

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 507

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RONE.

0074H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 313.800, 313.805, and 313.812, RSMo, and to enact in lieu thereof three new sections relating to the definition of physical location of excursion gambling boat.

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

Section A. Sections 313.800, 313.805, and 313.812, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 313.800, 313.805, and 313.812, to read as follows:

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

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

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

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

(4) "Capital, cultural, and special law enforcement purpose expenditures" shall include any disbursement, including disbursements for principal, interest, and costs of issuance and trustee administration related to any indebtedness, for the acquisition of land, land improvements, buildings and building improvements, vehicles, machinery, equipment, works of art, intersections, signing, signalization, parking lot, bus stop, station, garage, terminal, hanger, shelter, dock, wharf, rest area, river port, airport, light rail, railroad, other mass transit, pedestrian

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.

15 shopping malls and plazas, parks, lawns, trees, and other landscape, convention center, roads,
16 traffic control devices, sidewalks, alleys, ramps, tunnels, overpasses and underpasses, utilities,
17 streetscape, lighting, trash receptacles, marquees, paintings, murals, fountains, sculptures, water
18 and sewer systems, dams, drainage systems, creek bank restoration, any asset with a useful life
19 greater than one year, cultural events, and any expenditure related to a law enforcement officer
20 deployed as horse-mounted patrol, school resource or drug awareness resistance education
21 (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 or
26 other authorization from a qualified person to an excursion gambling boat licensee or any of its
27 affiliated companies licensed by the commission authorizing the licensee to withdraw the amount
28 of credit extended by the licensee to such person from the qualified person's banking account in
29 an amount determined under section 313.817 on or after a date certain of not more than thirty
30 days from the date the credit was extended, and includes any such writing taken in consolidation,
31 redemption or payment of a previous credit instrument, but does not include any interest-bearing
32 installment loan or other extension of credit secured by collateral;

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

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

42 (10) "Fiscal year" [~~shall for the purposes of subsections 3 and 4 of section 313.820 mean~~]
43 , 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 on
47 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 chance
49 on an excursion gambling boat but does not include gambling on sporting events; provided such
50 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 not
52 favorably increased by ~~his or her~~ **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 player
55 to use ~~his or her~~ **the player's** reason, foresight, dexterity, sagacity, design, information or
56 strategy to favorably increase the player's expected return; including, but not limited to, the
57 gambling games known as "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai
58 gow 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 perform
61 an occupation within excursion gambling boat operations which the commission has identified
62 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 rivers,
65 including any space filled **wholly or partially** by the water of those rivers ~~[for docking purposes]~~
66 in a manner approved by the commission but shall not include any artificial space created after
67 May 20, 1994, and is located more than one thousand feet from the closest edge of the main
68 channel of the river as established by the United States Army Corps of Engineers;

69 (20) **"Nonfloating facility", any structure within one thousand feet of the Missouri
70 or Mississippi River that contains at least two thousand gallons of water beneath or inside
71 the facility either by an enclosed space containing such water or in rigid or semirigid
72 storage containers or structures;**

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

75 2. (1) In addition to the games of skill defined in this section, the commission may
76 approve other games of skill upon receiving a petition requesting approval of a gambling game
77 from any applicant or licensee. The commission may set the matter for hearing by serving the
78 applicant or licensee with written notice of the time and place of the hearing not less than five
79 days prior to the date of the hearing and posting a public notice at each commission office. The
80 commission shall require the applicant or licensee to pay the cost of placing a notice in a
81 newspaper of general circulation in the applicant's or licensee's home dock city or county. The
82 burden of proof that the gambling game is a game of skill is at all times on the petitioner. The
83 petitioner shall have the affirmative responsibility of establishing ~~his or her~~ **the petitioner's**
84 case by a preponderance of evidence including:

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

86 ~~(2)~~ (b) Is the gambling game a game of chance or a game of skill?

