

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 990

"TO LEVY A TAX ON GAMING WINNINGS PAID BY ELECTRONIC GAMES OF SKILL;
TO PROVIDE FOR WITHHOLDING AND REPORTING TAX ON WINNINGS AND TO
PROVIDE THAT NO CREDIT SHALL BE ALLOWED FOR THE TAX COLLECTED."

Amendment No. 1 to Senate Bill No. 990.

Amend Senate Bill No. 990 as originally introduced:

Page 1, delete lines 28 through 30 in their entirety and substitute
"SECTION 1. Arkansas Code § 26-51-1302 is amended to read as follows:
26-51-1302. Definition.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(c) The statement shall show:

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

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

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

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

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

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

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

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

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

26-51-1309. Gaming winnings tax levied on winnings paid by electronic

games of skill.

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

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

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

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

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

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

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

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

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

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

(e) The holder of a franchise to conduct electronic games of skill shall keep the following records and information for three (3) years after 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.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Bryles

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GLG206

Secretary