

SECOND REGULAR SESSION

HOUSE BILL NO. 2607

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RONE.

4589H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 313.800 and 313.805, RSMo, and to enact in lieu thereof two new sections relating to excursion gambling boat facilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 313.800 and 313.805, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 313.800 and 313.805, to read as follows:

313.800. 1. As used in sections 313.800 to 313.850, unless the context clearly
2 requires otherwise, the following terms mean:

3 (1) "Adjusted gross receipts", the gross receipts from licensed gambling games and
4 devices less winnings paid to wagerers;

5 (2) "Applicant", any person applying for a license authorized under the provisions of
6 sections 313.800 to 313.850;

7 (3) "Bank", the elevations of ground which confine the waters of the Mississippi or
8 Missouri Rivers at the ordinary high water mark as defined by common law;

9 (4) "Capital, cultural, and special law enforcement purpose expenditures" shall
10 include any disbursement, including disbursements for principal, interest, and costs of
11 issuance and trustee administration related to any indebtedness, for the acquisition of land,
12 land improvements, buildings and building improvements, vehicles, machinery, equipment,
13 works of art, intersections, signing, signalization, parking lot, bus stop, station, garage,
14 terminal, hanger, shelter, dock, wharf, rest area, river port, airport, light rail, railroad, other
15 mass transit, pedestrian shopping malls and plazas, parks, lawns, trees, and other landscape,
16 convention center, roads, traffic control devices, sidewalks, alleys, ramps, tunnels, overpasses
17 and underpasses, utilities, streetscape, lighting, trash receptacles, marquees, paintings, murals,

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 fountains, sculptures, water and sewer systems, dams, drainage systems, creek bank
19 restoration, any asset with a useful life greater than one year, cultural events, and any
20 expenditure related to a law enforcement officer deployed as horse-mounted patrol, school
21 resource or drug awareness resistance education (D.A.R.E) officer;

22 (5) "Cheat", to alter the selection of criteria which determine the result of a gambling
23 game or the amount or frequency of payment in a gambling game;

24 (6) "Commission", the Missouri gaming commission;

25 (7) "Credit instrument", a written check, negotiable instrument, automatic bank draft
26 or other authorization from a qualified person to an excursion gambling boat licensee or any
27 of its affiliated companies licensed by the commission authorizing the licensee to withdraw
28 the amount of credit extended by the licensee to such person from the qualified person's
29 banking account in an amount determined under section 313.817 on or after a date certain of
30 not more than thirty days from the date the credit was extended, and includes any such writing
31 taken in consolidation, redemption or payment of a previous credit instrument, but does not
32 include any interest-bearing installment loan or other extension of credit secured by
33 collateral;

34 (8) "Dock", the location in a city or county authorized under subsection 10 of section
35 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to
36 a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the
37 embarking of passengers on and disembarking of passengers from a gambling excursion but
38 shall not include any artificial space created after May 20, 1994, and is located more than one
39 thousand feet from the closest edge of the main channel of the river as established by the
40 United States Army Corps of Engineers;

41 (9) "Excursion gambling boat", a boat, ferry, other floating facility, or any nonfloating
42 facility licensed by the commission on **or inside of** which gambling games are allowed;

43 (10) "Fiscal year", the fiscal year of a home dock city or county;

44 (11) "Floating facility", any facility built or originally built as a boat, ferry or barge
45 licensed by the commission on which gambling games are allowed;

46 (12) "Gambling excursion", the time during which gambling games may be operated
47 on an excursion gambling boat whether docked or during a cruise;

48 (13) "Gambling game" includes, but is not limited to, games of skill or games of
49 chance on an excursion gambling boat but does not include gambling on sporting events;
50 provided such games of chance are approved by amendment to the Missouri Constitution;

51 (14) "Games of chance", any gambling game in which the player's expected return is
52 not favorably increased by the player's reason, foresight, dexterity, sagacity, design,
53 information or strategy;

