

6049

2009-2010 Regular Sessions

I N S E N A T E

June 22, 2009

Introduced by Sen. C. JOHNSON -- 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 racing, pari-mutuel wagering and
breeding law, in relation to authorizing the division of the lottery
to conduct the operation of video lottery wagering at regional off-
track betting facilities in Nassau county

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

1 Section 1. The tax law is amended by adding a new section 1617-b to
2 read as follows:
3 S 1617-B. VIDEO LOTTERY GAMING AT SIMULCAST TELETHEATERS. A. THE
4 DIVISION IS HEREBY AUTHORIZED TO LICENSE, PURSUANT TO RULES AND REGU-
5 LATIONS TO BE PROMULGATED BY THE DIVISION, THE OPERATION OF VIDEO
6 LOTTERY GAMING TO BE CONDUCTED AT A REGIONAL OFF-TRACK BETTING CORPO-
7 RATION FACILITY LICENSED PURSUANT TO SECTION ONE THOUSAND NINE OF THE
8 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW, LOCATED WITHIN NASSAU
9 COUNTY. SUCH RULES AND REGULATIONS SHALL PROVIDE, AS A CONDITION OF
10 LICENSURE, THAT AN OFF-TRACK BETTING FACILITY TO BE LICENSED IS CERTI-
11 FIED TO BE IN COMPLIANCE WITH ALL STATE AND LOCAL FIRE AND SAFETY CODES,
12 THAT THE DIVISION IS AFFORDED ADEQUATE SPACE, INFRASTRUCTURE, AND AMEN-
13 ITIES CONSISTENT WITH INDUSTRY STANDARDS FOR SUCH VIDEO GAMING OPER-
14 ATIONS AS FOUND IN OTHER STATES, THAT OFF-TRACK BETTING FACILITY EMPLOY-
15 EES INVOLVED IN THE OPERATION OF VIDEO LOTTERY GAMING PURSUANT TO THIS
16 SECTION ARE LICENSED BY THE RACING AND WAGERING BOARD, AND SUCH OTHER
17 TERMS AND CONDITIONS OF LICENSURE AS THE DIVISION MAY ESTABLISH.
18 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, VIDEO LOTTERY GAMING
19 AT AN OFF-TRACK BETTING FACILITY PURSUANT TO THIS SECTION SHALL BE
20 DEEMED AN APPROVED ACTIVITY FOR SUCH OFF-TRACK BETTING CORPORATION
21 UNDER THE RELEVANT CITY, COUNTY, TOWN, OR VILLAGE LAND USE OR ZONING
22 ORDINANCES, RULES, OR REGULATIONS. NO OFF-TRACK BETTING CORPORATION
23 OPERATING VIDEO LOTTERY GAMING PURSUANT TO THIS SECTION MAY HOUSE SUCH

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

LBD14439-02-9

1 GAMING ACTIVITY IN A STRUCTURE DEEMED OR APPROVED BY THE DIVISION AS
2 "TEMPORARY" FOR LONGER THAN EIGHTEEN MONTHS.

3 B. THE DIVISION, IN CONSULTATION WITH THE RACING AND WAGERING BOARD,
4 SHALL ESTABLISH STANDARDS FOR APPROVAL OF THE TEMPORARY AND PERMANENT
5 PHYSICAL LAYOUT AND CONSTRUCTION OF ANY FACILITY OR BUILDING DEVOTED TO
6 A VIDEO LOTTERY GAMING OPERATION. IN REVIEWING SUCH APPLICATION FOR THE
7 CONSTRUCTION OR RECONSTRUCTION OF THE FACILITY DEVOTED TO THE OPERATION
8 OR HOUSING OF VIDEO LOTTERY GAMING OPERATIONS, THE DIVISION, IN CONSUL-
9 TATION WITH THE RACING AND WAGERING BOARD, SHALL ENSURE THAT SUCH FACIL-
10 ITY:

11 (1) POSSESSES SUPERIOR CONSUMER AMENITIES AND CONVENIENCES TO ENCOUR-
12 AGE AND ATTRACT THE PATRONAGE OF TOURISTS AND OTHER VISITORS FROM ACROSS
13 THE REGION, STATE, AND NATION; AND

14 (2) HAS ADEQUATE MOTOR VEHICLE PARKING FACILITIES TO SATISFY PATRON
15 REQUIREMENTS.

16 C. VIDEO LOTTERY GAMING SHALL ONLY BE PERMITTED FOR NO MORE THAN
17 SIXTEEN CONSECUTIVE HOURS PER DAY AND ON NO DAY SHALL SUCH OPERATION BE
18 CONDUCTED PAST 2:00 A.M.

19 D. THE DIVISION SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE
20 NECESSARY FOR THE IMPLEMENTATION OF VIDEO LOTTERY GAMING IN ACCORDANCE
21 WITH THE PROVISIONS OF THIS SECTION.

