

SPONSOR: Sen. Bushweller & Rep. Carson & Rep. Paradee
Sens. Bonini, Cloutier, Delcollo, Ennis, Henry, Lawson, Pettyjohn, Poore; Reps. Hensley, Keeley, Kowalko, Lynn, Matthews, Mulrooney, D. Short, Smyk, Spiegelman, Viola, Yearick

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
TO
SENATE BILL NO. 144
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LOTTERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4815(b)(3)a., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b)(3)a. Proceeds returned to the State. — Except as otherwise provided by this paragraph, of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section, there shall be returned to the State ~~43 1/2%~~ 42 ½%. For licensees which conducted 40 or fewer (but at least 1) days of live harness horse races during 1992, should such licensees' video lottery proceeds, net of proceeds returned to players, at the end of any fiscal year fall below $107,500,000, then, in the subsequent fiscal year, there shall be returned to the State ~~42 1/2%~~ 41 ½% of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section.

Section 2. Amend § 4815(b)(3)a., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4815. State Lottery Fund.

(b)(3)a. Proceeds returned to the State. — Except as otherwise provided by this paragraph, of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section, there shall be returned to the State ~~42 ½%~~ 42 ½%, less any qualified capital expenditure adjustment provided for in this paragraph. For licensees which conducted 40 or fewer (but at least 1) days of live harness horse races during 1992, should such licensees' video lottery proceeds, net of proceeds returned to players, at the end of any fiscal year fall below $107,500,000, then, in the subsequent fiscal year, there shall be returned to the State 41 ½% of amounts remaining after all payments under

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paragraphs (b)(1) and (b)(2) of this ~~section.~~ section, less any qualified capital expenditure adjustment provided for in this paragraph.

1. Beginning in fiscal year 2020, for each video lottery agent, the percentage of proceeds returned to the State shall be decreased by 2% if such video lottery agent's qualified capital expenditures equal or exceed 3% of video lottery agent net proceeds remaining after payments made under paragraph (b)(1) of this section for the calendar year ending the immediately preceding December 31. Notwithstanding the first sentence of this paragraph (3)a.1. of this section, for calendar year ending December 31, 2018, only, qualified capital expenditures must equal or exceed 2.8%.

2. For purposes of this paragraph (b)(3)a. of this section, "qualified capital expenditures" means amounts properly characterized as capital expenditures under generally accepted accounting principles during each calendar year ending December 31 and apply to any facilities used by the video lottery agent in connection with its operations. "Qualified capital expenditures" does not include payments made for debt service.

3. Any amounts incurred or paid in any single year which exceed the 3% required for the adjustment under paragraph (b)(3)a.1. of this section may be carried forward for no more than 2 years.

Section 3. Amend §4815(b)(4)b.1., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b)(4)b. Purses. —

1. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Thoroughbred Racing Commission, for races conducted at such agent's racetrack in accordance with § 10148 of Title 3 or § 427 of Title 28 as appropriate, in an amount calculated as follows: ~~9%~~ 9.3% of the proceeds remaining after payments made under paragraph (b)(1) of this section. Five hundred thousand dollars of those proceeds, which would otherwise fund purses, on an annual basis, shall fund a Delaware Certified Thoroughbred Program (DCTP) to enhance the quantity of thoroughbred foals and/or yearlings stabled within Delaware for a period meeting the Delaware minimum residency requirement. The DCTP shall be administered by a Board comprised of the following:

Section 4. Amend § 4815(b)(4)b.2., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b)(4)b. Purses. —

2. For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Harness Racing Commission to purses for races conducted at such agent's racetrack in accordance with § 10048 of Title 3, in an amount calculated as follows: ~~10.75%~~ 11.05% of the proceeds remaining after payments made under paragraph (b)(1) of this section.

Section 5. Amend § 4815(b)(4)b.1., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b)(4)b. Purses. —

1. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Thoroughbred Racing Commission, for races conducted at such agent's racetrack in accordance with § 10148 of Title 3 or § 427 of Title 28 as appropriate, in an amount calculated as follows: ~~9.3%~~ 9.6% of the proceeds remaining after payments made under paragraph (b)(1) of this section. Five hundred thousand dollars of those proceeds, which would otherwise fund purses, on an annual basis, shall fund a Delaware Certified Thoroughbred Program (DCTP) to enhance the quantity of thoroughbred foals and/or yearlings stabled within Delaware for a period meeting the Delaware minimum residency requirement. The DCTP shall be administered by a Board comprised of the following:

Section 6. Amend § 4815(b)(4)b.2., Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b)(4)b. Purses. —

2. For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such agents shall be paid and shall pay additional purses (and related administrative expenses

of the horse racing association) to be applied under the direction of the Delaware Harness Racing Commission to purses for races conducted at such agent's racetrack in accordance with § 10048 of Title 3, in an amount calculated as follows: ~~11.05%~~ 11.35% of the proceeds remaining after payments made under paragraph (b)(1) of this section.

