

S. 5904

A. 8112

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

June 20, 2013

IN SENATE -- Introduced by Sen. BONACIC -- (at request of the Governor)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. PRETLOW, GUNTHER -- (at request of
the Governor) -- read once and referred to the Committee on Ways and
Means

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the
penal law and the tax law, in relation to commercial gaming; to amend
a chapter of the laws of 2013 amending the racing, pari-mutuel wager-
ing and breeding law and other laws relating to commercial gaming, as
proposed in legislative bill numbers S. 5883 and A. 8101, in relation
to the effective date of certain provisions thereof; to repeal certain
provisions of the racing, pari-mutuel wagering and breeding law relat-
ing to the tribes that have gaming compacts with the state; and to
repeal certain provisions of the tax law relating to disposition of
revenues

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

1 Section 1. Subdivisions 9 and 15 of section 1300 of the racing, pari-
2 mutuel wagering and breeding law, as added by section 2 of a chapter of
3 the laws of 2013 amending the racing, pari-mutuel wagering and breeding
4 law and other laws relating to commercial gaming, as proposed in legis-
5 lative bill numbers S. 5883 and A. 8101, are REPEALED, and subdivisions
6 10, 11, 12, 13, 14 and 16 are renumbered subdivisions 9, 10, 11, 12, 13
7 and 14.
8 S 2. Subdivision 5 of section 1306 of the racing, pari-mutuel wagering
9 and breeding law, as added by section 2 of a chapter of the laws of 2013
10 amending the racing, pari-mutuel wagering and breeding law and other
11 laws relating to commercial gaming, as proposed in legislative bill

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

LBD12052-09-3

1 numbers S.5883 and A.8101, is REPEALED, and subdivisions 6, 7, 8, 9, 10
2 and 11 are renumbered subdivisions 5, 6, 7, 8, 9 and 10.

3 S 3. Subdivision 15 of section 225.00 of the penal law, as added by
4 section 3 of a chapter of the laws of 2013 amending the racing, pari-mu-
5 tuel wagering and breeding law and other laws relating to commercial
6 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is
7 amended to read as follows:

8 15. "Casino gaming" means games authorized to be played pursuant to a
9 license granted under article thirteen of the racing, pari-mutuel wager-
10 ing and breeding law or by federally recognized Indian nations or tribes
11 pursuant to a [valid] gaming compact reached in accordance with the
12 federal Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat.
13 2467, codified at 25 U.S.C. SS 2701-21 and 18 U.S.C. SS 1166-68.

14 S 4. Subdivision (f) of section 52 of a chapter of the laws of 2013
15 amending the racing, pari-mutuel wagering and breeding law and other
16 laws relating to commercial gaming, as proposed in legislative bill
17 numbers S. 5883 and A. 8101, is amended and a new subdivision (a-1) is
18 added to read as follows:

19 (A-1) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, SECTION 1330-A
20 OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW, AS ADDED BY
21 SECTION TWO OF THIS ACT, SHALL TAKE EFFECT IMMEDIATELY;

22 (f) [section forty] SECTIONS FORTY-THREE through [forty-eight] FIFTY-
23 ONE of this act shall take effect January 1, 2014; except that the New
24 York state gaming commission may accept and review applications for
25 licenses for account wagering and for multi-jurisdictional account
26 wagering providers commencing on October 1, 2013.

27 S 5. The opening paragraph, the second, fourth, fifth undesignated
28 paragraphs and the opening paragraph of the 7th undesignated paragraph
29 of clause (G) of subparagraph (ii) of paragraph 1 of subdivision b of
30 section 1612 of the tax law, as amended by section 40 of a chapter of
31 the laws of 2013 amending the racing, pari-mutuel wagering and breeding
32 law and other laws relating to commercial gaming, as proposed in legis-
33 lative bill numbers S. 5883 and A. 8101, are amended to read as follows:

