

FIRST REGULAR SESSION

# SENATE BILL NO. 546

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATORS KENNEY, CHILDERS, RUSSELL, KLINDT, FOSTER AND CAUTHORN.

Read 1st time February 22, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1281S.051

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### AN ACT

To repeal sections 313.800, 313.802, 313.803, 313.805, 313.807, 313.810, 313.812, 313.815, 313.820, 313.822, 313.824, 313.830, 313.832, 313.835, 313.837, 313.842, 313.843, 313.845, 313.847, 313.848 and 313.850, RSMo 2000, relating to excursion gaming boats, and to enact in lieu thereof twenty-five new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 313.800, 313.802, 313.803, 313.805, 313.807, 313.810, 313.812, 313.815, 313.820, 313.822, 313.824, 313.830, 313.832, 313.835, 313.837, 313.842, 313.843, 313.845, 313.847, 313.848 and 313.850, RSMo 2000, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 313.780, 313.786, 313.789, 313.792, 313.795, 313.802, 313.803, 313.805, 313.807, 313.810, 313.812, 313.815, 313.820, 313.822, 313.824, 313.830, 313.832, 313.835, 313.837, 313.842, 313.843, 313.845, 313.847, 313.848 and 313.850, to read as follows:

**313.780. As used in sections 313.780 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) "Affiliate", an entity with a parent company that is a licensee, supplier or applicant or an entity that shares a common parent company with a licensee, supplier or applicant;**

**(3) "Applicant", any person applying for a license authorized under the**

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

**provisions of sections 313.780 to 313.850;**

**(4) "Appointed official", an employee or agent of a governmental entity who holds a position with discretionary authority to take or vote on the following actions:**

**(a) Promulgation of ordinances, rules or regulations with the effect of law that are applicable to the operations of a licensee, supplier or applicant;**

**(b) Granting of governmental approvals, licenses or certifications to a licensee, supplier or applicant;**

**(c) Enforcement of statutes or of ordinances, rules or regulations with the effect of law against a licensee, supplier or applicant or at a riverboat gaming operation; provided that, in the case of law enforcement personnel, such person must:**

**a. Actually exercise such authority;**

**b. Be specifically assigned by the governmental entity to exercise such authority; or**

**c. Hold the power to assign such personnel to exercise such authority; and**

**(d) Entering into any contract or agreement between the governmental entity and a licensee, supplier or applicant;**

**(5) "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;**

**(6) "Board", the Missouri Gaming Regulatory Board;**

**(7) "Board or Commission representative", a member, employee or agent of the board or commission or an employee of the state highway patrol designated by the superintendent of the highway patrol to have direct regulatory authority related to excursion gambling boats or an employee of the state attorney general's office designated by the state attorney general to have direct regulatory authority related to excursion gambling boats;**

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

**(9) "Commission", the Missouri gaming commission created in section 313.004;**

**(10) "Direct gaming activity", an activity directly involved with gambling games, including, but not limited to, managing a casino, operating gambling games, receiving wagers as part of such games, or providing gaming equipment or supplies;**

**(11) "Direct ownership interest", a financial interest, equitable interest, beneficial interest or ownership control held by the government official, or such person's family member related within the second degree of consanguinity or affinity, in an excursion gambling boat operation; in any licensee, supplier or applicant; or in any holding company or affiliate of a licensee, supplier or applicant; provided that a direct ownership interest shall not include any equity interest purchased at fair market value,**

**or equity interest received as consideration for goods and services provided at fair market value, of less than one percent of the total outstanding shares of stock of any publicly traded corporation or certificates of partnership of any limited partnership which is listed on a regulated stock exchange or automated quotation system;**

**(12) "Direct regulatory authority", authority to enforce sections 313.780 to 313.850 and the regulations promulgated thereunder;**

**(13) "Dock", the location in a city or county authorized under subsection 7 of section 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the embarking of passengers on and disembarking of passengers from a gambling excursion but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;**

**(14) "Employ", to hire a person as an employee or to engage the services of a person with knowledge or reason to believe that the person's employer provides consideration to the person that is derived from or contingent upon consideration paid to that employer for the services provided, or to engage the services of an entity controlled by a person with knowledge or reason to believe that the person will receive consideration that is derived from or contingent upon consideration paid to the entity for the services provided, in which case the controlling person is "employed";**

**(15) "Ex parte communication", direct or indirect communication by a licensee, supplier, applicant or a representative or agent with any commission or board member regarding any matters under the jurisdiction of the commission or board related to the respective licensee, supplier or applicant, unless such communications take place during an official commission or board meeting, or, if written, are provided to all other commission or board members within five days of the initial communication and prior to any commission or board action on the matter. The following shall not be defined as ex parte communication:**

**(a) Any written communication addressed and sent to all commission or board members;**

**(b) Any communication taking place at a meeting of a governmental entity subject to chapter 610, RSMo, including, but not limited to, meetings of the commission or board or any committee of the commission or board;**

**(c) Any communication with employees or agents of the commission or board, including any such communication that may also involve a commission or board member as a participant, provided that, if a commission or board member does participate in such communication, this exemption shall apply only if the licensee,**

**supplier or applicant summarizes, reduces to writing and distributes such writing to all commission or board members within five days of the communication and prior to any commission or board action on the matter; and**

**(d) Any communication between a commission or board member and a government official;**

**(16) "Excursion gambling boat", a boat, ferry or other floating facility licensed by the board on which gambling games are allowed;**

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

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

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

**(20) "Games of chance", any gambling game in which the player's expected return is not increased by his or her reason, foresight, dexterity, sagacity, design, information or strategy;**

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

**(22) "Gaming related", having to do with any aspect of licensing, regulation, discipline or investigation of a licensee, supplier or applicant, or of a person or an entity involved in any way with the gambling and gaming industry;**

