

STATE OF NEW YORK

6596

2019-2020 Regular Sessions

IN SENATE

June 17, 2019

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

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

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

2. As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry of a portion of the vendor fee received pursuant to paragraph one of this subdivision in the manner set forth in this subdivision. With the exception of Aqueduct racetrack, a video lottery gaming facility authorized pursuant to paragraph five of subdivision a of section sixteen hundred seventeen-a of this article or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, each such track shall dedicate a portion of its vendor fees, received pursuant to clause (A), (B), (B-1), (B-2), (C), or (D) [~~(E), (F), or (G)~~] of subparagraph (ii) of paragraph one of this subdivision, for the purpose of enhancing purses at such track, in an amount equal to eight and three-quarters percent of the total revenue wagered at the vendor track after pay out for prizes. One percent of the gross purse enhancement amount, as required by this subdivision, shall be paid to

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

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

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

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

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

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

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

(5) At a facility located in the town of Woodbury, county of Orange to be operated by the entity otherwise licensed to operate video lottery gaming at Monticello racetrack, provided that: (i) such licensed entity is no longer operating video lottery gaming at Monticello racetrack and provided that Monticello racetrack is conducting racing operations; (ii) such facility in the town of Woodbury, county of Orange is not sited within a thirty mile radius of the video lottery gaming facility at Yonkers racetrack; and (iii) the licensed entity, its subsidiaries and affiliates, including the entity licensed to operate a commercial gaming facility in Sullivan county, and the entity licensed to operate video lottery gaming at Yonkers racetrack enter into a mitigation agreement, to be approved by the gaming commission, which shall include, but not be limited to, terms that require: (A) the operator of the facility in the town of Woodbury, county of Orange to make an annual payment to the entity licensed to operate video lottery gaming or commercial gaming at Yonkers racetrack to account for the effects that siting such facility in Orange county would likely have on the gross gaming revenue of the entity licensed to operate at Yonkers racetrack; (B) employment levels at the affected facilities; and (C) that upon expiration or termination of the agreement, the authority to operate video lottery gaming in Orange county shall cease. Notwithstanding any other provision of this subdivision, at no time shall an entity operating video lottery gaming in Orange county be permitted to apply for or receive a license to operate a commercial gaming facility in that county. Notwithstanding any other provision of law to the contrary, at no time shall an entity operating video lottery gaming in the town of Woodbury, county of Orange be permitted to enter into any agreement with, or accept any benefit from, an entity authorized pursuant to article eighteen-a of the general municipal law, including but not limited to payments in lieu of taxes authorized by section eight hundred fifty-eight of the general municipal law.

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

1 minimum of thirty-five hours per week for not less than four consecutive
2 weeks and who are entitled to receive the usual and customary fringe
3 benefits extended to other employees with comparable rank and duties.

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

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

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

36 5. Notwithstanding any other provision of law to the contrary, all
37 municipalities within which the facility referenced in paragraph five of
38 subdivision a of section sixteen hundred seventeen-a of the tax law is
39 located, shall be eligible for state assistance in a total combined
40 amount of at least three million dollars per year; provided, however,
41 that the county of Orange shall receive, from such state assistance
42 payments, a minimum of seven hundred fifty thousand dollars per year,
43 the town of Woodbury, county of Orange shall receive a minimum of seven
44 hundred fifty thousand dollars per year, the village of Woodbury, county
45 of Orange shall receive a minimum of seven hundred fifty thousand
46 dollars per year, and the village of Harriman, county of Orange shall
47 receive a minimum of seven hundred fifty thousand dollars per year.

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