-2020 Regular Sessions

IN SENATE

June 14, 2019

Introduced by Sens. SKOUFIS, ADDABBO, METZGER, MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law and the state finance law, in relation to video lottery gaming in the town of Woodbury

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

Section 1. Clause (B) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law is amended by adding a new subclause 5 to read as follows:

(5) forty-six percent for a video lottery gaming facility authorized pursuant to paragraph five of subdivision a of section sixteen hundred seventeen-a of this article;

§ 2. Paragraph 2 of subdivision b of section 1612 of the tax law, as amended by section 1 of part 00 of chapter 59 of the laws of 2014, is amended to read as follows:

2. As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry of a portion of the vendor fee received pursuant to paragraph one of this subdivision in the manner set forth in this subdivision. With the exception of Aqueduct racetrack, a video lottery gaming facility authorized pursuant to paragraph five of subdivision a of section sixteen hundred seventeen-a of this article or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, each such track shall dedicate a portion of its vendor fees, received pursuant to clause (A), (B), ~~(B-1), (B-2),~~ (C), or (D) ~~[(E), (F), or (G)]~~ of subparagraph (ii) of paragraph one of this subdivision, for the purpose of enhancing purses at such track, in an amount equal to eight and three-quarters percent of the total revenue wagered at the vendor track after pay out for prizes. One percent of the gross purse

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

LBD13351-04-9

enhancement amount, as required by this subdivision, shall be paid to the gaming commission to be used exclusively to promote and ensure equine health and safety in New York. Any portion of such funding to the gaming commission unused during a fiscal year shall be returned to the video lottery gaming operators on a pro rata basis in accordance with the amounts originally contributed by each operator and shall be used for the purpose of enhancing purses at such track. One and one-half percent of the gross purse enhancement amount at a thoroughbred track, as required by this subdivision, shall be paid to an account established pursuant to section two hundred twenty-one-a of the racing, pari-mutuel wagering and breeding law to be used exclusively to provide health insurance for jockeys. In addition, with the exception of Aqueduct race-track, a video lottery gaming facility authorized pursuant to paragraph five of subdivision a of section sixteen hundred seventeen-a of this article or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, one and one-quarter percent of total revenue wagered at the vendor track after pay out for prizes, received pursuant to clause (A), (B), (B-1), (B-2), (C), or (D) [~~, (E), (F), or (G)~~] of subparagraph (ii) of paragraph one of this subdivision, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track.

Provided, further, that nothing in this paragraph shall prevent each track from entering into an agreement, not to exceed five years, with the organization authorized to represent its horsemen to increase or decrease the portion of its vendor fee dedicated to enhancing purses at such track during the years of participation by such track, or to race fewer dates than required herein.

§ 3. Subdivision h of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

h. As consideration for the operation of a video lottery gaming ~~[resort]~~ facility located in ~~[Sullivan county]~~ the town of Woodbury, county of Orange, the division shall cause the investment in the racing industry at the following amount from the vendor fee to be paid as follows:

As amount to the horsemen for purses at a licensed racetrack in Sullivan county ~~[and to the agriculture and New York state horse breeding development fund to maintain racing support payments at the same dollar levels realized in two thousand thirteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics]~~ in an amount equal to eight and three-quarters percent of the total revenue wagered at the video lottery gaming facility, after pay out for prizes. The horsemen at a licensed racetrack in Sullivan county shall pay to the horsemen at a licensed racetrack at Yonkers racetrack an amount to maintain purses for such horsemen at the same dollar levels realized in two thousand eighteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics. In addition, one and one-quarter percent of total revenue wagered at the video lottery gaming facility after pay out for prizes, received pursuant to clause (B) of subparagraph (ii) of paragraph one of subdivision b of this section, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track. In no circumstance shall net proceeds of the lottery, including the proceeds from video lottery gaming, be used for

1 the payment of non-lottery expenses of the gaming commission, adminis-
2 trative or otherwise.