Section 7. Amend § 4815(d), Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(d) Gross table game revenue shall be electronically transferred daily or weekly at the direction of the Lottery Director into a designated state lottery account by the agent, and transferred to the State Lottery Fund by the lottery on a daily or weekly basis. Gross table game revenue shall be applied as follows:

(1) Proceeds returned to the State. —

a. Except as otherwise provided by this paragraph, of gross table game revenue, there shall be returned to the State ~~29.4%.~~ 15.5%.

Section 8. Amend § 4819, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4819. Restrictions on location and use of video lottery and sports lottery machines; fees.

(c) Video lottery machines and sports lottery machines shall be connected to the lottery's central computer system, except when used for promotional tournaments in which players are not required to pay any fee to ~~participate,~~ participate. ~~and shall not be available for play on Christmas, or after 4:00 a.m. on Easter. Subject to the foregoing, the~~ The specific hours of operation for each video lottery agent are subject to the recommendation of the Lottery Director and the approval of the Secretary of Finance.

(d)(1) For the privilege of hosting the operation of table games, the State shall collect from the video lottery agents for the benefit of the General Fund, for each fiscal year after June 30, ~~2011,~~ 2018, license fees totaling ~~$13,250,000,~~ $3,000,000, to be paid no later than June 1 of the preceding fiscal year, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of ~~$13,250,000~~ $3,000,000 that is equal to the percentage of gross table game revenue generated at that video lottery facility in the preceding fiscal year out of the total gross table game revenue generated at all video lottery facilities in the preceding fiscal year.

(2) The license fee required under paragraph (d)(1) of this section is suspended for fiscal year 2020, and no payment is owed to the Delaware Lottery on June 1, 2019. For each fiscal year thereafter, each ~~Each~~ video lottery agent shall be permitted for purposes of this subsection to reduce the license fee it would otherwise owe for that year

pursuant to paragraph (d)(1) of this section by the amount of qualified ~~investments, up to a cap of $10,250,000 for all video lottery agents,~~ investments made in the 12-month period ending on June 30 by the video lottery agent in the competitiveness of its facilities and ~~business.~~ business, if such qualified investments are increased by the amount of such video lottery agent's proportional share of the $3,000,000 license fee. The video lottery agents shall provide the Director annually an accounting of the qualified investments made pursuant to this paragraph. A qualified investment pursuant to this paragraph shall be determined by the Director to benefit the competitiveness or services of such video lottery agent and may include expenditures for all of the following:

a. ~~Amounts paid out for new or enhanced buildings or permanent improvements or betterments to video lottery facilities or immediately adjacent property or properties that are owned by video lottery licensees that would not be deductible for purposes of § 263(a)(1) of the Internal Revenue Code (26 U.S.C. § 263(a)(1)), or amounts paid out to service debt incurred in the construction of buildings or permanent improvements or betterments; or~~ Marketing of lottery games promotional items provided to patrons, with complimentary items valued at their normal retail value.

b. ~~Expenditures for marketing of lottery games and promotion items provided to patrons,~~ Wages and benefits, including health care and retiree benefits, of the video lottery facility's operations, excluding executive compensation, all as determined by the ~~Office~~ Director to be in excess of the comparable amount of such expenditures made by the video lottery agent during the 12-month period ending ~~June 30, 2012,~~ December 31, 2017, measured as a percentage of the proceeds from the operation of the video lottery and table games.

(3) Expenditures for marketing, wages, or benefits under paragraph (d)(2) of this section apply to any facilities used by the video lottery agent in direct connection with its operations, including its video lottery, sports lottery and table games facilities, horse racing facilities, food and beverage operations, entertainment venues, retail operations, parking facilities, and if applicable, hotel and golf course amenities.

Section 9. Sections 1, 3, 4, 7, and 8 take effect on July 1, 2018, and Sections 2, 5, and 6 takes effect on July 1, 2019.