**(23) "Government official", any of the following:**

**(a) A board or commission representative, as defined in subdivision (7) of this section;**

**(b) A member of the general assembly; or**

**(c) An elected official or an appointed official of the state of Missouri or of any Missouri city or county in which the licensing of excursion gambling boats has been approved or is being actively considered;**

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

**(25) "Holder of occupational license", a person licensed by the commission to**

perform an occupation within excursion gambling boat operations which the commission has identified as requiring a license;

(26) "Licensee", any person licensed under sections 313.780 to 313.850;

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

(28) "Parent company", an entity which, directly or indirectly through one or more intermediaries, possesses the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting shares, by contract or otherwise;

(29) "Relative", a person who is related to a licensee, supplier or applicant within the second degree of consanguinity or affinity;

(30) "Representative or agent", a key person or occupational licensee employee of the licensee, supplier or applicant or any individual who acts as a common law agent on behalf of the licensee, supplier or applicant before the commission or board, such as an attorney, accountant or lobbyist;

(31) "Suitable", of sufficiently good character, reputation, experience, financial integrity, and other attributes as may be clearly and reasonably defined by the board;

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

313.786. 1. There is hereby created the "Missouri Gaming Regulatory Board" consisting of three members appointed by the governor, with the advice and consent of the senate. Each member of the Missouri gaming regulatory board shall be a resident of this state. No member shall have pled guilty to or shall have been convicted of a felony or any gambling-related offense. Not more than two members shall be affiliated with the same political party.

2. Of the members first appointed, one shall be appointed for a one year term, one shall be appointed for a two year term and one shall be appointed for a three year term. Thereafter, all members appointed shall serve for a three year term. No person shall serve as a member more than six years. The governor shall designate one of the members as the chair.

3. The board shall have sole jurisdiction over and shall supervise the pre-issuance suitability investigation of all applicants referred to the board by the commission and the investigation and enforcement of all provisions of sections 313.780

**to 313.850. The board shall also impose all civil and administrative penalties, sanctions and discipline related to gaming activities and to licenses issued pursuant to this chapter. The board shall issue any rules and regulations necessary to establish procedures for regulation of licenses and imposition of civil penalties, sanctions and discipline including, but not limited to, procedures for the conduct of hearings before the board. The proceedings and activities pursuant to this chapter are exempt from the provisions of sections 536.063 to 536.077, RSMo, and the board shall not be required to use procedures prescribed by sections 536.063 to 536.077, RSMo. Judicial review of all board decisions shall be directly to the state court of appeals for the western district of Missouri and shall not be subject to the provisions of chapter 621, RSMo.**

**4. The board shall promulgate rules and regulations necessary for establishing and enforcing a code of ethics for its members and employees which shall include, but not be limited to, restrictions on which members and employees shall be prohibited from participating in or wagering on any gambling game or gaming operation within the jurisdiction of the board.**

**5. The board shall be assigned to the department of public safety as a type III division, but the director of the department of public safety has no supervision, authority or control over the actions or decisions of the board.**

**6. No member of the board shall be otherwise employed during his or her tenure on the board.**

**7. No licensee, supplier, applicant, relative, representative or agent shall accept or maintain appointment to or employment with the board. The board shall determine by rule and regulation appropriate restrictions on the relationship of members and employees of the board to persons holding or applying for occupational licenses from the board or to employees of any licensee, supplier or applicant.**

**8. Any person related to an elected or appointed official within the second degree of consanguinity or affinity employed by a licensee, supplier or applicant shall disclose this relationship to the board. Such disclosure shall be in writing and shall include who is employing such individual, that person's relationship to the elected or appointed official, and a description of the job for which the person is being employed. By rule or regulation, the board may require additional information as it may determine necessary.**

**9. Any person who knowingly violates the provisions of this section shall immediately and thereupon forfeit his office or employment.**

**10. The board may enter into agreements with the Federal Bureau of Investigation, the Federal Internal Revenue Service, the state attorney general or any state, federal or local agency the board deems necessary to carry out the duties of the**

**board. No state agency shall count employees used in any agreements entered into with the board against any personnel cap authorized by any statute. Any consideration paid by the board for the purpose of entering into, or to carry out, any agreement shall be considered an administrative expense of the board. When such agreements are entered into for responsibilities relating to excursion gambling boats, the board shall require excursion gambling boat licensees to pay for such services under rules and regulations of the board.**

**11. The board may enter into contracts with any private entity the board deems necessary to carry out the duties of the board, other than criminal law enforcement, provision of legal counsel before the courts and other agencies of this state, and the enforcement of liquor laws. The board may require provisions for special auditing requirements, investigations and restrictions on the employees of any private entity with which a contract is entered into by the board.**

**12. Notwithstanding the provisions of chapter 610, RSMo, to the contrary, all records and reports related to criminal activity shall be available to any agency or board responsible for licensing or investigating licensees, suppliers or applicants.**

**313.789. 1. The board shall have the following powers and shall have the authority to promulgate rules and regulations necessary to implement and exercise the various powers and duties given to them pursuant to sections 313.780 to 313.850:**

**(1) To determine the suitability of each applicant referred to the board by the commission and to conduct or supervise any investigations necessary to make such determinations;**

**(2) To issue reports to the commission which detail the findings of the board as to the applicants investigated and which include the board's recommendation to the commission as to the applicants' suitability or nonsuitability for licensure;**

**(3) To enter the premises of excursion gambling boats, facilities or other places of business of any licensee within this state to determine compliance with sections 313.780 to 313.850;**

**(4) To investigate alleged violations of sections 313.780 to 313.850 or any board or commission rules, orders, or final decisions;**