22 E. ALL WORKERS ENGAGED IN THE CONSTRUCTION, RECONSTRUCTION, DEVELOP-
23 MENT, REHABILITATION, OR MAINTENANCE OF ANY FACILITY FOR THE PURPOSE OF
24 THE INSTALLATION, MAINTENANCE, OR REMOVAL OF VIDEO LOTTERY TERMINALS
25 SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLES EIGHT AND NINE OF THE
26 LABOR LAW TO THE EXTENT PROVIDED IN SUCH ARTICLES.

27 F. NOTWITHSTANDING SECTION ONE HUNDRED TWENTY-ONE OF THE STATE FINANCE
28 LAW, ON OR BEFORE THE TWENTIETH DAY OF EACH MONTH, THE VENDOR OFF-TRACK
29 BETTING CORPORATION SHALL PAY INTO THE STATE TREASURY, TO THE CREDIT OF
30 THE STATE LOTTERY FUND CREATED BY SECTION NINETY-TWO-C OF THE STATE
31 FINANCE LAW, NOT LESS THAN THE BALANCE OF THE TOTAL REVENUE AFTER PAYOUT
32 FOR PRIZES FOR VIDEO LOTTERY GAMING AT THE LICENSED OFF-TRACK BETTING
33 FACILITY: (1) LESS TEN PERCENT OF THE TOTAL REVENUE AFTER PAYOUT FOR
34 PRIZES TO BE PAID TO THE DIVISION FOR OPERATION, ADMINISTRATION, AND
35 PROCUREMENT PURPOSES; (2) LESS A VENDOR'S FEE THE AMOUNT OF 32.75
36 PERCENT OF THE TOTAL REVENUE AFTER PAYOUT FOR PRIZES WHICH IS TO BE
37 RETAINED BY THE VENDOR OFF-TRACK BETTING CORPORATION FOR SERVING AS A
38 LOTTERY AGENT; (3) LESS FIVE PERCENT OF THE TOTAL REVENUE AFTER PAYOUT
39 FOR PRIZES WHICH IS TO BE PAID BY THE VENDOR OFF-TRACK BETTING CORPO-
40 RATION TO THE RESPECTIVE COUNTY IN WHICH THE REGIONAL OFF-TRACK BETTING
41 CORPORATION OPERATES AND WHICH SHALL BE EARMARKED BY THE COUNTY FOR THE
42 SUPPORT OF THE COMMUNITY COLLEGE WITHIN THE NEW YORK STATE UNIVERSITY
43 SYSTEM OPERATING WITHIN SUCH COUNTY; AND (4) LESS A VENDOR'S MARKETING
44 ALLOWANCE TO BE RETAINED BY THE VENDOR OFF-TACK BETTING CORPORATION AT
45 THE RATE OF TEN PERCENT FOR THE FIRST ONE HUNDRED MILLION DOLLARS OF
46 TOTAL REVENUE AFTER PAYOUT FOR PRIZES AND EIGHT PERCENT THEREAFTER OF
47 THE TOTAL REVENUE AFTER PAYOUT FOR PRIZES.

48 (A) AS CONSIDERATION FOR THE OPERATION OF A VIDEO LOTTERY GAMING
49 FACILITY, THE VENDOR OFF-TRACK BETTING CORPORATION SHALL CAUSE THE
50 INVESTMENT IN THE RACING INDUSTRY OF A PORTION OF THE TOTAL REVENUE
51 AFTER PAYOUT FOR PRIZES IN THE MANNER SET FORTH IN THIS SUBDIVISION. ON
52 OR BEFORE THE TWENTIETH DAY OF EACH MONTH THE VENDOR OFF-TRACK BETTING
53 CORPORATION SHALL DISTRIBUTE TO THE NEW YORK STATE THOROUGHBRED BREEDING
54 AND DEVELOPMENT FUND CREATED PURSUANT TO SECTION TWO HUNDRED FIFTY-TWO
55 OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW .625 PERCENT OF THE
56 TOTAL REVENUE AFTER PAYOUT FOR PRIZES AND TO THE AGRICULTURE AND NEW

1 YORK STATE HORSE BREEDING DEVELOPMENT FUND CREATED PURSUANT TO SECTION
2 THREE HUNDRED THIRTY OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING
3 LAW .625 PERCENT OF THE TOTAL REVENUES AFTER PAYOUT FOR PRIZES. IN ADDI-
4 TION, THE OFF-TRACK BETTING CORPORATION SHALL DISTRIBUTE 3.5 PERCENT OF
5 THE TOTAL REVENUE AFTER PAYOUT FOR PRIZES TO THE CORPORATION'S REGIONAL
6 THOROUGHBRED AND HARNESS TRACKS IN PROPORTION TO THE RATIO OF THE WAGERS
7 PLACED AT THE REGIONAL OFF-TRACK BETTING CORPORATION ON RACES CONDUCTED
8 BY EACH REGIONAL TRACK THE PRECEDING MONTH, TO BE DEDICATED TO ENHANCING
9 PURSES AT THE RESPECTIVE TRACK.

