

2018 Regular Session

SENATE BILL NO. 320

BY SENATOR JOHNS

GAMING. Provides for a deduction of fees attributable to qualified wagers. (8/1/18)

AN ACT

To amend and reenact R.S. 27:44(21) through (25), 205(31) through (34), and 353(10) through (14) and to enact R.S. 27:44(26) and 95, 205(35), 253, 353(15), and 395, relative to Louisiana Gaming Control Law; to provide relative to riverboat gaming; to provide relative to eligible live racing facilities; to provide relative to the Louisiana Economic Development and Gaming Corporation; to define qualified wager and qualified wagering; to provide for the portion of license and franchise fees charged to riverboat gaming licensees attributable to qualified wagering; to provide for a baseline amount; to provide for a deduction from net gaming proceeds; to provide for the portion of taxable net slot machine proceeds attributable to qualified wagering; to provide for a deduction from net slot machine proceeds; to provide for the portion of minimum compensation and annual fee charged to the casino operator attributable to qualified wagering; to provide for a deduction from gross revenues; to allow a licensee to reapply for a new baseline amount; to provide for the Louisiana Gaming Control Board; to provide for rulemaking; to provide for limitations; to provide for an effective date; to provide for restrictions; to provide for definitions; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 27:44(21) through (25), 205(31) through (34), and 353(10) through
3 (14) are hereby amended and reenacted and R.S. 27:44(26) and 95, 205(35), 253, 353(15),
4 and 395 are hereby enacted to read as follows:

5 §44. Definitions

6 * * *

7 (21) **"Qualified wager" or "qualified wagering" means wagers placed by**
8 **patrons using noncashable vouchers, promotional chips, coupons, electronic**
9 **credits, electronic promotions, scrips, or any other cash equivalent that is**
10 **provided to the patron by the licensee.**

11 (22) "Racehorse wagering" means wagers placed on horse racing conducted
12 under the pari-mutuel form of wagering at licensed racing facilities that is accepted
13 by a licensed racehorse wagering operator under the provisions of this Chapter.

14 ~~(22)~~(23) "Racehorse wagering operator" means the licensed racing
15 association whose facility is located closest to the licensed berth of the riverboat on
16 which gaming activities are approved.

17 ~~(23)~~(24) "Riverboat" means a vessel which:

18 (a) Carries a valid Certificate of Inspection issued by the United States Coast
19 Guard with regard to the carriage of passengers on designated rivers or waterways
20 within or contiguous to the boundaries of the state of Louisiana.

21 (b) Carries a valid Certificate of Inspection from the United States Coast
22 Guard for the carriage of a minimum of six hundred passengers and crew.

23 (c) Has a minimum length of one hundred fifty feet.

24 (d) Is of such type and design so as to replicate as nearly as practicable
25 historic Louisiana river borne steamboat passenger vessels of the nineteenth century
26 era. It shall not, however, be a requirement that the vessel be steam-propelled or
27 maintain overnight facilities for its passengers.

28 (e) Is paddlewheel driven.

29 ~~(24)~~(25) "Slot machine" means any mechanical, electrical, or other device,

1 contrivance, or machine which, upon insertion of a coin, token, or similar object
 2 therein or upon payment of any consideration whatsoever, is available to play or
 3 operate, the play or operation of which, whether by reason of the skill of the operator
 4 or application of the element of chance, or both, may deliver or entitle the person
 5 playing or operating the machine to receive cash, premiums, merchandise, tokens,
 6 or anything of value, whether the payoff is made automatically from the machine or
 7 in any other manner.

8 ~~(25)~~**(26)** "Supervisor" means the person in charge of the division.

