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

3282

2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to video lottery gaming at commercial bowling establishments

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

Section 1. Subparagraph (iii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by chapters 140 and 286 of the laws of 2008, is amended to read as follows:

(iii) less an additional vendor's marketing allowance at a rate of ten percent for the first one hundred million dollars annually and eight percent thereafter of the total revenue wagered at the vendor track after payout for prizes to be used by the vendor track for the marketing and promotion and associated costs of its video lottery gaming operations and pari-mutuel horse racing operations, as long as any such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such vendor's video lottery gaming facilities, consistent with the customary manner of marketing comparable operations in the industry and subject to the overall supervision of the division; provided, however, that the additional vendor's marketing allowance shall not exceed eight percent in any year for any operator of a racetrack located in the county of Westchester or Queens; provided, however, a vendor track that receives a vendor fee pursuant to clause (G) of [this] subparagraph (II) OF THIS PARAGRAPH shall not receive the additional vendor's marketing allowance. A COMMERCIAL BOWLING ESTABLISHMENT THAT IS AUTHORIZED BY SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THIS ARTICLE SHALL BE ENTITLED TO A VENDOR FEE OF NOT LESS THAN 20.25 PERCENT IN THE FIRST, SECOND AND THIRD YEARS OF VIDEO LOTTERY GAMING AT SUCH COMMERCIAL BOWLING ESTABLISHMENT, 20.0 PERCENT IN THE FOURTH AND FIFTH YEARS AND 17.5 PERCENT IN ALL SUBSEQUENT YEARS. In establishing

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

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the vendor fee, the division shall ensure the maximum lottery support for education while also ensuring the effective implementation of section sixteen hundred seventeen-a of this article through the provision of reasonable reimbursements and compensation to vendor tracks for participation in such program. Within twenty days after any award of lottery prizes, the division shall pay into the state treasury, to the credit of the state lottery fund, the balance of all moneys received from the sale of all tickets for the lottery in which such prizes were awarded remaining after provision for the payment of prizes as herein provided. Any revenues derived from the sale of advertising on lottery tickets shall be deposited in the state lottery fund.

S 2. Section 1617-a of the tax law is amended by adding a new subdivision a-1 to read as follows:

A-1. THE DIVISION OF THE LOTTERY IS HEREBY AUTHORIZED TO LICENSE, PURSUANT TO RULES AND REGULATIONS TO BE PROMULGATED BY THE DIVISION OF THE LOTTERY, THE OPERATION OF VIDEO LOTTERY GAMING AT COMMERCIAL BOWLING ESTABLISHMENTS THAT ARE DULY LICENSED TO SERVE ALCOHOLIC BEVERAGES, HAVE SEGREGATED AREAS THAT PROHIBIT ACCESS TO PERSONS UNDER TWENTY-ONE YEARS OF AGE, AND THAT ARE LOCATED IN A COUNTY OR COUNTIES IN WHICH VIDEO LOTTERY GAMING HAS BEEN AUTHORIZED PURSUANT TO LOCAL LAW. SUCH RULES AND REGULATIONS SHALL PROVIDE, AS A CONDITION OF LICENSURE, THAT SUCH BOWLING ESTABLISHMENTS TO BE LICENSED ARE CERTIFIED TO BE IN COMPLIANCE WITH ALL STATE AND LOCAL FIRE AND SAFETY CODES, THAT THE DIVISION IS AFFORDED ADEQUATE SPACE, INFRASTRUCTURE, AND AMENITIES CONSISTENT WITH INDUSTRY STANDARDS FOR SUCH VIDEO LOTTERY GAMING OPERATIONS AND TO ENSURE THAT PERSONS UNDER TWENTY-ONE YEARS OF AGE ARE PROHIBITED ACCESS FROM SUCH AREAS, THAT EMPLOYEES INVOLVED IN THE OPERATION OF VIDEO LOTTERY GAMING PURSUANT TO THIS SECTION ARE LICENSED BY THE RACING AND WAGERING BOARD, AND SUCH OTHER TERMS AND CONDITIONS OF LICENSURE AS THE DIVISION MAY ESTABLISH. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, VIDEO LOTTERY GAMING AT A COMMERCIAL BOWLING ESTABLISHMENT PURSUANT TO THIS SECTION SHALL BE DEEMED AN APPROVED ACTIVITY FOR SUCH BOWLING ESTABLISHMENT UNDER THE RELEVANT CITY, COUNTY, TOWN, OR VILLAGE LAND USE OR ZONING ORDINANCES, RULES, OR REGULATIONS. NO BOWLING ESTABLISHMENT OPERATING VIDEO LOTTERY GAMING PURSUANT TO THIS SECTION MAY HOUSE SUCH GAMING ACTIVITY IN A STRUCTURE DEEMED OR APPROVED BY THE DIVISION AS "TEMPORARY" FOR A DURATION OF LONGER THAN EIGHTEEN MONTHS.

S 3. This act shall take effect immediately; provided, however, that the amendment to section 1617-a of the tax law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.