87 (2) All testimony shall be given under oath or affirmation. Any citizen of this state shall
88 have the opportunity to testify on the merits of the petition. The commission may subpoena
89 witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall
90 evaluate the record of the hearing and issue written findings of fact that shall be based
91 exclusively on the evidence and on matters officially noticed. The commission shall then render
92 a written decision on the merits which shall contain findings of fact, conclusions of law and a
93 final commission order. The final commission order shall be within thirty days of the hearing.
94 Copies of the final commission order shall be served on the petitioner by certified or overnight
95 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 the
3 following powers and shall promulgate rules and regulations to implement sections 313.800 to
4 313.850:

5 (1) To investigate applicants and determine the priority and eligibility of applicants for
6 a license and to select among competing applicants for a license the applicant which best serves
7 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 operations
10 which require licensing, and adopt standards for licensing the occupations including establishing
11 fees for the occupational licenses and to license suppliers;

12 (3) To adopt standards under which all excursion gambling boat operations shall be held
13 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 commission
23 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 wagering
27 on the gambling games, whether unauthorized or authorized, conducted during the previous

28 twelve months as well as confiscation and forfeiture of all gambling game equipment used in the
29 conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced
30 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 license
32 to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules,
33 orders, or final orders, or other person deemed to be undesirable from the excursion gambling
34 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 regulations
39 of the commission;

40 (10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for
41 the production of books, records, and other pertinent documents, and to administer oaths and
42 affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce
43 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 records
45 as may be appropriate;

46 (12) To ensure that the gambling games are conducted fairly. No gambling device shall
47 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 cards,
50 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 the
52 commission, that allows patrons the option to prohibit the excursion gambling boat licensee from
53 using identifying information for marketing purposes. The provisions of this subdivision shall
54 apply only to patrons giving identifying information for the first time. Such system shall be
55 submitted to the commission by October 1, 2000, and approved by the commission by January
56 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from
57 patrons who have elected to have marketing blocked under the provisions of this section only for
58 the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This
59 section shall not prohibit the commission from accessing identifying information for the
60 purposes of enforcing section 313.004 and sections 313.800 to 313.850;

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

63 (16) [~~Excursion gambling boats shall cruise, unless the commission finds that the best~~
64 ~~interest of Missouri and the safety of the public indicate the need for continuous docking of the~~
65 ~~excursion gambling boat in any city or county authorized pursuant to subsection 10 of section~~
66 ~~313.812.~~] The commission shall base its decision to [~~allow continuously docked~~] **license**
67 excursion gambling boats on any of the following criteria: the docking location or the excursion
68 cruise could cause danger to the boat's passengers, violate federal law or the law of another state,
69 or cause disruption of interstate commerce or possible interference with railway or barge
70 transportation. [~~In addition,~~] The commission shall consider economic feasibility or impact that
71 would benefit land-based development and permanent job creation. The commission shall not
72 discriminate among applicants for [~~continuous docking~~] excursion gambling **boats** that are
73 similarly situated with respect to the criteria set forth in this section;

74 (17) The commission shall render a finding concerning [~~the possibility of continuous~~
75 ~~docking, as described in subdivision (15) of this section,~~] **the transition from a boat, barge,**
76 **or floating facility to a nonfloating facility** within thirty days after a hearing on any request
77 from an applicant or licensee. Such hearing may be held prior to any final action on licensing
78 to assist an applicant and any city or county in the finalizing of their economic development plan;

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

88 (19) To take any other action as may be reasonable or appropriate to enforce sections
89 313.800 to 313.850 and the commission rules.

313.812. 1. **(1)** The commission may issue licenses pursuant to subsection 1 of section
2 313.807 when it is satisfied that the applicant has complied with all rules and regulations,
3 including an update of all information provided to the commission in the licensee's initial
4 application. The commission shall decide the number, location and type of excursion gambling
5 boat in a city or county under subsection 10 of this section. The license shall set forth the name
6 of the licensee, the type of license granted, the place where the excursion gambling boat will
7 operate [~~and~~] **or** dock, including the docking of an excursion gambling boat which is
8 continuously docked, and other information the commission deems appropriate. The
9 commission shall have the ultimate responsibility of deciding the number, location, and type of

10 excursion gambling boats licensed in a city or county; however, any city or county which has
11 complied with the provisions of subsection 10 of this section shall submit to the commission a
12 plan outlining the following:

13 ~~[(1)]~~ (a) The recommended number of licensed excursion gambling boats operating in
14 such city or county;

15 ~~[(2)]~~ (b) The recommended licensee or licensees operating in such city or county;

16 ~~[(3)]~~ (c) The community's economic development or impact and affirmative action plan
17 concerning minorities' and women's ownership, contracting and employment for the waterfront
18 development;

19 ~~[(4)]~~ (d) The city or county proposed sharing of revenue with any other municipality;

20 ~~[(5)]~~ (e) Any other information such city or county deems necessary; and

21 ~~[(6)]~~ (f) Any other information the commission may determine is necessary.

