

STATE OF NEW YORK

6144

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. PRETLOW, LUPARDO, BUTTENSCHON -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to the tax on gaming revenues in certain regions

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

1 Section 1. Subdivision 1 of section 1351 of the racing, pari-mutuel
2 wagering and breeding law, as amended by section 1 of part 000 of chap-
3 ter 59 of the laws of 2021, is amended to read as follows:

4 1. (a) For a gaming facility in zone two, there is hereby imposed a
5 tax on gross gaming revenues. The amount of such tax imposed shall be as
6 follows; provided, however, should a licensee have agreed within its
7 application to supplement the tax with a binding supplemental fee
8 payment exceeding the aforementioned tax rate, such tax and supplemental
9 fee shall apply for a gaming facility:

10 (1) in region two, forty-five percent of gross gaming revenue from
11 slot machines and ten percent of gross gaming revenue from all other
12 sources.

13 (2) in region one, thirty-nine percent of gross gaming revenue from
14 slot machines and ten percent of gross gaming revenue from all other
15 sources.

16 (3) in region five, thirty-seven percent of gross gaming revenue from
17 slot machines and ten percent of gross gaming revenue from all other
18 sources. It shall be required that both casinos located in such region
19 shall be taxed on gross gaming revenue at the same percentages as each
20 other at all times.

21 (b) (1) Notwithstanding the rates in paragraph (a) of this subdivi-
22 sion, a gaming facility may petition the commission to lower the tax
23 rate applicable to its slot machines to no lower than thirty percent. In
24 analyzing such request, the commission shall evaluate the petition using
25 the following criteria:

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

LBD09068-02-3

(i) the ability of the licensee to satisfy the license criterion of financial stability absent the tax rate reduction;

(ii) a complete examination of all financial projections, as well as gaming revenues generated for the prior annual period;

(iii) the licensee's intended use of the funds resulting from a tax adjustment;

(iv) the inability of the operator to remain competitive under the current tax structure;

(v) positions advanced by other gaming operators in the state in response to the petition;

(vi) the impact on the competitive landscape;

(vii) other economic factors such as employment and the potential impact upon other businesses in the region; and

(viii) the public interest to be served by a tax adjustment, including the impact upon the state in the event the operator is unable to remain financially viable.

(2) The commission shall report their recommendation solely based on the criteria listed in subparagraph one of this paragraph to the director of the division of budget who will make a final approval.

(3) (i) As a condition of the lower slot machine tax rate, such gaming facility shall provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing the projected use of funds resulting from such tax adjustment and a plan that prescribes the manner in which the licensed gaming facility potentially receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the rehiring of laid-off employees or the creation of new jobs. Such plan shall also clearly establish quarterly and annual employment goals of increasing full-time employees. Such initial report and accompanying plan shall be due at the time a facility is granted a tax adjustment. Thereafter, an annual report shall be made to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing actual use of the funds resulting from such tax adjustment. Such report shall include, but not be limited to, any impact on employment levels since receiving the funds, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility, any relevant information that helped in the determination of such slot tax rate reduction, and any other information as deemed necessary by the commission. Such report shall be due no later than the first day of the fourth quarter after such tax rate has been granted.

(ii) (A) At the conclusion of each year, a licensed gaming facility shall provide an affirmation in writing to the commission stating the employment goal in clause (i) of this subparagraph was either met or not met as described in the initial report. If the licensed gaming facility is found to have not adhered to the plan by the commission, then the applicable slot tax rate shall be adjusted at the discretion of the commission as follows:

1. If the actual employment number is more than fifty percent less than the employment goal, then the slot tax rate shall be increased by ten percentage points.

2. If the actual employment number is more than forty percent less than the employment goal, then the slot tax rate shall be increased by eight percentage points.

1 3. If the actual employment number is more than thirty percent less
2 than the employment goal, then the slot tax rate shall be increased by
3 six percentage points.

4 4. If the actual employment number is more than twenty percent less
5 than the employment goal, then the slot tax rate shall be increased by
6 four percentage points.

7 5. If the actual employment number is more than ten percent less than
8 the employment goal, then the slot tax rate shall be increased by two
9 percentage points.

10 (B) Such finding and the reasoning thereof shall occur no later than
11 thirty days following submission of the written affirmation.

12 (iii) A licensed gaming facility may petition the commission to lower
13 the tax rate applicable to its slot machines to no lower than thirty
14 percent no more than once annually after the effective date of the chap-
15 ter of the laws of two thousand twenty-one which amended this subdivi-
16 sion. A licensed gaming facility may request a revision to its plan in
17 its initial report due to unforeseen circumstances.

18 § 2. Subdivision 1 of section 1351 of the racing, pari-mutuel wagering
19 and breeding law, as added by chapter 174 of the laws of 2013, is
20 amended to read as follows:

21 1. For a gaming facility in zone two, there is hereby imposed a tax on
22 gross gaming revenues. The amount of such tax imposed shall be as
23 follows; provided, however, should a licensee have agreed within its
24 application to supplement the tax with a binding supplemental fee
25 payment exceeding the aforementioned tax rate, such tax and supplemental
26 fee shall apply for a gaming facility:

27 (a) in region two, forty-five percent of gross gaming revenue from
28 slot machines and ten percent of gross gaming revenue from all other
29 sources.

30 (b) in region one, thirty-nine percent of gross gaming revenue from
31 slot machines and ten percent of gross gaming revenue from all other
32 sources.

33 (c) in region five, thirty-seven percent of gross gaming revenue from
34 slot machines and ten percent of gross gaming revenue from all other
35 sources. It shall be required that both casinos located in such region
36 shall be taxed on gross gaming revenue at the same percentages as each
37 other at all times.

38 § 3. This act shall take effect immediately and shall be deemed to
39 have been in full force and effect on and after April 1, 2022; provided,
40 however, that the amendments to subdivision 1 of section 1351 of the
41 racing, pari-mutuel wagering and breeding law made by section one of
42 this act shall be subject to the expiration and reversion of such subdivi-
43 sion pursuant to section 2 of part 000 of chapter 59 of the laws of
44 2021, when upon such date the provisions of section two of this act
45 shall take effect.