

# STATE OF NEW YORK

1890

2021-2022 Regular Sessions

## IN SENATE

January 16, 2021

Introduced by Sens. SKOUFIS, ADDABBO, MAYER -- 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 and the state finance law, in relation to video lottery gaming in the town of Woodbury; and to repeal certain provisions of the state finance law relating thereto

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

1 Section 1. Subclause 5 of clause (B) of subparagraph (ii) of paragraph  
2 1 of subdivision b of section 1612 of the tax law, as added by section 1  
3 of part S of chapter 39 of the laws of 2019, is amended to read as  
4 follows:

5 (5) [~~forty-nine~~] sixty-four percent for a video lottery gaming facili-  
6 ty authorized pursuant to paragraph five of subdivision a of section  
7 sixteen hundred seventeen-a of this article;

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

11 h. As consideration for the operation of a video lottery gaming facil-  
12 ity located in the town of Woodbury, county of Orange [~~county~~], the  
13 division shall cause the investment in the racing industry at the  
14 following amount from the vendor fee to be paid as follows:

15 As amount to the horsemen for purses at a licensed racetrack in Sulli-  
16 van county in an amount equal to eight and three-quarters percent of the  
17 total revenue wagered at the video lottery gaming facility, after pay  
18 out for prizes. The [~~facility located~~] horsemen at a licensed racetrack  
19 in [~~Orange~~] Sullivan county, [~~as defined in paragraph five of subdivi-~~  
20 ~~sion a of section sixteen hundred seventeen-a of this article~~] shall pay  
21 to the horsemen at a licensed racetrack at Yonkers racetrack an amount  
22 to maintain purses for such horsemen at the same dollar levels realized  
23 in two thousand eighteen, to be adjusted by the consumer price index for

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

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1 all urban consumers, as published annually by the United States depart-  
2 ment of labor bureau of labor statistics. In addition, one and one-quar-  
3 ter percent of total revenue wagered at the video lottery gaming facili-  
4 ty after pay out for prizes, received pursuant to clause (B) of  
5 subparagraph (ii) of paragraph one of subdivision b of this section,  
6 shall be distributed to the appropriate breeding fund for the manner of  
7 racing conducted by such track. In no circumstance shall net proceeds of  
8 the lottery, including the proceeds from video lottery gaming, be used  
9 for the payment of non-lottery expenses of the gaming commission, admin-  
10 istrative or otherwise.

11 § 4. Paragraphs 5 and 6 of subdivision a of section 1617-a of the tax  
12 law, as added by section 4 of part S of chapter 39 of the laws of 2019,  
13 are amended and two new paragraphs 8 and 9 are added to read as  
14 follows:

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

46 (6) Notwithstanding any other provision of law to the contrary, as a  
47 condition of the license to operate a video lottery gaming facility  
48 located in the town of Woodbury, county of Orange [~~county~~], such opera-  
49 tor shall provide an annual certification to the New York state gaming  
50 commission that the staffing levels at a commercial gaming facility  
51 located in zone two, region one pursuant to section thirteen hundred ten  
52 of the racing, pari-mutuel wagering and breeding law (or any successor  
53 commercial gaming facility located in said region) are no less than one  
54 thousand four hundred seventy-three full-time, permanent employees. In  
55 furtherance of and without limiting the foregoing, the licensee for the  
56 commercial gaming facility located in zone two, region one pursuant to

1 section thirteen hundred ten of the racing, pari-mutuel wagering and  
2 breeding law (or any successor commercial gaming facility located in  
3 such region) shall not conduct any mass, involuntary layoff events that  
4 would trigger worker adjustment and retraining notification (WARN) act  
5 notifications pursuant to article twenty-five-A of the labor law or  
6 otherwise result in the employment levels at such facility dropping  
7 below levels mandated by this section. For purposes of this section,  
8 "full-time, permanent employee" shall mean an employee who has worked at  
9 the facility for a minimum of thirty-five hours per week for not less  
10 than four consecutive weeks and who is entitled to receive the usual and  
11 customary fringe benefits extended to other employees with comparable  
12 rank and duties; or two part-time employees who have worked at the  
13 facility for a combined minimum of thirty-five hours per week for not  
14 less than four consecutive weeks and who are entitled to receive the  
15 usual and customary fringe benefits extended to other employees with  
16 comparable rank and duties.

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

38 (9) Notwithstanding any other provision of law to the contrary, no  
39 license shall be granted to operate a video lottery gaming facility  
40 located in the town of Woodbury, county of Orange, prior to the  
41 execution of a memorandum of understanding between such operator and the  
42 county of Sullivan, which shall be approved by passage of a resolution  
43 of the Sullivan county legislature. Such memorandum of understanding  
44 shall include, but not be limited to, terms that provide for a one-time  
45 payment in the amount of one million dollars from such operator to the  
46 county of Sullivan, in addition to any other terms.

47 § 5. Subdivision 5 of section 54-1 of the state finance law is  
48 REPEALED and a new subdivision 5 is added to read as follows:

49 5. Notwithstanding any other provision of law to the contrary, all  
50 municipalities within which the facility referenced in paragraph five of  
51 subdivision a of section sixteen hundred seventeen-a of the tax law is  
52 located, shall be eligible for state assistance to eligible cities and  
53 eligible municipalities pursuant to this section; provided, however,  
54 that if such facility is located within the geographic boundaries of  
55 more than one village, each such village shall receive an equal amount  
56 of state assistance pursuant to this section. State assistance awarded

1 to such cities and municipalities shall not be less than three million  
2 dollars per award regardless of the number of such cities or munici-  
3 palities receiving such award.

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