3 § 4. Subdivision a of section 1617-a of the tax law is amended by
4 adding three new paragraphs 5, 6 and 7 to read as follows:

5 (5) At a facility located in the town of Woodbury, county of Orange to
6 be operated by the entity otherwise licensed to operate video lottery
7 gaming at Monticello racetrack, provided that: (i) such licensed entity
8 is no longer operating video lottery gaming at Monticello racetrack and
9 provided that Monticello racetrack is conducting racing operations; (ii)
10 such facility in the town of Woodbury, county of Orange is not sited
11 within a thirty mile radius of the video lottery gaming facility at
12 Yonkers racetrack; and (iii) the licensed entity, its subsidiaries and
13 affiliates, including the entity licensed to operate a commercial gaming
14 facility in Sullivan county, and the entity licensed to operate video
15 lottery gaming at Yonkers racetrack enter into a mitigation agreement,
16 to be approved by the gaming commission, which shall include, but not be
17 limited to, terms that require: (A) the operator of the facility in the
18 town of Woodbury, county of Orange to make an annual payment to the
19 entity licensed to operate video lottery gaming or commercial gaming at
20 Yonkers racetrack to account for the effects that siting such facility
21 in Orange county would likely have on the gross gaming revenue of the
22 entity licensed to operate at Yonkers racetrack; (B) employment levels
23 at the affected facilities; and (C) that upon expiration or termination
24 of the agreement, the authority to operate video lottery gaming in
25 Orange county shall cease. Notwithstanding any other provision of this
26 subdivision, at no time shall an entity operating video lottery gaming
27 in Orange county be permitted to apply for or receive a license to oper-
28 ate a commercial gaming facility in that county. Notwithstanding any
29 other provision of law to the contrary, at no time shall an entity oper-
30 ating video lottery gaming in the town of Woodbury, county of Orange be
31 permitted to enter into any agreement with, or accept any benefit from,
32 an entity authorized pursuant to article eighteen-a of the general
33 municipal law, including but not limited to payments in lieu of taxes
34 authorized by section eight hundred fifty-eight of the general municipal
35 law.

36 (6) As a condition of the license to operate a video lottery gaming
37 facility located in the town of Woodbury, county of Orange, such opera-
38 tor shall provide an annual certification to the New York state gaming
39 commission that: (i) the staffing levels at a commercial gaming facility
40 located in zone two, region one pursuant to section thirteen hundred ten
41 of the racing, pari-mutuel wagering and breeding law (or any successor
42 commercial gaming facility located in said region) are no less than
43 ninety percent of staffing levels in effect at the end of the third
44 quarter of the year two thousand nineteen; and (ii) upon commencement of
45 operations of the video lottery gaming facility located in the town of
46 Woodbury, county of Orange, the combined staffing levels at such facili-
47 ty and the commercial gaming facility located in zone two, region one
48 (or any successor commercial gaming facility located in region) are no
49 less than ninety percent of combined staffing levels between both facil-
50 ities at the end of the third quarter of the year two thousand nineteen.
51 In furtherance of and without limiting the foregoing, the licensees for
52 such facilities shall not conduct any mass, involuntary layoff events
53 that would trigger worker adjustment and retraining notification (WARN)
54 act notifications pursuant to article twenty-five-a of the labor law or
55 otherwise result in the employment levels at the combined facilities
56 dropping below agreed upon levels.

1 (7) As a continued condition of licensure, and notwithstanding any
2 other provision of law to the contrary, where a licensed commercial
3 gaming facility is located in region one of development zone two pursu-
4 ant to section one thousand three hundred ten of the racing, pari-mutuel
5 wagering and breeding law, such licensed commercial gaming facility
6 shall maintain assistance payments made pursuant to section fifty-four-1
7 of the state finance law to the village of Monticello, Sullivan county,
8 the town of Thompson, Sullivan county, and Sullivan county. Payments
9 made pursuant to this paragraph shall be made quarterly at the same
10 dollar level realized in two thousand eighteen, to be adjusted annually
11 pursuant to changes in the consumer price index for all urban consumers,
12 as published annually by the United States department of labor bureau of
13 labor statistics.

14 § 5. Section 54-1 of the state finance law is amended by adding a new
15 subdivision 5 to read as follows:

16 5. Notwithstanding any other provision of law to the contrary, all
17 municipalities within which the facility referenced in paragraph five of
18 subdivision a of section sixteen hundred seventeen-a of the tax law is
19 located, shall be eligible for state assistance to eligible cities and
20 eligible municipalities pursuant to this section; provided, however,
21 that if such facility is located within the geographic boundaries of
22 more than one village, each such village shall receive an equal amount
23 of state assistance pursuant to this section.

24 § 6. This act shall take effect immediately; provided, however, that
25 no video lottery gaming may be conducted at any facility within Orange
26 county unless and until the mitigation agreement required by this act is
27 executed by all parties and approved by the gaming commission.