

6709

I N S E N A T E

February 8, 2016

Introduced by Sen. BONACIC -- 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 certain fiscal requirements imposed with respect to conducting horse races at raceways and racetracks

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

1 Section 1. Subclauses (i) and (ii) of clause (E) of subparagraph 5 of
2 paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel
3 wagering and breeding law, as amended by chapter 18 of the laws of 2008,
4 are amended to read as follows:
5 (i) Such licensed regional harness track shall receive in lieu of any
6 other payments on wagers placed at off-track betting facilities outside
7 the special betting district on races conducted by an in-state thorough-
8 bred racing corporation, two and eight-tenths percent on regular and
9 multiple bets MADE PRIOR TO JANUARY FIRST, TWO THOUSAND SEVENTEEN, TWO
10 AND ONE-TENTHS PERCENT ON SUCH BETS MADE ON AND AFTER JANUARY FIRST, TWO
11 THOUSAND SEVENTEEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND SEVEN-
12 TEEN, AND ONE AND FOUR-TENTHS PERCENT ON SUCH BETS MADE ON AND AFTER
13 JANUARY FIRST, TWO THOUSAND EIGHTEEN during a regional meeting and one
14 and nine-tenths percent of such bets MADE PRIOR TO JANUARY FIRST, TWO
15 THOUSAND SEVENTEEN, ONE AND FOUR HUNDRED TWENTY-FIVE THOUSANDTHS PERCENT
16 ON SUCH BETS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND
17 ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN, AND FOUR-TENTHS
18 PERCENT ON SUCH BETS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND EIGH-
19 TEEN if there is no regional meeting and four and eight-tenths percent
20 on exotic bets MADE PRIOR TO JANUARY FIRST, TWO THOUSAND SEVENTEEN,
21 THREE AND SIX-TENTHS PERCENT ON SUCH BETS MADE ON AND AFTER JANUARY
22 FIRST, TWO THOUSAND SEVENTEEN, AND TWO AND FOUR-TENTHS PERCENT ON SUCH
23 BETS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN on days on
24 which there is a regional meeting and three and four-tenths percent of
25 such bets MADE PRIOR TO JANUARY FIRST, TWO THOUSAND SEVENTEEN, TWO AND
26 FIFTY-FIVE ONE HUNDREDTHS PERCENT ON SUCH BETS MADE ON AND AFTER JANUARY

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

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1 FIRST, TWO THOUSAND SEVENTEEN AND ENDING DECEMBER THIRTY-FIRST, TWO
2 THOUSAND SEVENTEEN, AND ONE AND SEVEN-TENTHS PERCENT ON SUCH BETS MADE
3 ON AND AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN if there is no
4 regional meeting.

5 (ii) [Such] A licensed regional harness track shall receive one and
6 one-half per centum on total regional handle on races conducted at out-
7 of-state or out-of-country thoroughbred tracks PRIOR TO JANUARY FIRST,
8 TWO THOUSAND SEVENTEEN, ONE AND ONE HUNDRED TWENTY-FIVE THOUSANDTHS PER
9 CENTUM ON SUCH HANDLE REALIZED ON AND AFTER JANUARY FIRST, TWO THOUSAND
10 SEVENTEEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN, AND
11 THREE-QUARTERS OF ONE PER CENTUM ON SUCH HANDLE REALIZED ON AND AFTER
12 JANUARY FIRST, TWO THOUSAND EIGHTEEN.

13 S 2. Clause (G) of subparagraph 6 of paragraph b of subdivision 1 of
14 section 1016 of the racing, pari-mutuel wagering and breeding law, as
15 amended by chapter 18 of the laws of 2008, is amended to read as
16 follows:

17 (G) Of the sums retained by a licensed harness facility, PRIOR TO
18 JANUARY FIRST, TWO THOUSAND SEVENTEEN, fifty percent shall be used
19 exclusively for purses awarded in races conducted by such licensed
20 facility and the remaining fifty percent shall be retained by such
21 licensed facility for its general purposes, FOR THE PERIOD BEGINNING
22 JANUARY FIRST, TWO THOUSAND SEVENTEEN AND ENDING DECEMBER THIRTY-FIRST,
23 TWO THOUSAND SEVENTEEN, SEVENTY-FIVE PERCENT SHALL BE USED EXCLUSIVELY
24 FOR PURSES AWARDED IN RACES CONDUCTED BY SUCH LICENSED FACILITY AND THE
25 REMAINING TWENTY-FIVE PERCENT SHALL BE RETAINED BY SUCH LICENSED FACILI-
26 TY FOR ITS GENERAL PURPOSES, AND ON AND AFTER JANUARY FIRST, TWO THOU-
27 SAND EIGHTEEN ONE HUNDRED PERCENT SHALL BE USED EXCLUSIVELY FOR PURSES
28 AWARDED IN RACES CONDUCTED BY SUCH LICENSED FACILITY provided, however,
29 that in a harness special betting district the portion of the sums
30 retained by a licensed harness facility to be used for purses or the
31 methodology for calculating the amount to be used for purses may be
32 specified in a written contract between a harness racing association or
33 corporation and its representative horsemen's association.