34 notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this
35 subparagraph, when no more than one vendor track located in the town of
36 Thompson in Sullivan county at the site of the former Concord Resort at
37 which a qualified capital investment has been made and no fewer than one
38 thousand full-time, permanent employees have been newly hired, is
39 located in Sullivan county and is within sixty miles from any gaming
40 facility in a contiguous state, then for a period of forty years the
41 vendor's fee shall equal the total revenue wagered at the vendor track
42 after payout of prizes pursuant to this subdivision reduced by the
43 greater of (i) twenty-five percent of total revenue after payout for
44 prizes for "video lottery games" or (ii) for the first eight years of
45 operation thirty-eight million dollars, and beginning in the ninth year
46 of operation such amount shall increase annually by the lesser of the
47 increase in the consumer price index or two percent, plus seven percent
48 of total revenue after payout of prizes. In addition, in the event the
49 vendor fee is calculated pursuant to subclause (i) of this clause, the
50 vendor's fee shall be further reduced by 11.11 percent of the amount by
51 which total revenue after payout for prizes exceeds two hundred fifteen
52 million dollars, but in no event shall such reduction exceed five
53 million dollars. [Provided, further, no vendor is eligible for the
54 vendor's fee described in this clause who operates or invests in or
55 owns, in whole or in part, another vendor license or is licensed as a

1 vendor track that currently receives a vendor fee for the operation of
2 video lottery gaming pursuant to this article.]

3 Provided, however, that in the case of [a resort facility] NO MORE
4 THAN ONE VENDOR TRACK located IN THE TOWN OF THOMPSON in Sullivan county
5 AT THE SITE OF THE FORMER CONCORD RESORT with a qualified capital
6 investment, and one thousand full-time, permanent employees if at any
7 time after three years of opening operations of the licensed video
8 gaming facility OR LICENSED VENDOR TRACK, the [resort facility] VENDOR
9 TRACK experiences an employment shortfall, then the recapture amount
10 shall apply, for only such period as the shortfall exists.

11 For the purposes of this section, "full-time, permanent employee"
12 shall mean an employee who has worked at the video gaming facility,
13 VENDOR TRACK or related and adjacent facilities for a minimum of thir-
14 ty-five hours per week for not less than four consecutive weeks and who
15 is entitled to receive the usual and customary fringe benefits extended
16 to other employees with comparable rank and duties; or two part-time
17 employees who have worked at the video gaming facility, vendor track or
18 related and adjacent facilities for a combined minimum of thirty-five
19 hours per week for not less than four consecutive weeks and who are
20 entitled to receive the usual and customary fringe benefits extended to
21 other employees with comparable rank and duties.

22 For the purpose of this section "employment goal" shall mean one thou-
23 sand five hundred full-time permanent employees after three years of
24 opening operations of the licensed video gaming facility OR LICENSED
25 VENDOR TRACK.

26 For the purposes of this section "recapture amount" shall mean the
27 difference between the amount of the vendor's fee paid to a vendor TRACK
28 with a qualified capital investment, and the vendor fee otherwise paya-
29 ble to a vendor TRACK pursuant to clause (F) of this subparagraph, that
30 is reimbursable by the vendor track to the division for payment into the
31 state treasury, to the credit of the state lottery fund created by
32 section ninety-two-c of the state finance law, due to an employment
33 shortfall pursuant to the following schedule only for the period of the
34 employment shortfall:

35 S 6. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b
36 of section 1612 of the tax law, as added by section 40 of a chapter of
37 the laws of 2013 amending the racing, pari-mutuel wagering and breeding
38 law and other laws relating to commercial gaming, as proposed in legis-
39 lative bill numbers S. 5883 and A. 8101, is REPEALED.

40 S 7. Clauses (I) and (J) of subparagraph (ii) of paragraph 1 of subdi-
41 vision b of section 1612 of the tax law, as added by section 40 of a
42 chapter of the laws of 2013 amending the racing, pari-mutuel wagering
43 and breeding law and other laws relating to commercial gaming, as
44 proposed in legislative bill numbers S. 5883 and A. 8101, are amended to
45 read as follows:

46 [(I)] (H) notwithstanding clauses (A), (B), (C), (D), (E), (F)[,] and
47 [(G-1)] (G) of this subparagraph, the track operator of a vendor track
48 shall be eligible for a vendor's capital award of up to four percent of
49 the total revenue wagered at the vendor track after payout for prizes
50 pursuant to this chapter, which shall be used exclusively for capital
51 project investments to improve the facilities of the vendor track which
52 promote or encourage increased attendance at the video lottery gaming
53 facility including, but not limited to hotels, other lodging facilities,
54 entertainment facilities, retail facilities, dining facilities, events
55 arenas, parking garages and other improvements that enhance facility
56 amenities; provided that such capital investments shall be approved by