9 * * *

10 **§95. Deduction of qualified wagers from net gaming proceeds; procedures;**
 11 **limitations**

12 **A. On and after July 1, 2020, a licensee may apply to the board to**
 13 **establish a baseline amount of license and franchise fees paid on the portion of**
 14 **net gaming proceeds attributable to qualified wagering. The license and**
 15 **franchise fees paid pursuant to R.S. 27:91(B)(2) and (C) shall be used to**
 16 **determine the baseline amount.**

17 **B. In any subsequent year and on an annual basis, if the portion of the**
 18 **license and franchise fees attributable to qualified wagering exceeds the baseline**
 19 **amount, a licensee may deduct the difference of the amount of the license and**
 20 **franchise fees paid on qualified wagering and the baseline amount from that**
 21 **year's net gaming proceeds.**

22 **C. In any subsequent year, if a licensee is unable to utilize the deduction**
 23 **provided in Subsection B of this Section, the licensee may reapply to the board**
 24 **to establish a new baseline amount.**

25 **D. The board shall prescribe the form and manner of the deduction and**
 26 **shall promulgate rules in accordance with the Administrative Procedure Act to**
 27 **implement the provisions of this Section.**

28 * * *

29 §205. Definitions

* * *

(31) **"Qualified wager" or "qualified wagering" means wagers placed by patrons using noncashable vouchers, promotional chips, coupons, electronic promotions, scrips, or any other cash equivalent that is provided to the patron by the licensee.**

(32) "Security" means the protection of information that would or could provide an unfair advantage to any individual involved in the operation of the casino gaming; protection and preservation of the integrity of casino gaming games and operations; as well as measures taken to prevent crimes against a gaming operator or the corporation.

~~(32)~~(33) "Slot machine" means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or, operate the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

~~(33)~~(34) "Suitable" or "suitability requirements" shall have the same meaning as that term defined in R.S. 27:3.

~~(34)~~(35) "Vendor" means any person who has entered into a major procurement contract with the corporation.

* * *

§253. Deduction of qualified wagers from gross revenue; procedures; limitations

A. On and after July 1, 2020, the casino operator may apply to the board to establish a baseline amount of minimum compensation and licensing fee paid on the portion of gross revenue attributable to qualified wagering. The minimum compensation paid pursuant to R.S. 27:241 and 241.1 and annual

1 licensing fee paid pursuant to R.S. 27:251 shall be used to determine the
2 baseline amount.

3 B. In any subsequent year and on an annual basis, if the portion of the
4 minimum compensation and licensing fee attributable to qualified wagering
5 exceeds the baseline amount, a licensee may deduct the difference of the amount
6 of the minimum compensation and licensing fee paid on qualified wagering and
7 the baseline amount from that year's gross revenues.

8 C. In any subsequent year, if a licensee is unable to utilize the deduction
9 provided in Subsection B of this Section, the licensee may reapply to the board
10 to establish a new baseline amount.

11 D. The board shall prescribe the form and manner of the deduction and
12 shall promulgate rules in accordance with the Administrative Procedure Act to
13 implement the provisions of this Section.

14 E. The board shall amend the casino operating contract to reflect the
15 provisions of this Section.

16 * * *

17 §353. Definitions

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19 (10) "Qualified wager" or "qualified wagering" means wagers placed by
20 patrons using noncashable vouchers, promotional chips, coupons, electronic
21 promotions, scrips, or any other cash equivalent that is provided to the patron
22 by the licensee.

23 (11) "Service technician" means any person other than a licensee or
24 manufacturer who repairs, services, inspects, or examines slot machines.

25 ~~(11)~~(12) Repealed by Acts 2001, No. 1222, §2, eff. July 2, 2001.

26 ~~(12)~~(13) "Slot machine gaming" means the use, operation, offering, or
27 conducting of slot machines at an eligible facility in accordance with the provisions
28 of this Chapter.

29 ~~(13)~~(14) "Taxable net slot machine proceeds" means "net slot machine

1 proceeds" less the amount of support, payment, or contributions required as provided
2 in R.S. 27:361(B)(4).

