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

10441--A

I N A S S E M B L Y

May 27, 2016

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the operation of video lottery terminals at Aqueduct racetrack

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

Section 1. Paragraph 4 of subdivision a and subdivision c of section 1617-a of the tax law, paragraph 4 of subdivision a as added and subdivision c as amended by section 1 of part SS of chapter 60 of the laws of 2016, are amended and a new subdivision d-1 is added to read as follows:

(4) Aqueduct racetrack, within the lottery terminal facility, pursuant to an agreement between the corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law in the Nassau region and the operator of video lottery gaming at Aqueduct racetrack, when such agreement is approved by the gaming commission and as long as such agreement is in place, and when such agreement is accompanied by a detailed spending plan for the corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law in the Nassau region, which includes a plan for the timely payment of liabilities due to the franchised corporation AND THE FAIR AND EQUITABLE DISTRIBUTION OF FUNDS BY THE CORPORATION ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED TWO OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW IN THE NASSAU REGION TO THE PARTICIPATING COUNTIES, and when such video lottery devices are hosted by the operator of video lottery gaming at Aqueduct racetrack on behalf of the corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law in the Nassau region in lieu of the development of a facility in Nassau county as authorized by paragraph three of THIS subdivision [a of this section]. Such agreement reached by the parties shall identify the agency principally responsible for funding, approving or undertaking any actions of such agreement. Provided, however, nothing in this paragraph shall infringe upon the rights of the corporation established pursuant to section five hundred two of the

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

LBD15686-02-6

racing, pari-mutuel wagering and breeding law in the Nassau region to develop a facility pursuant to paragraph three of this subdivision upon the expiration, termination, or withdrawal of such agreement.

c. The terminals authorized pursuant to paragraph four of subdivision a of this section shall:

(i) be deemed as operated by the corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law in the Nassau region for the purposes of section sixteen hundred twelve of this chapter and the distributions therefrom made as if the video lottery devices were located in Nassau county;

(ii) consist exclusively of electronic table games, unless otherwise approved by the gaming commission and the director of the division of the budget; [and]

(iii) be individually designated as hosted[.]; AND

(IV) BE IN ADDITION TO THE NUMBER OF TERMINALS IN OPERATION AT THE AQUEDUCT VIDEO LOTTERY TERMINAL FACILITY ON THE FIRST OF APRIL, TWO THOUSAND SIXTEEN.

D-1. THE OPERATOR OF VIDEO LOTTERY GAMING AT AQUEDUCT RACETRACK SHALL BE REQUIRED TO MAINTAIN AT MINIMUM, THE AMOUNTS FOR AID TO EDUCATION, FROM VIDEO LOTTERY GAMING AT AQUEDUCT RACETRACK AT THE DOLLAR LEVEL REALIZED IN TWO THOUSAND FIFTEEN, TO BE ADJUSTED BY THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, AS PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

S 2. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by section 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016, 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 and in the case of Aqueduct, the video lottery terminal facility operator, 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 AND IN THE CASE OF AQUEDUCT, THE VIDEO LOTTERY TERMINAL FACILITY OPERATOR, 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 annual limit,] provided, however, that any such capital award for the Aqueduct video lottery terminal facility operator shall be one percent of the total revenue wagered at the video lottery terminal facility after payout for prizes pursuant to this chapter until the earlier of the designation of one thousand video lottery devices as hosted pursuant to paragraph four of subdivision a of section sixteen hundred seventeen-a of this chapter or April first, two thousand nineteen and shall then be four percent of the total revenue wagered at the video lottery terminal facility after payout for prizes pursuant to this

chapter, provided, further, that such capital award shall only be provided pursuant to an agreement with the operator to construct an expansion of the facility, hotel, and convention and exhibition space requiring a minimum capital investment of three hundred million dollars. 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, and except for Aqueduct racetrack 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 seventeen. Any amount attributable to a capital expenditure approved prior to April first, two thousand seventeen and completed before April first, two thousand nineteen; or approved prior to April first, two thousand twenty-one and completed before April first, two thousand twenty-three 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 seventeen and completed prior to April first, two thousand nineteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand seventeen, the vendor shall continue to receive the capital award after April first, two thousand seventeen 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 generally 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 seventeen shall be deposited into the state lottery fund for education aid; and

S 3. This act shall take effect immediately; provided, however that section two of this act shall take effect on the same date and in the same manner as section 2 of part SS of chapter 60 of the laws of 2016, takes effect.