

# STATE OF NEW YORK

7866--A

## IN SENATE

February 27, 2020

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming 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 investment of funds wagered on video lottery gaming; and to amend the state finance law, in relation to establishing the MTA support fund

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

Section 1. Subdivisions f and f-1 of section 1612 of the tax law, subdivision f as amended by chapter 174 of the laws of 2013, paragraph 1 of subdivision f as amended by section 2 of part 00 of chapter 59 of the laws of 2014, and subdivision f-1 as amended by chapter 175 of the laws of 2013, are amended to read as follows:

f. As consideration for the operation of the video lottery gaming facility at Aqueduct racetrack, the division shall cause the investment in the racing industry of the following percentages of the vendor fee to be deposited or paid, as follows:

1. ~~[Six and one-half percent of the total wagered after payout of prizes for the first year of operation of video lottery gaming at Aqueduct racetrack, seven percent of the total wagered after payout of prizes for the second year of operation, and seven and one-half percent of the total wagered after payout of prizes for the third year of operation and thereafter, for the purpose of enhancing purses at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course. One percent of the gross purse enhancement amount, as required by this subdivision, shall be paid to the gaming commission to be used exclusively to promote and ensure equine health and safety in New York. Any portion of such funding to the gaming commission unused during a fiscal year shall be returned on a pro rata basis in accordance with the amounts originally contributed and shall be used for the purpose of enhancing purses at such tracks. One and one-half percent of the gross purse enhancement amount, as required by this subdivision, shall be paid to an account established pursuant to section two hundred twenty one a of the racing,~~

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

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~~1 pari-mutuel wagering and breeding law to be used exclusively to provide~~  
~~2 health insurance for jockeys.~~

3 ~~2.]~~ One percent of the total wagered after payout of prizes for the  
4 first year of operation of video lottery gaming at Aqueduct racetrack,  
5 one and one-quarter percent of the total wagered after payout of prizes  
6 for the second year of operation, and one and one-half percent of the  
7 total wagered after payout of prizes for the third year of operation and  
8 thereafter, for an appropriate breeding fund for the manner of racing  
9 conducted at Aqueduct racetrack, Belmont Park racetrack and Saratoga  
10 race course.

11 ~~[3. Four percent of the total revenue wagered after payout of prizes~~  
~~12 to be deposited into an account of the franchised corporation estab-~~  
~~13 lished pursuant to section two hundred six of the racing, pari-mutuel~~  
~~14 wagering and breeding law to be used for capital expenditures in main-~~  
~~15 taining and upgrading Aqueduct racetrack, Belmont Park racetrack and~~  
~~16 Saratoga race course.~~

17 ~~4. Three percent of the total revenue wagered after payout for prizes~~  
~~18 to be deposited into an account of the franchised corporation estab-~~  
~~19 lished pursuant to section two hundred six of the racing, pari-mutuel~~  
~~20 wagering and breeding law to be used for general thoroughbred racing~~  
~~21 operations at Aqueduct racetrack, Belmont Park racetrack and Saratoga~~  
~~22 race course.~~

23 ~~5. Paragraphs] 2. Paragraph one[, two, three and four]~~ of this subdi-  
24 vision shall be known ~~[collectively]~~ as the "racing support payments".  
25 As consideration for the operation of video lottery terminals, fourteen  
26 and one-half percent of the total wagered after payout of prizes for the  
27 third year of operation and thereafter, for the purpose of funding the  
28 capital expenditures of the metropolitan transportation authority. Such  
29 funds shall be placed into the MTA support fund established pursuant to  
30 section ninety-nine-hh of the state finance law.

31 f-1. As consideration for operation of a video lottery gaming facility  
32 located in the county of Nassau or Suffolk and operated by a corporation  
33 established pursuant to section five hundred two of the racing, pari-mu-  
34 tuel wagering and breeding law, the division shall cause the investment  
35 in the racing industry of the following percentages of the vendor fee to  
36 be deposited or paid as follows:

37 ~~1. [Two and three tenths percent of the total wagered after payout of~~  
~~38 prizes for the purpose of enhancing purses at Aqueduct racetrack,~~  
~~39 Belmont Park racetrack and Saratoga race course, provided, however, that~~  
~~40 any amount that is in excess of the amount necessary to maintain purse~~  
~~41 support from video lottery gaming at Aqueduct racetrack, Belmont Park~~  
~~42 racetrack and Saratoga race course at the same level realized in two~~  
~~43 thousand thirteen, to be adjusted by the consumer price index for all~~  
~~44 urban consumers, as published annually by the United States department~~  
~~45 of labor, bureau of labor statistics, shall instead be returned to the~~  
~~46 commission.~~

47 ~~2.]~~ five tenths percent of the total wagered after payout of prizes  
48 for the appropriate breeding fund for the manner of racing at Aqueduct  
49 racetrack, Belmont Park racetrack and Saratoga race course, provided,  
50 however, that any amount that is in excess of the amount necessary to  
51 maintain payments from video lottery gaming at Aqueduct racetrack at the  
52 same level realized in two thousand thirteen, to be adjusted by the  
53 consumer price index for all urban consumers, as published annually by  
54 the United States department of labor, bureau of labor statistics, shall  
55 instead be returned to the commission.

