

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

5828--A

2009-2010 Regular Sessions

I N S E N A T E

June 8, 2009

Introduced by Sens. BONACIC, KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to a qualified capital investment at no more than one vendor track in Sullivan county

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

1 Section 1. Clause (G) of subparagraph (ii) of paragraph 1 of subdivi-
2 sion b of section 1612 of the tax law, as amended by section 1 of part
3 0-1 of chapter 57 of the laws of 2009, is amended to read as follows:
4 (G) notwithstanding any other provisions of this section, when [a
5 relocated] NO MORE THAN ONE vendor track LOCATED IN THE TOWN OF THOMPSON
6 IN SULLIVAN COUNTY AT THE SITE OF THE FORMER CONCORD RESORT at which a
7 qualified capital investment has been made and no fewer than [two] ONE
8 thousand full-time, permanent employees have been newly hired, is
9 located in Sullivan county and is within sixty miles from any gaming
10 facility in a contiguous state, then for a period of forty years the
11 division shall pay into the state treasury, to the credit of the state
12 lottery fund created by section ninety-two-c of the state finance law
13 the greater of (i) twenty-five percent of total revenue after payout for
14 prizes for "video lottery games" or (ii) for the first eight years of
15 operation thirty-eight million dollars, and beginning in the ninth year
16 of operation such amount shall increase annually by the lesser of the
17 increase in the consumer price index or two percent plus the division
18 shall retain an amount equal to all actual expenses related to oper-
19 ations, administration and procurement of the video lottery terminal
20 operation at [the relocated] NO MORE THAN ONE vendor track LOCATED IN
21 THE TOWN OF THOMPSON IN SULLIVAN COUNTY AT THE SITE OF THE FORMER
22 CONCORD RESORT, provided, however, such amount retained by the division
23 shall not exceed seven percent of total revenue after payout of prizes.

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

LBD14167-03-9

1 In addition, in the event the division makes a payment pursuant to
2 subclause (i) of this clause, the division shall pay to the credit of
3 the state lottery fund created by section ninety-two-c of the state
4 finance law 11.11 percent of the amount by which total revenue after
5 payout for prizes exceeds two hundred fifteen million dollars, but in no
6 event shall such payment exceed five million dollars.

7 The balance shall be paid as a vendor's fee to the track operator of
8 [the relocated] NO MORE THAN ONE vendor track LOCATED IN THE TOWN OF
9 THOMPSON IN SULLIVAN COUNTY AT THE SITE OF THE FORMER CONCORD RESORT for
10 serving as a lottery agent under this chapter.

11 Provided, however, that in the case of [a relocated] NO MORE THAN ONE
12 vendor track LOCATED IN THE TOWN OF THOMPSON IN SULLIVAN COUNTY AT THE
13 SITE OF THE FORMER CONCORD RESORT with a qualified capital investment,
14 AND ONE THOUSAND FULL-TIME, PERMANENT EMPLOYEES AS OF JULY FIRST, TWO
15 THOUSAND ELEVEN if at any time after [July first, two thousand ten]
16 THREE YEARS OF OPENING OPERATIONS OF THE LICENSED VIDEO GAMING FACILITY
17 OR LICENSED VENDOR TRACK, the vendor track experiences an employment
18 shortfall, then the recapture amount shall apply, for only such period
19 as the shortfall exists.

20 For the purposes of this section "qualified capital investment" shall
21 mean an investment of a minimum of [one billion] SIX HUNDRED MILLION
22 dollars as reflected by audited financial statements of which not less
23 than three hundred million dollars shall be comprised of equity and/or
24 mezzanine financing as an initial investment in a county where twelve
25 percent of the population is below the federal poverty level as measured
26 by the most recent Bureau of Census Statistics prior to the qualified
27 capital investment commencing that results in the construction, develop-
28 ment or improvement of at least one eighteen hole golf course, and the
29 construction and issuance of certificates of occupancy for hotels, lodg-
30 ing, [convention centers,] spas, dining, retail and entertainment
31 venues, parking garages and other capital improvements at or adjacent to
32 the licensed video gaming facility or licensed vendor track which
33 promote or encourage increased attendance at such facilities.

34 For the purposes of this section, "full-time, permanent employee"
35 shall mean an employee who has worked at the VIDEO GAMING FACILITY,
36 vendor track or related and adjacent facilities for a minimum of thir-
37 ty-five hours per week for not less than four consecutive weeks and who
38 is entitled to receive the usual and customary fringe benefits extended
39 to other employees with comparable rank and duties; or two part-time
40 employees who have worked at the VIDEO GAMING FACILITY, vendor track or
41 related and adjacent facilities for a combined minimum of thirty-five
42 hours per week for not less than four consecutive weeks and who are
43 entitled to receive the usual and customary fringe benefits extended to
44 other employees with comparable rank and duties.

45 For the purpose of this section "employment goal" shall mean [two] ONE
46 thousand FIVE HUNDRED full-time permanent employees AFTER THREE YEARS OF
47 OPENING OPERATIONS OF THE LICENSED VIDEO GAMING FACILITY OR LICENSED
48 VENDOR TRACK.

49 For the purpose of this section "employment shortfall" shall mean a
50 level of employment that falls below the employment goal, as certified
51 annually by vendor's certified accountants and the chairman of the
52 empire state development corporation.

53 For the purposes of this section "recapture amount" shall mean the
54 difference between the amount of the vendor's fee paid to a vendor track
55 with a qualified capital investment, and the vendor fee otherwise paya-
56 ble to a vendor track pursuant to clause (F) of this subparagraph, that

1 is reimbursable by the vendor track to the division for payment into the
2 state treasury, to the credit of the state lottery fund created by
3 section ninety-two-c of the state finance law, due to an employment
4 shortfall pursuant to the following schedule only for the period of the
5 employment shortfall:

6 (i) [sixty-six] ONE HUNDRED percent of the recapture amount if the
7 employment shortfall is greater than [fifty] SIXTY-SIX AND TWO-THIRDS
8 percent of the employment goal;

9 (ii) [sixty] SEVENTY-FIVE percent of the recapture amount if the
10 employment shortfall is greater than [forty] THIRTY-THREE AND ONE-THIRD
11 percent of the employment goal;

12 (iii) [forty-five] FORTY-NINE AND ONE-HALF percent of the recapture
13 amount if the employment shortfall is greater than thirty percent of the
14 employment goal;

15 (iv) [twenty] TWENTY-TWO percent of the recapture amount if the
16 employment shortfall is greater than twenty percent of the employment
17 goal;

18 (v) [ten] ELEVEN percent of the recapture amount if the employment
19 shortfall is greater than ten percent of the employment goal.

20 S 2. This act shall take effect immediately.