STATE OF NEW YORK

5541

2021-2022 Regular Sessions

IN SENATE

March 10, 2021

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to skill based amusement games

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

Section 1. The alcoholic beverage control law is amended by adding a new section 132 to read as follows:

§ 132. Skill based amusement games. 1. As used in this section, "skill based amusement game" means a game played in exchange for consideration of cash, credit or other thing of value on a fixed, commercial electrical gaming device consisting of one or more player stations in which the strategy and skill of the player, rather than any inherent element of chance, is the primary factor in determining the outcome, and for which the player may be awarded a prize or other thing of value for a successful outcome, and meets the following criteria:

(a) "Skill" means the human attributes of a player such as knowledge, dexterity, visual cognition, logic, memory, reaction, strength, agility, athleticism, hand-to-eye coordination, numerical and/or lexical ability, or any other ability or expertise relevant to game play.

(b) A single play on a skill based amusement game shall begin with consideration and a player action and end when no further progress can be made without additional consideration.

(c) The ability of any player to succeed at the game shall not be impacted by the number or ratio of prior wins to prior losses of players playing the game, including through the use of a compensating algorithm.

(d) Neither the occurrence of a chance event that cannot be altered by a player's action nor the output of a random number generator shall determine the outcome of a game.

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

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(e) A skill based amusement game shall have no automatic winners, and no prize shall be awarded without application of the player's skill and strategy.

(f) Increased game prizes shall require a higher level of skill and strategy from the player.

(g) A skill based amusement game shall require that skill be used during the main play of the game and not only at the end of a game.

(h) The player shall have available a means to win more than the cost to play on every game played.

(i) The skill required to succeed shall not be so difficult that a normal, average person cannot achieve success.

(j) The player shall have access to information that identifies every possible award type and such information shall be accessible at all times, except during a game in progress.

(k) A skill based amusement game on an electrical gaming device shall not be a facsimile of a casino table game, card game, bingo game or spinning reel game.

(l) A user of a skill based amusement game shall be at least twenty-one years of age.

2. The authority shall license manufacturers, operators and locations of skill based amusement games pursuant to rules and regulations promulgated by the authority. Fees for such licenses shall be five thousand dollars for a manufacturer, five hundred dollars for an operator, and one hundred dollars for a location. Locations shall only be licensees for sale of alcohol at retail issued pursuant to the provisions of this chapter, excluding racetracks and casinos.

3. Each manufacturer shall provide access to a data collection and management system to the authority which shall collect and report the following information from each device: (a) cash in, (b) payouts, (c) points played, (d) points won, (e) gross terminal income, (f) net terminal revenue, (g) the number of plays of the game, (h) the amounts paid to play the game, and (i) any other information required by regulations of the authority.

4. There is hereby imposed a tax of ten percent of gross device revenue. "Gross device revenue" means the total of cash or cash equivalents received by a skill based amusement game terminal device minus the total of cash or cash equivalents paid out to players as a result of playing such skill based amusement game. Such tax shall be calculated and paid to the authority by each manufacturer on a monthly basis based on the gross device revenue earned during the prior month. Taxes collected pursuant to the provisions of this section shall be deposited in the state general fund.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.