**(5) To assess and enforce any appropriate civil and administrative penalty, sanction or discipline against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the board up to three times the highest daily amount of gross receipts derived from wagering on the licensee's gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Moneys collected from penalties,**

sanctions or discipline assessed pursuant to this subdivision shall be deposited by the state treasurer into the general revenues of this state. Forfeitures pursuant to this section shall be enforced as provided pursuant to sections 513.600 to 513.645, RSMo;

(6) To require a licensee or holder of an occupational license to remove from a gambling boat or adjacent facilities any person who is in violation of any provision of sections 313.780 to 313.850, or of any rule, regulation or order issued by the board or commission;

(7) To remove from a gambling boat or adjacent facilities any licensee or employee of a licensee who is in violation of any provision of sections 313.780 to 313.850, or of any rule, regulation or order issued by the board or commission, or who is engaging or has engaged in any fraudulent practice;

(8) To require all licensees, suppliers and applicants to file financial reports as deemed necessary to any investigation, regulation or enforcement action of the board;

(9) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and things, and to administer oaths and affirmations to the witnesses, when, in the judgment of the board, same is necessary to enforce sections 313.780 to 313.850 or board or commission rules. The board shall enforce subpoenas by applying to a judge of the circuit court of any county where a commission office is located or of any county where the witness resides or may be found, for an order upon any witness who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which said order and a copy of the application therefor shall be served upon the witness in the same manner as a summons in a civil action. If the said circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, said court shall proceed to enforce said subpoena in the same manner as though said subpoena had been issued in a civil case in the circuit court. The board may delegate to any member, officer, or employee of the board the power to issue subpoenas;

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

(11) To take any other action as may be reasonable or appropriate to enforce sections 313.780 to 313.850 and the board or the commission rules.

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

313.792. In the event a licensee, either directly or by a duly authorized agent or employee, is found to have committed an act or omission which is injurious to the health, safety, order, and general welfare of the people of the state of Missouri, or that



has discredited the Missouri gaming industry or the state of Missouri, the licensee shall be subject to restriction, suspension or revocation of his or her license and imposition of other civil and administrative penalties. Such penalties shall only be imposed upon an adverse finding based upon clear and convincing evidence presented at an open hearing of which the licensee has been granted appropriate notice and at which the licensee is afforded a full and fair opportunity to present evidence and be heard. The board shall take appropriate action against any licensee who violates the law or the rules and regulations of the board or the commission. Without limiting other provisions of this section, the following acts or omissions may be grounds for such penalties:

(1) Failing to comply with or make provision for compliance with sections 313.780 to 313.850, the rules and regulations of the board or the commission or any federal, state or local law or regulation;

(2) Failing to comply with any order or ruling of the board or the commission;

(3) Knowingly 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 313.780 to 313.850 or the rules and regulations of the board;

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

(5) Knowingly 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) Knowingly employing in any gambling games operation or any excursion gambling boat operation, any person who has been found guilty of cheating or using any improper device in connection with any gambling game;

(7) Knowingly employing any person who is not a holder of an occupational license but who is required to hold such license by the provisions of sections 313.780 to 313.850 or the rules or regulations of the board;

(8) Use of fraud, deception, misrepresentation, bribery or extortion in securing any permit or license issued pursuant to sections 313.780 to 313.850;

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

(10) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.780 to 313.850;

(11) Failure to cooperate with any investigation of the commission or the board;

**(12) Failure to appear and provide testimony to the commission or the board;**

**(13) Operating an excursion gambling boat having a number of slot machines located thereon in excess of the maximum number allowed pursuant to subsection 5 of section 313.805.**

**313.795. 1. A person commits the crime of gaming corruption if, for the purpose of influencing any gaming related act, decision or investigation of the board or commission or of a government official, or for the purpose of influencing the outcome of any gambling game, or for the purpose of profiting from the influence of any gaming related act or decision or the outcome of any gambling game, such person knowingly:**

**(1) Enters into a contractual relationship with a person who is a government official, or who has been a government official within two years prior to the execution of the contract, if the contract is gaming related;**

**(2) Enters into a contractual relationship of the type prohibited by subdivision (1) of this section and is a government official or who has been a government official within two years prior to the execution of the contract;**

**(3) Enters into a contractual relationship with a person who is a government official, or who has been a government official within two years prior to the execution of the contract, by which the government official is to receive consideration that exceeds fair market value for his or her goods or services;**

**(4) Enters into a contractual relationship of the type prohibited by subdivision (3) of this section and is a government official or who has been a government official within two years prior to the execution of the contract;**

**(5) Employs or offers employment to a person who is a government official, or who has been a government official within two years prior to the employment or offer, or to a spouse or dependent child of such person;**

**(6) Solicits or accepts an offer of employment of the type prohibited by subdivision (5) of this section and is a government official or who has been a government official within two years prior to accepting the prohibited employment or offer of employment;**

**(7) Grants, conveys, transfers, sells, offers or gives a direct ownership interest to a person who is a government official, or who has been a government official within two years prior to the event or transaction;**

**(8) Solicits, purchases, accepts, or receives a direct ownership interest through the type of transaction prohibited by subdivision (7) of this section and is a government official or who has been a government official within two years prior to the prohibited event or transaction;**

**(9) Gives, offers or promises anything of value or benefit to a government**

**official;**

**(10) Solicits, agrees to accept or accepts anything of value or benefit through the type of gift, offer or promise prohibited by subdivision (9) of this section and is a government official;**

**(11) Gives, offers or promises anything of value or benefit to a licensee, employee of a licensee, or holder of an occupational license;**

**(12) Solicits, agrees to accept or accepts anything of value or benefit through the type of gift, offer or promise prohibited by subdivision (11) of this section and is a licensee, employee of a licensee, or holder of an occupational license;**

