

# STATE OF NEW YORK

8417--A

2019-2020 Regular Sessions

## IN ASSEMBLY

June 16, 2019

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

AN ACT to amend the tax law and the state finance law, in relation to video lottery gaming in the town of Woodbury

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

1 Section 1. Clause (B) of subparagraph (ii) of paragraph 1 of subdivision  
2 b of section 1612 of the tax law is amended by adding a new  
3 subclause 5 to read as follows:

4 (5) sixty-four percent for a video lottery gaming facility authorized  
5 pursuant to paragraph five of subdivision a of section sixteen hundred  
6 seventeen-a of this article;

7 § 2. Paragraph 2 of subdivision b of section 1612 of the tax law, as  
8 amended by section 1 of part 00 of chapter 59 of the laws of 2014, is  
9 amended to read as follows:

10 2. As consideration for the operation of a video lottery gaming facil-  
11 ity, the division, shall cause the investment in the racing industry of  
12 a portion of the vendor fee received pursuant to paragraph one of this  
13 subdivision in the manner set forth in this subdivision. With the  
14 exception of Aqueduct racetrack, a video lottery gaming facility author-  
15 ized pursuant to paragraph five of subdivision a of section sixteen  
16 hundred seventeen-a of this article or a facility in the county of  
17 Nassau or Suffolk operated by a corporation established pursuant to  
18 section five hundred two of the racing, pari-mutuel wagering and breed-  
19 ing law, each such track shall dedicate a portion of its vendor fees,  
20 received pursuant to clause (A), (B), ~~(B-1), (B-2),~~ (C), or (D)~~[(E),~~  
21 ~~(F), or (G)]~~ of subparagraph (ii) of paragraph one of this subdivision,  
22 for the purpose of enhancing purses at such track, in an amount equal to  
23 eight and three-quarters percent of the total revenue wagered at the  
24 vendor track after pay out for prizes. One percent of the gross purse

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

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1 enhancement amount, as required by this subdivision, shall be paid to  
2 the gaming commission to be used exclusively to promote and ensure  
3 equine health and safety in New York. Any portion of such funding to the  
4 gaming commission unused during a fiscal year shall be returned to the  
5 video lottery gaming operators on a pro rata basis in accordance with  
6 the amounts originally contributed by each operator and shall be used  
7 for the purpose of enhancing purses at such track. One and one-half  
8 percent of the gross purse enhancement amount at a thoroughbred track,  
9 as required by this subdivision, shall be paid to an account established  
10 pursuant to section two hundred twenty-one-a of the racing, pari-mutuel  
11 wagering and breeding law to be used exclusively to provide health  
12 insurance for jockeys. In addition, with the exception of Aqueduct race-  
13 track, a video lottery gaming facility authorized pursuant to paragraph  
14 five of subdivision a of section sixteen hundred seventeen-a of this  
15 article or a facility in the county of Nassau or Suffolk operated by a  
16 corporation established pursuant to section five hundred two of the  
17 racing, pari-mutuel wagering and breeding law, one and one-quarter  
18 percent of total revenue wagered at the vendor track after pay out for  
19 prizes, received pursuant to clause (A), (B), (B-1), (B-2), (C), or  
20 (D)~~[ , (E), (F), or (G) ]~~ of subparagraph (ii) of paragraph one of this  
21 subdivision, shall be distributed to the appropriate breeding fund for  
22 the manner of racing conducted by such track.

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

29 § 3. Subdivision h of section 1612 of the tax law, as amended by chap-  
30 ter 174 of the laws of 2013, is amended to read as follows:

31 h. As consideration for the operation of a video lottery gaming  
32 [~~resort~~] facility located in [~~Sullivan county~~] the town of Woodbury,  
33 county of Orange, the division shall cause the investment in the racing  
34 industry at the following amount from the vendor fee to be paid as  
35 follows:

