

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

9021--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

Introduced by M. of A. HOOPER -- read once and referred to the Committee on Racing and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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

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

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1 OPERATING VIDEO LOTTERY GAMING PURSUANT TO THIS SECTION MAY HOUSE SUCH
2 GAMING ACTIVITY IN A STRUCTURE DEEMED OR APPROVED BY THE DIVISION AS
3 "TEMPORARY" FOR LONGER THAN EIGHTEEN MONTHS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 c. A participating county containing a city electing to participate in
53 the management and revenues of a corporation under subdivision two of
54 section five hundred two of this article shall distribute revenue
55 received under paragraphs a and b of this subdivision to such city

1 according to the proportion such city's population bears to the county's
2 population.

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

5 10-A. TO OPERATE VIDEO LOTTERY GAMING AT A CORPORATION'S FACILITIES
6 WHICH ARE LICENSED PURSUANT TO SECTION ONE THOUSAND NINE OF THIS CHAP-
7 TER;

8 S 4. This act shall take effect immediately.