**(13) Engages in ex parte communication as defined in section 313.780, as any party.**

**2. The crime of gaming corruption is a class D felony. Any person convicted of gaming corruption shall be barred for life from excursion gambling boats under the jurisdiction of the board or commission.**

**3. Notwithstanding subsection 1 of this section any applicant or licensee may:**

**(1) Allow any person to engage in legal gaming activity as a patron of a casino;**

**(2) Charge an admission fee to any person to enter a gaming establishment; or**

**(3) Enter into an agreement with the state, any political subdivision of the state or any other governmental entity that is otherwise legal and that has been disclosed to the board and the commission within ten days of consummation; including, but not limited to, agreements for the reimbursement of expenses incurred by a governmental entity for services of agents or employees of that entity acting in their official capacities.**

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

(5) "Commission", the Missouri gaming commission;

(6) "Dock", the location in a city or county authorized under subsection 10 of section 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the

embarking of passengers on and disembarking of passengers from a gambling excursion but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

(7) "Excursion gambling boat", a boat, ferry or other floating facility licensed by the commission on which gambling games are allowed;

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

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

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

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

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

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

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

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

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

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

2. In addition to the games of skill referred to in subdivision (12) of subsection 1 of this section, the commission may approve other games of skill upon receiving a petition requesting approval of a gambling game from any applicant or licensee. The commission

may set the matter for hearing by serving the applicant or licensee with written notice of the time and place of the hearing not less than five days prior to the date of the hearing and posting a public notice at each commission office. The commission shall require the applicant or licensee to pay the cost of placing a notice in a newspaper of general circulation in the applicant's or licensee's home dock city or county. The burden of proof that the gambling game is a game of skill is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing his or her case by a preponderance of evidence including:

- (1) Is it in the best interest of gaming to allow the game; and
- (2) Is the gambling game a game of chance or a game of skill?

All testimony shall be given under oath or affirmation. Any citizen of this state shall have the opportunity to testify on the merits of the petition. The commission may subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall evaluate the record of the hearing and issue written findings of fact that shall be based exclusively on the evidence and on matters officially noticed. The commission shall then render a written decision on the merits which shall contain findings of fact, conclusions of law and a final commission order. The final commission order shall be within thirty days of the hearing. Copies of the final commission order shall be served on the petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.]

313.802. Sections [313.800 to 313.840] **313.780 to 313.850** do not apply to the state lottery, bingo, or to the pari-mutuel system of wagering used or intended to be used pursuant to this chapter.

313.803. Notwithstanding the provisions of section [313.800] **313.780**, any person or business entity who has filed for an excursion gambling license with the Missouri gaming commission prior to May 10, 1994, shall be allowed to create an artificial space up to two thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers.

313.805. **1.** The commission shall [have full jurisdiction over] **issue all licenses issued pursuant to sections 313.780 to 313.850** and shall supervise all gambling operations governed by sections [313.800] **313.780** to 313.850. The commission shall have the following powers and shall [promulgate rules and regulations to implement] **have the authority to promulgate rules and regulations necessary to implement and exercise the various powers and duties given to them pursuant to** sections [313.800] **313.780** to 313.850:

- (1) To [investigate applicants and determine the priority and eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Missouri] **determine which applicant or applicants, from among competing applicants, will be referred to the board for investigation of the applicant's**

**suitability for a license issued pursuant to sections 313.780 to 313.850, and to refer those select applicants to the board for a suitability investigation, and to prohibit any applicant from beginning construction of any floating facility until such applicant is determined by the board to be suitable for a license;**

**(2) To select from among those applicants found by the board to be suitable for a license, those applicants who will best serve the interests of Missouri, and to issue a license to those selected;**

**(3) To license the operators of excursion gambling boats and operators of gambling games within such boats[.];**

**(4) To identify occupations within the excursion gambling boat operations which require licensing, and to adopt standards for licensing the occupations including establishing fees for the occupational licenses [and to license suppliers];**

**(5) To license suppliers and adopt standards for licensing suppliers;**

**[(3)] (6) To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering structure for gambling excursions including providing a maximum loss of five hundred dollars per individual player per gambling excursion;**

**[(4)] (7) To enter the premises of excursion gambling boats, facilities, or other places of business of a licensee within this state to determine compliance with sections [313.800] 313.805 to 313.850;**

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

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

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

**(8) To require the removal from the premises of a licensee, an employee of a licensee, or a**

holder of an occupational license for a violation of sections 313.800 to 313.850 or a commission rule or engaging in a fraudulent practice;]

[(9)] **(8)** To require all licensees, **suppliers and applicants** to file [all] financial reports [required by rules and regulations of the commission] **as deemed necessary by the commission;**

[(10)] **(9)** To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and [other pertinent documents] **things**, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, [it] **same** is necessary to enforce sections [313.800] **313.805** to 313.850 or the commission rules. **The commission shall enforce subpoenas by applying to a judge of the circuit court of any county where a commission office is located or of any county where the witness resides or may be found, for an order upon any witness who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which said order and a copy of the application therefor shall be served upon the witness in the same manner as a summons in a civil action. If the said circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, said court shall proceed to enforce said subpoena in the same manner as though said subpoena had been issued in a civil case in the circuit court. The commission may delegate to any member, officer, or employee of the commission the power to issue subpoenas;**

[(11)] **(10)** To keep accurate and complete records of its proceedings and to certify the records as may be appropriate;

[(12)] **(11)** To ensure that the gambling games are conducted fairly **and honestly**. No gambling device shall be set to pay out less than eighty percent of all wagers;

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

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

[(15)] **(14)** To determine which of the authorized gambling games will be permitted on any licensed excursion gambling boat;