36 As amount to the horsemen for purses at a licensed racetrack in Sulli-  
37 van county [~~and to the agriculture and New York state horse breeding~~  
38 ~~development fund to maintain racing support payments at the same dollar~~  
39 ~~levels realized in two thousand thirteen, to be adjusted by the consumer~~  
40 ~~price index for all urban consumers, as published annually by the United~~  
41 ~~States department of labor bureau of labor statistics]~~ in an amount  
42 equal to eight and three-quarters percent of the total revenue wagered  
43 at the video lottery gaming facility, after pay out for prizes. The  
44 horsemen at a licensed racetrack in Sullivan county shall pay to the  
45 horsemen at a licensed racetrack at Yonkers racetrack an amount to main-  
46 tain purses for such horsemen at the same dollar levels realized in two  
47 thousand eighteen, to be adjusted by the consumer price index for all  
48 urban consumers, as published annually by the United States department  
49 of labor bureau of labor statistics. In addition, one and one-quarter  
50 percent of total revenue wagered at the video lottery gaming facility  
51 after pay out for prizes, received pursuant to clause (B) of subpara-  
52 graph (ii) of paragraph one of subdivision b of this section, shall be  
53 distributed to the appropriate breeding fund for the manner of racing  
54 conducted by such track. In no circumstance shall net proceeds of the  
55 lottery, including the proceeds from video lottery gaming, be used for

1 the payment of non-lottery expenses of the gaming commission, adminis-  
2 trative or otherwise.

3 § 4. Subdivision a of section 1617-a of the tax law is amended by  
4 adding four new paragraphs 5, 6, 7 and 8 to read as follows:

5 (5) At a facility located in the town of Woodbury, county of Orange to  
6 be operated by the entity otherwise licensed to operate video lottery  
7 gaming at Monticello racetrack, provided that: (i) such licensed entity  
8 is no longer operating video lottery gaming at Monticello racetrack and  
9 provided that Monticello racetrack is conducting racing operations; (ii)  
10 such facility in the town of Woodbury, county of Orange is not sited  
11 within a thirty mile radius of the video lottery gaming facility at  
12 Yonkers racetrack; and (iii) the licensed entity, its subsidiaries and  
13 affiliates, including the entity licensed to operate a commercial gaming  
14 facility in Sullivan county, and the entity licensed to operate video  
15 lottery gaming at Yonkers racetrack enter into a mitigation agreement,  
16 to be approved by the gaming commission, which shall include, but not be  
17 limited to, terms that require: (A) the operator of the facility in the  
18 town of Woodbury, county of Orange to make an annual payment to the  
19 entity licensed to operate video lottery gaming or commercial gaming at  
20 Yonkers racetrack to account for the effects that siting such facility  
21 in Orange county would likely have on the gross gaming revenue of the  
22 entity licensed to operate at Yonkers racetrack; (B) employment levels  
23 at the affected facilities; and (C) that upon expiration or termination  
24 of the agreement, the authority to operate video lottery gaming in  
25 Orange county shall cease. Notwithstanding any other provision of this  
26 subdivision, at no time shall an entity operating video lottery gaming  
27 in Orange county be permitted to apply for or receive a license to oper-  
28 ate a commercial gaming facility in that county. Notwithstanding any  
29 other provision of law to the contrary, at no time shall an entity oper-  
30 ating video lottery gaming in the town of Woodbury, county of Orange be  
31 permitted to enter into any agreement with, or accept any benefit from,  
32 an entity authorized pursuant to article eighteen-a of the general  
33 municipal law, including but not limited to payments in lieu of taxes  
34 authorized by section eight hundred fifty-eight of the general municipal  
35 law.

