

4649

2013-2014 Regular Sessions

I N S E N A T E

April 16, 2013

Introduced by Sen. BONACIC -- (at request of the Division of the Lottery) -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to the operation of the gaming commission

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

1 Section 1. Subdivision 3 of section 107 of the racing, pari-mutuel
2 wagering and breeding law, as added by section 1 of part A of chapter 60
3 of the laws of 2012, is amended to read as follows:
4 3. (A) No member, officer or employee of the commission OR THE OFFICE
5 OF RACING PROMOTION AND DEVELOPMENT shall wager upon OR CLAIM A PRIZE IN
6 gaming or horse racing activity conducted within the state.
7 (B) NO MEMBER, OFFICER OR EMPLOYEE OF ANY OTHER AGENCY, AS DEFINED IN
8 SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, SHALL
9 WAGER UPON OR CLAIM A PRIZE IN GAMING OR HORSE RACING ACTIVITY CONDUCTED
10 WITHIN THE STATE IF THE DUTIES OF SUCH MEMBER, OFFICER OR EMPLOYEE
11 DIRECTLY RELATE TO THE OPERATION OF ANY GAMING ACTIVITY CONDUCTED WITHIN
12 THE STATE. FOR THE PURPOSES OF THIS PARAGRAPH, DUTIES DIRECTLY RELATE TO
13 THE OPERATION OF ANY GAMING ACTIVITY IF SUCH DUTIES CONSIST OF (I)
14 MAKING A DECISION, OR ADVISING OR RECOMMENDING A DECISION, ON THE MANNER
15 OR METHOD OF OPERATING A GAMING ACTIVITY IN ORDER TO ASSURE THE ACCURA-
16 CY, SAFETY, FAIRNESS, CREDIBILITY OR INTEGRITY OF SUCH GAMING ACTIVITY,
17 OR (II) INVENTING, CREATING, DESIGNING, REVISING, REPLACING, REGULATING,
18 OVERSEEING, LICENSING, PERMITTING, CERTIFYING, WITNESSING, JUDGING,
19 OFFICIATING, SUPERVISING, MANAGING, CONDUCTING, OR ASSISTING IN GAMING
20 ACTIVITY OR IN ANY PROCEDURE RELIED UPON TO DETERMINE THE OUTCOME OF ANY
21 GAMING ACTIVITY ACCORDING TO THE MANNER OR METHOD PRESCRIBED THEREFOR.
22 (C) NO SPOUSE, CHILD, BROTHER, SISTER, PARENT OR OTHER PERSON RESIDING
23 AS A MEMBER OF THE SAME HOUSEHOLD IN THE PRINCIPAL PLACE OF ABODE OF ANY
24 OF THE PERSONS LISTED IN PARAGRAPH (A) OR (B) OF THIS SUBDIVISION SHALL

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

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1 WAGER UPON OR CLAIM A PRIZE IN GAMING OR HORSE RACING ACTIVITY CONDUCTED
2 WITHIN THE STATE.

3 S 2. Section 1610 of the tax law, as added by chapter 92 of the laws
4 of 1976, is amended to read as follows:

5 S 1610. Sales to certain persons prohibited. [a.] No ticket shall be
6 sold to any person under the age of eighteen years, but this shall not
7 be deemed to prohibit the purchase of a ticket for the purpose of making
8 a gift by a person eighteen years of age or older to a person less than
9 that age. Any licensee or the employee or agent of any licensee who
10 sells or offers to sell a lottery ticket to any person under the age of
11 eighteen shall be guilty of a misdemeanor.

12 [b. No ticket shall be sold to and no prize shall be paid to any of
13 the following persons:

14 (i) any member, officer or employee of the division; or

15 (ii) any member, officer or employee of the department of taxation and
16 finance whose duties directly relate to the operation of the state
17 lottery; or

18 (iii) any spouse, child, brother, sister or parent residing as a
19 member of the same household in the principal place of abode of any of
20 the foregoing persons.]

