

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 732 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: S3/15/07

A Bill

SENATE BILL 990

5 By: Senator Bryles  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT TO LEVY A TAX OF THREE PERCENT (3%) ON  
10 WINNINGS PAID BY ELECTRONIC GAMES OF SKILL AT  
11 OAKLAWN JOCKEY CLUB AND SOUTHLAND GREYHOUND PARK;  
12 TO PROVIDE FOR WITHHOLDING AND REPORTING TAX ON  
13 GAMING WINNINGS; TO PROVIDE THAT NO CREDIT FOR  
14 THE AMOUNT DEDUCTED AND WITHHELD SHALL BE ALLOWED  
15 UNDER THE ARKANSAS INCOME TAX ACT, § 26-51-101 ET  
16 SEQ.; AND FOR OTHER PURPOSES.  
17

18 **Subtitle**

19 TO LEVY A TAX ON GAMING WINNINGS PAID BY  
20 ELECTRONIC GAMES OF SKILL; TO PROVIDE  
21 FOR WITHHOLDING AND REPORTING TAX ON  
22 WINNINGS AND TO PROVIDE THAT NO CREDIT  
23 SHALL BE ALLOWED FOR THE TAX COLLECTED.  
24  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 *SECTION 1. Arkansas Code § 26-51-1302 is amended to read as follows:*  
29 *26-51-1302. Definition.*

30 *As used in this subchapter, ~~unless the context otherwise requires,~~*

31 *(1) ~~"winnings"~~ "Racing winnings" means winnings from live dog  
32 racing or horse racing based on the amount paid with respect to the wager  
33 less the amount of the wager; and*

34 *(2) "Gaming winnings" means winnings from electronic games of  
35 skill based on the amount paid with respect to the wager without reduction*



1 for the amount of the wager.

2  
3 SECTION 2. Arkansas Code § 26-51-1303 is amended to read as follows:  
4 26-51-1303. Amount deducted and withheld - Credit.

5 (a) Every holder of a franchise to conduct dog racing or horse racing  
6 in this state making any single payment of racing winnings on a single  
7 wagering transaction of more than one thousand dollars (\$1,000), if the  
8 amount of the winnings is at least three hundred (300) times as large as the  
9 amount wagered, shall deduct and withhold an amount equal to seven percent  
10 (7%) from the racing winnings.

11 (b) The amount deducted and withheld from any person receiving racing  
12 winnings during the income year shall be credited against the tax liability  
13 of that person under the Arkansas Income Tax Act, § 26-51-101 et seq.

14  
15 SECTION 3. Arkansas Code § 26-51-1305 is amended to read as follows:  
16 26-51-1305. Liability of franchise holders.

17 Every ~~franchise~~ holder of a franchise to conduct dog racing, horse  
18 racing, or electronic games of skill shall be liable for amounts required to  
19 be deducted and withheld by this subchapter regardless of whether the amounts  
20 were in fact deducted and withheld.

21  
22 SECTION 4. Arkansas Code § 26-51-1306 is amended to read as follows:  
23 26-51-1306. Withholding return and payment.

24 Every franchise holder required to deduct and withhold income tax from  
25 racing winnings under this subchapter shall file, within sixty (60) days  
26 after the termination of its racing season, a withholding return as  
27 prescribed by the Director of the Department of Finance and Administration  
28 and pay over to the director the full amount required to be deducted and  
29 withheld from the racing winnings by the franchise holder for the income  
30 year.

31  
32 SECTION 5. Arkansas Code § 26-51-1307 is amended to read as follows:  
33 26-51-1307. Annual statement of withholding.

34 (a) Every franchise holder required to deduct and withhold income tax  
35 from racing winnings under this subchapter shall file an annual statement of  
36 withholding for each person receiving racing winnings subject to withholding

1 under this subchapter.

2 (b)(1) The annual statement shall be in the form prescribed by the  
3 director and shall be filed with the director.

4 (2) Two (2) copies of the statement shall be furnished to each  
5 person who had received racing winnings during the income year before January  
6 31 following the close of the income year.

7 (c) The statement shall show:

8 (1) The name and withholding account number of the franchise  
9 holder;

10 (2) The name and address of the person who had received the  
11 racing winnings and his taxpayer identification number;

12 (3) The total amount of the racing winnings subject to  
13 withholding paid by the franchise holder to the recipient of the winnings;

14 (4) The total amount withheld from the recipient's racing  
15 winnings by the franchise holder pursuant to this subchapter for the income  
16 year; and

17 (5) Such other information as the director shall require by rule  
18 or regulation.

