

STATE OF NEW YORK

4409

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

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. Subclause 5 of clause (B) of subparagraph (ii) of paragraph
2 1 of subdivision b of section 1612 of the tax law, as amended by section
3 1 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 facility
6 authorized pursuant to paragraph [~~five~~ eight] of subdivision a of
7 section sixteen hundred seventeen-a of this article;

8 § 2. Paragraph 2 of subdivision b of section 1612 of the tax law, as
9 amended by section 2 of part S of chapter 39 of the laws of 2019, is
10 amended to read as follows:

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

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

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1 amount, as required by this subdivision, shall be paid to the gaming
2 commission to be used exclusively to promote and ensure equine health
3 and safety in New York. Any portion of such funding to the gaming
4 commission unused during a fiscal year shall be returned to the video
5 lottery gaming operators on a pro rata basis in accordance with the
6 amounts originally contributed by each operator and shall be used for
7 the purpose of enhancing purses at such track. One and one-half percent
8 of the gross purse enhancement amount at a thoroughbred track, as
9 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~~ eight] of subdivision a of section sixteen hundred seventeen-a of
15 this article or a facility in the county of Nassau or Suffolk operated
16 by a 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 (D)
20 of subparagraph (ii) of paragraph one of this subdivision, shall be
21 distributed to the appropriate breeding fund for the manner of racing
22 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
30 section 3 of part S of chapter 39 of the laws of 2019, is amended to
31 read as follows:

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

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

55 § 4. Subdivision a of section 1617-a of the tax law is amended by
56 adding four new paragraphs 8, 9, 10 and 11 to read as follows:

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

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

1 weeks and who are entitled to receive the usual and customary fringe
2 benefits extended to other employees with comparable rank and duties.

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

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

33 § 5. Section 54-1 of the state finance law is amended by adding a new
34 subdivision 6 to read as follows:

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

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