

SECOND REGULAR SESSION

SENATE BILL NO. 888

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EHLMANN.

Read 1st time January 20, 2000, and 1,000 copies ordered printed.

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TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 313.812, 313.815, 313.830 and 367.140, RSMo 1994, and section 367.506, RSMo Supp. 1999, and to enact in lieu thereof six new sections relating to excursion gambling boats, with penalty provisions and emergency clause for certain sections.

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

Section A. Sections 313.812, 313.815, 313.830 and 367.140, RSMo 1994, and section 367.506, RSMo Supp. 1999, are repealed and six new sections enacted in lieu thereof, to be known as sections 252.003, 313.812, 313.815, 313.830, 367.140 and 367.506, to read as follows:

252.003. Notwithstanding any other provisions of law to the contrary, the conservation commission shall not sell, lease, grant or otherwise convey property owned, operated, managed or leased by the department of conservation to any gaming facility as defined in chapter 313, RSMo.

313.812. 1. The commission may issue licenses pursuant to subsection 1 of section 313.807 when it is satisfied that the applicant has complied with all rules and regulations, including an update of all information provided to the commission in the licensee's initial application. The commission shall decide the number, location and type of excursion gambling boat in a city or county under subsection 10 of this section. The license shall set forth the name of the licensee, the type of license granted, the place where the excursion gambling boat will operate and dock, including the docking of an excursion gambling boat which is continuously docked, and other information the commission deems appropriate. The commission shall have the ultimate responsibility of deciding the number, location, and type of excursion gambling boats licensed in a city or county; however, any city or county which has complied with the provisions of subsection

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 of this section shall submit to the commission a plan outlining the following:

(1) The recommended number of licensed excursion gambling boats operating in such city or county;

(2) The recommended licensee or licensees operating in such city or county;

(3) The community's economic development or impact and affirmative action plan concerning minorities' and women's ownership, contracting and employment for the waterfront development;

(4) The city or county proposed sharing of revenue with any other municipality;

(5) Any other information such city or county deems necessary; and

(6) Any other information the commission may determine is necessary. The commission shall provide for due dates for receiving such plan from the city or county.

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

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

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

3. The commission shall require, as a condition of granting a license, that an applicant operate an excursion gambling boat which, as nearly as practicable, resembles or is a part of Missouri's or the home dock city's or county's riverboat history. **Yellow and purple painted buildings, giant lighted spheres which sit atop towers and Christmas decorations in public view during any period beginning after January 15 and ending on November 15 of that year shall not be considered consistent with a part of any home dock city's riverboat history.**

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

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

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

7. The applicant shall establish by clear and convincing evidence its fitness to be licensed

if there is evidence that any of the following apply:

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

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

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

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

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

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

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

9. A licensee shall not lend to any person money or any other thing of value for the purpose of permitting that person to wager on any gambling game authorized by law. This does not prohibit credit card or debit card transactions or cashing of checks. Any check cashed must be deposited within twenty-four hours. The commission may require licensees to verify a sufficient account balance exists before cashing any check. Any licensee who violates the provisions of this subsection shall be subject to an administrative penalty of five thousand dollars for each violation. Such administrative penalties shall be assessed and collected by the commission.

10. Gambling excursions including the operation of gambling games on an excursion gambling boat which is not continuously docked shall be allowed only on the Mississippi River and the Missouri River. No license to conduct gambling games on an excursion gambling boat in a city or county shall be issued unless and until the qualified voters of the city or county approve such activities pursuant to this subsection. The question shall be submitted to the qualified voters of the city or county at a general, primary or special election upon the motion of the governing body of the city or county or upon the petition of fifteen percent of the qualified voters of the city or county determined on the basis of the number of votes cast for governor in the city or county at the last election held prior to the filing of the petition. The question shall be submitted in

substantially the following form:

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

Q YES

Q NO

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

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

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

13. An excursion gambling boat licensed by the state shall meet all of the requirements of chapter 306, RSMo, and is subject to an inspection of its sanitary facilities to protect the environment and water quality by the commission or its designee before a license to operate an excursion gambling boat is issued by the commission. Licensed excursion gambling boats shall also be subject to such inspections during the period of the license as may be deemed necessary by the commission. The cost of such inspections shall be paid by the licensee.