3 ~~(14)~~**(15)** "Slot machine" means any mechanical, electrical, or other device,
4 contrivance, or machine which, upon insertion of a coin, token, or similar object
5 therein or upon payment of any consideration whatsoever, is available to play or
6 operate, the play or operation of which, whether by reason of the skill of the operator
7 or application of the element of chance, or both, may deliver or entitle the person
8 playing or operating the machine to receive cash, premiums, merchandise, tokens,
9 or anything of value, whether the payoff is made automatically from the machine or
10 in any other manner.

11 * * *

12 **§395. Deduction of qualified wagers from net slot machine proceeds;**
13 **procedures; limitations**

14 **A. On and after July 1, 2020, a licensee may apply to the board to**
15 **establish a baseline amount of taxes and contributions paid on the portion of net**
16 **slot machine proceeds attributable to qualified wagering. The taxes and**
17 **contributions paid pursuant to R.S. 27:361(B)(4) and 393 shall be used to**
18 **determine the baseline amount.**

19 **B. In any subsequent year and on an annual basis, if the portion of the**
20 **taxes and contributions attributable to qualified wagering exceeds the baseline**
21 **amount, a licensee may deduct the difference of the amount of the taxes and**
22 **contributions paid on qualified wagering and the baseline amount from that**
23 **year's net slot machine proceeds.**

24 **C. In any subsequent year, if a licensee is unable to utilize the deduction**
25 **provided in Subsection B of this Section, the licensee may reapply to the board**
26 **to establish a new baseline amount.**

27 **D. The board shall prescribe the form and manner of the deduction and**
28 **shall promulgate rules in accordance with the Administrative Procedure Act to**
29 **implement the provisions of this Section.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Menou.

DIGEST

SB 320 Engrossed

2018 Regular Session

Johns

Present law defines "net gaming proceeds" as the total of all cash and property received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

Riverboat Gaming Licensee

Present law provides for license and franchise fees to be charged to all riverboat gaming licensees for the right to conduct gaming activities on a riverboat. Further provides for the fees to be a percentage of the net gaming proceeds.

Proposed law retains present law.

Proposed law defines "qualified wager" or "qualified wagering" as wagers placed by patrons using noncashable vouchers, promotional chips, coupons, electronic credits, electronic promotions, scrips, or any other cash equivalent that is provided to the patron by the licensee.

Proposed law provides that on and after July 1, 2020, a riverboat gaming licensee may apply to the board to establish a baseline amount of license and franchise fees paid on the portion of net gaming proceeds attributable to qualified wagering.

Proposed law provides that in any subsequent year, if the portion of the license and franchise fees attributable to qualified wagering exceeds the baseline amount, a licensee may deduct the difference of the amount of the license and franchise fees paid on qualified wagering and the baseline amount from that year's net gaming proceeds.

Proposed law provides that in any subsequent year if the license and franchise fees paid on qualified wagering do not exceed the baseline amount, the licensee may reapply to the board to establish a new baseline amount.

Proposed law provides that the board shall prescribe the form and manner of the deduction and shall promulgate rules to implement the provisions of proposed law.

Land-Based Casino Operations

Present law, regarding land-based casino operations, defines "gross revenue" as the total of all value received by the casino gaming operator from gaming operations, including cash, checks, vouchers, instruments and anything received in payment for credit extended to a patron for purposes of gaming, and compensation received for conducting any game in which the casino gaming operator is not party to a wager, less the total of all value or amounts paid out as winnings to patrons and credit instruments or checks which are uncollected as determined by rule of the corporation.

Present law provides that the casino operator must pay to the La. Economic Development and Gaming Corporation (the corporation) a minimum compensation of the greater of 18.5% of gross revenues or 100 million dollars annually. Further, the casino operator must pay to the board a minimum compensation of the greater of 18.5% of gross revenues or 60 million dollars annually.

Present law provides for an annual licensing fee to be set forth in rules promulgated by the corporation.

Proposed law retains present law.