19

20 SECTION 6. Arkansas Code § 26-51-1308 is amended to read as follows:

21 (a) Every ~~franchise~~ holder of a franchise to conduct dog racing, horse  
22 racing, or electronic games of skill who fails to withhold or pay to the  
23 director any sums required by this subchapter to be withheld and paid shall  
24 be personally and individually liable therefor. Any sum or sums withheld in  
25 accordance with the provisions of this subchapter shall be deemed to be held  
26 in trust for the State of Arkansas and shall be recorded by the franchise  
27 holder in a ledger account so as to clearly indicate the amount of tax  
28 withheld and that the amount is the property of the State of Arkansas.

29 (b) Every person who is to receive a payment of racing winnings or  
30 gaming winnings which are subject to this subchapter shall furnish the person  
31 making the payment a statement, made under penalties of perjury, containing  
32 the name, address, and taxpayer identification number of the person receiving  
33 the payment and of each person entitled to any portion of the payment.

34

35 SECTION 7. Arkansas Code Title 26, Chapter 51, Subchapter 13 is  
36 amended to add an additional section to read as follows:

1       26-51-1309. Gaming winnings tax levied on winnings paid by electronic  
2 games of skill.

3       (a) There is levied, assessed, and shall be collected a gaming  
4 winnings tax of three percent (3%) on any single payment of winnings from  
5 electronic games of skill of one thousand two hundred dollars (\$1,200) or  
6 more paid on a single electronic game of skill wager.

7       (b) The holder of a franchise to conduct electronic games of skill  
8 shall:

9           (1) Deduct and withhold the tax from winnings from electronic  
10 games of skill upon which the tax is levied by subsection (a) of this  
11 section; and

12           (2) Remit the tax to the Director of the Department of Finance  
13 and Administration as provided in § 26-51-1310 and as prescribed by rules  
14 promulgated by the director.

15  
16       SECTION 8. Arkansas Code Title 26, Chapter 51, Subchapter 13 is  
17 amended to add an additional section to read as follows:

18       26-51-1310. Withholding return, reporting and payment - Electronic  
19 games of skill.

20       (a) The holder of a franchise to conduct electronic games of skill in  
21 this state shall register to withhold the gaming winnings tax under § 26-51-  
22 1309 from winnings from electronic games of skill in the manner prescribed by  
23 the Director of the Department of Finance and Administration.

24       (b) The withholding account used to report and remit the withholding  
25 on wages shall not be used to report withholding on winnings from electronic  
26 games of skill.

27       (c) A separate account for withholding on winnings from electronic  
28 games of skill shall be obtained from the Revenue Division of the Department  
29 of Finance and Administration.

30       (d) Each holder of a franchise to conduct electronic games of skill  
31 shall file a monthly return and remit the tax withheld from winnings from  
32 electronic games of skill on or before the fifteenth day of the month  
33 following the month in which the tax was withheld.

34       (e) The holder of a franchise to conduct electronic games of skill  
35 shall keep the following records and information for three (3) years after  
36 the date the tax becomes due or is paid, whichever is later:

(1) The total gaming winnings paid;

(2) The amount of gaming winnings tax withheld and remitted;

(3) The name, address, and social security number or taxpayer identification number of the party in receipt of gaming winnings; and

(4) The name, address, and Arkansas identification number of the holder of a franchise to conduct electronic games of skill.

(f)(1) Gaming winnings are not includable as income on the payee's regular Arkansas income tax return.

(2) The amount of tax paid or withheld on gaming winnings under § 26-51-1309 shall not be claimed under the Income Tax Act of 1929, § 26-51-101 et seq., on an Arkansas income tax return to:

(A) Offset a tax liability;

(B) Create a refund; or

(C) Generate any other type of credit or offset for income tax purposes.

(3) Losses sustained from electronic games of skill wagers are not deductible under the Income Tax Act of 1929, § 26-51-101 et seq., on Arkansas income tax returns.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that state revenues will be lost; that irreparable harm will result since those lost revenues cannot be recouped; and that this act is immediately necessary because the revenues collected under this act are necessary to fund vital state needs. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2007.

/s/ Bryles

APPROVED: 3/30/2007