

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 839

95TH GENERAL ASSEMBLY

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Reported from the Committee on Ways and Means, February 8, 2010, with recommendation that the Senate Committee Substitute do pass.

4720S.02C

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal section 313.812, RSMo, and to enact in lieu thereof one new section relating to the imposition of penalties on holders of gaming licenses, with an emergency clause.

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

Section A. Section 313.812, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 313.812, to read as follows:

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

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

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

19 (3) The community's economic development or impact and affirmative

20 action plan concerning minorities' and women's ownership, contracting and  
21 employment for the waterfront development;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 10. Gambling excursions including the operation of gambling games on an  
89 excursion gambling boat which is not continuously docked shall be allowed only  
90 on the Mississippi River and the Missouri River. No license to conduct gambling  
91 games on an excursion gambling boat in a city or county shall be issued unless

92 and until the qualified voters of the city or county approve such activities  
 93 pursuant to this subsection. The question shall be submitted to the qualified  
 94 voters of the city or county at a general, primary or special election upon the  
 95 motion of the governing body of the city or county or upon the petition of fifteen  
 96 percent of the qualified voters of the city or county determined on the basis of the  
 97 number of votes cast for governor in the city or county at the last election held  
 98 prior to the filing of the petition. The question shall be submitted in  
 99 substantially the following form:

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

103                            YES                            NO

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

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

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

127           13. An excursion gambling boat licensed by the state shall meet all of the

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

134         14. A holder of any license shall be subject to imposition of penalties,  
135 suspension or revocation of such license, or if the person is an applicant for  
136 licensure, the denial of the application, for any act or failure to act by himself or  
137 his agents or employees, that is injurious to the public health, safety, morals,  
138 good order and general welfare of the people of the state of Missouri, or that  
139 would discredit or tend to discredit the Missouri gaming industry or the state of  
140 Missouri unless the licensee proves by clear and convincing evidence that it is not  
141 guilty of such action. The commission shall take appropriate action against any  
142 licensee who violates the law or the rules and regulations of the  
143 commission. Without limiting other provisions of this subsection, the following  
144 acts or omissions may be grounds for such discipline:

145             (1) Failing to comply with or make provision for compliance with sections  
146 313.800 to 313.850, the rules and regulations of the commission or any federal,  
147 state or local law or regulation;

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

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

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

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

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

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

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

168 (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation  
169 or dishonesty in the performance of the functions or duties regulated by sections  
170 313.800 to 313.850.

171 **15. A holder of any license shall not be subject to imposition of**  
172 **penalties, suspension, or revocation of such license for inadequate**  
173 **declining income.**

Section B. In order to ensure proper application of the state's laws  
2 regarding the licensing of entities to conduct gaming activities within Missouri,  
3 section A of this act is deemed necessary for the immediate preservation of the  
4 public health, welfare, peace and safety, and is hereby declared to be an  
5 emergency act within the meaning of the constitution, and section A of this act  
6 shall be in full force and effect upon its passage and approval.

Bill ✓

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