1 the division, in consultation with the state racing and wagering board,
2 and that such vendor track demonstrates that such capital expenditures
3 will increase patronage at such vendor track's facilities and increase
4 the amount of revenue generated to support state education programs. The
5 annual amount of such vendor's capital awards that a vendor track shall
6 be eligible to receive shall be limited to two million five hundred
7 thousand dollars, except for Aqueduct racetrack, for which there shall
8 be no vendor's capital awards. Except for tracks having less than one
9 thousand one hundred video gaming machines, each track operator shall be
10 required to co-invest an amount of capital expenditure equal to its
11 cumulative vendor's capital award. For all tracks, except for Aqueduct
12 racetrack, the amount of any vendor's capital award that is not used
13 during any one year period may be carried over into subsequent years
14 ending before April first, two thousand fourteen. Any amount attribut-
15 able to a capital expenditure approved prior to April first, two thou-
16 sand fourteen and completed before April first, two thousand sixteen
17 shall be eligible to receive the vendor's capital award. In the event
18 that a vendor track's capital expenditures, approved by the division
19 prior to April first, two thousand fourteen and completed prior to April
20 first, two thousand sixteen, exceed the vendor track's cumulative capi-
21 tal award during the five year period ending April first, two thousand
22 fourteen, the vendor shall continue to receive the capital award after
23 April first, two thousand fourteen until such approved capital expendi-
24 tures are paid to the vendor track subject to any required co-invest-
25 ment. In no event shall any vendor track that receives a vendor fee
26 pursuant to clause (F) or (G) of this subparagraph be eligible for a
27 vendor's capital award under this section. Any operator of a vendor
28 track which has received a vendor's capital award, choosing to divest
29 the capital improvement toward which the award was applied, prior to the
30 full depreciation of the capital improvement in accordance with general-
31 ly accepted accounting principles, shall reimburse the state in amounts
32 equal to the total of any such awards. Any capital award not approved
33 for a capital expenditure at a video lottery gaming facility by April
34 first, two thousand fourteen shall be deposited into the state lottery
35 fund for education aid; and

36 [(J)] (I) Notwithstanding any provision of law to the contrary, free
37 play allowance credits authorized by the division pursuant to subdivi-
38 sion f of section sixteen hundred seventeen-a of this article shall not
39 be included in the calculation of the total amount wagered on video
40 lottery games, the total amount wagered after payout of prizes, the
41 vendor fees payable to the operators of video lottery facilities,
42 vendor's capital awards, fees payable to the division's video lottery
43 gaming equipment contractors, or racing support payments.

44 S 8. Subparagraph (iii) of paragraph 1 of subdivision b of section
45 1612 of the tax law, as added by section 40 of a chapter of the laws of
46 2013 amending the racing, pari-mutuel wagering and breeding law and
47 other laws relating to commercial gaming, as proposed in legislative
48 bill numbers S. 5883 and A. 8101, is amended to read as follows:

49 (iii) less an additional vendor's marketing allowance at a rate of ten
50 percent for the first one hundred million dollars annually and eight
51 percent thereafter of the total revenue wagered at the vendor track
52 after payout for prizes to be used by the vendor track for the marketing
53 and promotion and associated costs of its video lottery gaming oper-
54 ations and pari-mutuel horse racing operations, as long as any such
55 costs associated with pari-mutuel horse racing operations simultaneously
56 encourage increased attendance at such vendor's video lottery gaming