34 S 3. Paragraph a of subdivision 2 of section 1017 of the racing, pari-
35 mutuel wagering and breeding law, as amended by chapter 174 of the laws
36 of 2013, is amended to read as follows:

37 a. Maintenance of effort. Any off-track betting corporation which
38 engages in accepting wagers on the simulcasts of thoroughbred races from
39 out-of-state or out-of-country as permitted under subdivision one of
40 this section shall submit to the commission, for its approval, a sched-
41 ule of payments to be made in any year or portion thereof, that such
42 off-track corporation engages in nighttime thoroughbred simulcasting. In
43 order to be approved by the commission, PRIOR TO JANUARY FIRST, TWO
44 THOUSAND SEVENTEEN, the payment schedule shall be identical to the actu-
45 al payments and distributions of such payments to tracks and purses made
46 by such off-track corporation pursuant to the provisions of section one
47 thousand fifteen of this article during the year two thousand two, as
48 derived from out-of-state harness races displayed after 6:00 P.M. FOR
49 THE PERIOD BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN,
50 THE PAYMENT SCHEDULE SHALL BE IDENTICAL TO THE ACTUAL PAYMENTS AND
51 DISTRIBUTIONS OF SUCH PAYMENTS TO PURSES MADE BY SUCH OFF-TRACK CORPO-
52 RATION PURSUANT TO THE PROVISIONS OF SECTION ONE THOUSAND FIFTEEN OF
53 THIS ARTICLE DURING THE YEAR TWO THOUSAND THREE, AS DERIVED FROM
54 OUT-OF-STATE HARNESS RACES DISPLAYED AFTER 6:00 P.M. FOR THE PERIOD
55 BEGINNING JANUARY FIRST, TWO THOUSAND SEVENTEEN AND ENDING DECEMBER
56 THIRTY-FIRST, TWO THOUSAND SEVENTEEN, TWENTY-FIVE PERCENT OF SUCH

PAYMENTS AND DISTRIBUTIONS OF PAYMENTS SHALL BE MADE TO TRACKS, AND ON AND AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN NO SUCH PAYMENTS AND DISTRIBUTIONS OF PAYMENTS SHALL BE MADE TO TRACKS. 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.

S 4. Clause (G) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

(G) Notwithstanding any provision to the contrary, when a vendor track is located within regions one, two, or five of development zone two as defined by section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law OR IS LOCATED WITHIN ONTARIO COUNTY, such vendor track shall receive an additional commission at a rate equal to the percentage of revenue wagered at the vendor track after payout for prizes pursuant to this chapter less ten percent retained by the commission for operation, administration, and procurement purposes and payment of the vendor's fee, marketing allowance, and capital award paid pursuant to this chapter and the effective tax rate paid on all gross gaming revenue paid by a gaming facility within the same region pursuant to section thirteen hundred fifty-one of the racing, pari-mutuel wagering and breeding law. FOR PURPOSES OF THIS CLAUSE THE EFFECTIVE TAX RATE FOR A TRACK LOCATED IN ONTARIO COUNTY SHALL BE DEEMED TO BE THE EFFECTIVE TAX RATE APPLICABLE TO A VENDOR TRACK LOCATED IN REGION FIVE OF DEVELOPMENT ZONE TWO AS DEFINED IN SECTION THIRTEEN HUNDRED TEN OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW. The additional commission shall be paid to the vendor track within sixty days after the conclusion of the state fiscal year based on the calculated percentage during the previous fiscal year.

S 5. Subparagraph (iii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by chapters 174 and 175 of the laws of 2013, is amended to read as follows:

(iii) less an additional vendor's marketing allowance at a rate of [ten] ELEVEN percent for the first one hundred million dollars annually, NINE PERCENT FOR THE NEXT ONE HUNDRED MILLION DOLLARS ANNUALLY, and eight percent thereafter of the total revenue wagered at the vendor track after payout for prizes to be used by the vendor track for the marketing and promotion and associated costs of its video lottery gaming operations and pari-mutuel horse racing operations, as long as any such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such vendor's video lottery gaming facilities, consistent with the customary manner of marketing comparable operations in the industry and subject to the overall supervision of the division; provided, however, that the additional vendor's marketing allowance shall not exceed [eight] ELEVEN percent in any year for any operator of a racetrack located in the county of Westchester or Queens; provided, however, a vendor track that receives a vendor fee pursuant to clause (G) of subparagraph (ii) of this paragraph shall not receive [the additional vendor's] A marketing allowance WHICH IS NOT LESS THAN THE VENDOR'S MARKETING ALLOWANCE RECEIVED IN TWO THOUSAND FIFTEEN; provided, however, except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York shall continue to receive a marketing allowance of [ten] ELEVEN percent on total revenue wagered at the vendor track after payout for prizes in excess of one hundred million dollars annually provided, however, a vendor that receives a vendor fee pursuant to clause (G-1) of subparagraph (ii) of

