

STATE OF NEW YORK

4068

2017-2018 Regular Sessions

IN SENATE

February 2, 2017

Introduced by Sen. MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the tax law, in relation to video gaming machines and disposition of revenues

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision
2 b of section 1612 of the tax law, as separately amended by section
3 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016,
4 is amended to read as follows:

5 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
6 this subparagraph, the track operator of a vendor track and in the case
7 of Aqueduct, the video lottery terminal facility operator, shall be
8 eligible for a vendor's capital award of up to four percent of the total
9 revenue wagered at the vendor track after payout for prizes pursuant to
10 this chapter, which shall be used exclusively for capital project
11 investments to improve the facilities of the vendor track which promote
12 or encourage increased attendance at the video lottery gaming facility
13 including, but not limited to hotels, other lodging facilities, entertainment
14 facilities, retail facilities, dining facilities, events
15 arenas, parking garages and other improvements that enhance facility
16 amenities; provided that such capital investments shall be approved by
17 the division, in consultation with the [~~state racing and wagering board~~]
18 gaming commission, and that such vendor track demonstrates that such
19 capital expenditures will increase patronage at such vendor track's
20 facilities and increase the amount of revenue generated to support state
21 education programs. The annual amount of such vendor's capital awards
22 that a vendor track shall be eligible to receive shall be limited to two
23 million five hundred thousand dollars, except for Aqueduct racetrack,
24 for which there shall be no annual limit, provided, however, that any

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

LBD02966-02-7

1 such capital award for the Aqueduct video lottery terminal facility
2 operator shall be one percent of the total revenue wagered at the video
3 lottery terminal facility after payout for prizes pursuant to this chap-
4 ter until the earlier of the designation of one thousand video lottery
5 devices as hosted pursuant to paragraph four of subdivision a of section
6 sixteen hundred seventeen-a of this chapter or April first, two thousand
7 nineteen and shall then be four percent of the total revenue wagered at
8 the video lottery terminal facility after payout for prizes pursuant to
9 this chapter, provided, further, that such capital award shall only be
10 provided pursuant to an agreement with the operator to construct an
11 expansion of the facility, hotel, and convention and exhibition space
12 requiring a minimum capital investment of three hundred million dollars.
13 Except for tracks having less than one thousand ~~one~~ nine hundred video
14 gaming machines, and except for a vendor track located west of State
15 Route 14 from Sodus Point to the Pennsylvania border within New York,
16 and except for Aqueduct racetrack each track operator shall be required
17 to co-invest an amount of capital expenditure equal to its cumulative
18 vendor's capital award. For all tracks, except for Aqueduct racetrack,
19 the amount of any vendor's capital award that is not used during any one
20 year period may be carried over into subsequent years ending before
21 April first, two thousand ~~seventeen~~ nineteen. Any amount attributable
22 to a capital expenditure approved prior to April first, two thousand
23 ~~seventeen~~ nineteen and completed before April first, two thousand
24 ~~nineteen~~ twenty-one; or approved prior to April first, two thousand
25 ~~twenty-one~~ twenty-three and completed before April first, two thousand
26 ~~twenty-three~~ twenty-five for a vendor track located west of State
27 Route 14 from Sodus Point to the Pennsylvania border within New York,
28 shall be eligible to receive the vendor's capital award. In the event
29 that a vendor track's capital expenditures, approved by the ~~division~~
30 gaming commission prior to April first, two thousand ~~seventeen~~ nine-
31 teen and completed prior to April first, two thousand ~~nineteen~~ twen-
32 ty-one, exceed the vendor track's cumulative capital award during the
33 five year period ending April first, two thousand ~~seventeen~~ nineteen,
34 the vendor shall continue to receive the capital award after April
35 first, two thousand ~~seventeen~~ nineteen until such approved capital
36 expenditures are paid to the vendor track subject to any required co-in-
37 vestment. In no event shall any vendor track that receives a vendor fee
38 pursuant to clause (F) or (G) of this subparagraph be eligible for a
39 vendor's capital award under this section. Any operator of a vendor
40 track which has received a vendor's capital award, choosing to divest
41 the capital improvement toward which the award was applied, prior to the
42 full depreciation of the capital improvement in accordance with general-
43 ly accepted accounting principles, shall reimburse the state in amounts
44 equal to the total of any such awards. Any capital award not approved
45 for a capital expenditure at a video lottery gaming facility by April
46 first, two thousand ~~seventeen~~ nineteen shall be deposited into the
47 state lottery fund for education aid; and

48 § 2. This act shall take effect immediately.