14. A holder of any license shall be subject to imposition of penalties, suspension or revocation of such license, or other action for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit the Missouri gaming industry or the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action. The commission shall take appropriate action against any licensee who violates the law or the rules and regulations of the commission. Without limiting other provisions of this subsection, the following acts or omissions may be grounds for such

discipline:

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

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

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

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

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

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

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

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

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

313.815. A licensee licensed to operate gambling games under sections 313.800 to 313.850 shall post a bond or other form of surety from a firm licensed to conduct a surety business in this state, as approved by the commission, to the state of Missouri before the license is issued in a sum as the commission shall fix, with sureties approved by the commission. The bond or other form of surety approved by the commission shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its gambling games in conformity with sections 313.800 to 313.850 and the rules adopted by the commission. **The bond or other form of surety shall also be used to guarantee the completion of any expansion or modification of a gambling boat in a time period approved by the commission, which shall not exceed two years from the date of approval of the expansion or modification. Failure to complete an approved expansion or modification of a gambling boat within the two-year period shall be considered sufficient grounds for not renewing the license for that gambling boat.** The bond or other form of surety

approved by the commission shall not be canceled by a surety on less than thirty days' notice in writing to the commission. If a bond or other form of surety approved by the commission is canceled and the licensee fails to file a new bond or other form of surety approved by the commission with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond or other form of surety approved by the commission is limited to the amount specified in the bond or other form of surety approved by the commission.

313.830. 1. A person is guilty of a class D felony for any of the following:

(1) Operating a gambling excursion where wagering is used or to be used without a license issued by the commission;

(2) Operating a gambling excursion where wagering is permitted other than in the manner specified by section 313.817; or

(3) Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game.

2. A person permitting a person under the age of twenty-one years to make a wager is guilty of a class B misdemeanor.

3. A person wagering or accepting a wager at any location outside the excursion gambling boat is in violation of section 572.040, RSMo.

4. A person commits a class D felony and, in addition, shall be barred for life from excursion gambling boats under the jurisdiction of the commission, if the person:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(3) Uses a device to assist in any of the following:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the gambling game; or

- (d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission;
- (4) Cheats at a gambling game;
- (5) Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of sections 313.800 to 313.850;
- (6) Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of sections 313.800 to 313.850;
- (7) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- (8) Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;
- (9) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won;
- (10) Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of sections 313.800 to 313.850 with the intent that the other person plays or participates in that gambling game;
- (11) Uses counterfeit chips or tokens in a gambling game;
- (12) Knowingly uses, other than chips, tokens, coin, or other methods [or] of credit approved by the commission, legal tender of the United States of America, or to use coin not of the denomination as the coin intended to be used in the gambling games;
- (13) Has in the person's possession any device intended to be used to violate a provision of sections 313.800 to 313.850; [or]
- (14) Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of the gambling game; **or**
- (15) Knowingly testifies falsely to any material fact, knowingly makes a false statement, or knowingly makes a false statement on any application to the commission, its agents or employees.**

5. The possession of one or more of the devices described in subdivision (3), (5), (13) or (14) of subsection 4 of this section permits a rebuttable inference that the possessor intended to use the devices for cheating.

6. Except for wagers on gambling games or exchanges for money as provided in section 313.817, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a class B misdemeanor.

7. If the commission determines that reasonable grounds to believe that a violation of sections 313.800 to 313.850 has occurred or is occurring which is a criminal offense, the commission shall refer such matter to both the state attorney general and the prosecuting attorney or circuit attorney having jurisdiction. The state attorney general and the prosecuting attorney or circuit attorney with such jurisdiction shall have concurrent jurisdiction to commence actions for violations of sections 313.800 to 313.850 where such violations have occurred.