54 (15) "Games of skill", any gambling game in which there is an opportunity for the
55 player to use the player's reason, foresight, dexterity, sagacity, design, information or strategy
56 to favorably increase the player's expected return; including, but not limited to, the gambling
57 games known as "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai gow
58 poker", "Texas hold'em", "double down stud", and any video representation of such games;

59 (16) "Gross receipts", the total sums wagered by patrons of licensed gambling games;

60 (17) "Holder of occupational license", a person licensed by the commission to
61 perform an occupation within excursion gambling boat operations which the commission has
62 identified as requiring a license;

63 (18) "Licensee", any person licensed under sections 313.800 to 313.850;

64 (19) "Mississippi River" and "Missouri River", the water, bed and banks of those
65 rivers, including any space filled wholly or partially by the water of those rivers in a manner
66 approved by the commission but shall not include any artificial space created after May 20,
67 1994, and is located more than one thousand feet from the closest edge of the main channel of
68 the river as established by the United States Army Corps of Engineers;

69 (20) "Nonfloating facility", any structure within one thousand feet **from the closest**
70 **edge of the main channel** of the Missouri or Mississippi River, **as established by the United**
71 **States Army Corps of Engineers**, that contains at least two thousand gallons of water
72 beneath or inside the facility either by an enclosed space containing such water or in rigid or
73 semirigid storage containers, **tanks**, or structures;

74 (21) "Supplier", a person who sells or leases gambling equipment and gambling
75 supplies to any licensee.

76 2. (1) In addition to the games of skill defined in this section, the commission may
77 approve other games of skill upon receiving a petition requesting approval of a gambling
78 game from any applicant or licensee. The commission may set the matter for hearing by
79 serving the applicant or licensee with written notice of the time and place of the hearing not
80 less than five days prior to the date of the hearing and posting a public notice at each
81 commission office. The commission shall require the applicant or licensee to pay the cost of
82 placing a notice in a newspaper of general circulation in the applicant's or licensee's home
83 dock city or county. The burden of proof that the gambling game is a game of skill is at all
84 times on the petitioner. The petitioner shall have the affirmative responsibility of establishing
85 the petitioner's case by a preponderance of evidence including:

86 (a) Is it in the best interest of gaming to allow the game; and

87 (b) Is the gambling game a game of chance or a game of skill?

88 (2) All testimony shall be given under oath or affirmation. Any citizen of this state
89 shall have the opportunity to testify on the merits of the petition. The commission may
90 subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the

91 commission shall evaluate the record of the hearing and issue written findings of fact that
92 shall be based exclusively on the evidence and on matters officially noticed. The commission
93 shall then render a written decision on the merits which shall contain findings of fact,
94 conclusions of law and a final commission order. The final commission order shall be within
95 thirty days of the hearing. Copies of the final commission order shall be served on the
96 petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

313.805. The commission shall have full jurisdiction over and shall supervise all
2 gambling operations governed by sections 313.800 to 313.850. The commission shall have
3 the following powers and shall promulgate rules and regulations to implement sections
4 313.800 to 313.850:

5 (1) To investigate applicants and determine the priority and eligibility of applicants
6 for a license and to select among competing applicants for a license the applicant which best
7 serves the interests of the citizens of Missouri;

8 (2) To license the operators of excursion gambling boats and operators of gambling
9 games within such boats, to identify occupations within the excursion gambling boat
10 operations which require licensing, and adopt standards for licensing the occupations
11 including establishing fees for the occupational licenses and to license suppliers;

12 (3) To adopt standards under which all excursion gambling boat operations shall be
13 held and standards for the facilities within which the gambling operations are to be held.
14 Notwithstanding the provisions of chapter 311 to the contrary, the commission may authorize
15 the operation of gambling games on an excursion gambling boat which is also licensed to sell
16 or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering
17 structure for gambling excursions, provided that the commission shall not establish any
18 regulations or policies that limit the amount of wagers, losses, or buy-in amounts;

19 (4) To enter the premises of excursion gambling boats, facilities, or other places of
20 business of a licensee within this state to determine compliance with sections 313.800 to
21 313.850;

