S T A T E   O F   N E W   Y O R K

8734

2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

Introduced by M. of A. SPANO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to eliminating the limitation on the amount of the capital award payable to a video lottery gaming vendor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 140 of the laws of 2008, is amended to read as follows:

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. [The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which] PROVIDED, THAT there shall be no vendor's capital awards FOR THE AQUEDUCT RACETRACK. Except for tracks having less than one thousand one hundred video gaming machines, each track operator shall be required to co-invest an amount

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

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of capital expenditure equal to its cumulative vendor's capital awards. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand thirteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand thirteen and completed before April first, two thousand fifteen shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand thirteen and completed prior to April first, two thousand fifteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand thirteen, the vendor shall continue to receive the capital award after April first, two thousand thirteen until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall such track facility located in Sullivan county and within sixty miles from any gaming facility in a contiguous state be eligible for a vendor's capital award under this section, unless it shall have moved from such location or the five year period commencing on April first, two thousand eight has expired, whichever comes first. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to reaching the forty year straightline depreciation value of the improvement, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand thirteen shall be deposited in the state lottery fund for education aid; and

S 2. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 286 of the laws of 2008, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. [The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which] PROVIDED, THAT there shall be no vendor's capital awards FOR THE AQUEDUCT RACETRACK. Except for tracks having less than one thousand one hundred video gaming machines, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand thirteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand thirteen and completed before April first, two thousand fifteen shall be eligible to receive the vendor's capital award. In no event shall any vendor track that receives a vendor fee pursuant to clause (F) or (G) of this paragraph be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to reaching the forty year straightline depreciation value of the improvement, shall reimburse the state in amounts equal to the total of any such awards; and

S 3. This act shall take effect immediately.