22 (2) The commission shall provide for due dates for receiving such plan from the city or
23 county.

24 2. A license to operate an excursion gambling boat shall only be granted to an applicant
25 upon the express conditions that:

26 (1) The applicant shall not, by a lease, contract, understanding, or arrangement of any
27 kind, grant, assign, or turn over to a person the operation of an excursion gambling boat licensed
28 under this section or of the system of wagering described in section 313.817. This section does
29 not prohibit a management contract with a person licensed by the commission; and

30 (2) The applicant shall not in any manner permit a person other than the licensee and the
31 management licensee to have a share, percentage, or proportion of the money received for
32 admissions to the excursion gambling boat.

33 3. The commission shall require, as a condition of granting a license, that an applicant
34 operate an excursion gambling boat which, as nearly as practicable, resembles or is a part of
35 Missouri's or the home dock city's or county's riverboat history.

36 4. The commission shall encourage through its rules and regulations the use of Missouri
37 resources, goods and services in the operation of any excursion gambling boat.

38 5. The excursion gambling boat shall provide for nongaming areas, food service and a
39 Missouri theme gift shop. The amount of space used for gaming shall be determined in
40 accordance with all rules and regulations of the commission and, **if applicable**, the United States
41 Coast Guard safety regulations.

42 6. A license to operate gambling games or to operate an excursion gambling boat shall
43 not be granted unless the applicant has, through clear and convincing evidence, demonstrated
44 financial responsibility sufficient to meet adequately the requirements of the proposed enterprise.

45 7. Each applicant shall establish by clear and convincing evidence its fitness to be
46 licensed. Without limitation, the commission may deny a license based solely on the fact that
47 there is evidence that any of the following apply:

48 (1) The applicant has been suspended from operating an excursion gambling boat or a
49 game of chance or gambling operation in another jurisdiction by a board or commission of that
50 jurisdiction;

51 (2) The applicant is not the true owner of the enterprise proposed;

52 (3) The applicant is not the sole owner, and other persons have ownership in the
53 enterprise, which fact has not been disclosed;

54 (4) The applicant is a corporation that is not publicly traded and ten percent or more of
55 the stock of the corporation is subject to a contract or option to purchase at any time during the
56 period for which the license is to be issued unless the contract or option was disclosed to the
57 commission and the commission approved the sale or transfer during the period of the license;

58 (5) The applicant has knowingly made a false statement of a material fact to the
59 commission; or

60 (6) The applicant has failed to meet a valid, bona fide monetary obligation in connection
61 with an excursion gambling boat.

62 8. A license shall not be granted if the applicant has not established the applicant's good
63 repute and moral character or if the applicant has pled guilty to, or has been convicted of, a
64 felony. No licensee shall employ or contract with any person who has pled guilty to, or has been
65 convicted of, a felony to perform any duties directly connected with the licensee's privileges
66 under a license granted pursuant to this section, except that employees performing nongaming
67 related occupations as determined by the commission shall be exempt from the requirements of
68 this subsection.

69 9. Except as provided in section 313.817, a licensee shall not lend to any person money
70 or any other thing of value for the purpose of permitting that person to wager on any gambling
71 game authorized by law. This does not prohibit credit card or debit card transactions or cashing
72 of checks. Any check cashed, other than a credit instrument, ~~must~~ **shall** be deposited within
73 twenty-four hours. Except for any credit instrument, the commission may require licensees to
74 verify a sufficient account balance exists before cashing any check. Any licensee who violates
75 the provisions of this subsection shall be subject to an administrative penalty of five thousand
76 dollars for each violation. Such administrative penalties shall be assessed and collected by the
77 commission.

78 10. **(1)** Gambling excursions including the operation of gambling games on an excursion
79 gambling boat which is not continuously docked shall be allowed only on the Mississippi River
80 and the Missouri River. No license to conduct gambling games on an excursion gambling boat

81 in a city or county shall be issued unless and until the qualified voters of the city or county
82 approve such activities pursuant to this subsection. The question shall be submitted to the
83 qualified voters of the city or county at a general, primary or special election upon the motion
84 of the governing body of the city or county or upon the petition of fifteen percent of the qualified
85 voters of the city or county determined on the basis of the number of votes cast for governor in
86 the city or county at the last election held prior to the filing of the petition.