21 S 3. Subdivision 14 of section 104 of the racing, pari-mutuel wagering
22 and breeding law, as added by section 1 of part A of chapter 60 of the
23 laws of 2012, is amended to read as follows:

24 14. (A) To [access the criminal history records of] TRANSMIT FINGER-
25 PRINTS AND THE APPLICABLE FEE IN THE FORM AND MANNER PRESCRIBED BY the
26 division of criminal justice services, pursuant to subdivision eight-a
27 of section eight hundred thirty-seven of the executive law, in
28 connection with executing the responsibilities of the commission relat-
29 ing to the regulation, oversight, licensing, permitting or certifi-
30 cation, including fingerprinting, criminal history record checks and
31 background investigations, of (I) persons applying to engage in gaming
32 activities, (II) ANY PERSONS APPLYING FOR EMPLOYMENT WITH THE COMMIS-
33 SION, AND (III) ANY PERSONS APPLYING FOR EMPLOYMENT WITH THE COMMISSION
34 WHO ARE NEW YORK STATE EMPLOYEES SEEKING TRANSFER TO THE COMMISSION OR
35 WHO ARE ON A PREFERRED OR ELIGIBLE LIST, NOTWITHSTANDING ANY LIMITATIONS
36 ON CONDUCTING CRIMINAL HISTORY RECORD CHECKS ON SUCH PERSONS CONTAINED
37 IN SUBDIVISION FOUR OF SECTION FIFTY OF THE CIVIL SERVICE LAW AND SUBDI-
38 VISION EIGHT-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE
39 LAW. At the request of the commission, the division of criminal justice
40 services shall submit [a fingerprint card] SUCH FINGERPRINTS, along with
41 the subject's processing fee, to the federal bureau of investigation OR
42 ANY OTHER STATE OR FEDERAL GOVERNMENT AGENCY HAVING FACILITIES FOR
43 CHECKING FINGERPRINTS FOR PURPOSES OF DETERMINING WHETHER OR NOT CRIMI-
44 NAL CHARGES ARE PENDING AGAINST THE APPLICANT OR WHETHER OR NOT THE
45 APPLICANT HAD PREVIOUSLY BEEN CONVICTED OF A CRIME, for the purpose of
46 conducting a NATIONAL criminal history search and returning a report
47 thereon AND THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY
48 REPORT A FINDING OF SUCH CHARGES AND PREVIOUS CONVICTIONS, IF ANY, TO
49 THE COMMISSION IN WRITING OR BY ELECTRONIC MEANS OR ANY OTHER METHOD
50 AGREED UPON BY THE COMMISSION AND SUCH AGENCY. The commission shall also
51 be entitled to request and receive, pursuant to a written memorandum of
52 understanding filed with the department of state, any information in the
53 possession of the state attorney general relating to the investigation
54 of organized crime, gaming offenses, other revenue crimes or tax
55 evasion. Provided however, the attorney general may withhold any infor-
56 mation that (a) would identify a confidential source or disclose confi-

1 dential information relating to a criminal investigation, (b) would
2 interfere with law enforcement investigations or judicial proceedings,
3 (c) reveal criminal investigative techniques or procedures, that, if
4 disclosed, could endanger the life or safety of any person, or (d)
5 constitutes records received from other state, local or federal agencies
6 that the attorney general is prohibited by law, regulation or agreement
7 from disclosing.

8 (B) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFI-
9 CERS LAW OR ANY OTHER LAW TO THE CONTRARY, THE COMMISSION MAY WITHHOLD
10 FROM PUBLIC DISCLOSURE ANY CRIMINAL HISTORY INFORMATION.