~~[3. one and three tenths percent of the total revenue wagered after payout of prizes to be deposited into an account of the franchised corporation established pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law to be used for capital expenditures in maintaining and upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race course, provided, however, that any amount that is in excess of the amount necessary to maintain payments for capital expenditures from video lottery gaming at Aqueduct racetrack at the same level realized in two thousand thirteen, 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, shall instead be returned to the commission.]~~

~~4. Nine tenths percent of the total revenue wagered after payout for prizes to be deposited into an account of the franchised corporation established pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law to be used for general thoroughbred racing operations at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course, provided, however, that any amount that is in excess of the amount necessary to maintain payments for general thoroughbred racing operations from video lottery gaming at Aqueduct racetrack at the same level realized in two thousand thirteen, 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, shall instead be returned to the commission]~~

2. four and one-half percent of the total wagered after payout of prizes for the third year of operation and thereafter, for the purpose of funding the capital expenditures of the metropolitan transportation authority. Such funds shall be placed into the MTA support fund established pursuant to section ninety-nine-hh of the state finance law.

§ 2. The opening paragraph of paragraph 2 of subdivision b of section 1612 of the tax law, as amended by section 2 of part S of chapter 39 of the laws of 2019, is amended to read as follows:

As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry and the MTA support fund 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) of subparagraph (ii) of paragraph one of this subdivision, for the purpose of ~~[enhancing purses at such track]~~ funding capital expenditures of the metropolitan transportation authority, 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 the gaming commission to be used exclusively to promote and ensure equine health and safety in New York. Any portion of such funding to the gaming commission unused during a fiscal year shall be returned to the video lottery gaming operators on a pro rata basis in accordance with the amounts originally contributed by each operator and shall be used for the purpose of enhancing purses at such track. One and one-half percent of the gross purse enhancement amount at a thoroughbred track, as~~

~~required by this subdivision, shall be paid to an account established pursuant to section two hundred twenty one-a of the racing, pari-mutuel wagering and breeding law to be used exclusively to provide health insurance for jockeys]~~ eleven and one-quarter percent of the total revenue wagered after payout of prizes for the third year of operation and thereafter, for the purpose of funding the capital expenditures of the metropolitan transportation authority. Such funds shall be placed into the MTA support fund established pursuant to section ninety-nine-hh of the state finance law. In addition, 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, one and one-quarter percent of total revenue wagered at the vendor track after pay out for prizes, received pursuant to clause (A), (B), (B-1), (B-2), (C), or (D) of subparagraph (ii) of paragraph one of this subdivision, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track.

§ 3. Subdivision h of section 1612 of the tax law, as amended by section 3 of part S of chapter 39 of the laws of 2019, is amended to read as follows:

h. As consideration for the operation of a video lottery gaming facility located in Orange county, the division shall cause the investment in the racing industry at the following amount from the vendor fee to be paid as follows:

~~[An amount to the horsemen for purses at a licensed racetrack in Sullivan county in an amount equal to eight and three-quarters percent of the total revenue wagered at the video lottery gaming facility, after pay out for prizes. The facility located in Orange county, as defined in paragraph five of subdivision a of section sixteen hundred seventeen-a of this article shall pay to the horsemen at a licensed racetrack at Yonkers racetrack an amount to maintain purses for such horsemen at the same dollar levels realized in two thousand eighteen, 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. In addition,]~~ one and one-quarter percent of total revenue wagered at the video lottery gaming facility after pay out for prizes, received pursuant to clause (B) of subparagraph (ii) of paragraph one of subdivision b of this section, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track. In no circumstance shall net proceeds of the lottery, including the proceeds from video lottery gaming, be used for the payment of non-lottery expenses of the gaming commission, administrative or otherwise eleven and one-quarter percent of the total revenue wagered after payout of prizes for the third year of operation and thereafter, for the purpose of funding the capital expenditures of the metropolitan transportation authority. Such funds shall be placed into the MTA support fund established pursuant to section ninety-nine-hh of the state finance law.

§ 4. The state finance law is amended by adding a new section 99-hh to read as follows:

§ 99-hh. MTA support fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller a fund to be known as the "MTA support fund".

2. Such fund shall consist of all revenues received pursuant to subdivisions f and f-1 of section sixteen hundred twelve of the tax law and

1 all other moneys appropriated, credited or transferred thereto from any  
2 other fund or source pursuant to law. Nothing contained in this section  
3 shall prevent the state from receiving grants, gifts or bequests for the  
4 purposes of the fund as defined in this section and depositing them into  
5 the fund according to law.

6 3. Monies of the fund shall be expended only by the metropolitan  
7 transportation authority for the purpose of funding capital expenditures  
8 of the authority.

9 4. Monies shall be payable from the fund on the audit and warrant of  
10 the comptroller on vouchers approved and certified by the chairman of  
11 the metropolitan transportation authority.

12 5. To the extent practicable, the chairman of the metropolitan trans-  
13 portation authority shall ensure that all monies received during a  
14 fiscal year are expended prior to the end of that fiscal year.

15 § 5. This act shall take effect immediately.