87 (2) The question shall be submitted in substantially the following form:

88

89 Shall the City (County) of _____ allow the licensing of excursion gambling
90 boats or floating facilities as now or hereafter provided by Missouri gaming law
91 in the city (county)?

92

93 YES NO

94 (3) If a majority of the votes cast on the question by the qualified voters voting thereon
95 are in favor of the question, then the commission may license excursion gambling boats in that
96 city or county and such boats may operate on the Mississippi River and the Missouri River. If
97 a majority of the votes cast on the question by the qualified voters voting thereon are opposed
98 to the question, then the commission shall not license such excursion gambling boats in such city
99 or county unless and until the question is again submitted to and approved by a majority of the
100 qualified voters of the city or county at a later election. Excursion gambling boats may only dock
101 in a city or unincorporated area of a county which approves licensing of such excursion gambling
102 boats pursuant to this subsection, but gambling operations may be conducted at any point on the
103 Mississippi River or the Missouri River during an excursion. Those cities and counties which
104 have approved by election pursuant to this subsection, except those cities or counties which have
105 subsequently rejected by election, the licensing of any type of excursion gambling boats in the
106 city or county prior to April 6, 1994, are exempt from any local election requirement of this
107 section as such previous election shall have the same effect as if held after May 20, 1994.

108 11. If a docking fee is charged by a city or a county, a licensee operating an excursion
109 gambling boat shall pay the docking fee prior to the start of the excursion season.

110 12. Any licensee shall not be delinquent in the payment of property taxes or other taxes
111 or fees or in the payment of any other contractual obligation or debt due or owed to the state or
112 a political subdivision of the state.

113 13. An excursion gambling boat licensed by the state shall meet all of the requirements
114 of chapter 306 and is subject to an inspection of its sanitary facilities to protect the environment
115 and water quality by the commission or its designee before a license to operate an excursion
116 gambling boat is issued by the commission. Licensed excursion gambling boats shall also be

117 subject to such inspections during the period of the license as may be deemed necessary by the
118 commission. The cost of such inspections shall be paid by the licensee.

119 14. A holder of any license shall be subject to imposition of penalties, suspension or
120 revocation of such license, or if the person is an applicant for licensure, the denial of the
121 application, for any act or failure to act by ~~himself~~ **such person** or ~~his~~ **such person's** agents
122 or employees, that is injurious to the public health, safety, morals, good order and general
123 welfare of the people of the state of Missouri, or that would discredit or tend to discredit the
124 Missouri gaming industry or the state of Missouri unless the licensee proves by clear and
125 convincing evidence that it is not guilty of such action. The commission shall take appropriate
126 action against any licensee who violates the law or the rules and regulations of the commission.
127 Without limiting other provisions of this subsection, the following acts or omissions may be
128 grounds for such discipline:

129 (1) Failing to comply with or make provision for compliance with sections 313.800 to
130 313.850, the rules and regulations of the commission or any federal, state or local law or
131 regulation;

132 (2) Failing to comply with any rule, order or ruling of the commission or its agents
133 pertaining to gaming;

134 (3) Receiving goods or services from a person or business entity who does not hold a
135 supplier's license but who is required to hold such license by the provisions of sections 313.800
136 to 313.850 or the rules and regulations of the commission;

137 (4) Being suspended or ruled ineligible or having a license revoked or suspended in any
138 state of gaming jurisdiction;

139 (5) Associating with, either socially or in business affairs, or employing persons of
140 notorious or unsavory reputation or who have extensive police records, or who have failed to
141 cooperate with any officially constituted investigatory or administrative body and would
142 adversely affect public confidence and trust in gaming;

143 (6) Employing in any gambling games' operation or any excursion gambling boat
144 operation, any person known to have been found guilty of cheating or using any improper device
145 in connection with any gambling game;

146 (7) Use of fraud, deception, misrepresentation or bribery in securing any permit or
147 license issued pursuant to sections 313.800 to 313.850;

148 (8) Obtaining or attempting to obtain any fee, charge, or other compensation by fraud,
149 deception, or misrepresentation;

150 (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty
151 in the performance of the functions or duties regulated by sections 313.800 to 313.850.

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