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

7615--A

I N S E N A T E

May 16, 2014

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to out-of-state or out-of-country races; to amend the tax law, in relation to video lottery terminal flex hours and increasing free play at video lottery facilities; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto

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

Section 1. Clauses (E) and (F) of subparagraph 5 of paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law are REPEALED.

S 2. Clauses (F) and (G) of subparagraph 6 of paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law are REPEALED.

S 3. Section 1017 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, subdivision 2 as amended by chapter 174 of the laws of 2013, is amended to read as follows:

S 1017. Out-of-state or out-of-country races. [1.] Licensed simulcast facilities may accept wagers and display the signal of out-of-state or out-of-country thoroughbred tracks after 7Labor P.M. in accordance with the provisions of this section. Such simulcasting may include mixed meetings if such meetings are integral to such racing programs and all such wagering on such races shall be construed to be thoroughbred races. For facilities located within the special betting district, such approval shall also be required from a thoroughbred racing corporation during the period a racing program is being conducted at such track. Such approval shall not be required on any day such thoroughbred racing corporation is also accepting an out-of-state or out-of-country signal and wager, as authorized by this section. The provisions of section one

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

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thousand sixteen of this article shall be applicable to the conduct of such simulcasting and the provisions of clauses (A) and (B) of subparagraph four of paragraph b of subdivision one of section one thousand sixteen of this article shall apply to those facilities licensed in accordance with sections one thousand eight and one thousand nine of this article and the provisions of clauses (A) and (B) of subparagraph six of paragraph b of subdivision one of section one thousand sixteen of this article shall apply to those facilities licensed in accordance with section one thousand seven of this article, when such provisions are in full force and effect pursuant to such section. Provided, however, the provisions of section one thousand fourteen of this article shall be applicable to the conduct of such simulcasting, when such provisions are in full force and effect pursuant to such section.

[2. a. Maintenance of effort. Any off-track betting corporation which engages in accepting wagers on the simulcasts of thoroughbred races from out-of-state or out-of-country as permitted under subdivision one of this section shall submit to the commission, for its approval, a schedule of payments to be made in any year or portion thereof, that such off-track corporation engages in nighttime thoroughbred simulcasting. In order to be approved by the commission, the payment schedule shall be identical to the actual payments and distributions of such payments to tracks and purses made by such off-track corporation pursuant to the provisions of section one thousand fifteen of this article during the year two thousand two, as derived from out-of-state harness races displayed after 6:00 P.M. If approved by the commission, such scheduled payments shall be made from revenues derived from any simulcasting conducted pursuant to this section and section one thousand fifteen of this article.

b. Additional payments. During each calendar year, to the extent, and at such time in the event, that aggregate statewide wagering handle after 7Labor P.M. on out-of-state and out-of-country thoroughbred races exceeds one hundred million dollars, each off-track betting corporation conducting such simulcasting shall pay to its regional harness track or tracks, an amount equal to two percent of its proportionate share of such excess handle. In any region where there are two or more regional harness tracks, such two percent shall be divided between or among the tracks in a proportion equal to the proportion of handle on live harness races conducted at such tracks during the preceding calendar year. Fifty percent of the sum received by each track pursuant to this paragraph shall be used exclusively for increasing purses, stakes and prizes at that regional harness track. For the purpose of determining whether such aggregate statewide handle exceeds one hundred million dollars, all wagering on such thoroughbred races accepted by licensed multi-jurisdictional account wagering providers from customers within New York state shall be excluded.]

S 4. Subdivision 1 of section 1012 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

1. Racing associations and corporations, franchised corporations, off-track betting corporations and multi-jurisdictional account wagering providers may form partnerships, joint ventures, or any other affiliations or contractual arrangement in order to further the purposes of this section. Multi-jurisdictional account wagering providers involved in such joint affiliations or contractual arrangements shall follow the same distributional policy with respect to retained commissions as [their in-state affiliate or contractual partner] A MULTI-JURISDICTIONAL

ACCOUNT WAGERING PROVIDER DEFINED IN THIS ARTICLE; PROVIDED, HOWEVER, THAT SUCH JOINT AFFILIATION OR CONTRACTUAL ARRANGEMENT ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT AMENDED THIS SUBDIVISION SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE NEW YORK STATE GAMING COMMISSION TO DETERMINE IF SUCH AFFILIATION OR CONTRACTUAL ARRANGEMENT IS IN THE BEST INTEREST OF THE RACING INDUSTRY OF THIS STATE.

S 5. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 1 of part BB of chapter 59 of the laws of 2014, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. Except for tracks having less than one thousand one hundred video gaming machines, and except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand fifteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand fifteen and completed before April first, two thousand seventeen; or approved prior to April first, two thousand nineteen and completed before April first, two thousand twenty-one for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand fifteen and completed prior to April first, two thousand seventeen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand fifteen, the vendor shall continue to receive the capital award after April first, two thousand fifteen until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall any vendor track that receives a vendor fee pursuant to clause [(F) or] (G) of this subparagraph be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement in accordance with general-

ly accepted accounting principles, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand fifteen shall be deposited into the state lottery fund for education aid; and

S 6. Subdivision b of section 1617-a of the tax law, as amended by section 5 of part K of chapter 57 of the laws of 2010, is amended to read as follows:

b. Video lottery gaming shall only be permitted for no more than twenty consecutive hours per day and on no day shall such operation be conducted past [4:00] 6:00 a.m.

S 7. Paragraph 3 of subdivision f of section 1617-a of the tax law, as added by section 2 of part O of chapter 61 of the laws of 2011, is amended to read as follows:

(3) For each video lottery facility, the annual value of the free play allowance credits authorized for use by the operator pursuant to this subdivision shall not exceed an amount equal to [ten] FIFTEEN percent of the total amount wagered on video lottery games after payout of prizes. The division shall establish procedures to assure that free play allowance credits do not exceed such amount.

S 8. This act shall take effect immediately.