**(15) To require any applicant for a license or renewal of a license to operate an excursion gambling boat to provide an affirmative action plan which has as its goal the use of best efforts to achieve a significant level of employment of minorities and a significant level of participation of minority-owned businesses in contracted provisions for goods and services. This provision shall be administered in accordance with all federal and state employment laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license renewal, the licensee will report on the effectiveness of the plan. The commission shall include the licensee's reported information in its annual report to the joint committee on gaming and wagering;**

**(16) To require any excursion gambling boat licensee, an employee of such licensee, a supplier, or an employee of a supplier to remove from the gambling boat any slot machines which are beyond the maximum number of slot machines allowed pursuant to subsection 5 of this section;**

**(17) To take any other action as may be reasonable or appropriate to enforce sections 313.805 to 313.850 and the commission rules.**

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

**[(17)] 3.** The commission shall render a finding concerning the possibility of continuous docking, as described in **[subdivision (15)] subsection 2** of this section, within thirty days after a hearing on any request from an applicant or licensee. Such hearing may be held prior to any final action on licensing to assist an applicant and any city or county in the finalizing of their economic development plan;

**[(18)]** To require any applicant for a license or renewal of a license to operate an excursion gambling boat to provide an affirmative action plan which has as its goal the use of best efforts to achieve maximum employment of African-Americans and other minorities and maximum participation in the procurement of contractual purchases of goods and services. This provision shall be administered in accordance with all federal and state employment laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license renewal, the



licensee will report on the effectiveness of the plan. The commission shall include the licensee's reported information in its annual report to the joint committee on gaming and wagering;

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

**4. In addition to the games of skill referred to in subdivision (21) of section 313.780, the commission may approve other games of skill upon receiving a petition requesting approval of a gambling game from any applicant or licensee. The commission may set the matter for hearing by serving the applicant or licensee with written notice of the time and place of the hearing not less than five days prior to the date of the hearing and posting a public notice at each commission office. The commission shall require the applicant or licensee to pay the cost of placing a notice in a newspaper of general circulation in the applicant's or licensee's home dock city or county. The petitioner shall have the burden of proof to establish by a preponderance of the evidence that the gambling game is a game of skill and that it is in the best interest of the people of the state of Missouri to allow the gambling game. All testimony shall be given under oath or affirmation. Any citizen of this state shall have the opportunity to testify on the merits of the petition. The commission may subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall evaluate the record of the hearing and issue written findings of fact that shall be based exclusively on the evidence and on matters officially noticed. The commission shall then render a written decision on the merits which shall contain findings of fact, conclusions of law and a final commission order. The final commission order shall be issued within thirty days of the hearing. Copies of the final commission order shall be served on the petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.**

**5. The maximum number of slot machines which may be located on any single licensed excursion gambling boat shall be limited to three thousand five hundred.**

313.807. 1. A person may apply to the commission for a license to conduct gambling games on an excursion gambling boat or to operate an excursion gambling boat as provided in sections [313.800] **313.780** to 313.850. The application for such [licenses] **license** shall be filed with the commission and shall identify the excursion gambling boat upon which gambling games will be authorized[.]; shall specify the exact location where the excursion gambling boat will be docked[.]; shall **establish the economic feasibility of the project; shall** specify the extent of the **impact of the project on** land-based economic development [or impact and] **and permanent job creation; shall include** an affirmative action plan for ownership, contracting, [and] recruiting, training and hiring of minorities and women in all employment classifications for that area[.]; **shall include** a lease with a home dock city or county, or in lieu thereof a resolution adopted by a city

or county supporting or opposing the docking and land-based economic development or impact plan of the operator[.]; and shall be in a form and contain information as the commission prescribes. If a city or county fails to pass a resolution, such action shall not adversely affect the application which shall be deemed complete. The applicant for such license shall file with the application a nonrefundable fee of fifty thousand dollars or fifteen thousand dollars for each person to be investigated, whichever amount is greater. The applicant shall be responsible for the total cost of the **suitability** investigation. If the cost of the investigation exceeds the total amount of fees filed by the applicant **[in] pursuant to** this subsection, the commission may assess additional fees as it deems appropriate; however, if the applicant is denied a license, the applicant shall be entitled to a refund of the difference between the application fee and the actual cost of the investigation. **The applicant may only withdraw its application with leave from the commission.** The initial license and first subsequent license renewal of an excursion gambling boat operator shall be for a period of one year. Thereafter, license renewal periods shall be two years. However, the commission **or board** may reopen licensing hearings at any time. **In the event an application of an existing licensee for a new or renewal of a license is denied by the commission because of a finding by the board that the applicant is not suitable, then the commission may issue a temporary license for the period of any appeal of that license denial. The commission may issue any conditions it deems reasonable to the temporary license.** The annual fee for anyone licensed pursuant to this subsection shall be set by the commission at a minimum of twenty-five thousand dollars.

2. A person may apply to the commission for a license to conduct an occupation within excursion gambling boat operations which the commission has identified as requiring a license. The commission shall establish and charge holders of occupational licenses an annual license fee for each occupation in amounts determined appropriate by the commission and shall be charged each year the license is in effect. The commission shall set a nonrefundable filing fee to cover the cost of any investigation. **The applicant may only withdraw its application with leave from the commission.** Each [applicant for a license] **holder of an occupational license issued pursuant to this subsection shall annually file for a renewed license.**

3. A supplier shall annually apply **to the commission** for a license. The application fee shall be a nonrefundable amount set by the commission to cover the cost of any investigation. The annual fee for such license shall be set by the commission. **The applicant may only withdraw its application with leave from the commission.** The commission shall set all standards for equipment and supplies.