8. Venue for all crimes committed on an excursion gambling boat shall be the jurisdiction of the home dock city or county or such county where a home dock city is located.

367.140. 1. Every lender shall, at the time of filing application for certificate of registration as provided in section 367.120 hereof, pay the sum of three hundred dollars as an annual registration fee for the period ending the thirtieth day of June next following the date of payment and in full payment of all expenses for investigations, examinations and for the administration of sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a lender is supervised by the commissioner of finance under any other law, the charges for examination and supervision required to be paid under said law shall be in lieu of the annual fee for registration and examination required under this section. The fee shall be made payable to the director of revenue. If the initial registration fee for any certificate of registration is for a period of less than twelve months, the registration fee shall be prorated according to the number of months that said period shall run.

2. Upon receipt of such fee and application for registration, and provided the bond, if required by the director, has been filed, the director shall issue to the lender a certificate containing the lender's name and address and reciting that such lender is duly and properly registered to conduct the supervised business. The lender shall keep this certificate of registration posted in a conspicuous place at the place of business recited in the registration certificate. Where the lender engages in the supervised business at or from more than one office or place of business, such lender shall obtain a separate certificate of registration for each such office or place of business.

3. Certificates of registration shall not be assignable or transferable except that the lender named in any such certificate may obtain a change of address of the place of business therein set forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked, or suspended as herein provided.

4. In addition to the other requirements of this section for obtaining a certificate of registration, no certificate of registration shall be issued under this section on or

after the effective date of this act, for the initial operation of a supervised business if such supervised business is to be located within five miles of a site where an excursion gambling boat dock or facility is located or within five miles of a site where an application for such an excursion gambling boat dock or facility is on file with the gaming commission prior to the date the application for the certificate of registration is filed. The provisions of this subsection shall not prohibit a supervised business from being located within five miles of a dock or facility or proposed dock or facility described in this subsection if the certificate of registration for such supervised business has been issued prior to the effective date of this act.

367.506. 1. It is unlawful for any person to act as a title lender unless such person has first registered and received a certificate of registration from the division of finance to conduct such business in the manner and form provided pursuant to this act. Violators of the registration requirement are subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the registration requirements provided in sections 367.500 to 367.530, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to 367.530 shall not be bound by the terms of such agreement, and such borrower's only liability to such person shall be for the return of the principal sum borrowed plus interest at the rate set by statute for interest on judgments.

3. The attorney general may initiate a civil action against any person required to maintain a certificate of registration as a title lender who acts as a title lender without first obtaining such certificate. Such action shall be commenced in the circuit court for any county in which such person engaged in title lending. For purposes of this section, such county shall mean any county in which the person executed any title loan agreement and any county in which any of the pledged property is normally kept. The civil penalty for title lending without first obtaining a certificate of registration shall be a fine of not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the registration requirement. If the violation of the registration requirement is intentional or knowing, the person shall be barred from applying for a certificate of registration as a title lender for a period of five years from the date of the last violation.

4. A first offense violation of the registration requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

5. In addition to the other requirements of this section for obtaining a certificate

of registration, no certificate of registration shall be issued under this section on or after the effective date of this act, for the initial operation of a title lending office if such title lending office is to be located within five miles of a site where an excursion gambling boat dock or facility is located or within five miles of a site where an application for such an excursion gambling boat dock or facility is on file with the gaming commission prior to the date the application for the certificate of registration is filed. The provisions of this subsection shall not prohibit a title lending office from being located within five miles of a dock or facility or proposed dock or facility described in this subsection if the certificate of registration for such title lending office has been issued prior to the effective date of this act.

Section B. Because of the need to protect the citizens of Missouri sections 367.140 and 367.506 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and 367.140 and 367.506 of this act shall be in full force and effect upon its passage and approval.

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