

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.

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
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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.
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Subtitle

18 TO LEVY A TAX ON GAMING WINNINGS PAID BY
19 ELECTRONIC GAMES OF SKILL; TO PROVIDE
20 FOR WITHHOLDING AND REPORTING TAX ON
21 WINNINGS AND TO PROVIDE THAT NO CREDIT
22 SHALL BE ALLOWED FOR THE TAX COLLECTED.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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*
36 *for the amount of the wager.*



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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.

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

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

6 (c) The statement shall show:

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

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

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

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

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

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

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

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

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

36 26-51-1309. Gaming winnings tax levied on winnings paid by electronic

1 games of skill.

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

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

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

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

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

17 26-51-1310. Withholding return, reporting and payment - Electronic
18 games of skill.

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

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

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

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

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

36 (1) The total gaming winnings paid;

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

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

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

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

8 (2) The amount of tax paid or withheld on gaming winnings under
9 § 26-51-1309 shall not be claimed under the Income Tax Act of 1929, § 26-51-
10 101 et seq., on an Arkansas income tax return to:

11 (A) Offset a tax liability;

12 (B) Create a refund; or

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

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

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

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28 /s/ Bryles