1 facilities, consistent with the customary manner of marketing comparable
2 operations in the industry and subject to the overall supervision of the
3 division; provided, however, that the additional vendor's marketing
4 allowance shall not exceed eight percent in any year for any operator of
5 a racetrack located in the county of Westchester or Queens; provided,
6 however, a vendor track that receives a vendor fee pursuant to clause
7 (G) of subparagraph (ii) of this paragraph shall not receive the addi-
8 tional vendor's marketing allowance provided, however, a vendor that
9 receives a vendor fee pursuant to clause (G-1) of subparagraph (ii) of
10 this paragraph shall receive an additional marketing allowance at a rate
11 of ten percent of the total revenue wagered at the video lottery gaming
12 facility after payout for prizes. [the division shall ensure the maxi-
13 mum lottery support for education while also ensuring the effective
14 implementation of section sixteen hundred seventeen-a of this article
15 through the provision of reasonable reimbursements and compensation to
16 vendor tracks for participation in such program. Within twenty days
17 after any award of lottery prizes, the division shall pay into the state
18 treasury, to the credit of the state lottery fund, the balance of all
19 moneys received from the sale of all tickets for the lottery in which
20 such prizes were awarded remaining after provision for the payment of
21 prizes as herein provided. Any revenues derived from the sale of adver-
22 tising on lottery tickets shall be deposited in the state lottery fund.]

23 S 9. The opening paragraph of paragraph 2 of subdivision b of section
24 1612 of the tax law, as added by section 40 of a chapter of the laws of
25 2013 amending the racing, pari-mutuel wagering and breeding law and
26 other laws relating to commercial gaming, as proposed in legislative
27 bill numbers S. 5883 and A. 8101, is amended to read as follows:

28 As consideration for the operation of a video lottery gaming facility,
29 the division, shall cause the investment in the racing industry of a
30 portion of the vendor fee received pursuant to paragraph one of this
31 subdivision in the manner set forth in this subdivision. With the
32 exception of Aqueduct racetrack or a facility in the county of Nassau or
33 Suffolk operated by a corporation established pursuant to section five
34 hundred two of the racing, pari-mutuel wagering and breeding law [or a
35 facility in the county of Nassau or Suffolk operated by a corporation
36 established pursuant to section five hundred two of the racing, pari-mu-
37 tuel wagering and breeding law], each such track shall dedicate a
38 portion of its vendor fees, received pursuant to clause (A), (B), (C),
39 (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this
40 subdivision, solely for the purpose of enhancing purses at such track,
41 in an amount equal to eight and three-quarters percent of the total
42 revenue wagered at the vendor track after pay out for prizes. One
43 percent of such purse enhancement amount shall be paid to the gaming
44 commission to be used exclusively to promote and ensure equine health
45 and safety in New York. Any portion of such funding to the gaming
46 commission unused during a fiscal year shall be returned to the video
47 lottery gaming operators on a pro rata basis in accordance with the
48 amounts originally contributed by each operator and shall be used for
49 the purpose of enhancing purses at such track. In addition, with the
50 exception of Aqueduct racetrack OR A FACILITY IN THE COUNTY OF NASSAU OR
51 SUFFOLK OPERATED BY A CORPORATION ESTABLISHED PURSUANT TO SECTION FIVE
52 HUNDRED TWO OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW, one
53 and one-quarter percent of total revenue wagered at the vendor track
54 after pay out for prizes, received pursuant to clause (A), (B), (C),
55 (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this

1 subdivision, shall be distributed to the appropriate breeding fund for
2 the manner of racing conducted by such track.

3 S 10. Subdivision (f-1) of section 1612 of the tax law, as added by
4 section 40 of a chapter of the laws of 2013 amending the racing, pari-
5 mutuel wagering and breeding law and other laws relating to commercial
6 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is
7 amended to read as follows:

8 [(f-1)] F-1. As consideration for operation of video lottery gaming
9 facility located in the county of Nassau [of] OR Suffolk and operated by
10 a corporation established pursuant to section five hundred two of the
11 racing, pari-mutuel wagering and breeding law, the division shall cause
12 the INVESTMENT in the racing industry of the following percentages of
13 the vendor fee to be deposited or paid as follows:

14 [(1)] 1. Two and three tenths percent of the total wagered after
15 payout of prizes for the purpose of enhancing purses at Aqueduct race-
16 track, Belmont Park racetrack and Saratoga race course, provided, howev-
17 er, that any amount that is in excess of the amount necessary to main-
18 tain purse support from video lottery gaming at Aqueduct racetrack,
19 Belmont Park racetrack and Saratoga race course at the same level real-
20 ized [in] in two thousand thirteen, to be adjusted by the consumer price
21 index for all urban consumers, as published annually by the United
22 States department of LABOR, bureau of labor statistics, shall [be]
23 instead be returned to the commission.

