

STATE OF NEW YORK

6525--B

2019-2020 Regular Sessions

IN SENATE

June 14, 2019

Introduced by Sens. SKOUFIS, ADDABBO, METZGER, MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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:

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) sixty-four 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,

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

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

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

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

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

39 As amount to the horsemen for purses at a licensed racetrack in Sulli-
40 van county ~~[and to the agriculture and New York state horse breeding~~
41 ~~development fund to maintain racing support payments at the same dollar~~
42 ~~levels realized in two thousand thirteen, to be adjusted by the consumer~~
43 ~~price index for all urban consumers, as published annually by the United~~
44 ~~States department of labor bureau of labor statistics]~~ in an amount
45 equal to eight and three-quarters percent of the total revenue wagered
46 at the video lottery gaming facility, after pay out for prizes. The
47 horsemen at a licensed racetrack in Sullivan county shall pay to the
48 horsemen at a licensed racetrack at Yonkers racetrack an amount to main-
49 tain purses for such horsemen at the same dollar levels realized in two
50 thousand eighteen, to be adjusted by the consumer price index for all
51 urban consumers, as published annually by the United States department
52 of labor bureau of labor statistics. In addition, one and one-quarter
53 percent of total revenue wagered at the video lottery gaming facility
54 after pay out for prizes, received pursuant to clause (B) of subpara-
55 graph (ii) of paragraph one of subdivision b of this section, shall be
56 distributed to the appropriate breeding fund for the manner of racing

1 conducted by such track. In no circumstance shall net proceeds of the
2 lottery, including the proceeds from video lottery gaming, be used for
3 the payment of non-lottery expenses of the gaming commission, adminis-
4 trative or otherwise.

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

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

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

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

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

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

38 § 5. Section 54-l of the state finance law is amended by adding a new
39 subdivision 5 to read as follows:

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

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