4. A licensee licensed to conduct gambling games shall acquire all gambling games or implements of gambling from a licensed supplier or from a person or entity approved by the commission. A licensee shall not sell or give gambling games or implements of gambling to another licensee without the commission's prior written approval. Any licensed supplier shall have a

registered agent within this state.

5. The commission may issue a limited license to operate an excursion gambling boat [as defined pursuant to subdivision (7) of section 313.800] at a dock other than its home dock, if such city or county where such dock is located has approved gambling games on excursion gambling boats pursuant to subsection 10 of section 313.812.

6. Prior to granting a license for an excursion gambling boat, the commission shall ensure that the applicant complies with all local zoning laws, provided that such laws were not changed to the detriment of the applicant having an ownership interest, including without limitation, an option to purchase, a contingent purchase agreement, leasehold interest or contingent leasehold interest, that is the subject of the zoning law change when such law is enacted subsequent to the filing of such application. Nothing in this section shall be construed to prohibit a change in local law in favor of the applicant having the ownership interest in the property.

**7. Any license issued or other commission or board approval granted pursuant to the provisions of this chapter is a revocable privilege, and no holder acquires any vested right therein or thereunder.**

313.810. 1. A person shall not be issued a license to conduct gambling games on an excursion gambling boat or a license to operate an excursion gambling boat, an occupational license, or a supplier license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall include the full name, residence, date of birth and other personal identifying information as the commission deems necessary, including but not limited to, the information specified in section 313.847. The application shall also indicate whether the applicant has [any] **either** of the following:

- (1) A record of conviction of a felony; or
- (2) A current addiction to a controlled substance.

2. An applicant for a license shall submit pictures and fingerprints to the commission in the manner prescribed on the application forms.

3. It is the burden of the applicant to show by clear and convincing evidence his suitability as to character, experience and other factors as may be deemed appropriate by the [commission] **board.**

4. [Before a license is granted, the commission shall conduct a thorough investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the commission.] **The commission may issue licenses only when it is satisfied that the applicant has complied with all applicable laws and all of the board's and commission's rules and regulations.**

**5. 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 pursuant to this chapter or the operation of a system of wagering pursuant to section 313.817. This section does not prohibit a management contract with a person licensed by the board;

(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 excursion gambling boat operated by the applicant shall, as nearly as practicable, resemble or actually be a part of Missouri's or the home dock city's or county's riverboat history; and

(4) The applicant will not place and will not allow to be placed on the excursion gambling boat a number of slot machines in excess of the maximum number allowed pursuant to subsection 5 of section 313.805.

6. Upon receipt of one or more applications for a particular type of license to be issued pursuant to sections 313.780 to 313.850, the commission shall determine which applicant or applicants, from among competing applicants, will be referred to the board for investigation of the applicant's suitability for a license. Based upon that determination, the commission shall refer the selected applicant or applicants to the board for a suitability investigation. The commission shall inform all applicants that no applicant may begin construction of any floating facility until such applicant is determined by the board to be suitable for a license.

7. Upon receipt of a referral from the commission, the board shall determine the suitability of the referred applicant. The board shall conduct or supervise any investigation necessary to make such determination.

8. Upon completion of the suitability investigation, the board shall issue a report to the commission which details the findings of the board as to the applicant investigated and which includes the board's recommendation to the commission as to the applicant's suitability or non-suitability for licensure.

9. In the event the board determines that an applicant is not suitable for the license for which the applicant has applied, the commission shall not issue a full license to the applicant, but may issue a temporary license to the applicant pursuant to subsection 1 of section 313.807.

10. From among those applicants deemed suitable by the board, the commission may issue a full two-year license to the applicant or applicants who will best serve the interests of Missouri.

[5.] 11. A person who knowingly makes a false statement on an application **or during an investigation by the board** is guilty of a class A misdemeanor and shall [not ever again be

considered for] **be prohibited from filing any subsequent** application [by] **of any kind with** the commission.

[6.] **12.** The licensee shall permit [the commission or commission] employees designated **by the board** to inspect the licensee or holder's person, personal property, excursion gambling boat and effects at any time.

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 total number of excursion gambling boat licenses which may be issued and current at any given time is fifteen. In the event fifteen such licenses have been issued and are current and a current excursion gambling boat license expires, the commission may renew such license or may issue a new license to a suitable applicant. In the event fifteen such licenses have been issued and are current and a current excursion gambling boat license is forfeited by the licensee or is revoked by the board or the commission, the commission may thereafter issue a new license to a suitable applicant. The commission shall not issue any excursion gambling boat licenses in the event fifteen such licenses have been issued and no such licenses have yet expired, or been forfeited or revoked.**

**2.** The commission shall decide the number, location and type of excursion gambling [boat] **boats** in a city or county [under] **pursuant to** subsection [10] **8** 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 [10] **8** 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.

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.] **3.** 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.] **4.** 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.] **5.** Each applicant shall establish **to the board** by clear and convincing evidence its [fitness] **suitability** to be licensed. Without limitation, the commission **or board** may deny a license based solely on the fact that 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] **board** and the [commission] **board** 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 **board or the** commission; or

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

[8.] 6. 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.] 7. 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] **board**.

[10.] 8. 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)?

YES

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.] **9.** 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.] **10.** 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.] **11.** 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 **or board**. 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 if the person is an applicant for licensure, the denial of the application, 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] **313.780** 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] **313.780** to 313.850 and the rules adopted by the commission. The bond or other form of surety may be used to guarantee the completion of any expansion or modification of a gaming facility in a time period which shall be determined by the commission or three years from August 28, 2000, whichever is later. Failure to complete an approved expansion or modification of a gaming facility within such time period as aforesaid may be considered sufficient grounds for not renewing the license for that gaming facility. 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.

