

10092

I N A S S E M B L Y

May 3, 2012

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to capital awards to vendor tracks

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

1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-
2 sion b of section 1612 of the tax law, as amended by section 6 of part K
3 of chapter 57 of the laws of 2010, is amended to read as follows:
4 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
5 this subparagraph, the track operator of a vendor track shall be eligi-
6 ble for a vendor's capital award of up to four percent of the total
7 revenue wagered at the vendor track after payout for prizes pursuant to
8 this chapter, which shall be used exclusively for capital project
9 investments to improve the facilities of the vendor track which promote
10 or encourage increased attendance at the video lottery gaming facility
11 including, but not limited to hotels, other lodging facilities, enter-
12 tainment facilities, retail facilities, dining facilities, events
13 arenas, parking garages and other improvements that enhance facility
14 amenities; provided that such capital investments shall be approved by
15 the division, in consultation with the state racing and wagering board,
16 and that such vendor track demonstrates that such capital expenditures
17 will increase patronage at such vendor track's facilities and increase
18 the amount of revenue generated to support state education programs. The
19 annual amount of such vendor's capital awards that a vendor track shall
20 be eligible to receive shall be limited to two million five hundred
21 thousand dollars, except for Aqueduct racetrack, for which there shall
22 be no vendor's capital awards. Except for tracks having less than one
23 thousand one hundred video gaming machines, each track operator shall be
24 required to co-invest an amount of capital expenditure equal to its
25 cumulative vendor's capital award. For all tracks, except for Aqueduct
26 racetrack, the amount of any vendor's capital award that is not used
27 during any one year period may be carried over into subsequent years
28 ending before April first, two thousand [thirteen] FOURTEEN. Any amount

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

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1 attributable to a capital expenditure approved prior to April first, two
2 thousand [thirteen] FOURTEEN and completed before April first, two thou-
3 sand [fifteen] SIXTEEN shall be eligible to receive the vendor's capital
4 award. In the event that a vendor track's capital expenditures, approved
5 by the division prior to April first, two thousand [thirteen] FOURTEEN
6 and completed prior to April first, two thousand [fifteen] SIXTEEN,
7 exceed the vendor track's cumulative capital award during the five year
8 period ending April first, two thousand [thirteen] FOURTEEN, the vendor
9 shall continue to receive the capital award after April first, two thou-
10 sand [thirteen] FOURTEEN until such approved capital expenditures are
11 paid to the vendor track subject to any required co-investment. In no
12 event shall any vendor track that receives a vendor fee pursuant to
13 clause (F) or (G) of this subparagraph be eligible for a vendor's capi-
14 tal award under this section. Any operator of a vendor track which has
15 received a vendor's capital award, choosing to divest the capital
16 improvement toward which the award was applied, prior to the full depre-
17 ciation of the capital improvement in accordance with generally accepted
18 accounting principles, shall reimburse the state in amounts equal to the
19 total of any such awards. Any capital award not approved for a capital
20 expenditure at a video lottery gaming facility by April first, two thou-
21 sand [thirteen] FOURTEEN shall be deposited into the state lottery fund
22 for education aid; and

23 S 2. This act shall take effect immediately.