24 [(2)] 2. five tenths percent of the total wagered after payout of
25 prizes for the appropriate breeding fund for the manner of racing at
26 Aqueduct racetrack, Belmont Park racetrack and Saratoga race course,
27 provided, however, that any amount that is in excess of the amount
28 necessary to maintain payments from video lottery gaming at Aqueduct
29 racetrack at the same level realized [in] in two thousand thirteen, to
30 be adjusted by the consumer price index for all urban consumers, as
31 published annually by the United States department of LABOR, bureau of
32 labor statistics, shall [be] instead be returned to the commission.

33 [(3)] 3. one and three tenths percent of the total revenue wagered
34 after payout of prizes to be deposited into an account of the franchised
35 corporation established pursuant to section two hundred six of the
36 racing, pari-mutuel wagering and breeding law to be used for capital
37 expenditures in maintaining and upgrading Aqueduct racetrack, Belmont
38 Park racetrack and Saratoga race course, provided, however, that any
39 amount that is in excess of the amount necessary to maintain payments
40 for capital expenditures from video lottery gaming at Aqueduct racetrack
41 at the same level realized [in] in two thousand thirteen, to be adjusted
42 by the consumer price index for all urban consumers, as published annu-
43 ally by the United States department of LABOR, bureau of labor statis-
44 tics, shall [be] instead be returned to the commission.

45 [(4)] 4. Nine tenths percent of the total revenue wagered after payout
46 for prizes to be deposited into an account of the franchised corporation
47 established pursuant to section two hundred six of the racing, pari-mu-
48 tuel wagering and breeding law to be used for general thoroughbred
49 racing operations at Aqueduct racetrack, Belmont Park racetrack and
50 Saratoga race course, provided, however, that any amount that is in
51 excess of the amount necessary to maintain payments for general
52 thoroughbred racing operations from video lottery gaming at Aqueduct
53 racetrack at the same level realized [in] in two thousand thirteen, to
54 be adjusted by the consumer price index for all urban consumers, as
55 published annually by the United States department of LABOR, bureau of
56 labor statistics, shall [be] instead be returned to the commission.

1 S 11. The opening paragraph of the first clause (G) of subparagraph
2 (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as
3 amended by section 42 of a chapter of the laws of 2013 amending the
4 racing, pari-mutuel wagering and breeding law and other laws relating to
5 commercial gaming, as proposed in legislative bill numbers S. 5883 and
6 A. 8101, is amended to read as follows:

7 notwithstanding clauses (A), (B), (C), (D), (E) and (F) of this
8 subparagraph, when [a resort facility to be operated by other than a
9 presently licensed video lottery gaming operator or any entity affil-
10 iated therewith selected by the division following a competitive process
11 located] NOT MORE THAN ONE VENDOR TRACK LOCATED IN THE TOWN OF THOMPSON
12 in Sullivan county AT THE SITE OF THE FORMER CONCORD RESORT at which a
13 qualified capital investment has been made and no fewer than one thou-
14 sand full-time, permanent employees have been newly hired, is located in
15 Sullivan county and is within sixty miles from any gaming facility in a
16 contiguous state, then for a period of forty years the vendor's fee
17 shall equal the total revenue wagered at the vendor track after payout
18 of prizes pursuant to this subdivision reduced by the greater of (i)
19 twenty-five percent of total revenue after payout for prizes for "video
20 lottery games" or (ii) for the first eight years of operation thirty-
21 eight million dollars, and beginning in the ninth year of operation such
22 amount shall increase annually by the lesser of the increase in the
23 consumer price index or two percent, plus seven percent of total revenue
24 after payout of prizes. In addition, in the event the vendor fee is
25 calculated pursuant to subclause (i) of this clause, the vendor's fee
26 shall be further reduced by 11.11 percent of the amount by which total
27 revenue after payout for prizes exceeds two hundred fifteen million
28 dollars, but in no event shall such reduction exceed five million
29 dollars. PROVIDED, FURTHER, NO VENDOR IS ELIGIBLE FOR THE VENDOR'S FEE
30 DESCRIBED IN THIS CLAUSE WHO OPERATES OR INVESTS IN OR OWNS, IN WHOLE OR
31 IN PART, ANOTHER VENDOR LICENSE OR IS LICENSED AS A VENDOR TRACK THAT
32 CURRENTLY RECEIVES A VENDOR FEE FOR THE OPERATION OF VIDEO LOTTERY
33 GAMING PURSUANT TO THIS ARTICLE.