313.820. 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. **If the admission fee has been incorrectly computed and paid, the commission may provide that the amount of overpayment shall be credited on any admission fee then due from the licensee.** Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket

of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission **or board** may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission **or board** shall not become public record and shall be used exclusively for commission **or board** business.

313.822. A tax is imposed on the adjusted gross receipts received from gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of twenty percent. The taxes imposed by this section shall be returned to the commission in accordance with the commission's rules and regulations who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be made payable to the director of revenue. **If the taxes or fees have been incorrectly computed and paid, the commission may provide that the amount of overpayment shall be credited on any taxes or fees then due from the licensee.** If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, on and after April 29, 1993, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees imposed by this section.

(1) Each excursion gambling boat shall designate a city or county as its home dock. The home dock city or county may enter into agreements with other cities or counties authorized pursuant to subsection [10] 7 of section 313.812 to share revenue obtained pursuant to this section. The home dock city or county shall receive ten percent of the adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing services necessary for the safety of the public visiting an excursion gambling boat. Such home dock city or county shall annually submit to the commission a shared revenue agreement with any other city or county. All moneys owed the home dock city or county shall be deposited and distributed to such city or county in accordance with rules and regulations of the commission. All revenues provided for in this section to be transferred to the governing body of any city not within a county and any city with a population of over three hundred fifty thousand inhabitants shall not be considered state funds and shall be deposited in such city's general revenue fund to be expended as provided for in this section.

(2) The remaining amount of the adjusted gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund shall be considered the proceeds of excursion boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for education fund shall be credited to the gaming proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

313.824. Gambling excursion boat and gambling game operator licensees shall furnish to the commission **and to the board** reports and information as the commission **or board** may require with respect to its activities. The commission shall establish by rules and regulations the amount of staff necessary to protect the public on any excursion gambling boat. The excursion gambling boat licensee shall reimburse the commission **and the board** for the full cost of such staff.

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 is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for the second and subsequent offenses for any of the following:

(1) Permitting a person under the age of twenty-one to make a wager while on an excursion gambling boat;

(2) Making or attempting to make a wager while on an excursion gambling boat when such person is under the age of twenty-one years; or

(3) Aiding a person who is under the age of twenty-one in entering an excursion gambling boat or in making or attempting to make a wager while on an excursion gambling boat.

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 **board or** 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)] **(2)** Cheats at a gambling game;

[(5)] **(3)** 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)] **(4)** 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)] **(5)** 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)] **(6)** 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)] **(7)** 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)] **(8)** 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)] **(9)** Uses counterfeit chips or tokens in a gambling game;

[(12)] **(10)** Knowingly uses, other than chips, tokens, coin, of other methods 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)] **(11)** Has in the person's possession any device intended to be used to violate a provision of sections 313.800 to 313.850;

[(14)] **(12)** 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)] **(13)** Knowingly makes a false statement of any material fact to the **board or the** commission, its agents or employees.

5. The possession of one or more of the devices described in subdivision [(3), (5), (13) or (14)] **(1), (3), (11) or (12)** 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 **or the board** determines that reasonable grounds to believe that a violation of sections [313.800] **313.780** to 313.850 has occurred or is occurring which is a criminal offense, the commission **or the board** 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.

313.832. 1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances, is subject to forfeiture if the item was used for any of the following:

- (1) In exchange for a bribe intended to affect the outcome of a gambling game; or
- (2) In exchange for or to facilitate a violation of sections [313.800 to 313.840] **313.780 to**

**313.850.**

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 of this section do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

4. Forfeitures under this section shall be enforced as provided under sections 513.600 to 513.645, RSMo.

313.835. 1. All revenue received by the **board or** commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the **board or** commission and admission fees authorized pursuant to the provisions of sections [313.800] **313.780** to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the [sole] purpose of funding the administrative costs of the commission **and the board**, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

- (1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

- (2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

- (a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

- (b) The construction, maintenance, renovation, equipment needs and operation of veterans'

cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund; and

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004.

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) Three million dollars shall be transferred to the veterans' commission capital improvement trust fund;

(b) Three million dollars shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(c) Three million dollars shall be transferred to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in

which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants.

a. Grants or contracts may be provided for:

(i) Start-up funds for necessary materials, supplies, equipment and facilities; and

(ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;

b. Grant and contract applications shall, at a minimum, include:

(i) A funding plan which demonstrates funding from a variety of sources including parental fees;

(ii) A child development, education and care plan that is appropriate to meet the needs of children;

(iii) The identity of any partner agencies or contractual service providers;

(iv) Documentation of community input into program development;

(v) Demonstration of financial and programmatic accountability on an annual basis;

(vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and

(vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;

c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:

(i) Are new or expanding programs which increase capacity;

(ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;



- (iii) Are programs designed for special needs children;
- (iv) Are programs that offer services during nontraditional hours and weekends; or
- (v) Are programs that serve a high concentration of low-income families;

d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of

paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-seven million dollars, one and one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate

moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

313.837. The commission shall report to the general assembly every October first, the number of excursion gambling boat licenses which the commission has issued, the status of the competitiveness of Missouri excursion gambling boats when compared to the gaming tax rate of adjoining states and the effects of loss of limits imposed by subdivision [(3)] (1) of section 313.805 on the competitiveness of the gaming industry in Missouri. The report shall contain any recommendations for changes in the adjusted gross receipts tax rate as provided in section 313.822, an account of the commission's actions, its financial position and results of operation and any recommendations for legislation which the commission deems advisable.

