

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivi-
2 sion b of section 1612 of the tax law, as amended by chapter 140 of the
3 laws of 2008, is amended to read as follows:
4 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-
5 agraph, the track operator of a vendor track shall be eligible for a
6 vendor's capital award of up to four percent of the total revenue
7 wagered at the vendor track after payout for prizes pursuant to this
8 chapter, which shall be used exclusively for capital project investments
9 to improve the facilities of the vendor track which promote or encourage
10 increased attendance at the video lottery gaming facility including, but
11 not limited to hotels, other lodging facilities, entertainment facili-
12 ties, retail facilities, dining facilities, events arenas, parking
13 garages and other improvements that enhance facility amenities; provided
14 that such capital investments shall be approved by the division, in
15 consultation with the state racing and wagering board, and that such
16 vendor track demonstrates that such capital expenditures will increase
17 patronage at such vendor track's facilities and increase the amount of
18 revenue generated to support state education programs. [The annual
19 amount of such vendor's capital awards that a vendor track shall be
20 eligible to receive shall be limited to two million five hundred thou-
21 sand dollars, except for Aqueduct racetrack, for which] PROVIDED, THAT
22 there shall be no vendor's capital awards FOR THE AQUEDUCT RACETRACK.
23 Except for tracks having less than one thousand one hundred video gaming
24 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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1 of capital expenditure equal to its cumulative vendor's capital awards.
2 For all tracks, except for Aqueduct racetrack, the amount of any
3 vendor's capital award that is not used during any one year period may
4 be carried over into subsequent years ending before April first, two
5 thousand thirteen. Any amount attributable to a capital expenditure
6 approved prior to April first, two thousand thirteen and completed
7 before April first, two thousand fifteen shall be eligible to receive
8 the vendor's capital award. In the event that a vendor track's capital
9 expenditures, approved by the division prior to April first, two thou-
10 sand thirteen and completed prior to April first, two thousand fifteen,
11 exceed the vendor track's cumulative capital award during the five year
12 period ending April first, two thousand thirteen, the vendor shall
13 continue to receive the capital award after April first, two thousand
14 thirteen until such approved capital expenditures are paid to the vendor
15 track subject to any required co-investment. In no event shall such
16 track facility located in Sullivan county and within sixty miles from
17 any gaming facility in a contiguous state be eligible for a vendor's
18 capital award under this section, unless it shall have moved from such
19 location or the five year period commencing on April first, two thousand
20 eight has expired, whichever comes first. Any operator of a vendor track
21 which has received a vendor's capital award, choosing to divest the
22 capital improvement toward which the award was applied, prior to reach-
23 ing the forty year straightline depreciation value of the improvement,
24 shall reimburse the state in amounts equal to the total of any such
25 awards. Any capital award not approved for a capital expenditure at a
26 video lottery gaming facility by April first, two thousand thirteen
27 shall be deposited in the state lottery fund for education aid; and

28 S 2. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b
29 of section 1612 of the tax law, as amended by chapter 286 of the laws of
30 2008, is amended to read as follows:

31 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
32 this subparagraph, the track operator of a vendor track shall be eligi-
33 ble for a vendor's capital award of up to four percent of the total
34 revenue wagered at the vendor track after payout for prizes pursuant to
35 this chapter, which shall be used exclusively for capital project
36 investments to improve the facilities of the vendor track which promote
37 or encourage increased attendance at the video lottery gaming facility
38 including, but not limited to hotels, other lodging facilities, enter-
39 tainment facilities, retail facilities, dining facilities, events
40 arenas, parking garages and other improvements that enhance facility
41 amenities; provided that such capital investments shall be approved by
42 the division, in consultation with the state racing and wagering board,
43 and that such vendor track demonstrates that such capital expenditures
44 will increase patronage at such vendor track's facilities and increase
45 the amount of revenue generated to support state education programs.
46 [The annual amount of such vendor's capital awards that a vendor track
47 shall be eligible to receive shall be limited to two million five
48 hundred thousand dollars, except for Aqueduct racetrack, for which]
49 PROVIDED, THAT there shall be no vendor's capital awards FOR THE AQUE-
50 DUCT RACETRACK. Except for tracks having less than one thousand one
51 hundred video gaming machines, each track operator shall be required to
52 co-invest an amount of capital expenditure equal to its cumulative
53 vendor's capital award. For all tracks, except for Aqueduct racetrack,
54 the amount of any vendor's capital award that is not used during any one
55 year period may be carried over into subsequent years ending before
56 April first, two thousand thirteen. Any amount attributable to a capital

1 expenditure approved prior to April first, two thousand thirteen and
2 completed before April first, two thousand fifteen shall be eligible to
3 receive the vendor's capital award. In no event shall any vendor track
4 that receives a vendor fee pursuant to clause (F) or (G) of this para-
5 graph be eligible for a vendor's capital award under this section. Any
6 operator of a vendor track which has received a vendor's capital award,
7 choosing to divest the capital improvement toward which the award was
8 applied, prior to reaching the forty year straightline depreciation
9 value of the improvement, shall reimburse the state in amounts equal to
10 the total of any such awards; and
11 S 3. This act shall take effect immediately.