1 this paragraph shall receive an additional marketing allowance at a rate
2 of [ten] ELEVEN percent of the total revenue wagered at the video
3 lottery gaming facility after payout for prizes. In establishing the
4 vendor fee,

5 S 6. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b
6 of section 1612 of the tax law, as amended by section 1 of part MM of
7 chapter 59 of the laws of 2015, is amended to read as follows:

8 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
9 this subparagraph, the track operator of a vendor track, INCLUDING AQUE-
10 DUCT RACETRACK AND A TRACK LOCATED IN SULLIVAN COUNTY, shall be eligible
11 for a vendor's capital award of up to [four] FIVE percent of the total
12 revenue wagered at the vendor track after payout for prizes pursuant to
13 this chapter, which shall be used exclusively for capital project
14 investments to improve the facilities of the vendor track which promote
15 or encourage increased attendance at the video lottery gaming facility
16 including, but not limited to hotels, other lodging facilities, enter-
17 tainment facilities, retail facilities, dining facilities, events
18 arenas, parking garages and other improvements that enhance facility
19 amenities; provided that such capital investments shall be approved by
20 the division, in consultation with the state racing and wagering board,
21 and that such vendor track demonstrates that such capital expenditures
22 will increase patronage at such vendor track's facilities and increase
23 the amount of revenue generated to support state education programs. The
24 annual amount of such vendor's capital awards that a vendor track shall
25 be eligible to receive shall be limited to [two] FOUR million [five
26 hundred thousand] dollars, except for Aqueduct racetrack[, for which
27 there shall be no vendor's capital awards] AND A TRACK LOCATED IN WEST-
28 CHESTER COUNTY, WHICH SHALL EACH BE ELIGIBLE TO RECEIVE NO MORE THAN
29 FIFTEEN MILLION DOLLARS. Except for tracks having less than one thou-
30 sand one hundred video gaming machines, and except for a vendor track
31 located west of State Route 14 from Sodus Point to the Pennsylvania
32 border within New York, AND A VENDOR TRACK LOCATED IN EITHER SULLIVAN OR
33 SARATOGA COUNTY, each track operator shall be required to co-invest an
34 amount of capital expenditure equal to its cumulative vendor's capital
35 award. For all tracks[, except for Aqueduct racetrack,] the amount of
36 any vendor's capital award that is not used during any one year period
37 may be carried over into subsequent years ending before April first, two
38 thousand [sixteen] TWENTY. Any amount attributable to a capital expend-
39 iture approved prior to April first, two thousand [sixteen] TWENTY and
40 completed before April first, two thousand [eighteen] TWENTY-TWO; [or
41 approved prior to April first, two thousand twenty and completed before
42 April first, two thousand twenty-two for a vendor track located west of
43 State Route 14 from Sodus Point to the Pennsylvania border within New
44 York,] shall be eligible to receive the vendor's capital award. In the
45 event that a vendor track's capital expenditures, approved by the divi-
46 sion prior to April first, two thousand [sixteen] TWENTY and completed
47 prior to April first, two thousand [eighteen] TWENTY-TWO, exceed the
48 vendor track's cumulative capital award during the five year period
49 ending April first, two thousand [sixteen] TWENTY, the vendor shall
50 continue to receive the capital award after April first, two thousand
51 [sixteen] TWENTY until such approved capital expenditures are paid to
52 the vendor track subject to any required co-investment. [In no event
53 shall any vendor track that receives a vendor fee pursuant to clause (F)
54 or (G) of this subparagraph be eligible for a vendor's capital award
55 under this section.] Any operator of a vendor track which has received a
56 vendor's capital award, choosing to [divest] SELL the capital improve-

1 ment toward which the award was applied, prior to the full depreciation
2 of the capital improvement in accordance with generally accepted
3 accounting principles, shall reimburse the state in amounts equal to the
4 total of any such awards. Any capital award not approved for a capital
5 expenditure at a video lottery gaming facility by April first, two thou-
6 sand [sixteen] TWENTY shall be deposited into the state lottery fund for
7 education aid; and

8 S 7. Paragraph 2 of subdivision c of section 1612 of the tax law, as
9 amended by chapter 174 of the laws of 2013, is amended to read as
10 follows:

11 2. Of the ten percent retained by the division for administrative
12 purposes, any amounts beyond that which are necessary for the operation
13 and administration of this [pilot] program shall be [deposited in the
14 lottery education account] MADE AVAILABLE FOR CAPITAL AWARDS.

15 S 8. This act shall take effect immediately.