34 S 12. The second clause (G) of subparagraph (ii) of paragraph 1 of
35 subdivision b of section 1612 of the tax law, as amended by section 42
36 of a chapter of the laws of 2013 amending the racing, pari-mutuel wager-
37 ing and breeding law and other laws relating to commercial gaming, as
38 proposed in legislative bill numbers S. 5883 and A. 8101, is REPEALED.

39 S 13. Clause (G-1) of subparagraph (ii) of paragraph 1 of subdivision
40 b of section 1612 of the tax law, as amended by section 42 of a chapter
41 of the laws of 2013 amending the racing, pari-mutuel wagering and breed-
42 ing law and other laws relating to commercial gaming, as proposed in
43 legislative bill numbers S. 5883 and A. 8101, is REPEALED.

44 S 14. Paragraph 2 of subdivision b of section 1612 of the tax law, as
45 amended by section 42 of a chapter of the laws of 2013 amending the
46 racing, pari-mutuel wagering and breeding law and other laws relating to
47 commercial gaming, as proposed in legislative bill numbers S. 5883 and
48 A. 8101, is amended to read as follows:

49 2. As consideration for the operation of a video lottery gaming facil-
50 ity, the division, shall cause the investment in the racing industry of
51 a portion of the vendor fee received pursuant to paragraph one of this
52 subdivision in the manner set forth in this subdivision. With the
53 exception of Aqueduct racetrack AND A FACILITY LOCATED IN NASSAU COUNTY
54 AUTHORIZED PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION A OF SECTION ONE
55 THOUSAND SIX HUNDRED SEVENTEEN-A OF THIS ARTICLE, each such track shall
56 dedicate a portion of its vendor fees, received pursuant to clause (A),

1 (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of
2 this subdivision, solely for the purpose of enhancing purses at such
3 track, in an amount equal to eight and three-quarters percent of the
4 total revenue wagered at the vendor track after pay out for prizes. One
5 percent of such purse enhancement amount shall be paid to the gaming
6 commission to be used exclusively to promote and ensure equine health
7 and safety in New York. Any portion of such funding to the gaming
8 commission unused during a fiscal year shall be returned to the video
9 lottery gaming operators on a pro rata basis in accordance with the
10 amounts originally contributed by each operator and shall be used for
11 the purpose of enhancing purses at such track. In addition, with the
12 exception of Aqueduct racetrack AND A FACILITY LOCATED IN NASSAU COUNTY
13 AUTHORIZED PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION A OF SECTION ONE
14 THOUSAND SIX HUNDRED SEVENTEEN-A OF THIS ARTICLE, one and one-quarter
15 percent of total revenue wagered at the vendor track after pay out for
16 prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G)
17 of subparagraph (ii) of paragraph one of this subdivision, shall be
18 distributed to the appropriate breeding fund for the manner of racing
19 conducted by such track.

20 Provided, further, that nothing in this paragraph shall prevent each
21 track from entering into an agreement, not to exceed five years, with
22 the organization authorized to represent its horsemen to increase or
23 decrease the portion of its vendor fee dedicated to enhancing purses at
24 such track during the years of participation by such track, or to race
25 fewer dates than required herein.