313.842. There may be established programs which shall provide treatment, prevention and education services for compulsive gambling. As used in this section, "compulsive gambling" means a condition suffered by a person who is chronically and progressively preoccupied with gambling and the urge to gamble. Subject to appropriation, such programs shall be funded from the one-cent admission fee authorized pursuant to section 313.820, and in addition, may be funded from the taxes collected and distributed to any city or county under section 313.822. Such moneys shall be submitted to the state and credited to the "Compulsive Gamblers Fund", which is hereby established within the department of mental health. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. The department of mental health shall administer programs, either directly or by contract, for compulsive gamblers. The commission may administer programs to educate the public about problem gambling and promote treatment programs offered by the department of mental health. In addition, the commission shall administer the voluntary exclusion program for problem gamblers [authorized by section 313.833].

313.843. Any excursion gambling boat, as defined in section [313.800] **313.780**, may offer child-care services for its employees if licensed by the department of health pursuant to sections 210.201 to 210.259, RSMo. Child-care services may only be offered for children of excursion gambling boat patrons if such child-care services:

(1) Are licensed by the department of health pursuant to sections 210.201 to 210.259, RSMo;

(2) The area where such child-care services are offered is a minimum of eight thousand square feet; and

(3) Are not offered after eleven o'clock p.m. on days which immediately precede days which public elementary and secondary schools in the county in which the licensee is located are scheduled to be in session, and are not offered after one o'clock a.m. on other days.

313.845. No rule or portion of a rule promulgated under the authority of sections [313.800] **313.780** to 313.850 shall become effective unless it has been promulgated pursuant to the

provisions of section 536.024, RSMo.

313.847. 1. Notwithstanding any applicable statutory provision to the contrary, all investigatory, proprietary or application records, information and summaries in the possession of the commission **or the board** or its agents may be treated by the commission **or the board** as closed records not to be disclosed to the public; except that the commission **or the board** shall, on written request from any person, provide such person with the following information furnished by an applicant or licensee:

(1) The name, business address and business telephone number of any applicant or licensee;

(2) An identification of any applicant or licensee, including, if an applicant or licensee is not an individual, the state of incorporation or registration, the corporate officers, and the identity of all shareholders or participants. If an applicant or licensee has a pending registration statement filed with the Securities and Exchange Commission, the names of those persons or entities holding interest must be provided;

(3) An identification of any business, including, if applicable, the state of incorporation or registration in which an applicant or licensee or an applicant's or licensee's spouse or children have an equity interest. If an applicant or licensee is a corporation, partnership or other business entity, the applicant or licensee shall identify any other corporation, partnership or business entity in which it has an equity interest, including, if applicable, the state of incorporation or registration. This information need not be provided by a corporation, partnership or other business entity that has a pending registration statement filed with the Federal Securities and Exchange Commission;

(4) Whether an applicant or licensee has been indicted, convicted, pleaded guilty or nolo contendere, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, except for traffic violations, including the date, the name and location of the court, arresting agency and prosecuting agency, the case number, the offense, the disposition and the location and length of incarceration;

(5) Whether an applicant or licensee has had any license or certificate issued by a licensing authority in this state or any jurisdiction denied, restricted, suspended, revoked or not renewed and a statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation or nonrenewal, including the licensing authority, the date each such action was taken, and the reason for each such action;

(6) Whether an applicant or licensee has ever filed or had filed against it a proceeding in bankruptcy or has ever been involved in any formal process to adjust, defer, suspend or otherwise work out the payment of any debt, including the date of filing, the name and location of the court, the case and number of the disposition;

(7) Whether an applicant or licensee has filed, or been served with a complaint or other

notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state or local law, including the amount, type of tax, the taxing agency and time periods involved;

(8) A statement listing the names and titles of all public officials or officers of any unit of government, and relatives of such public officials or officers who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with, an applicant or licensee;

(9) Whether an applicant or licensee has made, directly or indirectly, any political contribution, or any loans, donations or other payments of one hundred dollars or more, to any candidate or office holder, within five years from the date of filing the application, including the amount and the method of payment;

(10) The name and business telephone number of the counsel representing an applicant or licensee in matters before the **board or the** commission;

(11) A description of any proposed or approved riverboat gaming operation, including the type of boat, home dock location, expected economic benefit to the community, anticipated or actual number of employees, any statement from an applicant or licensee regarding compliance with federal and state affirmative action guidelines, projected or actual admissions and projected or actual adjusted gross gaming receipts; and

(12) A description of the product or service to be supplied by an applicant for a supplier's license.

2. Notwithstanding any applicable statutory provision to the contrary, the commission **or board** shall, on written request from any person, also provide the following information:

(1) The amount of the adjusted gross receipts tax and admission tax paid daily to the state by the holder of an excursion gambling boat license;

(2) Whenever the commission finds an applicant for an excursion gambling boat license unsuitable for licensing, a copy of the written letter outlining the reasons for the denial; and

(3) Whenever the commission has refused to grant leave for an applicant to withdraw his application, a copy of the letter outlining the reasons for the refusal.

3. Subject to the provisions of subsections 1 and 2 of this section, the commission **or the board** shall not disclose any information which would be barred by:

(1) Chapter 610, RSMo; or

(2) The statutes, rules, regulations or intergovernmental agreements of any jurisdiction.

4. The commission **or the board** may assess fees for the copying of information in accordance with chapter 610, RSMo.

313.848. The proceedings and activities under sections [313.800] **313.780** to 313.850 are exempt from the provisions of sections 536.063 to 536.077, RSMo, and the commission shall not be

required to use procedures prescribed by sections 536.063 to 536.077, RSMo, with respect to its administration of sections [313.800] **313.780** to 313.850.

313.850. The provisions of sections [313.800] **313.780** to 313.850 are severable. If any provision of sections [313.800] **313.780** to 313.850 is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions are valid except to the extent that the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. The provisions of this section shall be operative notwithstanding the provisions of section 1.140, RSMo, to the contrary.

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