10 (B) THE VENDOR UNDER THIS SECTION SHALL RECEIVE A VENDOR'S CAPITAL
11 AWARD OF FOUR PERCENT OF THE TOTAL REVENUE AT THE VENDOR FACILITY AFTER
12 PAYOUT FOR PRIZES, WHICH SHALL BE USED EXCLUSIVELY FOR CAPITAL PROJECT
13 INVESTMENT TO IMPROVE THE FACILITIES OF THE VENDOR WHICH PROMOTE OR
14 ENCOURAGE INCREASED ATTENDANCE AT THE VIDEO LOTTERY FACILITY INCLUDING
15 BUT NOT LIMITED TO HOTELS, OTHER LODGING FACILITIES, ENTERTAINMENT
16 FACILITIES, RETAIL FACILITIES, DINING FACILITIES, EVENT ARENAS, PARKING
17 GARAGES AND OTHER IMPROVEMENTS THAT ENHANCE FACILITY AMENITIES; PROVIDED
18 THAT SUCH CAPITAL INVESTMENTS SHALL BE APPROVED BY THE DIVISION IN
19 CONSULTATION WITH THE RACING AND WAGERING BOARD.

20 G. THE SPECIFICATION FOR VIDEO LOTTERY GAMING SHALL BE DESIGNED IN
21 SUCH A MANNER AS TO PAY PRIZES THAT AVERAGE NO LESS THAN NINETY PERCENT
22 OF SALES.

23 H. OF THE TEN PERCENT RETAINED BY THE DIVISION FOR ADMINISTRATIVE
24 PURPOSES, ANY AMOUNTS BEYOND THAT WHICH ARE NECESSARY FOR THE OPERATION
25 AND ADMINISTRATION OF THIS SECTION SHALL BE DEPOSITED IN THE STATE
26 LOTTERY FUND CREATED PURSUANT TO SECTION NINETY-TWO-C OF THE STATE
27 FINANCE LAW.

28 I. OF THE VENDOR FEE PAID TO THE VENDOR CORPORATION AFTER PAYMENT OF:
29 ALL FINANCING COSTS; DIRECT EXPENSES IN THE ESTABLISHMENT OF THE FACILI-
30 TY; AND ONGOING EXPENSES FOR THE GENERAL OPERATION AND MAINTENANCE OF
31 THE FACILITY, FORTY PERCENT SHALL BE PAID TO SUFFOLK COUNTY'S GENERAL
32 FUND.

33 S 2. Subdivisions 1 and 2 of section 516 of the racing, pari-mutuel
34 wagering and breeding law are amended to read as follows:

35 1. The monetary transactions of the corporation and the keeping of its
36 books and accounts SHALL BE IN ACCORDANCE WITH GENERALLY ACCEPTED
37 ACCOUNTING PRINCIPLES AND shall be under the supervision of the board of
38 directors who shall be subject to the general and specific jurisdiction
39 of the state board and to audit by the comptroller.

40 2. After payment of all of the costs of the corporation's functions,
41 net revenue remaining to the corporation shall be divided, [quarterly]
42 ANNUALLY, not more than thirty days after the close of the calendar
43 [quarter] YEAR, among the participating counties in accordance with the
44 following provisions:

45 a. Fifty percent of such revenue distributed among the participating
46 counties on the basis of the proportion of the total off-track pari-mu-
47 tuel wagering accepted by the corporation during the previous calendar
48 quarter that originated in the branch offices located in each partic-
49 ipating county;

50 b. Fifty percent of such revenue on the basis of population, as
51 defined as the total population in each participating county shown by
52 the latest preceding decennial federal census completed and published as
53 a final population count by the United States bureau of the census
54 preceding the commencement of the calendar year in which such distrib-
55 ution is to be made; and

1 c. A participating county containing a city electing to participate in
2 the management and revenues of a corporation under subdivision two of
3 section five hundred two of this article shall distribute revenue
4 received under paragraphs a and b of this subdivision to such city
5 according to the proportion such city's population bears to the county's
6 population.

7 S 3. Section 503 of the racing, pari-mutuel wagering and breeding law
8 is amended by adding a new subdivision 10-a to read as follows:

9 10-A. TO OPERATE VIDEO LOTTERY GAMING AT A CORPORATION'S FACILITIES
10 WHICH ARE LICENSED PURSUANT TO SECTION ONE THOUSAND NINE OF THIS CHAP-
11 TER;

12 S 4. This act shall take effect immediately.