11 (C) FOR PURPOSES OF THIS SUBDIVISION, A PERSON APPLYING TO ENGAGE IN
12 GAMING ACTIVITIES MAY INCLUDE: ANY PERSON OR ENTITY THAT IS APPLYING
13 FOR A LICENSE ISSUED PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED
14 TO: A LOTTERY SALES AGENT; A VIDEO LOTTERY GAMING AGENT; A VENDOR; A
15 VENDOR'S SUBCONTRACTOR; AN EMPLOYEE OF AN AGENT; VENDOR OR VENDOR'S
16 SUBCONTRACTOR; AN OFFICER, DIRECTOR, PARTNER, TRUSTEE OR OWNER OF AN
17 AGENT; VENDOR OR VENDOR'S SUBCONTRACTOR; A HORSE OWNER, WHICH INCLUDES
18 PART OWNERS; LESSEES; TRAINERS; ASSISTANT TRAINERS; JOCKEYS; JOCKEY
19 AGENTS; STABLE EMPLOYEES; DRIVERS; AND SUCH OTHER PARTICIPANTS IN HORSE
20 RACING OR PARI-MUTUEL WAGERING ACTIVITIES AS THE COMMISSION SHALL
21 PRESCRIBE BY RULE.

22 S 4. Subdivision e of section 1605 of the tax law, as amended by chap-
23 ter 217 of the laws of 2011, is amended to read as follows:

24 e. The division is hereby authorized to obtain criminal background
25 information on any applicant for, or holder of, a lottery license for
26 the purpose of determining whether a license should be granted,
27 suspended, or revoked. [The sources of such information include the
28 license applicant or holder, the division of criminal justice services,
29 and any licensing agency which is currently considering a licensing
30 application or which has been granted a presently-held license to the
31 same license applicant or holder. The division shall require each
32 license applicant to submit identifying information which shall include
33 fingerprints unless they are already on file with the division or other
34 state agencies. The fingerprints so obtained shall be forthwith
35 forwarded, and the applicable fee transmitted, to the division of crimi-
36 nal justice services or any other state or federal government agency
37 having facilities for checking fingerprints for the purpose of determin-
38 ing whether or not criminal charges are pending against the applicant or
39 whether or not the applicant had previously been convicted of a crime,
40 and such agency shall promptly report a finding of such pending charges
41 and previous convictions, if any, to the division in writing or by elec-
42 tronic means or any other method agreed upon by the division and such
43 agency. Prior to or upon making a determination not to approve an appli-
44 cation for a lottery license based upon an applicant's criminal history
45 record, the division shall provide such applicant with a copy of article
46 twenty-three-A of the correction law, and inform such applicant of his
47 or her right to seek correction of any incorrect information contained
48 in such record pursuant to regulations and procedures established by the
49 division of criminal justice services. In its discretion, the division
50 may decline to act on any application pending the disposition of any
51 pending charges against the applicant. The division may, after provid-
52 ing notice and an opportunity for a hearing pursuant to the state admin-
53 istrative procedure act, deny a license to any person found to have
54 committed a felony under the laws of the United States or under the laws
55 of the state of New York or any other state or foreign jurisdiction or
56 any crime relating to gaming activities or that is otherwise found to

1 have engaged in conduct which would be prejudicial to public confidence
2 in the state lottery. All determinations to grant or deny a license
3 pursuant to this section shall be in accordance with subdivision sixteen
4 of section two hundred ninety-six of the executive law and article twen-
5 ty-three-A of the correction law. Notwithstanding the provisions of
6 article six of the public officers law or any other law to the contrary,
7 the division may withhold from public disclosure any criminal history
8 information except that criminal convictions may not be withheld under
9 this provision.

10 For purposes of this article, a licensee may include: a lottery sales
11 agent; a video lottery gaming agent; a vendor; a vendor's subcontractor;
12 an employee of an agent, vendor or vendor's subcontractor; or an offi-
13 cer, director, partner, trustee or owner of an agent, vendor or vendor's
14 subcontractor.]

15 S 5. This act shall take effect immediately; provided however that
16 sections one and two of this act shall take effect on the thirtieth day
17 after it shall have become a law and sections one and two of this act
18 shall not apply to a prize claimed after such effective date if the
19 wager upon which the prize was won was lawfully placed before such
20 effective date.