Proposed law provides that on and after July 1, 2020, the casino operator may apply to the board to establish a baseline amount of minimum compensation and licensing fee paid on the portion of gross revenue attributable to qualified wagering.

Proposed law provides that in any subsequent year, if the portion of the minimum compensation and licensing fee attributable to qualified wagering do not exceed the baseline amount, the licensee may deduct that difference of the amount of the minimum compensation and licensing fee paid on qualified wagering and the baseline amount from that year's gross revenues.

Proposed law provides that in any subsequent year, if the minimum compensation and licensing fee paid on qualified wagering do not exceed the baseline amount, the licensee may reapply to the board to establish a new baseline amount.

Proposed law provides that the board shall prescribe the form and manner of the deduction and promulgate rules to implement the provisions of proposed law. Further provides that the board shall amend the casino operating contract to reflect the provisions of proposed law.

Pari-Mutuel Wagering Facilities

Present law, regarding pari-mutuel wagering facilities (eligible facilities), defines "net slot machine proceeds" as the total of all cash and property received by a licensee from slot machine gaming operations minus the amount of cash or prizes paid to winners. Further defines "taxable net slot machine proceeds" as the "net slot machine proceeds" less the amount of required support, payment, or contributions.

Present law requires eligible facilities to contribute to the horse breeding industry and support pari-mutuel wagering facilities by contributing annually from the net slot machine proceeds.

Present law provides that an 18.5% license tax shall be levied upon taxable net slot machine proceeds.

Proposed law retains present law.

Proposed law provides that on and after July 1, 2020, a licensee may apply to the board to establish a baseline amount of taxes and contributions paid on the portion of net slot machine proceeds attributable to qualified wagering.

Proposed law provides that in any subsequent year, if the portion of the taxes and contributions attributable to qualified wagering exceeds the baseline amount, a licensee may deduct the difference of the amount of taxes and contributions paid on qualified wagering and the baseline amount from that year's net slot machine proceeds.

Proposed law provides that in any subsequent year if the amount of taxes and contributions paid on qualified wagering do not exceed the baseline year, the licensee may reapply to the board to establish a new baseline amount.

Proposed law provides that the board shall prescribe the form and manner of the deduction and shall promulgate rules to implement the provisions of proposed law.

Effective August 1, 2018.

(Amends R.S. 27:44(21)-(25), 205(31)-(34), and 353(10)-(14); adds R.S. 27:44(26), 95, 205(35), 253, 353(15), 395)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Adds the definition of "qualified wagering" to the provisions of present law regarding land-based casino operations.
2. Allows the casino operator to apply to the board to establish a baseline amount of minimum compensation and licensing fee paid on the portion of gross revenue attributable to qualified wagering.
3. Allows a deduction of the difference of the amount of minimum compensation and licensing fee paid on qualified wagering and the baseline amount from gross revenues if the portion of the minimum compensation and licensing fee attributable to qualified wagering exceeds the baseline amount in any subsequent year.
4. Allows the casino operator to reapply to the board to establish a new baseline amount if unable to utilize the deduction in a subsequent year.
5. Requires the board to amend the casino operating contract to reflect the provisions of proposed law.
6. Adds the definition of "qualified wagering" to the provisions of present law regarding pari-mutuel wagering facilities.
7. Allows a licensee operating an eligible pari-mutuel wagering facility to apply to the board to establish a baseline amount of taxes and contributions paid on the portion of net slot machine proceeds attributable to qualified wagering.
8. Allows a deduction of the difference of the amount of taxes and contributions paid on qualified wagering and the baseline amount from net slot machine proceeds if the portion of taxes and contributions attributable to qualified wagering exceeds the baseline amount in any subsequent year.
9. Allows the eligible facility to reapply to the board to establish a new baseline amount if unable to utilize the deduction in a subsequent year.
10. Requires the board to prescribe the form and manner of the deduction and promulgate rules to implement the provisions of proposed law.