26 S 15. Subdivision (f-2) of section 1612 of the tax law, as added by
27 section 42 of a chapter of the laws of 2013 amending the racing, pari-
28 mutuel wagering and breeding law and other laws relating to commercial
29 gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is
30 amended to read as follows:

31 [(f-2)] F-2. As consideration for operation of a video lottery gaming
32 facility located in the county of Nassau established pursuant to a
33 competitive process pursuant to paragraph [(5)] FIVE OF SUBDIVISION A of
34 section [six] ONE thousand [seventeen a] SIX HUNDRED SEVENTEEN-A of this
35 article, the division shall cause the INVESTMENT in the racing industry
36 of the following percentages of the vendor fee to be deposited or paid
37 as follows:

38 [(1)] 1. Two and three tenths percent of the total wagered after
39 payout of prizes for the purpose of enhancing purses at Aqueduct race-
40 track, Belmont Park racetrack and Saratoga race course, provided, howev-
41 er, that any amount that is in excess of the amount necessary to main-
42 tain purse support from video lottery gaming at Aqueduct racetrack,
43 Belmont Park racetrack and Saratoga race course at the same level real-
44 ized [in] in two thousand thirteen, to be adjusted by the consumer price
45 index for all urban consumers, as published annually by the United
46 States department of LABOR, bureau of labor statistics, shall [be]
47 instead be returned to the commission.

48 [(2)] 2. five tenths percent of the total wagered after payout of
49 prizes for the appropriate breeding fund for the manner of racing at
50 Aqueduct racetrack, Belmont Park racetrack and Saratoga race course,
51 provided, however, that any amount that is in excess of the amount
52 necessary to maintain payments from video lottery gaming at Aqueduct
53 racetrack at the same level realized [in] in two thousand thirteen, to
54 be adjusted by the consumer price index for all urban consumers, as
55 published annually by the United States department of LABOR, bureau of
56 labor statistics, shall [be] instead be returned to the commission.

1 [(3)] 3. one and three tenths percent of the total revenue wagered
2 after payout of prizes to be deposited into an account of the franchised
3 corporation established pursuant to section two hundred six of the
4 racing, pari-mutuel wagering and breeding law to be used for capital
5 expenditures in maintaining and upgrading Aqueduct racetrack, Belmont
6 Park racetrack and Saratoga race course, provided, however, that any
7 amount that is in excess of the amount necessary to maintain payments
8 for capital expenditures from video lottery gaming at Aqueduct racetrack
9 at the same level realized [in] in two thousand thirteen, to be adjusted
10 by the consumer price index for all urban consumers, as published annu-
11 ally by the United States department of LABOR, bureau of labor statis-
12 tics, shall [be] instead be returned to the commission.

13 [(4)] 4. Nine tenths percent of the total revenue wagered after payout
14 for prizes to be deposited into an account of the franchised corporation
15 established pursuant to section two hundred six of the racing, pari-mu-
16 tuel wagering and breeding law to be used for general thoroughbred
17 racing operations at Aqueduct racetrack, Belmont Park racetrack and
18 Saratoga race course, provided, however, that any amount that is in
19 excess of the amount necessary to maintain payments for general
20 thoroughbred racing operations from video lottery gaming at Aqueduct
21 racetrack at the same level realized [in] in two thousand thirteen, to
22 be adjusted by the consumer price index for all urban consumers, as
23 published annually by the United States department of LABOR, bureau of
24 labor statistics, shall [be] instead be returned to the commission.

25 S 16. Subdivision 6 of section 1340 of the racing, pari-mutuel wager-
26 ing and breeding law, as added by section 2 of a chapter of the laws of
27 2013 amending the racing, pari-mutuel wagering and breeding law and
28 other laws relating to commercial gaming, as proposed in legislative
29 bill numbers S. 5883 and A. 8101, is amended to read as follows:

30 6. Notwithstanding any provision of law to the contrary, any manufac-
31 turer or wholesaler licensed under the alcoholic beverage control law
32 may, as authorized under the alcoholic beverage control law, sell alco-
33 holic beverages to a gaming facility holding a retail license or permit
34 to sell alcoholic beverages for consumption on the premises issued under
35 this section, and any gaming facility holding a retail license or permit
36 to sell alcoholic beverages FOR CONSUMPTION ON THE PREMISES issued under
37 this section may, as authorized under the alcoholic beverage control
38 law, purchase alcoholic beverages from a manufacturer or wholesaler
39 licensed under the alcoholic beverage control law.