36 (6) Notwithstanding any other provision of law to the contrary, as a  
37 condition of the license to operate a video lottery gaming facility  
38 located in the town of Woodbury, county of Orange, such operator shall  
39 provide an annual certification to the New York state gaming commission  
40 that the staffing levels at a commercial gaming facility located in zone  
41 two, region one pursuant to section thirteen hundred ten of the racing,  
42 pari-mutuel wagering and breeding law (or any successor commercial  
43 gaming facility located in said region) are no less than one thousand  
44 four hundred thirteen full-time, permanent employees. In furtherance of  
45 and without limiting the foregoing, the licensee for the commercial  
46 gaming facility located in zone two, region one pursuant to section  
47 thirteen hundred ten of the racing, pari-mutuel wagering and breeding  
48 law (or any successor commercial gaming facility located in such region)  
49 shall not conduct any mass, involuntary layoff events that would trigger  
50 worker adjustment and retraining notification (WARN) act notifications  
51 pursuant to article twenty-five-A of the labor law or otherwise result  
52 in the employment levels at such facility dropping below levels mandated  
53 by this section. For purposes of this section, "full-time, permanent  
54 employee" shall mean an employee who has worked at the facility for a  
55 minimum of thirty-five hours per week for not less than four consecutive  
56 weeks and who is entitled to receive the usual and customary fringe

1 benefits extended to other employees with comparable rank and duties; or  
 2 two part-time employees who have worked at the facility for a combined  
 3 minimum of thirty-five hours per week for not less than four consecutive  
 4 weeks and who are entitled to receive the usual and customary fringe  
 5 benefits extended to other employees with comparable rank and duties.

6 (7) Notwithstanding any other provision of law to the contrary, as a  
 7 condition of the license to operate a video lottery gaming facility  
 8 located in the town of Woodbury, county of Orange, such operator shall  
 9 maintain assistance payments made pursuant to section fifty-four-1 of  
 10 the state finance law to the village of Monticello, Sullivan county, the  
 11 town of Thompson, Sullivan county, and Sullivan county. Payments made  
 12 pursuant to this paragraph shall be made quarterly at the same dollar  
 13 level realized by such municipalities in two thousand eighteen, to be  
 14 adjusted annually pursuant to changes in the consumer price index for  
 15 all urban consumers, as published annually by the United States depart-  
 16 ment of labor bureau of labor statistics. As an additional condition  
 17 for such license, such operator shall maintain additional quarterly  
 18 assistance payments to Sullivan county in annualized amounts equal to  
 19 the sales taxes paid to such county by the operator of the commercial  
 20 gaming facility located in zone two, region one pursuant to section  
 21 thirteen hundred ten of the racing, pari-mutuel wagering and breeding  
 22 law (or any successor commercial gaming facility located in said region)  
 23 in the year two thousand eighteen, to be adjusted annually pursuant to  
 24 changes in the consumer price index for all urban consumers, as  
 25 published annually by the United States department of labor bureau of  
 26 labor statistics.

27 (8) Notwithstanding any other provision of law to the contrary, no  
 28 license shall be granted to operate a video gaming facility located in  
 29 the town of Woodbury, county of Orange, prior to the execution of a  
 30 memorandum of understanding between such operator and the county of  
 31 Sullivan, which shall be approved by passage of a resolution of the  
 32 Sullivan county legislature. Such memorandum of understanding shall  
 33 include, but not be limited to, terms that provide for a one-time  
 34 payment in the amount of one million dollars from such operator to the  
 35 county of Sullivan, in addition to any other terms.

36 § 5. Section 54-1 of the state finance law is amended by adding a new  
 37 subdivision 5 to read as follows:

38 5. Notwithstanding any other provision of law to the contrary, all  
 39 municipalities within which the facility referenced in paragraph five of  
 40 subdivision a of section sixteen hundred seventeen-a of the tax law is  
 41 located, shall be eligible for state assistance to eligible cities and  
 42 eligible municipalities pursuant to this section; provided, however,  
 43 that if such facility is located within the geographic boundaries of  
 44 more than one village, each such village shall receive an equal amount  
 45 of state assistance pursuant to this section. State assistance awarded  
 46 to such cities and municipalities shall not be less than three million  
 47 dollars per award regardless of the number of such cities or munici-  
 48 palties receiving such award.

49 § 6. This act shall take effect immediately; provided, however, that  
 50 no video lottery gaming may be conducted at any facility within Orange  
 51 county unless and until the mitigation agreement required by this act is  
 52 executed by all parties and approved by the gaming commission.