22 (5) To investigate alleged violations of sections 313.800 to 313.850 or the
23 commission rules, orders, or final decisions;

24 (6) To assess any appropriate administrative penalty against a licensee, including, but
25 not limited to, suspension, revocation, and penalties of an amount as determined by the
26 commission up to three times the highest daily amount of gross receipts derived from
27 wagering on the gambling games, whether unauthorized or authorized, conducted during the
28 previous twelve months as well as confiscation and forfeiture of all gambling game
29 equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this
30 section shall be enforced as provided in sections 513.600 to 513.645;

31 (7) To require a licensee, an employee of a licensee or holder of an occupational
32 license to remove a person violating a provision of sections 313.800 to 313.850 or the
33 commission rules, orders, or final orders, or other person deemed to be undesirable from the
34 excursion gambling boat or adjacent facilities;

35 (8) To require the removal from the premises of a licensee, an employee of a licensee,
36 or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a
37 commission rule or engaging in a fraudulent practice;

38 (9) To require all licensees to file all financial reports required by rules and
39 regulations of the commission;

40 (10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum
41 for the production of books, records, and other pertinent documents, and to administer oaths
42 and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to
43 enforce sections 313.800 to 313.850 or the commission rules;

44 (11) To keep accurate and complete records of its proceedings and to certify the
45 records as may be appropriate;

46 (12) To ensure that the gambling games are conducted fairly. No gambling device
47 shall be set to pay out less than eighty percent of all wagers;

48 (13) To require all licensees of gambling game operations to use a cashless wagering
49 system whereby all players' money is converted to physical or electronic tokens, electronic
50 cards, or chips which only can be used on the excursion gambling boat;

51 (14) To require excursion gambling boat licensees to develop a system, approved by
52 the commission, that allows patrons the option to prohibit the excursion gambling boat
53 licensee from using identifying information for marketing purposes. The provisions of this
54 subdivision shall apply only to patrons giving identifying information for the first time. Such
55 system shall be submitted to the commission by October 1, 2000, and approved by the
56 commission by January 1, 2001. The excursion gambling boat licensee shall use identifying
57 information obtained from patrons who have elected to have marketing blocked under the
58 provisions of this section only for the purposes of enforcing the requirements contained in
59 sections 313.800 to 313.850. This section shall not prohibit the commission from accessing
60 identifying information for the purposes of enforcing section 313.004 and sections 313.800 to
61 313.850;

62 (15) To determine which of the authorized gambling games will be permitted on any
63 licensed excursion gambling boat;

64 (16) The commission shall base its decision to license excursion gambling boats on
65 any of the following criteria: the docking location or the excursion cruise could cause danger
66 to the boat's passengers, violate federal law or the law of another state, or cause disruption of
67 interstate commerce or possible interference with railway or barge transportation. The

68 commission shall consider economic feasibility or impact that would benefit land-based
69 development and permanent job creation. The commission shall not discriminate among
70 applicants for excursion gambling boats that are similarly situated with respect to the criteria
71 set forth in this section;

72 (17) The commission shall render a finding **or findings** concerning the transition
73 from a boat, barge, or floating facility to a nonfloating facility within thirty days after a
74 hearing on any request from an applicant or **existing** licensee. Such hearing may be held
75 prior to any final action on licensing to assist an applicant and any city or county in the
76 finalizing of their economic development plan;

77 (18) To require any applicant for a license or renewal of a license to operate an
78 excursion gambling boat to provide an affirmative action plan which has as its goal the use of
79 best efforts to achieve maximum employment of African-Americans and other minorities and
80 maximum participation in the procurement of contractual purchases of goods and services.
81 This provision shall be administered in accordance with all federal and state employment
82 laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act
83 of 1991. At license renewal, the licensee will report on the effectiveness of the plan. The
84 commission shall include the licensee's reported information in its annual report to the joint
85 committee on gaming and wagering;

86 (19) To take any other action as may be reasonable or appropriate to enforce sections
87 313.800 to 313.850 and the commission rules.

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