40 S 17. Paragraph 3 of subdivision a of section 1617-a of the tax law,
41 as amended by section 32 of a chapter of the laws of 2013 amending the
42 racing, pari-mutuel wagering and breeding law and other laws relating to
43 commercial gaming, as proposed in legislative bill numbers S. 5883 and
44 A. 8101, is amended to read as follows:

45 (3) at [facilities] ONE FACILITY PER REGION established, pursuant to a
46 competitive process to be determined by the state gaming commission
47 within regions one, two, and five of zone two as established by section
48 one thousand three hundred ten of the racing, pari-mutuel wagering and
49 breeding law following local governmental consultation and consideration
50 of market factors including potential revenue impact, anticipated job
51 development and capital investment to be made. The facilities authorized
52 pursuant to this paragraph shall be deemed vendors for all purposes
53 under this article, and need not be operated by licensed thoroughbred or
54 harness racing associations or corporations.

55 S 18. Clause (G-1) of subparagraph (ii) of paragraph 1 of subdivision
56 b of section 1612 of the tax law, as added by section 40 of a chapter of

the laws of 2013 amending the racing, pari-mutuel wagering and breeding law and other laws relating to commercial gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is amended to read as follows:

(G-1) Notwithstanding clause (A) and (B) of this subparagraph, when a video lottery gaming facility is located in either the county of Nassau or Suffolk and is operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law at a rate of thirty-five percent of the total revenue wagered at the vendor [track] after payout for prizes pursuant to this chapter;

S 19. Clause (G-2) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as added by section 42 of a chapter of the laws of 2013 amending the racing, pari-mutuel wagering and breeding law and other laws relating to commercial gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, are amended to read as follows:

(G-2) Notwithstanding clause (A) and (B) of this subparagraph, when a video lottery gaming facility is located in the county of Nassau established pursuant to a competitive process pursuant to paragraph [(5)] FIVE OF SUBDIVISION A of section [six] ONE thousand SIX HUNDRED seventeen-a of this article at a rate of thirty-five percent of the total revenue wagered at the vendor [track] after payout for prizes pursuant to this chapter;

S 20. Subdivision 1 of section 1311 of the racing, pari-mutuel wagering and breeding law, as added by section 2 of a chapter of the laws of 2013 amending the racing, pari-mutuel wagering and breeding law and other laws relating to commercial gaming, as proposed in legislative bill numbers S. 5883 and A. 8101, is amended to read as follows:

1. The commission is authorized to award up to four gaming facility licenses, in regions one, two and five of zone two. The duration of such initial license shall be ten years. The term of renewal shall be determined by the commission. The commission may award a second license to a qualified applicant in no more than a single region. The commission is not empowered to award any license in zone one. No gaming facilities are authorized under this article for the city of New York or any other portion of zone one.

As a condition of licensure, licensees are required to commence gaming operations no [less] MORE than twenty-four months following license award. No additional licenses may be awarded during the twenty-four month period, nor for an additional sixty months following the end of the twenty-four month period. Should the state legislatively authorize additional gaming facility licenses within these periods, licensees shall have the right to recover the license fee paid pursuant to section one thousand three hundred six of this article.

This right shall be incorporated into the license itself, vest upon the opening of a gaming facility in zone one or in the same region as the licensee and entitle the holder of such license to bring an action in the court of claims to recover the license fee paid pursuant to section one thousand three hundred fifteen of this article in the event that any gaming facility license in excess of the number authorized by this section as of the effective date of this section is awarded within seven years from the date that the initial gaming facility license is awarded. This right to recover any such fee shall be proportionate to the length of the respective period that is still remaining upon the vesting of such right.

Additionally, the right to bring an action in the court of claims to recover the fee paid to the state on the twenty-fourth day of September, two thousand ten, by the operator of a video lottery gaming facility in

1 a city of more than one million shall vest with such operator upon the
2 opening of any gaming facility licensed by the commission in zone one
3 within seven years from the date that the initial gaming facility
4 license is awarded; provided however that the amount recoverable shall
5 be limited to the pro rata amount of the time remaining until the end of
6 the seven year exclusivity period, proportionate to the period of time
7 between the date of opening of the video lottery facility until the
8 conclusion of the seven year period.
9 S 21. This act shall take effect on the same date and in the same
10 manner as a chapter of the laws of 2013 amending the racing, pari-mutuel
11 wagering and breeding law and other laws relating to commercial gaming,
12 as proposed in legislative bill numbers S. 5883 and A. 8101, takes
13 effect.