

PROGRAM BILL # 33
REVISED

GOVERNOR'S PROGRAM BILL

2013

MEMORANDUM

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the penal law, and the state finance law in relation to commercial gaming; and to amend the executive law, the state finance law, the executive law and the Indian law in relation to authorizing the settlement of disputes; and to amend the Indian law and the tax law in relation to identifying nations and tribes.

Purpose:

The pending concurrent resolution to amend the New York State Constitution to permit casino gaming is not self-executing. This legislation would provide a statutory framework for gaming should the concurrent resolution obtain second passage and be approved by the State electorate. Additionally, this bill provides the authority to execute and it approves the Settlement Agreement between the Oneida Nation of New York and the State of New York entered into on the sixteenth of May, two thousand thirteen. Finally, it would amend the Indian Law and the Tax Law related to properly identify Indian nations and tribes, and the Penal Law relating to gaming crimes.

Summary of Provisions:

Section one of the bill provides a short title to the proposed legislation.

Section 2 of the bill would amend the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law) by adding a new Article 13 which would authorize and comprehensively regulate commercial gaming. Specifically:

§1300 contains the legislative findings.

§1301 provides definitions.

§1302 authorizes the Gaming Commission (Commission) to audit licensed gaming facilities.

§1303 requires equipment at licensed gaming facilities to be tested by the Commission.

§1304 requires regular reporting by the Commission.

§1305 gives broad powers to the Commission to oversee and regulate gaming facilities.

§1306 gives powers to the Resort Gaming Facility Location Board (Board) to carry out and effectuate its duties under the new Article 13.

§1307 authorizes the Commission to promulgate regulations.
§1308 requires the Commission to report its recommendations for changes in the laws governing casino gaming.
§1309 is a severability clause.
§1310 divides the State into gaming development zones and regions. Zone one includes New York City and the counties of Nassau, Putnam, Rockland, Suffolk and Westchester. Zone two includes all other counties in the state.
§1311 establishes the parameters for the authorization of licenses.
§1312 authorizes the Board to issue requests for applications for gaming facility licenses and subjects Board activity to state procurement lobbying requirements.
§1313 provides for the form of application for a gaming facility license.
§1314 sets standards for gaming facility license applicants.
§1315 authorizes the Board to establish a minimum capital investment requirement by zone and region.
§1316 establishes minimum licensing thresholds for gaming facility license applicants.
§1317 requires the Commission to investigate applicants for a gaming facility license.
§1318 establishes disqualifying criteria for license applicants.
§1319 allows the Board and Commission to hold investigatory hearings involving the gaming facility license applicants.
§1320 establishes the criteria for the Board to use in reviewing applications for siting of gaming facilities.
§§1322-1325 establish criteria for the licensing and registration of officers and employees of licensed gaming facilities.
§§1326-1330 provide for the licensing of casino vendors, junket operators, labor organizations and lobbyists.
§ 1330-a requires campaign expenditures related to the Constitutional referendum on casino gaming to be reported to the Commission.
§1331 requires that a gaming facility have a valid operation certificate before it can operate.
§1332 establishes the age of 21 as the minimum age for gambling at licensed gaming facilities.
§1333 authorizes commercial gaming facilities to be open for 24 hours.
§1334 requires gaming facility licensees to have internal controls in place.
§1335 places limits on where gaming equipment can be placed and exhibited.
§1336 bans casino key employee licensees from wagering in any gaming facility in this state.
§1337 regulates tips and gratuities in gaming facilities.
§1338 authorizes the Commission to regulate the number and location of and maximum withdrawal amounts from automated teller machines.
§1339 regulates the use of credit and check cashing at licensed gaming facilities.
§1340 regulates the sale and distribution of alcoholic beverages at licensed gaming facilities.
§1341 regulates leases and contracts at a licensed gaming facility.
§§1342-1345 govern the exclusion of individuals from licensed gaming facilities.

§1346 provides for certain labor peace agreements at gaming facilities.
§1348 places a \$500 annual assessment on each slot machine or table game at each licensed gaming facility that would be used for problem gambling education and treatment.
§§1349-1350 provide for the regulatory expenses of the gaming commission.
§1351 places a tax on gross gaming revenues, but a gaming facility licensee as part of the bidding contractual process, can agree to pay additional funds to the State.
§1352 establishes a commercial gaming revenue fund.
§1353 authorizes the Commission to audit the sufficiency of tax payments.
§1354 provides for the treatment of unclaimed funds at a licensed gaming facility.
§1355 regulates payments by gaming facility licensees to the racing industry.
§1362 requires gaming facility licensees to establish problem gambling prevention and outreach programs.
§1363 requires that advertising by gaming facility licensees be truthful.
§1364 bans smoking in licensed gaming facilities.
§1365 establishes procedures governing conservatorships at licensed gaming facilities.
§1366 deems licensed gaming facilities as approved uses under local ordinances.
§1367 bans sports wagering unless federal law governing such wagering is amended or a court finds such law unconstitutional.
§§1368-1371 establishes the office of the Gaming Inspector General in the Commission.

The remaining sections of the bill would amend the Penal Law, the Racing Law, the State Finance Law, the Tax Law, the Indian Law, and the Executive Law to conform existing law and enact new law to implement a regimen of gaming regulation in the State of New York. In addition, the amendments would authorize the execution of the Oneida Settlement Agreement, create a Commercial Gaming Revenue Fund and appropriate funds necessary to implement this new statutory framework. Finally, in the event a constitutional amendment authorizing extended gaming in New York is not enacted, the bill would provide a legislative framework for gaming, to the extent it could be otherwise permitted without a constitutional amendment.

Existing Law:

There is no existing comprehensive regulatory framework for casino gaming in New York.

Justification:

This comprehensive legislation is necessary to provide a statutory framework for casino gaming, should the concurrent resolution amending the State Constitution obtain second passage and be approved by the State electorate. Without such a framework, gaming cannot be conducted in New York State.

Legislative History:

This is a new bill.

Budget Implications:

Should the concurrent resolution to amend the State Constitution be approved by the electorate at referendum, it is expected the resulting fiscal impact of this enabling legislation will be positive.

Effective Dates:

The bill would take effect immediately, except that:

- §§ 1, 2, 5, 9, 10, 27 and 31 take effect on the next January 1 after the date upon which casino gaming facilities are authorized by amendment to subdivision one of section nine of article one of the state constitution;
- §§ 6, 7, 14 and 16 take effect upon the effective date of the Settlement Agreement between the Oneida Nation of New York and the State of New York entered into on May 16, 2013;
- § 1367 of the racing, pari-mutuel wagering and breeding law, as added by § 2 of the bill, takes effect upon a change in federal law authorizing such activity or upon the ruling of a court of competent jurisdiction that such activity is lawful;
- § 35 is deemed to have been in full force and effect on and after April 1, 2013;
- §§ 32, 33, 34, 41 and 42 of the bill take effect only in the event that an amendment to the State Constitution to authorize casino gaming is defeated; and
- §§ 40 through 48 of the bill take effect on January 1, 2014; except that the Gaming Commission may accept and review applications for licenses for account wagering and for multi-jurisdictional account wagering providers commencing on October 1, 2013.